



**Twentieth Report to Court of
KSV Kofman Inc. as CCAA Monitor of
Urbancorp Toronto Management Inc.,
Urbancorp (St. Clair Village) Inc.,
Urbancorp (Patricia) Inc., Urbancorp
(Mallow) Inc., Urbancorp (Lawrence) Inc.,
Urbancorp Downsview Park Development
Inc., Urbancorp (952 Queen West) Inc.,
King Residential Inc., Urbancorp 60 St.
Clair Inc., High Res. Inc., Bridge On King
Inc. and the Affiliated Entities Listed in
Schedule "A" Hereto**

November 2, 2017

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
URBANCORP TORONTO MANAGEMENT INC., URBANCORP (ST. CLAIR VILLAGE)
INC., URBANCORP (PATRICIA) INC., URBANCORP (MALLOW) INC., URBANCORP
(LAWRENCE) INC., URBANCORP DOWNSVIEW PARK DEVELOPMENT INC.,
URBANCORP (952 QUEEN WEST) INC., KING RESIDENTIAL INC., URBANCORP 60
ST. CLAIR INC., HIGH RES. INC., BRIDGE ON KING INC. (COLLECTIVELY, THE
"APPLICANTS") AND THE AFFILIATED ENTITIES LISTED IN SCHEDULE "A"
HERETO**

TWENTIETH REPORT OF KSV KOFMAN INC.

November 2, 2017

1.0 Introduction

1. On April 21, 2016, Urbancorp (St. Clair Village) Inc. ("St. Clair"), Urbancorp (Patricia) Inc. ("Patricia"), Urbancorp (Mallow) Inc. ("Mallow"), Urbancorp Downsview Park Development Inc. ("Downsview"), Urbancorp (Lawrence) Inc. ("Lawrence") and Urbancorp Toronto Management Inc. ("UTMI") each filed a Notice of Intention to Make a Proposal ("NOI") pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (collectively, St. Clair, Patricia, Mallow, Downsview, Lawrence and UTMI are referred to as the "NOI Entities"). KSV Kofman Inc. ("KSV") was appointed as the Proposal Trustee of each of the Companies.
2. Pursuant to an Order made by the Ontario Superior Court of Justice (Commercial List) (the "Court") dated May 18, 2016 (the "Initial Order"), the NOI Entities, together with the entities listed on Schedule "A" attached (collectively, the "Cumberland CCAA Entities" and each a "Cumberland CCAA Entity") were granted protection under the *Companies' Creditors Arrangement Act* (the "CCAA") and KSV was appointed monitor of the Cumberland CCAA Entities (the "Monitor"). A copy of the Initial Order is attached as Appendix "A".

3. Certain Cumberland CCAA Entities¹ are known direct or indirect wholly-owned subsidiaries of Urbancorp Cumberland 1 LP (“Cumberland”). Collectively, Cumberland and its direct and indirect subsidiaries are the “Cumberland Entities” and each individually is a “Cumberland Entity”. Each Cumberland Entity is a nominee for Cumberland and, as such, the assets and liabilities of the Cumberland Entities are assets and liabilities of Cumberland. The remaining Cumberland CCAA Entities², other than UTMI, are directly or indirectly wholly owned by Urbancorp Inc. (“UCI”) (collectively, the “Non-Cumberland Entities”). The corporate chart for the Cumberland Entities and the Non-Cumberland Entities is provided in Appendix “B”.
4. On April 25, 2016, the District Court in Tel Aviv-Yafo, Israel (the "Israeli Court") issued a decision appointing Guy Gissin as the functionary officer and foreign representative (the “Israeli Functionary”) of UCI and granting him certain powers, authorities and responsibilities over UCI (the “Israeli Proceedings”).
5. On May 18, 2016, the Court issued two orders under Part IV of the CCAA (the "Part IV Proceedings") which:
 - a) recognized the Israeli Proceedings as a “foreign main proceeding”;
 - b) recognized Mr. Gissin as Foreign Representative of UCI; and
 - c) appointed KSV as the Information Officer.
6. A copy of the order of the Israeli Court appointing the Israeli Functionary and outlining its authorities as recognized under the Part IV Proceedings is attached as Appendix "C" (the "Israeli Appointment Order").
7. Given the appointment of the Israeli Functionary by the Israeli Court with respect to UCI and the Proposal Trustee's appointment (and then the Monitor's appointment) in respect of the Cumberland CCAA Entities by this Court, a protocol was negotiated between the Israeli Functionary and the Proposal Trustee to address, *inter alia*, the sharing of information between the Israeli Functionary and the Monitor, as well as the manner in which the Israeli Functionary and the Monitor will work with one another concerning the restructuring process. A copy of the Protocol is attached as Appendix "D".
8. The Protocol was approved by the Initial Order. It was on the basis of the Protocol that recognition of the Israeli Proceedings pursuant to Part IV of the CCAA was not contested and appears to have been an integral consideration for Mr. Justice Newbould when recognizing Israel as the “center of main interest” in respect of the Part IV Proceedings. A copy of Mr. Justice Newbould’s Reasons for Judgement dated May 25, 2016 is provided in Appendix “E”.

¹ St. Clair., Patricia, Mallow, Lawrence, Urbancorp (952 Queen West) Inc., King Residential Inc., Urbancorp 60 St. Clair Inc., High Res. Inc., Urbancorp Partner (King South) Inc., Urbancorp (North Side) Inc. and Bridge on King Inc.

² Vestaco Homes Inc., Vestaco Investments Inc., Urbancorp Power Holdings Inc., UTMI, Downsview, 228 Queens Quay West Limited, Urbancorp Residential Inc., Urbancorp Realtyco Inc., Urbancorp Cumberland 1 GP Inc.

9. On November 1, 2017, the Monitor became aware that the Israeli Functionary had filed a motion with the Israeli Court seeking, among other things, an order requiring certain individuals to appear before representatives of the Israeli Functionary for investigation in connection with the Downsview project and to deliver all information in their possession in respect of the Downsview project (the "Israeli Motion"). A translated copy of the Israeli Motion is attached as Appendix "F". Such action, together with the views and activities of the Israeli Functionary expressed in the motion concerning, among other things, a realization process for Downsview, reflect a disregard for the Protocol, this Court's oversight of the realization process for the business and assets of the Cumberland CCAA Entities and questionable business judgement regarding the realization process, which could be to the detriment of stakeholder recoveries.

1.1 Purposes of this Report

1. The purposes of this report ("Report") are to:
 - a) summarize the communications and issues between the Israeli Functionary and the Monitor concerning the Downsview project and the Monitor's ongoing concerns with the activities and steps undertaken by the Israeli Functionary in respect of the Cumberland CCAA Entities generally;
 - b) outline why the Israeli Motion and the continued actions of the Israeli Functionary concerning assets of the Cumberland CCAA Entities are in violation of the Protocol as interfering with the Monitor's powers over the Cumberland CCAA Entities; and
 - c) recommend that the Court issue orders:
 - i. declaring the Israeli Motion to be in violation of the Protocol and that no order obtained on such motion shall be recognized in these proceedings or the Israeli Functionary's proceedings pursuant to Part IV of the CCAA bearing court file number CV-16-11392-00CL;
 - ii. requesting that the Israeli Court not hear the Israeli Motion or that it otherwise dismiss it;
 - iii. confirming that the activities of the Israeli Functionary, or any of its advisors, associated with matters that are the subject of the Monitor's powers with respect to the Cumberland CCAA Entities are in violation of the Protocol and, as such, the Israeli Functionary, and any of its advisors, be enjoined from continuing, initiating or pursuing any such activities; and
 - iv. clarifying that all information pertaining to the Cumberland CCAA Entities is to be obtained by the Israeli Functionary through requests of the Monitor pursuant to Sections 3(a) and 3(d) of the Protocol.

1.2 Currency

1. All currency references in this Report are to Canadian dollars unless otherwise indicated.

1.3 Restrictions

1. In preparing this Report, the Monitor has relied upon unaudited financial information of the Cumberland CCAA Entities, the books and records of the Cumberland CCAA Entities and discussions with representatives of the Cumberland CCAA Entities. The Monitor has not performed an audit or other verification of such information. The financial information discussed herein is subject to further review. The Monitor expresses no opinion or other form of assurance with respect to the financial information presented in this Report.

2.0 Background

1. The CCAA Entities, together with several affiliates, comprise the Urbancorp Group of Companies (collectively, the “Urbancorp Group”). The Urbancorp Group primarily engaged in the development, construction and sale of residential properties in the Greater Toronto Area. The Urbancorp Group’s main assets at this point in time are cash, condominium units, geothermal assets and interests in two significant real estate projects, one of which is the Downsview Project.

2.1 Urbancorp Inc.

1. UCI was incorporated on June 19, 2015 for the purpose of raising debt in the public markets in Israel. Pursuant to a Deed of Trust dated December 7, 2015, UCI made a public offering of debentures (the “IPO”) in Israel of NIS180,583,000 (approximately \$64 million based on the exchange rate at the time of the IPO) (the “Debentures”).
2. From the monies raised under the IPO, UCI made unsecured loans (the “Shareholder Loans”) totalling approximately \$46 million to each of the NOI Entities (other than UTMI) so that these entities could repay loan obligations owing at the time. The loan agreements in respect of the Shareholder Loans set out that repayment of the Shareholder Loans is subordinate to certain other obligations of the NOI Entities (the “Permitted Obligations”).

3.0 Scope of Respective Proceedings

1. Pursuant to Section 9 the Israeli Appointment Order, the Israeli Functionary was granted the authority to exercise UCI's authorities for the following actions:
 - a) to locate, to track and to seize all UCI assets, or any sort and type whatsoever, including its monies and rights in its subsidiaries;

- b) to exercise UCI's power of control in its subsidiaries;
 - c) to obtain all information, of any sort and type whatsoever, pertaining to UCI's activity, its property and its rights, the same as applies to its subsidiaries;
 - d) to negotiate with the Monitor, and for this purpose, to also approach the Canadian court as an authorized representative of UCI; and
 - e) to track UCI's activities prior to the prospectus and thereafter.
2. The Israeli Court specifically did not authorize the Israeli Functionary to realize UCI's property.
 3. The Monitor notes that the Israeli Appointment Order only grants the Israeli Functionary the authority to exercise UCI's authorities to take the listed actions. UCI's authorities to take such actions, however, are constrained and limited by the Cumberland CCAA Proceedings and, in particular, the terms of Initial Order.
 4. This conflict is regulated by the terms of the Protocol, the key sections of which are as follows:

6. ... Provided that KSV is acting in good faith and has not engaged in willful misconduct or gross negligence, the Israeli Parentco Officer shall not take any steps to attempt to remove KSV as either the proposal trustee under the Proposal Proceedings or the monitor under the CCAA Proceedings or to in any way to interfere with or seek to limit KSV's powers in such capacities or to suggest that KSV must take instruction from it or the Israeli Court or terminate the CCAA Proceedings without the consent of KSV or by order of the Canadian Court. **[emphasis added]**

3. The Israeli Parentco Officer and KSV agree that, with respect to the CCAA Proceedings:

(a) KSV shall provide the Israeli Parentco Officer with regular and timely information updates regarding the ongoing status of the CCAA Proceedings as they unfold. KSV will also provide information and updates to the Israeli Parentco Officer prior to the commencement of the CCAA Proceedings;

...

(d) KSV shall provide to the Israeli Parentco Officer copies of all information pertaining to the Applicants:

- (i) in KSV's possession that KSV considers material; or
- (ii) as reasonably requested by the Israeli Parentco Officer,

provided that KSV, in good faith, is not of the view that such information is subject to privilege or confidentiality restrictions.

5. Paragraph 18 of the Initial Order, provides that all rights of any Person (as defined therein, and which definition includes the Israeli Functionary) against or in respect of the CCAA Entities or affecting the Business (as defined therein) or the Property (as defined therein) are stayed and suspended.
6. Paragraph 28 of the Initial Order provides that it is the Monitor who has been appointed with respect to the business and financial affairs of the CCAA Entities with the powers set out in the CCAA and the Initial Order and that the shareholders of the CCAA Entities (which is the capacity of the Israeli Functionary) shall not take any steps with respect to the CCAA Entities, the Business or the Property.
7. Paragraph 29(q) of the Initial Order stipulates that it is the Monitor that is granted full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the CCAA Entities, to the extent that is necessary to adequately assess the CCAA Entities business and financial affairs or to perform its duties.
8. In light of the foregoing, the cooperative process approved by the Court as reflected in the Protocol (and which, to date, has been successful in avoiding jurisdictional disputes) is to permit the Monitor to carry out its administration of the Cumberland CCAA Entities in the ordinary course of such liquidation CCAA proceedings without interference while at the same time providing full transparency to the Israeli Functionary by way of information updates, reporting and the provision of reasonably requested information, all of which has been done by the Monitor and continues to be done. Put another way, the Israeli Functionary is to have an oversight and consultative role in respect of the Cumberland CCAA Entities but clearly not an administrative one.
9. This is illustrated, in particular, with respect to the flow of information which must be through the Monitor and not directly requested by the Israeli Functionary around the Monitor. The process approved by the Protocol is for the Israeli Functionary to make information requests of the Monitor and for the Monitor to respond to them. If the Israeli Functionary has issues with the Monitor's responsiveness or the information provided with respect to the Cumberland CCAA Entities, then the Israeli Functionary's avenue is to bring a motion in this Court to which the Monitor can respond. It is not to make direct requests of third parties or bring motions for relief against such third parties before this Court or the Israeli Court.
10. To date, the Monitor has received numerous information requests from the Israeli Functionary to which it has responded with the available or retrievable information in every case. Sometimes, the Israeli Functionary has expressed its dissatisfaction with the speed in which such information is provided. In many cases, this cannot be helped as the Monitor is dependent on others, such as Mattamy, for the delivery or compiling of such information. In many cases over the course of these proceedings, the Israeli Functionary has apparently tried to speed things up by seeking such information directly or otherwise conducting investigations, document reviews and analyses which are duplicative of what the Monitor has already done. This has resulted in many discussions urging the Israeli Functionary to stay within its

mandate in these Cumberland CCAA Proceedings and to comply with the Protocol. While the Monitor has previously expressed its concerns about the unnecessary extra costs such activities generate, to date these issues have been ultimately manageable although time consuming and not ideal. An example of such communication is reflected in the letter attached as Appendix "G" from Davies Ward Phillips & Vineberg LLP, counsel to the Monitor, to Dentons LLP, counsel to the Israeli Functionary.

11. In this context, however, it is the Monitor's strong view that seeking the investigation of Mattamy Homes Inc. ("Mattamy") and its executives and the transfer of any information in possession of Mattamy all in respect of the Downsview Project is a direct interference with the Monitor's powers and a violation of the stay as provided in the Initial Order. This is a step too far.

3.1 Downsview

1. An overview of the Downsview project and the current disagreement between the Monitor and the Israeli Functionary regarding the establishment of a realization process for such interests is set out in the Monitor's Nineteenth Report dated October 24, 2017 (the "Nineteenth Report"). A copy of the Nineteenth Report, without appendices, is attached as Appendix "H".
2. The Monitor has repeatedly discussed with the Foreign Representative that Mattamy controls the development of the Downsview Project. Downsview does not have any consent or approval rights with respect to the development; it lost such rights prior to the commencement of the insolvency proceedings. Downsview's effective position currently is solely as a 50% shareholder in the project company, Downsview Homes Inc. It does not control or direct Downsview Homes Inc. or the Downsview project.
3. Consistent with its mandate under the Initial Order and confirmed by the Protocol, the Monitor has exclusive authority over the Downsview project. The Monitor routinely consults with the Foreign Representative, provides it with information provided by Mattamy and asks follow-up questions of Mattamy based on feedback from the Israeli Functionary. The Monitor is cognizant of the interest of the bondholders in the surplus realized from Downsview. The Monitor, however, has concerns about the business judgement of the Israeli Functionary as to the timing of, and process for, realizing on certain assets, including the Downsview project. The Monitor has repeatedly advised that due to the significant delays and uncertainty surrounding the Downsview project, any sale process at this time is likely to result in immaterial recoveries. This has been explained to the Israeli Functionary many times over many months.

4. The Monitor has advised the Israeli Functionary that it will provide whatever Downview information it can locate in Urbancorp's records, as evidenced by a recent email exchange between the Israeli Functionary and the Monitor, a copy of which is provided in Confidential Appendix "1" (the "E-mail Exchange"). That process is ongoing – the Monitor is awaiting information from Alan Saskin and other representatives of the Urbancorp Group. The Monitor has reminded the Foreign Representative of its confidentiality obligations with respect to the Downview project as Mattamy is not subject to the Cumberland CCAA proceedings.
5. As also reflected in the E-mail Exchange, the Israeli Functionary asked that the Monitor arrange a meeting with Mattamy involving the Israeli Functionary, Mattamy representatives and the Monitor. However, in response to an email from the Israeli Functionary's Canadian counsel dated October 23, 2017, Mattamy advised the Israeli Functionary that it is not prepared to meet with it until an acceptable confidentiality commitment has been settled. As of the date of this Report, Mattamy has not agreed to meet with the Israeli Functionary.
6. The Monitor has previously raised with the Israeli Functionary the fact that the Israeli Functionary continues to engage in activities that extend beyond its mandate in the Part IV Proceedings and that such activities are generally duplicative of the activities of the Monitor or do not create value for stakeholders. The Israeli Functionary's activities only serve, in the Monitor's view, to unnecessarily run up the administrative costs of the CCAA proceedings, to the detriment of stakeholders. As a case in point, the Israeli Functionary's total Canadian professional advisory fees to date total over \$1.7 million – and it made a request last week for a further \$750,000. In the Monitor's view, such amounts appear excessive given that the Israeli Functionary's authorized mandate is essentially an oversight and consultative role with respect to the CCAA Proceedings and the Monitor's activities therein.

4.0 Confidentiality

1. The Monitor respectfully requests that the E-mail Exchange be filed with the Court on a confidential basis and be sealed ("Sealing Order") as the correspondence contains confidential information. The financial information was prepared by Mattamy, Mattamy is not an applicant in the Cumberland CCAA proceedings, and the Monitor has not been authorized by Mattamy to disclose the information. The Monitor is not aware of any party that will be prejudiced if the information is sealed. Accordingly, the Monitor believes the proposed Sealing Order is appropriate in the circumstances.

5.0 Conclusion and Recommendation

2. Based on the foregoing, the Monitor respectfully recommends that the Court make an order granting the relief detailed in Section 1.1(1)(c) of this Report.

* * *

All of which is respectfully submitted,

A handwritten signature in blue ink that reads "KSV Kofman Inc". The signature is written in a cursive, flowing style.

**KSV KOFMAN INC.
IN ITS CAPACITY AS CCAA MONITOR OF
THE CUMBERLAND CCAA ENTITIES
AND NOT IN ITS PERSONAL CAPACITY**

Schedule "A"

Urbancorp Toronto Management Inc.

Urbancorp (952 Queen West) Inc.

King Residential Inc.

Urbancorp 60 St. Clair Inc.

High Res. Inc.

Bridge on King Inc.

Urbancorp Power Holdings Inc.

Vestaco Homes Inc.

Vestaco Investments Inc.

228 Queen's Quay West Limited

Urbancorp Cumberland 1 LP

Urbancorp Cumberland 1 GP Inc.

Urbancorp Partner (King South) Inc.

Urbancorp (North Side) Inc.

Urbancorp Residential Inc.

Urbancorp Realtyco Inc.

Appendix “A”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) **WEDNESDAY, THE 18TH**
)
JUSTICE NEWBOULD) **DAY OF MAY, 2016**



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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF URBANCORP TORONTO
MANAGEMENT INC., URBANCORP (ST. CLAIR
VILLAGE) INC., URBANCORP (PATRICIA) INC.,
URBANCORP (MALLOW) INC., URBANCORP
(LAWRENCE) INC., URBANCORP DOWNSVIEW PARK
DEVELOPMENT INC., URBANCORP RESIDENTIAL INC.,
URBANCORP (952 QUEEN WEST) INC., KING
RESIDENTIAL INC., URBANCORP 60 ST. CLAIR INC.,
HIGH RES. INC., BRIDGE ON KING INC. (Collectively the
"Applicants") AND THE AFFILIATED ENTITIES LISTED
IN SCHEDULE "A" HERETO**

INITIAL ORDER

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

ON READING the Affidavit of Alan Saskin sworn May 13, 2016 and the Exhibits thereto (the "**Saskin Affidavit**"), the First Report of KSV Kofman Inc. in its capacity as Proposal Trustee and as proposed monitor dated May 13, 2016 (the "**First Report**") and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Urbancorp CCAA Entities, counsel for the proposed Monitor, counsel for the Foreign Representative of Urbancorp

Inc., counsel for Mattamy (Downsview) Limited, counsel for King Liberty North Corporation, counsel for the syndicate of lenders represented by the Bank of Nova Scotia as administrative agent, and those other parties listed on the counsel slip, no one appearing for any other person although duly served as appears from the Affidavit of Service of Kyle B. Plunkett sworn May 13, 2016, filed, on reading the consent of KSV Kofman Inc. to act as the Monitor (in such capacity, the “**Monitor**”);

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies, save and except Urbancorp New Kings Inc. (“**UNKI**”) which shall not be an Applicant hereunder, and shall be removed from the style of cause in these proceedings and such style of cause shall be hereafter amended to exclude UNKI.
3. **THIS COURT ORDERS AND DECLARES** that although not Applicants, the Urbancorp CCAA Entities’ affiliated Corporations and Limited Partnerships listed in **Schedule “A”** to this Order (the “**Non-Applicant UC Entities**”) are proper parties to these proceedings and shall enjoy the benefits of the protections and authorizations provided by this Order. (The Applicants together with the Non-Applicant UC Entities are hereinafter referred to as the “**Urbancorp CCAA Entities**”).
4. **THIS COURT ORDERS AND DECLARES** that the proposal proceedings of each of Urbancorp Toronto Management Inc. (Estate No. 31-2114055), Urbancorp Downsview Park Developments Inc. (Estate No. 31-2114054), Urbancorp (Patricia) Inc. (Estate No. 31-2114050), Urbancorp (Mallow) Inc. (Estate No. 31-2114049), Urbancorp (Lawrence) Inc. (Estate No. 31-2114048) and Urbancorp (St. Clair Village) Inc. (Estate No. 31-2114053) (collectively, the “**Urbancorp NOI Entities**”) commenced under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), be taken up and continued under the CCAA and that the provisions of Part III of the BIA shall have no further application to the Urbancorp NOI Entities.

PLAN OF ARRANGEMENT

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

POSSESSION OF PROPERTY AND OPERATIONS

6. **THIS COURT ORDERS** that the Urbancorp CCAA Entities shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Urbancorp CCAA Entities shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. Subject to paragraph 29 hereof, the Urbancorp CCAA Entities are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

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

8. **THIS COURT ORDERS** that the Urbancorp CCAA Entities shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Urbancorp CCAA Entities in respect of these proceedings, at their standard rates and charges.

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

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

10. **THIS COURT ORDERS** that the Urbancorp CCAA Entities shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Urbancorp CCAA Entities in connection with the sale

of goods and services by the Urbancorp CCAA Entities, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Urbancorp CCAA Entities.

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

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

13. **THIS COURT ORDERS** that the Urbancorp CCAA Entities shall not, without further Order of this Court: (a) make any disbursement out of the ordinary course of its Business

exceeding in the aggregate \$100,000 in any calendar month; or (b) engage in any material activity or transaction not otherwise in the ordinary course of its Business.

RESTRUCTURING

14. **THIS COURT ORDERS** that subject to paragraph 29 herein, the Urbancorp CCAA Entities shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$1,000,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate;
- (c) pursue all avenues of refinancing (including Additional Interim Financing as hereinafter defined) of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing; and
- (d) pursue a sale or development of some or all of any Urbancorp CCAA Entity's Business and Property,

all of the foregoing to permit the Urbancorp CCAA Entities to proceed with an orderly restructuring of the Business (the "**Restructuring**").

15. **THIS COURT ORDERS** that the Urbancorp CCAA Entities shall provide each of the relevant landlords with notice of the Urbancorp CCAA Entities' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Urbancorp CCAA Entities' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Urbancorp CCAA Entities, or by further Order of this Court upon application by the Urbancorp CCAA Entities on at least two (2) days notice to such landlord and any such secured creditors. If an Applicant disclaims the lease governing such leased premises in

accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Urbancorp CCAA Entities' claim to the fixtures in dispute.

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

NO PROCEEDINGS AGAINST THE URBANCORP CCAA ENTITIES OR THE PROPERTY

17. **THIS COURT ORDERS** that until and including June 17, 2016, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Urbancorp CCAA Entities or the Monitor, or affecting the Business or the Property, except with the written consent of the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Urbancorp CCAA Entities or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

18. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Urbancorp CCAA Entities or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Urbancorp CCAA Entities to carry on

any business which the Urbancorp CCAA Entities are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

19. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Urbancorp CCAA Entities, except with the written consent of the Urbancorp CCAA Entities and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

20. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Urbancorp CCAA Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Urbancorp CCAA Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Urbancorp CCAA Entities, and that the Urbancorp CCAA Entities shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Urbancorp CCAA Entities in accordance with normal payment practices of the Urbancorp CCAA Entities or such other practices as may be agreed upon by the supplier or service provider and each of the Urbancorp CCAA Entities and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

21. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or

licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Urbancorp CCAA Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Urbancorp CCAA Entities with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Urbancorp CCAA Entities whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Urbancorp CCAA Entities, if one is filed, is sanctioned by this Court or is refused by the creditors of the Urbancorp CCAA Entities or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

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

24. **THIS COURT ORDERS** that the directors and officers of the Urbancorp CCAA Entities shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$300,000, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 43 and 45 herein.

25. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Urbancorp CCAA Entities' directors and officers

shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 23 of this Order.

INTERIM FINANCING

26. **THIS COURT ORDERS** that the interim credit facility in the maximum amount of \$1,900,000 (the "**Interim Facility**") made available to the Urbancorp CCAA Entities by Urbancorp Partner (King South) Inc. (the "**Interim Lender**") pursuant to the terms of the term sheet dated as of May 13, 2016 (the "**Term Sheet**"), and attached as an Exhibit to the Saskin Affidavit, and the Term Sheet itself, be and are hereby approved, and the Urbancorp CCAA Entities are hereby authorized and empowered to execute and deliver such documents as are contemplated by the Term Sheet.

PROTOCOL FOR CO-OPERATION

27. **THIS COURT ORDERS AND DIRECTS** that the "Protocol For Cooperation Among Canadian Court Officer and Israeli Functionary", between KSV Kofman Inc. in its capacity as proposal trustee and as proposed Monitor and Guy Gissin, in his capacity as Functionary Officer appointed by the Israel District Court in Tel Aviv-Yafo in respect of Urbancorp Inc., attached as **Schedule "B"** to this Order (the "**Protocol**"), be and is hereby approved. In the event of a conflict between the terms of this Order and the Protocol, the terms of this Order shall prevail.

APPOINTMENT OF MONITOR

28. **THIS COURT ORDERS** that KSV Kofman Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Urbancorp CCAA Entities with the powers and obligations set out in the CCAA or set forth herein and that the Urbancorp CCAA Entities and their shareholders, officers, directors, and Assistants shall not take any steps with respect to the Urbancorp CCAA Entities, the Business or the Property, save and except under the direction of the Monitor, pursuant to paragraph 29 of this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

29. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, and without altering in any way the powers, abilities, limitations and obligations of the Urbancorp CCAA Entities within, or as a result of these proceedings, be and is hereby authorized, directed and empowered to:

- (a) cause the Urbancorp CCAA Entities, or any one or more of them, to exercise rights under and observe its obligations under paragraphs 8, 9, 10, 11, 12 and 13 above;
- (b) conduct a process for the solicitation of proposals for additional interim financing of the Business to replace or augment the Interim Credit Facility (the “**Additional Interim Financing**”), which Additional Interim Financing shall be subject to the approval of the Court;
- (c) cause the Urbancorp CCAA Entities to perform such other functions or duties as the Monitor considers necessary or desirable in order to facilitate or assist the Urbancorp CCAA Entities in dealing with the Property;
- (d) conduct, supervise and direct one or more Court-approved sales and investor solicitation processes (with prior Court approval if deemed appropriate by the Monitor) for portions of the Property or the Business, including the solicitation of development proposals, and any procedures regarding the allocation and/or distribution of proceeds of any transactions;
- (e) cause the Urbancorp CCAA Entities to administer the Property and operations of the Urbancorp CCAA Entities, including the control of receipts and disbursements, as the Monitor considers necessary or desirable for the purposes of completing any transaction, or for purposes of facilitating a Plan or Plans for some or all Applicants, or parts of the Business;
- (f) propose or cause the Applicants or any one or more of them to propose one or more Plans in respect of the Applicants or any one or more of them;
- (g) engage advisors or consultants or cause the Urbancorp CCAA Entities to engage advisors or consultants as the Monitor deems necessary or desirable to carry out the

terms of this Order or any other Order made in these proceedings or for the purposes of the Plan and such persons shall be deemed to be “Assistants” under this Order;

- (h) apply to this Court for any orders necessary or advisable to carry out its powers and obligations under this Order or any other Order granted by this Court including for advice and directions with respect to any matter;
- (i) meet and consult with the directors of the Urbancorp CCAA Entities as the Monitor deems necessary or appropriate;
- (j) meet with and direct management of the Urbancorp CCAA Entities with respect to any of the foregoing including, without limitation, operational and restructuring matters;
- (k) monitor the Urbancorp CCAA Entities’ receipts and disbursements;
- (l) approve Drawdown Requests under the Interim Credit Facility and any Additional Interim Facility;
- (m) cause any Urbancorp CCAA Entity with available cash (an “**Intercompany Lender**”) to loan some or all of that cash to another Urbancorp CCAA Entity (an “**Intercompany Borrower**”) on an interest free inter-company basis (an “**Approved Intercompany Advance**”) up to an aggregate of \$1 million, which Approved Intercompany Advances shall be secured by the Intercompany Lender’s Charge against the Property of the Intercompany Borrower, where in the Monitor’s view the Approved Intercompany Advance secured by the Intercompany Lender’s Charge does not prejudice the interest of the creditors of the Intercompany Lender and does not violate any agreement to which a Non-Applicant UC Entity is a party.
- (n) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (o) assist the Urbancorp CCAA Entities in its preparation of the Urbancorp CCAA Entities’ cash flow statements and reporting required by the Term Sheet or the Court;

- (p) hold and administer creditors' or shareholders' meetings for voting on the Plan or Plans;
- (q) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Urbancorp CCAA Entities, to the extent that is necessary to adequately assess the Urbancorp CCAA Entities business and financial affairs or to perform its duties arising under this Order;
- (r) be at liberty to engage legal counsel, real estate experts, or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (s) perform such other duties as are required by this Order or by this Court from time to time; and
- (t) to comply with the Protocol,

provided, however, that the Monitor shall comply with all applicable law and shall not have any authority or power to elect or to cause the election or removal of directors of any of the Urbancorp CCAA Entities or any of their subsidiaries.

30. **THIS COURT ORDERS** that, until further order of this court, Robert Kofman, or such representative of KSV Kofman Inc. as he may designate in writing from time to time, is authorized, directed and empowered to act as, and is hereby appointed as, the representative of UNKI on the Management Committee of the Kings Club Development Inc. project (the "**Management Committee Member**"). For purposes of this Order, in carrying out its duties as Management Committee Member pursuant to this Order, the Management Committee Member shall have the same protections afforded to the Monitor pursuant to paragraph 35 of this Order. Subject to further order of this Court, on notice to The Bank of Nova Scotia and King Liberty North Corporation, UNKI otherwise remains unaffected by this Order and the CCAA proceedings.

31. **THIS COURT ORDERS** that the Urbancorp CCAA Entities and their advisors shall cooperate fully with the Monitor and any directions it may provide pursuant to this Order and

shall provide the Monitor with such assistance as the Monitor may request from time to time to enable the Monitor to carry out its duties and powers as set out in this Order or any other Order of this Court under the CCAA or applicable law generally.

32. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof and that nothing in this Order, or anything done in pursuance of the Monitor's duties and powers under this Order, shall deem the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation.

33. **THIS COURT ORDERS** that, without limiting the provisions herein, all employees of the Urbancorp CCAA Entities shall remain employees of the Urbancorp CCAA Entities until such time as the Urbancorp CCAA Entities may terminate the employment of such employees. Nothing in this Order shall, in and of itself, cause the Monitor to be liable for any employee-related liabilities or duties, including, without limitation, wages, severance pay, termination pay, vacation pay and pension or benefit amounts, as applicable.

34. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Urbancorp CCAA Entities with information provided by the Urbancorp CCAA Entities in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Urbancorp CCAA Entities is confidential, the Monitor shall not

provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Urbancorp CCAA Entities may agree.

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

36. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Urbancorp CCAA Entities shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Urbancorp CCAA Entities as part of the costs of these proceedings. ^{subject to being assessed by the court.} The Urbancorp CCAA Entities are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Urbancorp CCAA Entities and any Assistants retained by the Monitor on a weekly basis and, in addition, the Urbancorp CCAA Entities are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Urbancorp CCAA Entities and any Assistants retained by the Monitor, such reasonable retainers as may be requested to be held by them as security for payment of their respective fees and disbursements outstanding from time to time. The Urbancorp CCAA Entities are also authorized and directed to pay the fees and disbursements of KSV as Proposal Trustee, the fees and disbursements of the Proposal Trustee's counsel and the fees and disbursements of counsel to Urbancorp NOI Entities up to the date of this Order in respect of the proposal proceedings of the Urbancorp NOI Entities. WJ.

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

38. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Urbancorp CCAA Entities' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property of the Applicants, which charge shall not exceed an aggregate amount of \$750,000, as security for their professional fees and disbursements incurred

at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 43 and 45 hereof.

INTERCOMPANY LENDER'S CHARGE

39. **THIS COURT ORDERS** that an Intercompany Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Intercompany Lender's Charge**") on the Property of the Intercompany Borrower as security for all Approved Intercompany Advances advanced to the Intercompany Borrower. The Intercompany Lender's Charge shall have the priority set out in paragraphs 43 and 45 hereof.

INTERIM FINANCING

40. **THIS COURT ORDERS** that the Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property of the Applicants as security for all amounts advanced to any Applicant under the Interim Credit Facility and as security for all liabilities and obligations of the Applicant as guarantors pursuant to the Term Sheet. The Interim Lender's Charge shall have the priority set out in paragraphs 43 and 45 hereof.

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

- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge;
- (b) upon the occurrence of an Event of Default under the Interim Facility Term Sheet, the Interim Lender may terminate the Interim Credit Facility and cease making advances to the Applicants, and, upon five (5) days' notice to the Monitor and the parties on the Service List, may bring a motion for leave to exercise any and all of its rights and remedies against the Applicants or their Property under or pursuant to the Interim Term Sheet, and the Interim Lender's Charge, including without limitation, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a

- bankruptcy order against an Applicant and for the appointment of a trustee in bankruptcy of one or more Applicants; and
- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or their Property.

42. **THIS COURT ORDERS AND DECLARES** that the Interim Lender shall be treated as unaffected in any plan of arrangement or compromise filed by any Applicant under the CCAA, with respect to any advances made under the Interim Credit Facility.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

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

First – Administration Charge to the maximum amount of \$750,000;

Second – Interim Lender's Charge to the maximum amount of \$1,900,000 plus accrued interest under the Term Sheet (as against the Property of the Applicants only), and the Intercompany Lender's Charge (as against the Property of the relevant Intercompany Borrower only) on a *pari passu* basis; and

Third – Directors' Charge to the maximum amount of \$300,000.

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

45. **THIS COURT ORDERS** that each of the Charges shall rank as against the applicable Property subordinate to all valid perfected security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise granted by each respective

Urbancorp CCAA Entity or to which each respective Urbancorp CCAA Entity is subject (collectively, “**Encumbrances**”) as of the date of this Order (collectively, “**Pre-Filing Security Interests**”), save and except the security interests, if any, in favour of Reznik Paz Nevo Trusts Ltd. in its capacity as trustee (the “**Israeli Trustee**”) under a certain Deed of Trust dated December 7, 2015 between Urbancorp Inc. and the Israeli Trustee, which shall rank subordinate to the Charges.

46. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by further order of this Court, the Urbancorp CCAA Entities shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges.

47. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; (e) the pendency of the Israeli Court Proceedings; or (f) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Urbancorp CCAA Entities, and notwithstanding any provision to the contrary in any Agreement:

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

- (c) the payments made by the Urbancorp CCAA Entities pursuant to this Order, the Interim Facility Term Sheet, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

48. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Urbancorp CCAA Entity's interest in such real property leases.

SERVICE AND NOTICE

49. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in the Globe & Mail – Toronto Edition, a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Urbancorp CCAA Entities of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

50. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://www.ksvadvisory.com/insolvency-cases-2/urbancorp/> .

51. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Urbancorp CCAA Entities and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices

or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Urbancorp CCAA Entities' creditors or other interested parties at their respective addresses as last shown on the records of the Urbancorp CCAA Entities and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

52. **THIS COURT ORDERS** that the Urbancorp CCAA Entities or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

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

54. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, in Israel or elsewhere, to give effect to this Order and to assist the Urbancorp CCAA Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Urbancorp CCAA Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Urbancorp CCAA Entities and the Monitor and their respective agents in carrying out the terms of this Order.

55. **THIS COURT ORDERS** that each of the Urbancorp CCAA Entities and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

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



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

MAY 18 2016

PER / PAR: *RW*

SCHEDULE "A"

List of Non Applicant Affiliates

- Urbancorp Power Holdings Inc.
- Vestaco Homes Inc.
- Vestaco Investments Inc.
- 228 Queen's Quay West Limited
- Urbancorp Cumberland 1 LP
- Urbancorp Cumberland 1 GP Inc.
- Urbancorp Partner (King South) Inc.
- Urbancorp (North Side) Inc.
- Urbancorp Residential Inc.
- Urbancorp Realtyco Inc.

SCHEDULE "B"

PROTOCOL

For Co-operation Among Canadian Court Officer and Israeli Functionary

BETWEEN:

GUY GISSIN, in his capacity
as Functionary Officer appointed by
the Israeli Court for Urbancorp Inc.

- and -

KSV KOFMAN INC., in its capacity
as proposal trustee and proposed monitor
of certain subsidiaries of Urbancorp Inc.

WHEREAS KSV Kofman Inc. ("KSV") was appointed the proposal trustee in respect of each of Urbancorp (Lawrence) Inc., Urbancorp (Mallow) Inc., Urbancorp (Patricia) Inc., Urbancorp (St. Clair Village) Inc., Urbancorp Downsview Park Development Inc. and Urbancorp Toronto Management Inc. (the "**Initial Subsidiaries**"), in notice of intention filings made by each of the Initial Subsidiaries under the *Bankruptcy and Insolvency Act* ("**BIA**") on April 21, 2016 (the "**Proposal Proceedings**");

AND WHEREAS Guy Gissin was appointed as Functionary Officer on a preliminary basis (the "**Israeli Parentco Officer**") of Urbancorp Inc. ("**Parentco**"), the parent of the Initial Subsidiaries, by order of the District Court in Tel Aviv-Yafo (the "**Israeli Court**") dated April 25, 2016 (the "**Israeli Functionary Order**") in case number 44348-04-16 *Reznik Paz Nevo Trusts Ltd. Vs. Urbancorp Inc.* (the "**Israeli Proceedings**");

AND WHEREAS it is anticipated that, with the exception of Bosvest Inc., Edge Residential Inc. and Edge on Triangle Park Inc., which are in separate BIA proposal proceedings with the Fuller Landau Group Inc. as proposal trustee, and Urbancorp Cumberland GP 2 Inc., Urbancorp Cumberland 2 LP and Westside Gallery Lofts Inc. (the "**Excluded Subsidiaries**"), all of the direct and indirect subsidiaries of Urbancorp Inc. (collectively, excluding the Excluded Subsidiaries, the "**Applicants**") will bring an application in the Ontario Superior Court of Justice – Commercial List (the "**Canadian Court**") for relief pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA Proceedings**") wherein the Proposal Proceedings will be taken up and continued within the CCAA Proceedings;

AND WHEREAS it is anticipated that the Israeli Parentco Officer will seek to have the Israeli Functionary Order and its role as the Israeli Parentco Officer recognized by the Canadian Court for the purpose of representing the interests of Parentco and participating as a stakeholder representative in the Applicants' CCAA Proceedings in connection with protecting the interests of Parentco's creditors, including the holders of the bonds issued on the Tel Aviv Stock Exchange (the "**Parentco Bonds**") pursuant to a deed of trust dated December 7, 2015 (the "**Parentco Bond Indenture**");

AND WHEREAS KSV and the Israeli Parentco Officer have agreed to work cooperatively on the terms set out herein to attempt to maximize recoveries through an orderly process for the stakeholders of Parentco and the Applicants (collectively, the "Urbancorp Group");

NOW THEREFORE, the Israeli Parentco Officer and KSV agree to implement the following protocol to cooperate with each other to maximize recoveries for the stakeholders of the Urbancorp Group:

1. The Israeli Parentco Officer will file an application under Part IV of the *Companies' Creditors Arrangement Act* ("CCAA"), seeking recognition of the Israeli Proceedings and of his appointment as foreign representative of Parentco thereunder, such application to seek recognition of the Israeli Proceedings as the "foreign main proceeding" with respect to Parentco. That application will include a request to appoint KSV as the Information Officer with respect to the Part IV CCAA proceedings of Parentco (the "Part IV Proceedings").
2. The Applicants will commence the CCAA Proceedings, proposing KSV to be appointed as Monitor with augmented powers so as to control ordinary course management and receipts and disbursements of funds for the Applicants. KSV acknowledges that the Israeli Parentco Officer shall have standing to appear before the Canadian Court as the representative of Parentco in the CCAA Proceedings.
3. The Israeli Parentco Officer and KSV agree that, with respect to the CCAA Proceedings:
 - (a) KSV shall provide the Israeli Parentco Officer with regular and timely information updates regarding the ongoing status of the CCAA Proceedings as they unfold. KSV will also provide information and updates to the Israeli Parentco Officer prior to the commencement of the CCAA Proceedings;
 - (b) The Israeli Parentco Officer shall provide KSV with at least three business days' prior notice (including full materials, translated into English) of any proceeding, motion or action it takes in the Israeli Court that will negatively impact the Applicants or the CCAA Proceedings. The Israeli Parentco Officer will also provide information and updates to KSV prior to the commencement of the CCAA Proceedings;
 - (c) KSV shall provide the Israeli Parentco Officer with at least three business days' prior notice (including full materials, translated into English) of any proceeding, motion or action it takes in the Canadian Court that will negatively impact the Urbancorp Inc. or the Israeli Proceedings. KSV will also provide information and updates to Israeli Parentco Officer prior to the commencement of the CCAA Proceedings;
 - (d) KSV shall provide to the Israeli Parentco Officer copies of all information pertaining to the Applicants:
 - (i) in KSV's possession that KSV considers material; or

- (ii) as reasonably requested by the Israeli Parentco Officer,

provided that KSV, in good faith, is not of the view that such information is subject to privilege or confidentiality restrictions. If KSV is of the view that such information is subject to privilege or confidentiality restrictions, then KSV shall so inform the Israeli Parentco Officer and shall seek directions from the Canadian Court on notice to the affected parties in the CCAA Proceedings as to whether there are any restrictions which would prevent the disclosure of such information to the Israeli Parentco Officer.

- (e) The Israeli Parentco Officer shall provide to KSV, in its capacity as the Information Officer of Parentco in the Part IV Proceedings, copies of all information pertaining to the Israeli Proceedings:

- (i) in the Israeli Parentco Officer's possession that it considers material to the Israeli Proceedings and is not subject to privilege or confidentiality restrictions; or

- (ii) as reasonably requested by KSV, provided that this shall not entitle KSV or any party requesting information through them to receive information on ongoing reviews or investigations being undertaken by the Israeli Parentco Officer or others in connection with the Israeli Proceedings; and

- (f) KSV will run an orderly dual track sale and restructuring process with respect to the Applicants, subject to approval by the Canadian Court in the CCAA Proceedings, which will consider both development opportunities and opportunities to sell the properties of the Applicants. KSV will design such process collaboratively, with the Israeli Parentco Officer, with the understanding that at any time during the pendency of the sales process, should an offer come forward with respect to any or all of the Applicants contemplating a restructuring or other option which is acceptable to both KSV and the Israeli Parentco Officer, the sale process may be truncated in order to pursue the other option with respect to the Applicant(s) in question. Alternatively, should the sale process continue to the point of submission of bids, subject to Section 4(b) below, copies of all bids will be provided to the Israeli Parentco Officer by KSV, and KSV shall discuss same with the Israeli Parentco Officer, with the objective, but not the obligation, of hopefully concurring on the course of action to be followed in terms of which bids to continue negotiating or which bid(s) to select as the successful bidder(s). KSV acknowledges that, throughout these processes, the Israeli Parentco Officer may from time to time require instructions and/or directions from the Israeli Court, and that the process shall be conducted in a fashion to permit the Israeli Parentco Officer the opportunity to do so on a timeframe consistent with the urgency of the circumstances then in question. The Israeli Parentco Officer and KSV agree that, in the event there is a disagreement between the Israeli Parentco Officer and KSV as to the working out of the sale and restructuring process, whether it be in terms of selecting an alternative option to a sale (including, without limitation, pursuing any development opportunities), determining which bids to proceed to negotiate further, or seeking approval of a particular sale from

the Canadian Court supervising the CCAA Proceedings, the ultimate decision and course of action shall be determined by the Canadian Court on application by KSV for directions and provided that the Israeli Parentco Officer shall have standing as representative of Parentco to make full representations to the Canadian Court as to his views and recommendations.

- (g) The initial order made in the CCAA Proceedings concerning all of the Applicants shall contain the following paragraph pertaining to material or non-ordinary course decisions or disbursements:

THIS COURT ORDERS that the Applicants shall not, without further order of this Court: (a) make any disbursement out of the ordinary course of its Business exceeding in the aggregate \$100,000 in any calendar month; or (b) engage in any material activity or transaction not otherwise in the ordinary course of its Business.

In the event that such paragraph is not included in the initial order for the Applicants or any of them, then any such disbursement or other material activity or transaction shall not be made without the order of the Canadian Court.

4. The Israeli Parentco Officer and KSV further agree to cooperate as follows:

- (a) to the extent practicable, each shall share with the other copies of materials to be filed with their respective courts (but not drafts of any such materials), prior to the public filing of same. This provision may not apply to materials submitted in the course of seeking directions from the Canadian Court in the event of a disagreement between the Israeli Parentco Officer and KSV over the working-out of the sale process; and
- (b) The Israeli Parentco Officer agrees that any information provided to him by KSV in the course of the sale process or concerning any restructuring alternatives, shall remain confidential and not be disclosed to any party without KSV's consent, not to be unreasonably withheld, it being acknowledged that the Israeli Parentco Officer shall be entitled to provide information to its advisors (provided they agree to be bound by the confidentiality restrictions detailed herein) and to both the Israeli Court and the Official Receiver of the Israeli Ministry of Justice, in each case on a sealed and private basis to obtain directions as needed, or as may be set forth in the Non-Disclosure Agreement executed by the Israeli Parentco Officer on May 11, 2016.

5. The Israeli Parentco Officer and KSV acknowledge that, at present, KSV has the amount of CDN\$1.9 million in a trust account, which funds KSV received from Urbancorp Partner (King South) Inc. ("UPKSI"), and which funds KSV has proposed to utilize as a form of interim funding for certain costs of the CCAA Proceedings, to be secured by a priming charge in favour of UPKSI against the assets of the entities utilizing the funds. KSV acknowledges that it will seek to obtain, as soon as possible, a general purpose DIP loan from third party sources and sufficient to repay amounts borrowed from UPKSI, using what are otherwise unencumbered assets of the Applicants (the "DIP Loan").

Upon being able to draw sufficient funds under the DIP Loan (which DIP Loan subject to the approval of the Canadian Court), KSV agrees that it will repay to UPKSI the interim loan made to that date in the preceding sentence from the DIP Loan and that it will, as the court-appointed monitor of UPKSI and subject to Court approval in the Part IV Proceedings, make available funds from that CDN\$1.9 million as an interim loan from UPKSI to Urbancorp Inc., to be secured by a priming DIP charge against the assets of Urbancorp Inc., to assist in the funding of the costs of the Part IV Proceedings including the reasonable costs incurred by the Israeli Parentco Officer in connection with the Part IV Proceedings, the reasonable fees and disbursements of the Israeli Parentco Officer's Canadian counsel and the Information Officer and its counsel.

6. The Israeli Parentco Officer shall support the commencement of the CCAA Proceedings. Provided that KSV is acting in good faith and has not engaged in willful misconduct or gross negligence, the Israeli Parentco Officer shall not take any steps to attempt to remove KSV as either the proposal trustee under the Proposal Proceedings or the monitor under the CCAA Proceedings or to in any way to interfere with or seek to limit KSV's powers in such capacities or to suggest that KSV must take instruction from it or the Israeli Court or terminate the CCAA Proceedings without the consent of KSV or by order of the Canadian Court. Nothing herein shall be deemed to grant any additional claims, rights, security or priority to, or in respect of, the Parentco Bonds or to the trustee under the Parentco Bond Indenture or to the Israeli Parentco Officer as against the Applicants or any affiliate or direct or indirect subsidiary of Parentco. In the event of any restriction or termination of the Israeli Parentco Officer's powers by the Israeli Court, this Protocol shall be deemed to be modified accordingly such that the Israeli Parentco Officer's powers and authority hereunder are no greater than those given to him by the Israeli Court.
7. This Protocol shall be governed by laws of Ontario and the laws of Canada as applicable and all disputes or requests for direction in connection with this Protocol shall be determined by the Canadian Court. Nothing herein is or shall be deemed to be an attachment by KSV to the Israeli Court or the laws of Israel.
8. The Israeli Court Officer and KSV agree to use reasonable efforts to seek to commence the proceedings noted above on or before May 18, 2016. KSV shall support, to the extent necessary, an application by the Israeli Parentco Officer to commence the Part IV Proceedings, on terms consistent with this Protocol, even if commenced before the CCAA Proceedings.

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9. This Agreement is subject to the approval of the Israeli Court and the Canadian Court.

DATED this _____ day of May, 2016.

Name of Witness:

} _____
Name: **GUY GISSIN**, the Israeli Parentco
Officer

**KSV KOFMAN INC. in its capacity
as proposal trustee and proposed monitor
of certain subsidiaries of Urbancorp Inc.,
and not in its personal capacity**

By: _____

Name: Robert Kofman
Title: President

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF URBANCORP TORONTO MANAGEMENT INC., URBANCORP (ST. CLAIR VILLAGE) INC., URBANCORP (PATRICIA) INC., URBANCORP (MALLOW) INC., URBANCORP (LAWRENCE) INC., URBANCORP DOWNSVIEW PARK DEVELOPMENT INC., URBANCORP (952 QUEEN WEST) INC., KING RESIDENTIAL INC., URBANCORP 60 ST. CLAIR INC., HIGH RES. INC., BRIDGE ON KING INC. (THE "APPLICANTS") AND THE AFFILIATED ENTITIES LISTED IN SCHEDULE "A" HERETO

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
PROCEEDINGS COMMENCED AT TORONTO

INITIAL ORDER
(May 18, 2016)

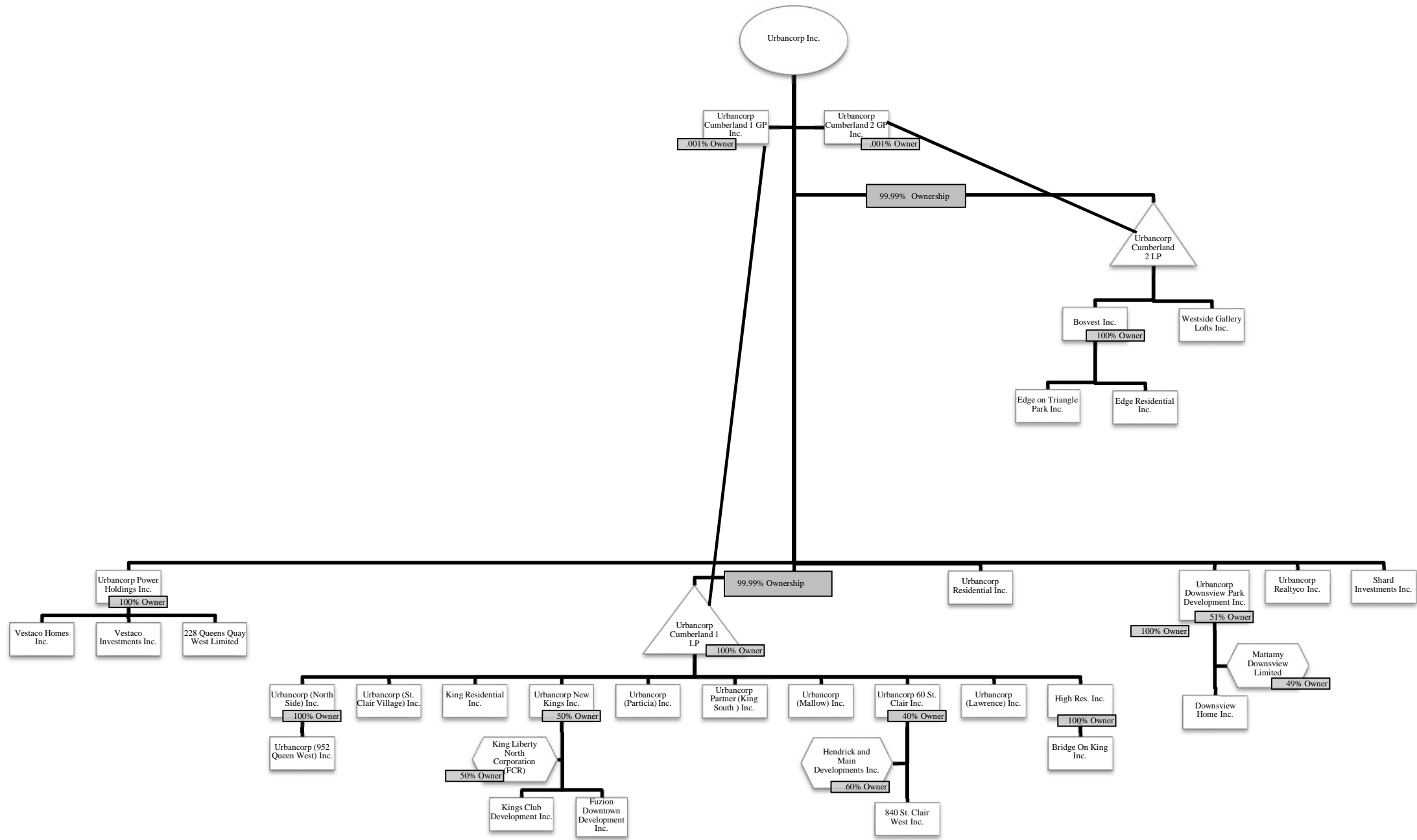
BORDEN LADNER GERVAIS LLP
Barristers and Solicitors
Scotia Plaza
40 King Street West
Toronto, ON M5H 3Y4

EDMOND F. B. LAMEK ~ LSUC NO. 33338U
Direct Tel: 416-367-6311
Direct Fax: 416-361-2436
Email: elamek@blg.com

KYLE B. PLUNKETT ~ LSUC NO. 61044N
Direct Tel: 416-367-6314
Direct Fax: 416-361-2557
Email: kplunkett@blg.com

Lawyers for the Applicants

Appendix “B”



Appendix “C”

"A"

25/04/2016



The District Court in Tel-Aviv - Yafo

Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. Vs. Urbancorp Inc.

Before the Honorable Justice Eitan Orenstein, Vice President

On the matter of: the Companies Act, 5759-1999

And on the matter of: the Companies Regulations (Request for Compromise or Arrangement), 5762-2002

And on the matter of: Article 350 of the Companies Act, 5759-1999

And on the matter of: Reznik Paz Nevo Trusts Ltd.
Trustee of holders of bonds (class A) of the company
By its representatives: Yoel Freilich, Adv., Yael Herschkowitz, Adv., Inbar Hakmian-Nahari, Adv., and Evgeniya Gluchman, Adv.

The Applicant

And on the matter of: Urbancorp Inc.
By its representative: Gad Ticho, Adv.

The Company

And on the matter of: the Official Receiver
By its representative: Roni Hirschenzon, Adv.

Decision

General

1. Before me is an urgent request for the provision of temporary reliefs and for the appointment of a functionary in Urbancorp Inc. (hereinafter: "the Company"), pursuant to Regulation 14(a) of the Companies Regulations ((Request for Compromise or Arrangement), 5762-2002 (hereinafter: "the Arrangement Regulations") and Article 350 of the Companies Act, 5759-1999 (hereinafter: "the Companies Act").

Summary of the Facts

2. The Company incorporated in Canada and it is registered in the county of Ontario. Its main occupation is leasing and initiating real-estate for residential and commercial



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purposes at the location of its incorporation. The Company operates geothermal systems in several of its projects, which are used for providing heating and cooling for the properties, while using green energy. It is in the control of Mr. Alan Saskin, a citizen of Canada and a resident thereof (hereinafter: “**the Controlling Party**”).

In December 2015 the Company raised bonds from the Israeli public, amounting to approximately 180 million ILS, with an interest of 8.15%. The bonds were raised pursuant to a prospectus dated 30/11/2015 and later completions thereof, and were registered for trade at the Tel-Aviv Stock Exchange. It shall be stated that Midroog Ltd. has granted the bonds a rating of A3, a medium-high rank. The underwriter of the issuance was Apex Issuances Ltd., the prospectus was drafted by Shimonov & Co. Law Firm, and the Deloitte firm Brightman, Almagor, Zohar & Co., Accountants. The trustee for the bond holders is Reznik Paz Nevo Trusts Ltd., which has submitted the application (hereinafter: “**the Trustee**”).

The consideration of the issuance was intended to serve for shareholders’ loan for the Company’s subsidiaries which are also incorporated in Canada (hereinafter: “**the Subsidiaries**”) and for providing equity for paying off loans in their various projects, as specified in the bill of trust, as well as for the payment of taxes.

The application states that during the months following the issuance, there has been a severe deterioration in the Company’s financial state and in its capability to sustain itself, which is the result of a number of events, when according to the Applicant it is impossible to rule out that the share of those had already been known prior to the issuance, but they were not reported. The outcome was that all Company directors, apart from the Controlling Party, have resigned; the Company’s trade in securities has ceased; the ranking has ceased, and more. In light of the foregoing, there has been very intensive contact with the Controlling Party, who was supposed to sign a Stand-Still document, and has asked to delay the taking of actions against the Company. Nevertheless, the Trustee was surprised to find out that the Subsidiaries, which excess cash flows were supposed to serve the debt for the holders of bonds, have recently begun an insolvency proceeding in Canada, and a trustee on behalf of the court there has been appointed to them.

The Request

3. The Trustee points in his request, to a series of severe failures in the Company’s conduct, which also constitute a breach of the bill of trust, and give rise to a cause for providing



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Before the Honorable Justice Eitan Orenstein, Vice President

the debt for immediate repayment and taking proceedings against the Company. For this matter, it has been claimed that it is necessary to immediately intervene in the Company's businesses by appointing a functionary, who shall be granted the authorities of the Company's directorate; who shall exercise the Company's power of control in its Subsidiaries; who shall examine the insolvency proceedings taken by the Subsidiaries; who shall negotiate with the trustee appointed to them; who shall act to obtain all required information pertaining to raising the capital; who shall formulate a recovery plan for the Company, inasmuch as it shall be possible; and who shall enter the Company's premises and its offices and shall seize its assets, including accounts and financial deposits.

4. The request was submitted on 24/04/2016, during the Passover recess, and I have instructed holding an urgent discussion today in the presence of the Company, its former functionaries who provide services to it, the Israeli Securities Authority, the Official Receiver and more. In my decision from yesterday, an order for the prohibition of disposition was also granted, according to which the Company and anyone on its behalf is prevented from making any transaction, of any sort and type whatsoever, with its property.

The Court Discussion

5. The following were present at the discussion: the Trustee and its representatives; the representative of the recently resigned Company directors; the Company's former legal consultants; the representative of the Tel-Aviv Stock Exchange and members of its legal department; the representative of the Official Receiver, as well as Gad Ticho, Adv., on behalf of the Company, who has notified that he had taken on representing the Company the previous evening.

The Trustee's representative, Yoel Freilich, Adv., has repeated the request during the discussion, and has emphasized the need for granting the urgent reliefs. He clarified that the Trustee has engaged with a law firm in Canada, which shall assist the functionary, should he be appointed, in fulfilling his position; that there is no conflict of interests for the intended functionary; and more.

According to the Company's representative, its client does not object to leaving the order of prohibition of disposition effective, however she does not see the need for appointing a functionary and for granting the requested authorities, and she objects to the identity of



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the suggested functionary due to conflict of interests. In addition, the Company's representative has claimed that there is no need for the drastic requested reliefs, that the Company should be given leave to submit a proper response, that in any case a meeting of the holders of bonds is scheduled for May 1, 2016 – in which the meeting shall decide with regards to continuing the proceeding – and that no irreversible damage shall occur should the order not be granted.

The representative of the Official Receiver holds the opinion that the state of the Company justifies granting a relief against it, similar to other cases in which the court has instructed appointing a functionary, even if it is for a limited period of time, until the situation is clarified.

Discussion and Ruling

6. We are dealing with a request which was submitted urgently during the Passover recess, and which requires an urgent decision, therefore I shall suffice with a brief reasoning.

The Rule

The request, by nature, is a request for temporary relief, and prior to submitting the primary proceeding. Therefore, it should be examined by the rules used for temporary reliefs, namely, does the Applicant meet the test of *prima facie* reliable evidence in the cause of the action as well as the balance of convenience test, and as set in the Civil Procedure Regulations, 5744-1984 and in rulings, when between the two there is a "parallelogram of forces" (see Civil Leave of Appeal 2174/13 **D.K. Shops for Rent in Herzlia HaTze'ira Ltd. Vs. Avraham Cohen & Co. Contracting Company Ltd.** (published on the website of the Judicial Authority, 19/04/2016).

I shall emphasize, that under the circumstances of the request before me, when the primary relief has not yet been requested, the court is required to take extra precautions when ruling on a request for temporary relief, especially given the drastic temporary reliefs requested therein.

The request is accompanying to a primary proceeding which the Trustee is intending to submit pursuant to the provisions of Article 350 of the Companies Act, which deals with an arrangement between a company and its creditors, a proceeding which, according to the word of the law, can also be taken by a creditor of the company, in addition to the company itself, or a participant or a liquidator. As is known, it is possible to appeal for



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temporary reliefs even before beginning the primary proceeding, provided that the applicant has met the required conditions stated above.

Another basis for the request, as mentioned, is Regulation 14(a) of the Arrangement Regulations, which authorizes the court to appoint a functionary when discussing a request for arrangement in accordance with Article 350 of the Companies Act, saying:

“To appoint a functionary, who shall have all authorities and duties which shall be determined by the court, including managing the company or supervising its management, keeping its assets, as well as examining claims of debt and claims for amending the registry of shareholders in the method specified in Chapter C; the court shall appoint a functionary once it was convinced that the candidate is suitable for the position due to his skills or his experience in formulating compromise arrangements or an arrangement[...].”

From the General to the Specific

7. Viewing the statements of claim and their appendixes paints a grim picture, to say the least, of the state of the Company.

On the surface it appears that it is failing to meet the conditions of the bill of trust, in a way which gives rise to a cause for providing the debt for immediate repayment. For this matter, I shall list the breaches, each of which is sufficient to give rise to the stated cause, let alone when put together: the trade in the Company's bonds has been stopped; the Company's rating by Midroog Ltd. has also been stopped; all of the Company's Israeli directors have resigned, as well as its legal consultants and its internal auditor;

And severe failures in the Company's activity have been found, as specified in the report it submitted pertaining to its financial data, dated April 20, 2016. Amongst those: a loss of 15 million Canadian Dollars compared with the current activity in the last quarter of 2015; a decrease in the value of the right of the Controlling Party assigned to the Company to receive loans from corporations in his control, thus from an estimated value of approximately eight million Dollars, the value is expected to drop to an insignificant amount; concern that the Company shall decrease the value of the geothermal assets at a total ranging between four and six million Canadian Dollars. The end of the report even



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states that it is possible that the Company's state is far worse and that its losses shall be high.

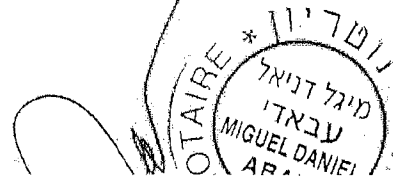
Another event teaching of failures in the Company which should be stated, is the decision of the Canadian Home Organization Trion dated April 4, 2016, to not extend the Company's license, namely, the Company is not entitled to continue its activity of initiating and selling planned projects.

This is joined by the fact stated above, that the Subsidiaries have recently begun a stay of proceedings in Canada, as part of which a trustee was appointed to them. The Company and the Controlling Party have not brought this important fact to the knowledge of the Trustee, let alone given details pertaining to the proceeding taken, its significance, its implication on the Company and such.

The conclusion drawn from the stated above is that there is total uncertainty with regards to the Company's financial state, its equity, its capability of sustaining itself, and concern for the fate of the investments made by the holders of bonds. Another conclusion is that there is a substantial lack of information pertaining to the occurrences in the Company, and the Trustee is forced to seek in the dark, all when there is concern for the fate of the Company and its assets, including with regards to the occurrences in the Subsidiaries and their assets, which have enjoyed the monies of capital raised by the holders of bonds.

In my opinion, the stated above is sufficient basis for appointing a functionary to the Company, who shall be authorized to receive all information pertaining to the Company, its activity, its property and its rights, including the Subsidiaries and the proceedings conducted in Canada. Simultaneously, the functionary shall be able to track the Company's property, to locate it, to seize it and to prevent making irreversible actions. I shall add that obtaining the information shall also enable making an educated decision regarding taking appropriate proceedings with regards to the Company, to minimize damages and to redirect, as much as possible, the monies which would be could be paid to the holders of bonds.

Needless to say, the Company is in the twilight zone of insolvency, when there is concern for its fate and for the fate of the monies of investors, unless urgent actions are taken. As stated by the representative of the Official Receiver, the court discussing insolvency has a wide range of reliefs at its disposal, which also apply to a situation where the Company is in the twilight zone of insolvency. In this regard I shall refer to a recent ruling by the



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Supreme Court, as said by the Honorable Justice E. Hayut in Civil Appeal 3791/15 Synergy Cables vs. Hever, paragraph 8 (published on the website of the Judicial Authority on 19/04/2016):

The District Court has not ruled pursuant to which legal authority it appoints the respondent, but as rightfully stated by the respondent, reality shows that there are cases [...] where the court appoints **functionaries in proceedings in which the corporation is in the “zone of insolvency”, even prior to issuing an order for stay of proceedings or for the liquidation of the company (compare, for example: Liquidation File (Tel-Aviv) 36681-04-13 Hermetic Trusts (1975) Ltd. vs. IDB Development Ltd. (30/04/2013), in which the District Court in Tel-Aviv (Justice E. Orenstein) has decided to appoint a functionary who was defined as an “observer” for the company, while relying for this purpose of the wide authority granted to him in accordance with Regulation 14(a)(1) of the Companies Regulations [...]**

(Emphasis not in the original – E.O.)

This rule also applies to the matter before us.

In my opinion, the circumstances of the case meet the tests required for granting a temporary relief. For this matter, the Company has allegedly breached its undertakings towards the holders of bonds in a way which grants the holders of bonds the right to provide the debt for immediate repayment, and to claim the reliefs due as a result thereof. I shall add that the balance of convenience also leans towards granting the temporary relief. In this context, I shall state that according to the Company's representative, these days a substantial transaction is to be executed, of selling the Company's property, which should provide it with a substantial amount of money; it is not improbable that the consideration shall not be given to the holders of bonds, despite the order of prohibition of disposition, in the absence of practical capability for enforcement, thus causing irreversible damage. Therefore, only a functionary who could also track the stated transaction, could possibly prevent irreversible damage to the holders of bonds.

This conclusion is emphasized noticing the recent problematic conduct of the Controlling Party. As is evident in the request, he has failed to disclose to the Trustee during contacts



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conducted these days that the Subsidiaries intend on taking the proceeding of insolvency as they have done.

In fact, the Company has no management core, whereas all directors, apart from the Controlling Party, have resigned, it has no internal auditor, and even the legal consultants have terminated their engagement with it. In this state of affairs, the Company is given to the good will of the Controlling Party, and in light of the problems I have pointed pertaining to him, and in the absence of supervision on his conduct, it would be best to appoint an authority who shall take the Company's reigns and shall supervise the occurrences in the Company at least until the picture is clarified.

I have not ignored the claim made by the Company's representative regarding the damage which could be caused to the Company due to appointing the functionary, but I have not seen that it leads to a different conclusion. I believe that the weight of the reasons I have specified above, exceeds by far the concern raised by Advocate Ticho in this regard. In any case, it is possible to find the required balance between guaranteeing the Company's conduct and the argued damage, by limiting the authorities which shall be granted to the Trustee and the period of time in which he shall be appointed. I shall emphasize that the concern raised by Advocate Ticho, which, according to him, may be a result of appointing a temporary liquidator to the Company, can be abated by not appointing a temporary liquidator, which has not even been requested.

I have also answered the argument made by Advocate Ticho regarding the conflict of interest in which the offered functionary is allegedly in, due to him representing the Trustee. I have not found this argument sufficient reason for not appointing Advocate Gissin, and I shall clarify: Gissin & Co. Law Firm has accepted the representation of the Trustee only recently, as Advocate Freilich has said in the discussion. The firm has not represented the Trustee in the process of preparing the prospectus, its publication and the issuance of the bonds, nor in the following period, but only following the Company's getting into trouble. Therefore, it is impossible to say that he is involved in proceedings preceding this request. In addition, should it be found out in the future, that there is a conflict of interest, the argument shall be made before the court and shall be examined by itself, and the argument shall not prevent the appointment at the preliminary stage we are in.



25/04/2016



The District Court in Tel-Aviv - Yafo

Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. Vs. Urbancorp Inc.

Before the Honorable Justice Eitan Orenstein, Vice President

8. To complete the picture I shall state that there is no dispute regarding the authority of the court in Israel to grant the requested relief. In this context, I shall refer to the various documents attached by the Trustee to the request, including the prospectus and the bill of trust, which state that the Company acknowledges the authority of the court in Israel to grant the reliefs (see clause 34 of the bill). In addition, I shall state that Article 39a of the Securities Law, 5728-1968, which applies to the prospectus, rules that the provisions of the Companies Act shall apply to any foreign company which has issued securities. Needless to say, the authority of the court to discuss the request is also pursuant to the court ruling given in a case with similar circumstances, and I shall refer to Civil Appeal 2706/11 **Sybil Germany Public Co. Limited vs. Hermetic Trusts (1975) Ltd.** (published on the website of the Judicial Authority on 04/09/2015).

9. In light of the foregoing I hereby instruct as follows:

I appoint Advocate Gissin as functionary in Urbancorp Inc. and grant him the authority to exercise the Company's authorities, for all following actions:

- ✦ To locate, to track and to seize all Company assets, of any sort and type whatsoever, including its monies and rights in the Subsidiaries;
- ✦ To exercise the Company's power of control in the Subsidiaries;
- ✦ To obtain all information, of any sort and type whatsoever, pertaining to the Company's activity, its property and its rights; the same applies to the Subsidiaries;
- ✦ To negotiate with the Subsidiaries' trustee, and for this purpose, to also approach the Canadian court as an authorized representative of the Company;
- ✦ To track the Company's activities prior to the prospectus and thereafter.

For the purpose of exercising these authorities, the functionary is hereby authorized to appear in the Company's name before any body, authority or person in Israel and abroad; to obtain any information whatsoever from any of the Company's factors, from the Controlling Parties, from the authorities and from any person who has provided or is providing services for the Company; and to obtain from them all documents he believes shall be required for fulfilling his position.



25/04/2016



The District Court in Tel-Aviv – Yafo

Liquidation File 44348-04-16 Reznik Paz Nevo Trusts Ltd. Vs. Urbancorp Inc.

Before the Honorable Justice Eitan Orenstein, Vice President

The functionary shall be authorized to formulate an initial outline of a creditors' arrangement.

The functionary shall approach the court if necessary, and shall request its permission to exercise Company authorities not expressly specified in the decision.

For the avoidance of doubt: the functionary is not authorized to realize the Company's property.

A condition for the appointment is the functionary depositing a personal bond at a total of 250,000 ILS.

The functionary shall do all that he can for obtaining the required information in the coming days, so that it can be presented, as much as possible, before the meeting of holders of bonds set for next Sunday, May 1, 2016.

At this point I set the appointment until May 22, 2016 or as shall be otherwise decided.

A first report of the functionary's actions shall be submitted by May 8, 2016.

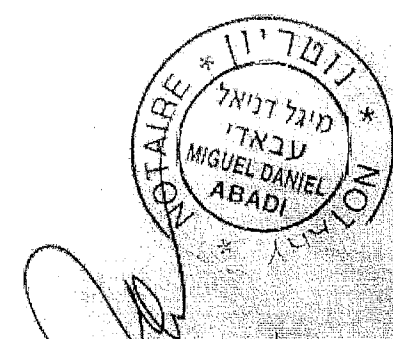
The case has been set for discussion for May 22, 2016 at 11:30.

The secretariat shall notify of the decision by telephone and shall also send it by fax.

Given today, 17 Nisan 5776 (25th of April 2016), *ex parte*.

Eitan Orenstein, Justice

Vice President



Appendix “D”

PROTOCOL
For Co-operation Among Canadian Court Officer and Israeli Functionary

BETWEEN:

GUY GISSIN , in his capacity
as Functionary Officer appointed by
the Israeli Court for Urbancorp Inc.

- and -

KSV KOFMAN INC., in its capacity
as proposal trustee and proposed monitor
of certain subsidiaries of Urbancorp Inc.

WHEREAS KSV Kofman Inc. ("**KSV**") was appointed the proposal trustee in respect of each of Urbancorp (Lawrence) Inc., Urbancorp (Mallow) Inc., Urbancorp (Patricia) Inc., Urbancorp (St. Clair Village) Inc., Urbancorp Downsview Park Development Inc. and Urbancorp Toronto Management Inc. (the "**Initial Subsidiaries**"), in notice of intention filings made by each of the Initial Subsidiaries under the *Bankruptcy and Insolvency Act* ("**BIA**") on April 21, 2016 (the "**Proposal Proceedings**");

AND WHEREAS Guy Gissin was appointed as Functionary Officer on a preliminary basis (the "**Israeli Parentco Officer**") of Urbancorp Inc. ("**Parentco**"), the parent of the Initial Subsidiaries, by order of the District Court in Tel Aviv-Yafo (the "**Israeli Court**") dated April 25, 2016 (the "**Israeli Functionary Order**") in case number 44348-04-16 *Reznik Paz Nevo Trusts Ltd. Vs. Urbancorp Inc.* (the "**Israeli Proceedings**");

AND WHEREAS it is anticipated that, with the exception of Bosvest Inc., Edge Residential Inc. and Edge on Triangle Park Inc., which are in separate BIA proposal proceedings with the Fuller Landau Group Inc. as proposal trustee, and Urbancorp Cumberland GP 2 Inc., Urbancorp Cumberland 2 LP and Westside Gallery Lofts Inc. (the "**Excluded Subsidiaries**"), all of the direct and indirect subsidiaries of Urbancorp Inc. (collectively, excluding the Excluded Subsidiaries, the "**Applicants**") will bring an application in the Ontario Superior Court of Justice – Commercial List (the "**Canadian Court**") for relief pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA Proceedings**") wherein the Proposal Proceedings will be taken up and continued within the CCAA Proceedings;

AND WHEREAS it is anticipated that the Israeli Parentco Officer will seek to have the Israeli Functionary Order and its role as the Israeli Parentco Officer recognized by the Canadian Court for the purpose of representing the interests of Parentco and participating as a stakeholder representative in the Applicants' CCAA Proceedings in connection with protecting the interests of Parentco's creditors, including the holders of the bonds issued on the Tel Aviv Stock Exchange (the "**Parentco Bonds**") pursuant to a deed of trust dated December 7, 2015 (the "**Parentco Bond Indenture**");

AND WHEREAS KSV and the Israeli Parentco Officer have agreed to work cooperatively on the terms set out herein to attempt to maximize recoveries through an orderly process for the stakeholders of Parentco and the Applicants (collectively, the "**Urbancorp Group**");

NOW THEREFORE, the Israeli Parentco Officer and KSV agree to implement the following protocol to cooperate with each other to maximize recoveries for the stakeholders of the Urbancorp Group:

1. The Israeli Parentco Officer will file an application under Part IV of the *Companies' Creditors Arrangement Act* ("CCAA"), seeking recognition of the Israeli Proceedings and of his appointment as foreign representative of Parentco thereunder, such application to seek recognition of the Israeli Proceedings as the "foreign main proceeding" with respect to Parentco. That application will include a request to appoint KSV as the Information Officer with respect to the Part IV CCAA proceedings of Parentco (the "**Part IV Proceedings**").
2. The Applicants will commence the CCAA Proceedings, proposing KSV to be appointed as Monitor with augmented powers so as to control ordinary course management and receipts and disbursements of funds for the Applicants. KSV acknowledges that the Israeli Parentco Officer shall have standing to appear before the Canadian Court as the representative of Parentco in the CCAA Proceedings.
3. The Israeli Parentco Officer and KSV agree that, with respect to the CCAA Proceedings:
 - (a) KSV shall provide the Israeli Parentco Officer with regular and timely information updates regarding the ongoing status of the CCAA Proceedings as they unfold. KSV will also provide information and updates to the Israeli Parentco Officer prior to the commencement of the CCAA Proceedings;
 - (b) The Israeli Parentco Officer shall provide KSV with at least three business days' prior notice (including full materials, translated into English) of any proceeding, motion or action it takes in the Israeli Court that will negatively impact the Applicants or the CCAA Proceedings. The Israeli Parentco Officer will also provide information and updates to KSV prior to the commencement of the CCAA Proceedings;
 - (c) KSV shall provide the Israeli Parentco Officer with at least three business days' prior notice (including full materials, translated into English) of any proceeding, motion or action it takes in the Canadian Court that will negatively impact the Urbancorp Inc. or the Israeli Proceedings. KSV will also provide information and updates to Israeli Parentco Officer prior to the commencement of the CCAA Proceedings;
 - (d) KSV shall provide to the Israeli Parentco Officer copies of all information pertaining to the Applicants:
 - (i) in KSV's possession that KSV considers material; or

(ii) as reasonably requested by the Israeli Parentco Officer,

provided that KSV, in good faith, is not of the view that such information is subject to privilege or confidentiality restrictions. If KSV is of the view that such information is subject to privilege or confidentiality restrictions, then KSV shall so inform the Israeli Parentco Officer and shall seek directions from the Canadian Court on notice to the affected parties in the CCAA Proceedings as to whether there are any restrictions which would prevent the disclosure of such information to the Israeli Parentco Officer.

(e) The Israeli Parentco Officer shall provide to KSV, in its capacity as the Information Officer of Parentco in the Part IV Proceedings, copies of all information pertaining to the Israeli Proceedings:

(i) in the Israeli Parentco Officer's possession that it considers material to the Israeli Proceedings and is not subject to privilege or confidentiality restrictions; or

(ii) as reasonably requested by KSV, provided that this shall not entitle KSV or any party requesting information through them to receive information on ongoing reviews or investigations being undertaken by the Israeli Parentco Officer or others in connection with the Israeli Proceedings; and

(f) KSV will run an orderly dual track sale and restructuring process with respect to the Applicants, subject to approval by the Canadian Court in the CCAA Proceedings, which will consider both development opportunities and opportunities to sell the properties of the Applicants. KSV will design such process collaboratively, with the Israeli Parentco Officer, with the understanding that at any time during the pendency of the sales process, should an offer come forward with respect to any or all of the Applicants contemplating a restructuring or other option which is acceptable to both KSV and the Israeli Parentco Officer, the sale process may be truncated in order to pursue the other option with respect to the Applicant(s) in question. Alternatively, should the sale process continue to the point of submission of bids, subject to Section 4(b) below, copies of all bids will be provided to the Israeli Parentco Officer by KSV, and KSV shall discuss same with the Israeli Parentco Officer, with the objective, but not the obligation, of hopefully concurring on the course of action to be followed in terms of which bids to continue negotiating or which bid(s) to select as the successful bidder(s). KSV acknowledges that, throughout these processes, the Israeli Parentco Officer may from time to time require instructions and/or directions from the Israeli Court, and that the process shall be conducted in a fashion to permit the Israeli Parentco Officer the opportunity to do so on a timeframe consistent with the urgency of the circumstances then in question. The Israeli Parentco Officer and KSV agree that, in the event there is a disagreement between the Israeli Parentco Officer and KSV as to the working out of the sale and restructuring process, whether it be in terms of selecting an alternative option to a sale (including, without limitation, pursuing any development opportunities), determining which bids to proceed to negotiate further, or seeking approval of a particular sale from

the Canadian Court supervising the CCAA Proceedings, the ultimate decision and course of action shall be determined by the Canadian Court on application by KSV for directions and provided that the Israeli Parentco Officer shall have standing as representative of Parentco to make full representations to the Canadian Court as to his views and recommendations.

- (g) The initial order made in the CCAA Proceedings concerning all of the Applicants shall contain the following paragraph pertaining to material or non-ordinary course decisions or disbursements:

THIS COURT ORDERS that the Applicants shall not, without further order of this Court: (a) make any disbursement out of the ordinary course of its Business exceeding in the aggregate \$100,000 in any calendar month; or (b) engage in any material activity or transaction not otherwise in the ordinary course of its Business.

In the event that such paragraph is not included in the initial order for the Applicants or any of them, then any such disbursement or other material activity or transaction shall not be made without the order of the Canadian Court.

4. The Israeli Parentco Officer and KSV further agree to cooperate as follows:
- (a) to the extent practicable, each shall share with the other copies of materials to be filed with their respective courts (but not drafts of any such materials), prior to the public filing of same. This provision may not apply to materials submitted in the course of seeking directions from the Canadian Court in the event of a disagreement between the Israeli Parentco Officer and KSV over the working-out of the sale process; and
 - (b) The Israeli Parentco Officer agrees that any information provided to him by KSV in the course of the sale process or concerning any restructuring alternatives, shall remain confidential and not be disclosed to any party without KSV's consent, not to be unreasonably withheld, it being acknowledged that the Israeli Parentco Officer shall be entitled to provide information to its advisors (provided they agree to be bound by the confidentiality restrictions detailed herein) and to both the Israeli Court and the Official Receiver of the Israeli Ministry of Justice, in each case on a sealed and private basis to obtain directions as needed, or as may be set forth in the Non-Disclosure Agreement executed by the Israeli Parentco Officer on May 11, 2016.
5. The Israeli Parentco Officer and KSV acknowledge that, at present, KSV has the amount of CDN\$1.9 million in a trust account, which funds KSV received from Urbancorp Partner (King South) Inc. ("UPKSI"), and which funds KSV has proposed to utilize as a form of interim funding for certain costs of the CCAA Proceedings, to be secured by a priming charge in favour of UPKSI against the assets of the entities utilizing the funds. KSV acknowledges that it will seek to obtain, as soon as possible, a general purpose DIP loan from third party sources and sufficient to repay amounts borrowed from UPKSI, using what are otherwise unencumbered assets of the Applicants (the "**DIP Loan**").


Upon being able to draw sufficient funds under the DIP Loan (which DIP Loan subject to the approval of the Canadian Court), KSV agrees that it will repay to UPKSI the interim loan made to that date in the preceding sentence from the DIP Loan and that it will, as the court-appointed monitor of UPKSI and subject to Court approval in the Part IV Proceedings, make available funds from that CDN\$1.9 million as an interim loan from UPKSI to Urbancorp Inc., to be secured by a priming DIP charge against the assets of Urbancorp Inc., to assist in the funding of the costs of the Part IV Proceedings including the reasonable costs incurred by the Israeli Parentco Officer in connection with the Part IV Proceedings, the reasonable fees and disbursements of the Israeli Parentco Officer's Canadian counsel and the Information Officer and its counsel.

6. The Israeli Parentco Officer shall support the commencement of the CCAA Proceedings. Provided that KSV is acting in good faith and has not engaged in willful misconduct or gross negligence, the Israeli Parentco Officer shall not take any steps to attempt to remove KSV as either the proposal trustee under the Proposal Proceedings or the monitor under the CCAA Proceedings or to in any way to interfere with or seek to limit KSV's powers in such capacities or to suggest that KSV must take instruction from it or the Israeli Court or terminate the CCAA Proceedings without the consent of KSV or by order of the Canadian Court. Nothing herein shall be deemed to grant any additional claims, rights, security or priority to, or in respect of, the Parentco Bonds or to the trustee under the Parentco Bond Indenture or to the Israeli Parentco Officer as against the Applicants or any affiliate or direct or indirect subsidiary of Parentco. In the event of any restriction or termination of the Israeli Parentco Officer's powers by the Israeli Court, this Protocol shall be deemed to be modified accordingly such that the Israeli Parentco Officer's powers and authority hereunder are no greater than those given to him by the Israeli Court.
7. This Protocol shall be governed by laws of Ontario and the laws of Canada as applicable and all disputes or requests for direction in connection with this Protocol shall be determined by the Canadian Court. Nothing herein is or shall be deemed to be an attachment by KSV to the Israeli Court or the laws of Israel.
8. The Israeli Court Officer and KSV agree to use reasonable efforts to seek to commence the proceedings noted above on or before May 18, 2016. KSV shall support, to the extent necessary, an application by the Israeli Parentco Officer to commence the Part IV Proceedings, on terms consistent with this Protocol, even if commenced before the CCAA Proceedings.

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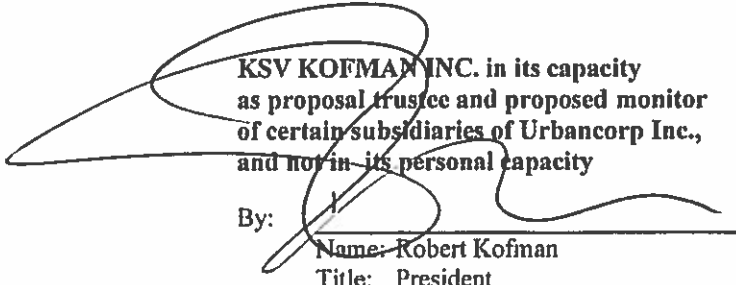
9. This Agreement is subject to the approval of the Israeli Court and the Canadian Court.

DATED this 13 day of May, 2016.

Name of Witness: _____




Name: **GUY GISSIN**, the Israeli Parentco Officer


**KSV KOFMAN INC. in its capacity
as proposal trustee and proposed monitor
of certain subsidiaries of Urbancorp Inc.,
and not in its personal capacity**
By: _____
Name: **Robert Kofman**
Title: **President**

Appendix “E”

CITATION: Urbancorp Inc. (Re) 2016 ONSC 3288
COURT FILE NO.: CV-16-11389-00CL
CV-16-11392-00CL
DATE: 20160525

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF URBANCORP TORONTO
MANAGEMENT INC., URBANCORP (ST. CLAIR VILLAGE)
INC., URBANCORP (PATRICIA) INC., URBANCORP
(MALLOW) INC., URBANCORP (LAWRENCE) INC.,
URBANCORP DOWNSVIEW PARK DEVELOPMENT INC.,
URBANCORP RESIDENTIAL INC., URBANCORP (952 QUEEN
WEST) INC., KING RESIDENTIAL INC., URBANCORP 60 ST.
CLAIR INC., HIGH RES. INC., BRIDGE ON KING INC.
(Collectively the “Applicants”) AND THE AFFILIATED
ENTITIES LISTED IN SCHEDULE “A” HERETO**

AND IN THE MATTER OF URBANCORP INC.

**APPLICATION OF GUY GISSIN, THE FOREIGN
REPRESENTATIVE OF URBANCORP INC., UNDER SECTION
46 OF THE *COMPANIES' CREDITORS ARRANGEMENTS ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

HEARD: May 18, 2016

COUNSEL: *Edmund F.B. Lamek and Rachael Belanger*, for the Applicants

L. Joseph Latham and Tamryn Jacobson, for Guy Gissin, the Foreign
Representative of Urbancorp Inc.

Robin B. Schwill and Jay Swartz, for KSV Kofman Inc.

Jane Dietrich, for Mattany (Downsview) Inc.

Scott Bomhof, for King Liberty North Corporation

Adam Slavens, for Tarion Warranty Corporation

Heather Meredith, for Bank of Nova Scotia

Clifton P. Prophet and Frank Lamie, for Canadian Imperial Bank of Commerce

John Paul Ventrella, for Atrium Mortgage Investment Mortgage

Aubrey E. Kauffman, for Travelers Guarantee Company of Canada

Brian Empey, for Parc Downsview Park Inc.

NEWBOULD J.

[1] A number of Urbancorp Inc. (“UC Inc.”) subsidiaries applied on May 18, 2016 for relief under the CCAA, including relief in respect of a number of non-applicant affiliated limited partnerships which may not be insolvent.¹ Some of the applicants earlier filed a notice of intent to make a proposal under section 50.4(1) of the BIA. These applicants apply to continue the NOI proceedings in this CCAA proceeding.

[2] UC Inc. is not an applicant in this CCAA proceeding. However, it issued debentures which traded on the Tel Aviv Stock Exchange. The trustee of those bonds alleged default by UC Inc. and, after the NOI proceedings were started in Canada, initiated a claim for relief in the District Court of Tel Aviv-Yafo, Israel (the “Israeli Court”). Orders were made granting relief to the trustee and Mr. Guy Gissin was appointed by the Israeli Court as the functionary officer and foreign representative of UC Inc. He has brought proceedings under Part IV of the CCAA for an initial recognition order and a supplemental order recognizing orders made by the Israeli Court.

[3] It is evident that these two competing applications, if not resolved in some consensual way, would cause great difficulty in any restructuring of the Urbancorp Group. Fortunately, due to the efforts of Mr. Gissin and KSV, the proposal trustee and now the proposed Monitor, and their counsel, an agreement in principle to co-operate on a process to realize upon the assets of

¹ Urbancorp New Kings Inc. was inadvertently included as an applicant when this proceeding was first commenced. It has been removed as an applicant as it is not an insolvent corporation.

the Urbancorp Group has been reached and is contained in a Co-operation Protocol signed by Mr. Gissin and KSV.

[4] At the conclusion of the hearing, I granted the Initial Order and the recognition and supplemental orders sought by Mr. Gissin as the foreign representative, including the approval of the Co-Operation Protocol, for reasons to follow. These are my reasons.

Factual background

[5] The Urbancorp Group was founded in 1991 by Alan Saskin. As is typical in the real estate development industry, the Urbancorp Group generally uses single purpose project specific corporations to engage in the development, construction and sale of residential properties in the greater Toronto area. Since 2015, the Urbancorp Group has essentially been organized into two branches – the corporations which are owned directly or indirectly by Mr. Saskin or members of his family, which includes UTMI, and the entities that, as of December 2015, became UC Inc. subsidiaries. The majority of the Urbancorp corporations that are applicants in this proceeding have been formed as single purposes entities in connection with the construction and ownership of specific development projects.

[6] The Urbancorp Group has redeveloped over 100 acres of former industrial lands in the GTA, turning them into downtown neighbourhoods. The Urbancorp Group was the first developer in the King West village area of Toronto and created the neighbourhood named “King West Village”. In the West Queen West Triangle area of Toronto, across from the Drake hotel, the Urbancorp Group developed most of the homes, over 1,600 in that neighbourhood. In partnership with Artscape, a nonprofit provider of affordable artist housing, the Urbancorp Group developed 72 units of affordable artist housing in West Queen West. The Urbancorp Group has donated land and paid for public parks in the City of Toronto, including four public parks in the King and Queen West areas.

[7] The Urbancorp Group has built over 5500 homes. It delivered 1,028 homes in the past two years, and currently has 1,058 additional homes under construction.

[8] However, as a result of the recent lack of liquidity described in detail in the affidavit of Mr. Siskin, the applicants are insolvent and cannot meet their liabilities generally as they become due, and as a result, the operations of all of the Urbancorp applicants and related entities has been put at risk.

[9] Mr. Saskin in his affidavit states that the primary financial challenge facing the Urbancorp applicants and related entities at this time, particularly the entities that filed NOI proceedings, is their inability to raise the necessary financing to advance their major projects beyond their current stages of development. This is due to a number of events, including the recent steps by Tarion Warranty Corporation to revoke certain Tarion registration certificates, and events relating to UC Inc. and its issuance of debentures in Israel. These events and the publicity and press surrounding them have materially threatened the ability of the non-applicant UC entities to carry on business in the ordinary course.

[10] UC Inc. is an Ontario company created for the purpose of issuing debentures to the Israeli public on the Tel Aviv Stock Exchange. Prior to listing the debentures Mr. Saskin and his family members agreed to transfer into UC Inc. their interests in five corporations within the Urbancorp Group that directly or indirectly held interests in several investment properties, rental properties and geothermal assets in Toronto

[11] UC Inc. issued NIS 180,583,000 (approx. \$64 million based on the exchange rate at that time) par value of debentures which traded on the Tel Aviv Stock Exchange. The terms of the debentures contemplate UC Inc. repaying the debentures in five unequal installments on December 31, 2017, June 30, 2018, December 31, 2018, June 30, 2019 and December 31, 2019. The exclusive jurisdiction to determine all matters related to the debentures lies with a competent court in the State of Israel and pursuant to the governing laws of Israel.

[12] On March 31, 2015, Tarion Warranty Corporation, which provides warranties on new residential builds in Ontario for registered builders, issued a notice of proposal to revoke 17 of the Urbancorp Group's registrations as a result of concerns about the Urbancorp Group's financial position and the high number of warranty claims made against two non UC Inc. entities. The Urbancorp Group has since appealed Tarion's decision for 11 of the 17 registrations, and allowed the balance to expire. No decision has been rendered in connection with the appeal as of this date.

[13] The indenture trustee of the Israeli debentures alleged that UC Inc. had defaulted under the terms of the debenture trust. On April 24, 2016, the trustee initiated court proceedings against UC Inc. in the Israeli Court. Prior to those proceedings being initiated, the Urbancorp Group's Israeli auditors, Israeli legal counsel and UC Inc.'s board of directors resigned, leaving Mr. Saskin as the sole director of UC Inc. The trustee's application was initially heard on the morning of Sunday, April 24, 2016, at which time the Vice President of the Israeli Court issued an injunction to prevent UC Inc. or Mr. Saskin from taking any further steps to deal with UC Inc.'s assets.

[14] On Monday, April 25, 2016, the Israeli Court appointed Mr. Gissin as the functionary officer of UC Inc., with full management control and powers over its subsidiaries. The authority granted to Mr. Gissin under the order included the authority to seize all of UC Inc.'s assets, to exercise UC Inc.'s power of control over its subsidiaries and to approach the Canadian court as an authorized representative of UC Inc. The orders of the Israeli Court would clearly have prevented Mr. Siskin from taking steps to cause the subsidiaries of UC Inc. to file for protection under the CCAA and would have permitted Mr. Gissin to take steps to prevent the applicants from doing so.

[15] On May 4, 2016, Mr. Gissin and his counsel met with KSV and its counsel, the result of which was an agreement in principle to co-operate on a process to realize upon the assets of the Urbancorp Group through a CCAA process, with KSV having augmented powers to control management and operations of the Urbancorp Group entities which would be filing, effectively

removing Saskin as a decision-maker for those companies, all as set forth in a Co-operation Protocol finalized on May 13, 2016.

[16] On May 13, 2016, each of the Urbancorp CCAA applicants and related entities, as borrowers, and UC King South, as lender, entered into an intercompany interim credit facility term sheet whereby UC King South agreed to make available to the Urbancorp entities that had filed a NOI proceeding a revolving credit facility in the amount of \$1.9 million to finance their day-to-day operations and ongoing projects. UC King South is not an applicant in this proceeding. All proceeds of the interim loan continue to be held by KSV in its trust account. Based upon the anticipated cash flow needs of the Urbancorp CCAA applicants and related entities during these restructuring proceedings, including professional fees associated with these proceedings, it is likely that the \$1.9 million may not be sufficient to see the restructuring through to its completion. As a result, the applicants intend to commence a process to secure third party debtor-in-possession financing in the near term.

Issues and analysis

(1) Recognition of Foreign Proceeding

[17] Section 46(1) of the CCAA provides for the application by a foreign representative to recognize a foreign proceeding. Pursuant to section 47(1) of the CCAA, the court shall make an order recognizing the foreign proceeding if (i) the proceeding is a foreign proceeding and (ii) the applicant is a foreign representative of that proceeding.

[18] A foreign proceeding is broadly defined in section 47(1) to mean a judicial or an administrative proceeding in a jurisdiction outside Canada dealing with creditor's collective interests generally under any law relating to bankruptcy or insolvency in which a debtor's property and affairs are subject to control or supervision by a foreign court for the purpose of reorganization or liquidation.

[19] It is clear in this case that the proceeding in the Israeli Court is a foreign proceeding within the meaning of the CCAA. It is a judicial proceeding brought under Israel's regulations relating to requests for compromise or arrangements, and the relief granted by the Israeli Court, including the appointment of a functionary officer, was for the purpose of enhancing creditors' collective interests.

[20] Section 45(1) of the CCAA defines a foreign representative as a person or body who is authorized in a foreign proceeding in respect of a debtor company to (a) administer the debtor's property or affairs for the purpose of reorganization or liquidation or (b) act as a representative in respect of the foreign proceeding.

[21] It is also the case that the Mr. Gissin is a foreign representative in respect of the foreign proceeding. He was appointed to monitor UCI's business and financial affairs and to act as a representative in respect of the foreign proceeding. He was provided with the express authority to seize all of UC Inc.'s assets, to exercise UC Inc.'s power of control of its subsidiaries and to approach the Canadian court as an authorized representative of UC Inc.

[22] Thus the foreign proceeding in the Israeli Court is to be recognized as a foreign proceeding under section 47(1) of the CCAA.

[23] Section 47(2) requires a finding as to whether the foreign proceeding is a foreign main proceeding or a foreign non-main proceeding. If the foreign proceeding is recognized as a main proceeding, there is an automatic stay provided in section 48(1) of the CCAA against law suits concerning the debtor's property, debts, liabilities or obligations and prohibitions against selling or disposing of property in Canada. If the foreign proceeding is recognized as a non-main proceeding, there is no such automatic stay and prohibition and it is necessary for an application to be made under section 49(1) to obtain such relief. For that reason, it is advantageous for a foreign representative to seek an order recognizing the foreign proceeding as a main proceeding. Mr. Gissin in this case has made such a request.

[24] A foreign main proceeding is defined in section 45(1) as a foreign proceeding in a jurisdiction where the debtor company has the centre of its main interests (COMI). Section 45(2) provides that in the absence of proof to the contrary, a debtor company's registered office is deemed to be the centre of its main interests.

[25] In this case, UC Inc.'s registered office is in Ontario. Pursuant to the Co-operation Protocol Mr. Gissin as the foreign representative has applied to have the Israeli Court proceeding recognized as a foreign main proceeding.

[26] The Co-operation Protocol sets out in some detail an agreement to work cooperatively to maximize recoveries through an orderly process for the stakeholders of UC Inc. and the applicants. Without such an agreement, there would no doubt have been contentious proceedings between the two spheres, being the Israeli sphere and the Canadian sphere. That has been avoided. The Co-operation Protocol provides that Mr. Gissin will apply under Part IV of the CCAA to be recognized as the foreign representative of a foreign main proceeding. The applicants in the CCAA proceedings will propose that the Monitor have augmented powers to control the ordinary course management and receipt and disbursements of funds for the applicants and acknowledge that Mr. Gissin shall have standing in these proceedings to represent UC Inc. The Monitor and Mr. Gissin shall attempt to agree on the restructuring or sale process but if they cannot agree the decision will be made by this Court on the application of the Monitor. It is agreed that so long as the Monitor acts in good faith and has not engaged in wilful conduct or gross negligence, Mr. Gissin will not take any steps to remove KSV as the Monitor or to suggest that KSV must take instruction from Mr. Gissin or the Israeli Court.

[27] Thus the parties have agreed that while the Israeli proceeding will be considered to be a foreign main proceeding, Mr. Gissin as the foreign representative has agreed that his sole control of UC Inc. and its assets that was granted to him by the Israeli Court will to a large extent be exercised by the Monitor acting under the CCAA so long as the Monitor acts in good faith collaboratively with Mr. Gissin in accordance with the Co-operation Protocol. This is a very unusual situation in that as a practical matter it is not intended that orders will be made in the

future in the foreign main proceeding directing the restructuring of UC Inc. and its subsidiaries with recognition orders being sought in Canada to have such orders carried out in Canada.

[28] It is not clear that the COMI of UC Inc. is in Israeli. The proceedings started in Israel because the Prospectus and the Deed of Trust made clear that Israeli courts were to have exclusive jurisdiction to deal with matters related to UC Inc., and that insolvency proceedings regarding UC Inc. could only be brought in the State of Israel.

[29] I am reluctant however to upset the balance that has been struck in this case by the Co-operation Protocol. Mr. Gissin in his affidavit has emphasized the importance of the proceedings to the stakeholders of UC Inc. in Israel and the importance of the different legal regimes working together. He has stated:

32. This matter is one of incredible significance to stakeholders in the State of Israel, including the real estate capital markets in general. To date, to the best of my knowledge, a total of 17 North American real estate companies have issued over NIS 11 billion of bonds in Israel. UCI [UC Inc.] was the first such North American company to have gone into insolvency proceedings, and that within four months from the issuance of the Debentures. Given the size of this industry in Israel, this case is being watched very carefully to see how the different legal regimes can work together. I am hopeful that the co-operation evidenced to date in this matter, and in particular through the Co-Operation Protocol, can be continued for the benefit of all affected stakeholders.

[30] In this case, so long as the Co-operation Protocol exists, it may not be of much importance in Canada whether the foreign proceeding is a foreign main proceeding, as Mr. Gissin would be entitled as a matter of discretion under a foreign non-main proceeding to a granting of a stay of proceedings against UC Inc. and to an order prohibiting a sale of its property in Canada without leave of the Court. It probably is of more importance in Israel in insuring that if the co-operation between the foreign representative and the Monitor no longer exists and the Monitor acts in bad faith or engages in wilful conduct or gross negligence, the foreign representative will have the ability to go back to the Israeli Court as the court in a foreign main proceeding to seek appropriate relief that could then be sought to be recognized in Canada.

[31] The applicants, the Monitor and the foreign representative are all in agreement that an order be sought declaring the Israeli proceedings as the foreign main proceedings and no one appearing is opposing the order sought. In these unusual circumstances I am prepared to make an order that the proceeding in Israel is a foreign main proceeding. It follows that the initial recognition order is to provide a stay of any proceedings against UC Inc. and prohibit UC Inc. from selling or disposing of property in Canada without leave of the Court.

[32] It would be expected that if the Israeli Court in the future changed Mr. Gissin's mandate to increase or decrease his authorities or functions or provide any additional mandate in respect of UC Inc., such orders would be brought to the attention of this Court and any application made in connection with them would be made in these Part IV proceedings.

[33] It is also appropriate that a supplemental order be made (i) recognizing the decision made in the foreign proceeding by the Israeli Court, (ii) appointing KSV as the information officer, (iii) approving the Co-operation Protocol, (iv) staying any proceedings against or in respect of Mr. Gissin as foreign representative of UC Inc., (v) granting an administration charge of \$400,000 for the costs of the foreign representative, its legal and financial advisors and of the information officer and its counsel and (vi) approval of the funding of the costs of the foreign representative, its legal and financial advisors and of the information officer and its counsel to be covered by the interim funding charge.

[34] With respect to the administration charge, there are no secured creditors of UC Inc. The principal creditors are the Israeli bondholders under the debentures. The foreign representative and the information officer are important to the process and the quantum of the charge is reasonable.

[35] With respect to the interim financing and the charge for it, KSV presently has the amount of CAD \$1,900,000 in a trust account, which funds KSV received from UC KING SOUTH, and which funds KSV proposes to utilize as a form of interim funding for certain costs in connection with the CCAA proceedings. It is appropriate for this charge to also cover the professional fees

and other reasonable costs incurred by the foreign representative in the CCAA proceedings and of the Information Officer and its counsel.

(2) Continuation under the CCAA

[36] Section 11.6(a) provides:

11.6 Notwithstanding the Bankruptcy and Insolvency Act,

(a) proceedings commenced under Part III of the Bankruptcy and Insolvency Act may be taken up and continued under this Act only if a proposal within the meaning of the Bankruptcy and Insolvency Act has not been filed under that Part;

[37] None of the Urbancorp entities that filed a notice of intention under Subsection 50.4(1) of the BIA has filed a proposal.

[38] In *Clothing for Modern Times (Re)*, 2011 ONSC 7522, Brown J. (as he then was) expressed the view that on a motion to continue under the CCAA an applicant company should place before the court evidence that the proposed continuation would be consistent with the purposes of the CCAA. Morawetz J. (as he then was) referred to and adopted the same point of view in *Comstock Canada Ltd. (Re)* (2013), 4 C.B.R. (6th) 47. I take this to be a reflection of the fact that an initial order should be made in a CCAA proceeding only if the purpose of the application is consistent with the purposes of the CCAA.

[39] In my view, the proposed continuation of the NOI proceedings as a CCAA proceeding is in accordance and consistent with the purposes of the CCAA. The purpose here is to attempt a restructuring of the Urbancorp business which is the subject of this application, including those entities which had filed NOI proceedings and other highly interconnected entities. It is under the CCAA and the jurisprudence that has developed that permits protection being provided both to the applicant companies and its related limited partnership entities that may not be insolvent. The continuation also assists in the co-operative proceeding with Mr. Gissin as the foreign representative of UC Inc. who is being recognized under Part IV of the CCAA.

[40] I am satisfied that the NOI proceedings commenced under the BIA should be taken up and continued under the CCAA.

(3) Protection under the CCAA

[41] The applicants and their related entities have total claims against them in excess of \$5 million.

[42] I am satisfied that the applicants meet the *Stelco* test of insolvency enunciated by Justice Farley in *Re Stelco Inc.* (2004), 48 C.B.R. (4th) 299 (Ont. S.C.J.); leave to appeal to C.A. refused, [2004] O.J. No. 1903; leave to appeal to SCC refused, [2004] S.C.C.A. No. 336. The applicants are currently unable or will imminently be unable to meet such claims generally as they become due. The primary financial challenge facing the Urbancorp applicants and their related entities is their inability to raise the necessary financing to advance their major projects beyond their current stages of development. This is due to a number of events, including the recent steps by Tarion to revoke certain Tarion registration certificates, and events relating to UC Inc. and the Israeli debentures. These events and the publicity and press surrounding them have materially threatened the ability of the non-applicant Urbancorp entities to carry on business in the ordinary course.

[43] A CCAA court may exercise its jurisdiction to extend protection by way of the stay of proceedings to a partnership related to an applicant where it is just and reasonable or just and convenient to do so. The courts have held that this relief is appropriate where the operations of a debtor company are so intertwined with those of a partner or limited partnership in question that not extending the stay would significantly impair the effectiveness of a stay in respect of the debtor company. See *Re Prizm Income Fund* (2011), 75 C.B.R. (5th) 213 per Morawetz J. The stay is not granted under section 11 of the CCAA but rather under the court's inherent jurisdiction. It has its genesis in *Re Lehndorff General Partner Ltd.* (1993), 17 C.B.R. (3d) 24 and has been followed in several cases, including *Re Canwest Publishing Inc.* (2010) 63 C.B.R.

(5th) 115, *Re Calpine Energy Canada Ltd.* (2006), 19 C.B.R. (5th) 187 and 4519922 *Canada Inc. (Re)* (2015), 22 C.B.R. (6th) 44.

[44] I am satisfied that the stay of proceedings provided for in the Initial Order should extend to the related limited partnerships. Each is significantly interrelated to the business of the insolvent applicants as they and their stakeholders, assets (in many cases beneficial ownership of the assets of applicants), and intercompany payables and receivables in particular, form an integral part of the operations of the Urbancorp Group. Although they are not currently technically insolvent, the evidence is that it was reasonably expected at the time of filing that, without the benefit of a stay of proceedings, they will run out of liquidity before the time that would reasonably be required to implement a restructuring.


[45] The applicants seek an interim lender's charge to secure the interim funding from UC King South. It is to be secured against those Urbancorp entities that utilize any of the funds. The applicants also seek the authority for the Monitor to utilize an aggregate of up to \$1 million of cash which exists within the Urbancorp CCAA entities, to fund the cash flow requirements of other Urbancorp CCAA affiliates on an intercompany basis during these proceedings, secured by an intercompany lender's charge over the borrower entity's assets, properties and undertakings in favour of the lender entity, to rank *pari passu* with the interim lender's charge.

[46] I am satisfied after a consideration of the factors set out in section 11.2(4) of the CCAA that these charges should be granted. The charges will be subordinate to existing secured creditors and lienholders and will not secure any pre-filing obligations². The money is clearly needed for the restructuring process and the charges are supported by the proposed Monitor who will have enhanced powers to operate the business during the restructuring with the authority to approve the advances.

² An exception to the subordination to secured creditors is the Reznick Trust under the Israeli debenture which is to be subordinate to the Charges. Apparently there is still some issue because of the lack of time to deal with it as to what security if any there is to support the Reznick Trust. It may be that some future motion may be necessary to deal with this subordination exception.

[47] Other charges normal in CCAA cases are proposed. They are a director's and officer's charge in the amount of \$300,000 for the sole remaining director of the applicants after Mr. Siskin's retirement as a director and an administrative charge in the amount of \$750,000. These charges are reasonable and supported by the proposed Monitor. They are approved.

[48] At the conclusion of the hearing on May 18, 2016 I signed the Initial Order in the applicants' CCAA application and the Initial Order and supplemental orders on the application of Mr. Gissin under Part IV of the CCAA.



Newbould J.

Released: May 25, 2016

CITATION: Urbancorp Inc. (Re) 2016 ONSC 3288
COURT FILE NO.: CV-16-11389-00CL
CV-16-11392-00CL
DATE: 20160525

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

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

**AND IN THE MATTER OF A PLAN OF
COMPROMISE OR ARRANGEMENT OF
URBANCORP TORONTO MANAGEMENT INC.,
URBANCORP (ST. CLAIR VILLAGE) INC.,
URBANCORP (PATRICIA) INC., URBANCORP
(MALLOW) INC., URBANCORP (LAWRENCE)
INC., URBANCORP DOWNSVIEW PARK
DEVELOPMENT INC., URBANCORP
RESIDENTIAL INC., URBANCORP (952 QUEEN
WEST) INC., KING RESIDENTIAL INC.,
URBANCORP 60 ST. CLAIR INC., HIGH RES.
INC., BRIDGE ON KING INC. (Collectively the
"Applicants") AND THE AFFILIATED
ENTITIES LISTED IN SCHEDULE "A" HERETO**

AND IN THE MATTER OF URBANCORP INC.

**APPLICATION OF GUY GISSIN, THE FOREIGN
REPRESENTATIVE OF URBANCORP INC.,
UNDER SECTION 46 OF THE *COMPANIES'*
CREDITORS ARRANGEMENTS ACT, R.S.C. 1985,
c. C-36, AS AMENDED**

REASONS FOR JUDGMENT

NEWBOULD J.

Appendix “F”

In the Tel Aviv District Court

LF 44348-04-16

**In re: The Companies Law, 5759-1999
 The Companies Ordinance [New Version], 5743-1983**

Companies Law

and in re: Urbancorp Inc., Canadian company no. 2471774

Company

**and in re: Adv. Guy Gissin, trustee for the execution of the Company's creditors
 arrangement**

by his attorneys, Advs. Yael Hershkovich and/or Gilad Bergstein and/or
Michael Missul, of Gissin & Co., Law Offices, 38B Ha'Barzel Street, Tel
Aviv 69710, Tel. 03-7467777, Fax. 03-7467700

Functionary

and in re: The Official Receiver

of 2 Ha'Shlosha Street, Tel Aviv, Tel. 03-6899695, Fax. 03-6467558

Official Receiver

and in re: Mattamy (Downsview) Limited and Downsview Park Management Inc.

by Adv. Jane Dietrich, Cassels Brock Lawyers, Suite 2100, Scotia Plaza, 40
King Street West, Toronto, ON, M5H 3C2, Canada

Mattamy

**Update Report No. 14 on behalf of the Functionary -
The Company's Activity in Canada and Application for the Grant of Directions**

Further to update report no. 12 of October 2, 2017 regarding activity in Canada and acts following the arrangement's approval (hereinafter - "**report no. 12**"), Adv. Guy Gissin as Functionary - Trustee for the Execution of the Creditors Arrangement for Urbancorp Inc. (hereinafter respectively - the "**Functionary**" and the "**Company**"), respectfully updates the Honorable Court as follows:

A. Recognition of the creditors arrangement by the Canadian court

1. As will be recalled, on September 26, 2017 the Honorable Court gave a judgment approving the creditors arrangement formulated by the Functionary, while appointing Adv. Guy Gissin as "trustee for the execution of the creditors arrangement, who would act to implement the provisions of the creditors arrangement as provided therein, including distribution of the dividend to creditors and as provided in the judgment" (application 42) (hereinafter - the "**creditors arrangement**").
2. The Honorable Court's order for approval of the creditors arrangement was recognized by the Canadian court in a hearing that took place on October 30, 2017, and was given binding validity in Canada as well.
 - The recognition application accompanied by report no. 4 of the Functionary to the Canadian court (hereinafter - "**report no. 4**" and the "**recognition application**"), as well as the Canadian court's approval for recognition of the Israeli court's order for approval of the arrangement plan, are annexed to this update report as **appendices "1A" - "1B"**.

B. **The Functionary's application for continued financing for the proceedings in Canada from the proceeds from the assets' realization**

3. Report no. 4 that was filed with the Canadian court included the Functionary's application to grant approval to KSV Kofman Inc., monitor of most of the group's subsidiaries (hereinafter - the "**monitor**"), to continue financing the costs of the Functionary's consultants in Canada from reserves to finance the proceedings kept by the monitor from monies received from the realization of assets of the group's subsidiaries.
4. In the application the Functionary noted that the monitor kept a reserve of approx. CAD 8 million for the purpose of financing consultants' expenses from monies received from the realization of the subsidiaries' assets, and that the Company is currently the unconditional material creditor of this group of companies, and holder of the capital rights therein. Hence, application is made for the continued financing of the Functionary's consultants in Canada (the service agreements with whom were approved by the Israeli court) directly from this reserve.
5. The monitor objected to the Functionary's application, for several reasons, including that not enough time was given to hear the application, that there is no jurisdiction in the framework of the proceedings in Canada to grant the requested relief, that it is necessary to deal with the matter in the framework of a suitable distribution application, that no affidavit was furnished in support of the application and more. Accordingly, the monitor requested a postponement for the hearing of this application to a later date.
6. In the framework of the hearing that took place on October 30, 2017 regarding approval of the recognition application, the Canadian court held that this matter, in

addition to other issues that are being disputed, shall be heard before the Canadian court on November 22, 2017.

- A copy of the monitor's report of October 26, 2017, in his capacity as information officer of the insolvency proceedings in Canada, including the objection to the approval for the bearing of the Functionary's expenses in Canada (paragraph 7) is annexed hereto as **appendix 2**.

C. **Proceedings, checks and investigations with regard to the Downsview project**

7. The Downsview project is a mixed real estate project, which includes an income-producing part and an entrepreneurial part, in which a subsidiary fully owned by the Company, Urbancorp Downsview Park Development Inc. (hereinafter - "**Downsview**") holds 51%, through a joint company with Mattamy (Downsview) Limited and Downsview Park Management Inc. (hereinafter - "**Mattamy**"), which is also the project's development manager (hereinafter - the "**Downsview project**" or the "**project**"). The project was valued in the issue prospectus and in the monitor's reports as being of significant value.
8. As noted in report no. 12, following difficulties that were encountered by the Functionary in light of the monitor's lack of consent to now act to advance the possibility of realizing the rights in the Downsview project and with regard to obtaining information on the project's progress, the Functionary filed a report with the Canadian court in which he clarified the standing of the Company (Urbancorp Inc.) as virtually the sole creditor (98%) of Downsview and effectively the only interested party in the insolvency proceedings pertaining to Downsview. In the report the Functionary detailed his fears regarding the delay imposed by the monitor on realization of the holdings of Downsview in the project, *inter alia* because of fluctuations on the Toronto real estate market.

The Functionary made it clear that in order to evaluate the holdings of Downsview and the possibilities for realizing the Company's holdings in the project (directly or indirectly), he required information from the Canadian monitor, that has not yet been sent, and requested that approval for the monitor's acts in relation to this asset be suspended until the furnishing of all the information required by the Functionary, and will possibly also request suitable directions from the Canadian court in such regard.

- A copy of report no. 5 of the Functionary to the Canadian court of October 27, 2017 is annexed hereto as **appendix 3** (hereinafter - "**report no. 5 of the Functionary**").
9. It is noted that further to the provisions of report no. 12 of this Court of October 2, 2017, the partial information that was furnished to the Functionary with regard to the value of Downsview's holdings is not clear and is not consistent with the information furnished in the past, including in the Company's bond issue prospectus of December 2015.

10. The Functionary made several requests for information to both the Canadian monitor and Mattamy, that have not been answered to date, as detailed in Chapters D. and H. below. As was made clear to the monitor, at this stage and in the absence of satisfactory answers to date, the Functionary has heavy concerns regarding the supervision and control of this project and the Company's rights, directly and indirectly, therein.

D. **Application for the grant of directions - furnishing of information on the Downsview project**

11. Since the Downsview project has always been presented as a central and material asset of the Urbancorp group¹, since the date of his appointment and in particular in recent months the Functionary has acted to obtain information on the Company's rights and the value of Downsview's holdings in the project, for the purpose of assessing the possibilities for realizing the holdings in the project or in Downsview (directly or indirectly) or alternatively as a transaction with the Company's capital, especially after receiving information that as detailed in report no. 12 is very unclear and is not consistent with the information furnished to the Company in the framework of the issue prospectus.
12. The Functionary turned on many occasions, in writing and orally, itself and through his attorneys in Canada, both to Mattamy and to the Canadian monitor, with detailed requests for the information required by him to value the holdings and rights in the project, that Downsview is entitled to receive by virtue of the project partnership agreements in the project and for the purpose of communicating independently with Mattamy, in the presence of the monitor insofar as it so chose.
13. Nonetheless, to date most of the information, answers and clarifications required by the Functionary have not been furnished, and Mattamy's representatives are even refusing to meet with the Functionary, sometimes because of the monitor's objection and sometimes on other different pretexts. A copy of the relevant correspondence with the monitor and Mattamy will be annexed as a privileged report for the Court's inspection.
14. Hence, the Honorable Court is moved to direct that Mattamy appear for investigation by the Functionary at the offices of the Functionary's attorneys in Canada, at a time to be determined by the Functionary, and to furnish the Functionary, without delay, all the information in its possession as development manager of the project and as a partner in the project, including information that it is obliged to provide by virtue of the project agreements. In addition to budgetary, financial information requirements and the like, information is requested on the involvement of Mr. Saskin or anyone on his behalf in the project as of the date of the Company's collapse, in April 2016 to date.

¹ As will be recalled, the rights in the project were defined in the prospectus published by the Company in December 2015, *inter alia*, as a fifth backing asset for the issue of the Company's bonds, and a sum of approx. CAD 10 million of the issue monies were provided as a shareholder's loan to it.

15. The Functionary undertakes that the information furnished by Mattamy will not be filed in court in Israel or in Canada other than in the framework of a privileged application, and only insofar as necessary. Any information published by the Functionary in public reports or applications shall refer only to an analysis and results of the information furnished, both in relation to the value of the project and in relation to the value of the Company's holdings in Downsview.
16. It is also requested that the Court's order include any other step that could provide information on the value of Downsview's holdings or the value of the project including financial and legal consultants of the project and/or Downsview, Mr. Alan Saskin and parties related to him.
17. For the sake of good order, a translation of this Chapter and the requested order will be sent to Mattamy in Canada at or about the time it is filed in court.
18. It is expressed that the Court's order will be filed for recognition proceedings in the Canadian court insofar as necessary for the purpose of its enforcement.

E. **General information on the assets of the Canadian subsidiaries**

19. On October 24, 2017 the monitor filed, for the approval of the Canadian court, an activity report on the CCAA proceedings of the group's subsidiaries (hereinafter - the "**CCAA proceedings**") and on the insolvency proceedings of TCC/Urbancorp (Bay) Limited Partnership (hereinafter - "**TCC Bay**").

Below is a review of several matters mentioned in the monitor's report, including with regard to the negotiations that the Functionary is conducting with other creditors regarding the ability to obtain payment from TCC Bay proceeds.

- A copy of the monitor's report of October 24, 2017 is annexed hereto as **appendix 4**.
20. The handling of rejected debt claim - in the framework of the report, details were given of the debt claims that were rejected in the CCAA proceedings in an overall sum of approx. CAD 12 million, and an update was given on the status of the progress of each one of the claims, including on the forecast for reaching an arrangement with Tarion in relation to a claim in a sum of approx. CAD 2.8 million in the coming period. The Functionary asked the monitor for additional details of the timetables and steps for completing the handling of these claims, and for the purpose of obtaining the information required for the purpose of independent evaluation and control regarding the progress in completing the handling of these claims, and another update will be given on the matter.
 21. The sale of housing units - the report details the status of the progress in realizing the housing units owned by the subsidiaries Urbancorp Residential Inc. and King Residential Inc. As detailed in the report, correct as at today transactions have been

completed for the sale of 13 housing units, in consideration for approx. CAD 5 million, and net income in a sum of approx. 1.4 million dollars. Full details of the consideration can be found in paragraph 3.5 of the report. The forecast is that completing the sale of the balance of the housing units will yield a net profit of another approx. CAD 2.5 million.

22. The grant of a loan for the purpose of financing the litigation proceedings with regard to the geothermal assets - the report details the monitor's application for approval to use the monies held by the monitor (that were obtained from realization of the group's assets) for the purpose of providing a credit facility in a sum of CAD 500,000 to Urbancorp Renewal Power Inc. (hereinafter - "**URPI**"), which holds the rights in supply contracts for the geothermal assets, for the purpose of financing maintenance proceedings and legal expenses in relation to the geothermal proceedings.
23. It is expressed that URPI is not a subsidiary of the Company but an operations company owned by Mr. Saskin, which is obliged by virtue of agreements with subsidiaries of the group to transfer its income from the geothermal assets to the subsidiary which holds the rights in the relevant geothermal asset, with a deduction of 3% and reimbursement of expenses.
24. In report no. 5 of the Functionary, the Functionary objected to the provision of the said credit facility without it being proved that there is no concern regarding non-repayment of the loan and the furnishing of information both with respect to the status of the litigation proceedings in respect of the geothermal assets and with respect to the necessity of the loan.
25. In the framework of the hearing of October 30, 2017 in the Canadian court, it was decided to also postpone the hearing on this matter to November 22, 2017.
26. Negotiations on an arrangement for the distribution of proceeds in TCC Bay - the report includes details of the debt claim proceedings and distribution of the proceeds in TCC Bay.
27. As detailed in previous update reports of the Functionary, the debt claim in a sum of approx. CAD 6 million of the Functionary against TCC Bay by virtue of promissory notes that were assigned to the Company (an additional sum of CAD 2 million was assigned to a subsidiary of the Company), was rejected by the monitor (in his capacity as monitor of TCC Bay), and the Functionary's appeal in this regard to the Canadian court was dismissed.
28. The Functionary is involved in negotiations with another material creditor of TCC Bay, Terra Firma Capital Corporation (hereinafter - "**TFCC**"), whose claim was rejected, for the purpose of distributing the proceedings in TCC Bay's fund between them, in a way that will do away with the need for accepting the debt claim of either of them, thereby saving considerable legal costs and avoiding financial loss insofar as it is found that the Company does not have an approved debt claim

against TCC Bay. This is an arrangement that might result in a significant rate of return from the amount of the debt claim to the Company's fund, that insofar as the full details thereof are formulated will be brought for the Court's approval.

29. It is expressed that even if the Functionary and TFCC reach an understanding, the approval thereof is subject to the approval of the Canadian court and third parties claiming rights in TCC Bay might object and have a case in relation to the said arrangement.
30. As detailed in the monitor's report, the monitor's consent to postponing the hearing on the TFCC claim for the purpose of exhausting the negotiations on an arrangement as aforesaid was made conditional upon the consent of the Functionary and TFCC to make an interim distribution in a sum of approx. CAD 3 million to recognized creditors, including primarily the repayment of deposits to home purchasers, at a rate of 33% of the recognized debt claims. The consent was given and the interim distribution was approved by the Canadian court on October 30, 2017.

F. **The requested order**

31. The Court is requested to direct that Mattamy, through its authorized managers, appear for investigation before the Functionary at the offices of the Functionary in Canada at a time to be determined by the Functionary, and to send the Functionary without delay all the information in their possession as development manager of the project and as a partner in the project, including information that it obliged to provide by virtue of the project agreements. In addition to budgetary, financial information requirements and the like, information is requested on the involvement of Mr. Saskin or someone on his behalf in the project as of the date of the Company's collapse, in April 2016.
32. The Court is moved to apply the said order to any other party which might have information on the value of Downsview's holdings or the value of the project including financial and legal consultants of the project and/or Downsview, Mr. Alan Saskin and parties related to him.
33. The application should be allowed at law and in equity.

(Signed)

Guy Gissin, Adv.
The Functionary

(Signed)

Yael Hershkovich, Adv.
The Functionary's Attorney

Today, November 1, 2017, in Tel Aviv

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Appendix “G”

September 12, 2017

Robin B. Schwill
T 416.863.5502
F 416 863 0871
rschwill@dwpv.com

File No. 256201

BY E-MAILMr. Ken Kraft
Dentons Canada LLP
77 King Street West, Suite 400
Toronto-Dominion Centre
Toronto, ON M5K 0A1

Dear Mr. Kraft:

Urbancorp Toronto Management Inc. et al. (Court File No. CV-16-11389-00CL)

I am in receipt of your letter of September 8, 2017 concerning Urbancorp Downsview Park Development Inc. ("**UDPDI**") and related interests in the Downsview Park project (the "**Project**").

As you know, UDPDI is an applicant in the above-noted CCAA proceeding. The direct owner of the Project is Downsview Homes Inc. ("**DHI**"). DHI is not the subject of any CCAA proceedings but is only the bare trustee and nominee for UDPDI and MDL. DHI is owned by UDPDI (as to 51%) and Mattamy (Downsview) Limited ("**MDL**") (as to 49%). UDPDI and MDL, among others, are parties to a co-ownership agreement which governs their respective interests in and management of DHI and the Project. UDPDI's shares in DHI are subject to a pledge in favour of MDL and UDPDI's interest in the Project is subject to a cross charge in favour of MDL as security for all UDPDI's obligations owing to MDL under the co-ownership agreement. In addition, these interests are subject to the terms of Mattamy's DIP loan and related court-ordered charge. Currently, MDL fully controls the management and development of the Project.

As you also already know, Urbancorp Inc.'s interest is as a shareholder of UDPDI and any transfer of Urbancorp Inc.'s shares in UDPDI would require the consent of UDPDI and MDL. The practical result of the foregoing is that any sale of Urbancorp Inc.'s shares in UDPDI is inextricably linked with an effective disposition of UDPDI's co-ownership interest in the Project.

The Monitor has and continues to assess and evaluate the Project and the advantages and disadvantages of the realization options for UDPDI's interest in the Project, including the timing

to do so. While the Monitor has discussed its views in this regard with you and your client many times (and intends to continue to do so) your client continually asks the same questions and makes the same demands regarding an immediate realization process for the Project, which the Monitor does not presently support. These continuing requests only serve to unnecessarily increase the administrative costs of these proceedings. It should also be kept in mind that all the information is in the hands of Mattamy, which it can use to its advantage, particularly when such information has not been provided to the Monitor to consider, analyze and question. (The Monitor is continually engaging with Mattamy to obtain Project updates and information, some of which happens in real time.)

As we have requested of you and your client in the past, if your client receives any expressions of interest with respect to the Project, copies of same should be provided to the Monitor so that these can be considered and discussed with your client in a cooperative fashion in accordance with the Protocol.

Given that your letter evidences a continued disagreement regarding the realization process for the Project, the Monitor will bring a motion for directions on point pursuant to Section 3(f) of the Protocol:

3(f) ... The Israeli Parentco Officer and KSV agree that, in the event there is a disagreement between the Israeli Parentco Officer and KSV as to the working out of the sale and restructuring process, whether it be in terms of selecting an alternative option to a sale (including, without limitation, pursuing any development opportunities), determining which bids to proceed to negotiate further, or seeking approval of a particular sale from the Canadian Court supervising the CCAA Proceedings, **the ultimate decision and course of action shall be determined by the Canadian Court on application by KSV for directions** and provided that the Israeli Parentco Officer shall have standing as representative of Parentco to make full representations to the Canadian Court as to his views and recommendations. (emphasis added)

In the interim, we remind you of the provisions of Section 6 of the Protocol:

6. ... Provided that KSV is acting in good faith and has not engaged in willful misconduct or gross negligence, the Israeli Parentco Officer shall not take any steps to attempt to remove KSV as either the proposal trustee under the Proposal Proceedings or the monitor under the CCAA Proceedings or to in any way to interfere with or seek to limit KSV's powers in such capacities or to suggest that KSV must take instruction from it or the Israeli Court or terminate the CCAA Proceedings without the consent of KSV or by order of the Canadian Court.

The Monitor has already provided you with its views and analysis on the revised waterfall for Phase 1 that you reference in your letter. Repaying the DIP loan from Mattamy was suggested in the context of the \$30 million initial distribution made to Urbancorp Inc. and whether your client wished to use the relevant proportion of that distribution to repay the DIP loan and save the ongoing interest associated with it. That option remains - interest continues to accrue on that loan. As your client is aware, it has already been provided with a copy of the budgets that have been provided to the Monitor by Mattamy.

The draft transactions review memorandum referenced in your letter summarizes the Monitor's review of potentially prejudicial transactions and it is clearly titled as such. One of its intentions was to advise your client of information that has come to the attention of the Monitor that could be of assistance to your client in the context of its recovery efforts. Further, as an officer of the Court in an insolvency process, the Monitor has a duty to investigate such transactions. Accordingly, I don't understand how you could be uncertain of the purpose of the memorandum. Whether or not the Monitor determines to challenge such potentially prejudicial transactions will be determined by the Monitor in due course. To the extent that your client has already determined that it will be challenging any of the transactions outlined in the Monitor's memorandum, then the Monitor will want to know this so as not to duplicate costs. Please advise us accordingly.

Yours very truly,



Robin B. Schwill

cc. Bobby Kofman, *KSV Kofman Inc.*
Noah Goldstein, *KSV Kofman Inc.*

Appendix “H”



**Nineteenth Report to Court of
KSV Kofman Inc. as CCAA Monitor of
Urbancorp Toronto Management Inc.,
Urbancorp (St. Clair Village) Inc.,
Urbancorp (Patricia) Inc., Urbancorp
(Mallow) Inc., Urbancorp (Lawrence) Inc.,
Urbancorp Downsview Park Development
Inc., Urbancorp (952 Queen West) Inc.,
King Residential Inc., Urbancorp 60 St.
Clair Inc., High Res. Inc., Bridge On King
Inc. and the Affiliated Entities Listed in
Schedule “A” Hereto**

October 24, 2017

and

**Tenth Report to Court of KSV Kofman
Inc. as CCAA Monitor of Urbancorp
(Woodbine) Inc., Urbancorp (Bridlepath)
Inc., The Townhouses of Hogg’s Hollow
Inc., King Towns Inc., Newtowns at
Kingtowns Inc., Deaja Partner (Bay) Inc.,
and TCC/Urbancorp (Bay) Limited
Partnership**

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Schedules

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COURT FILE NO.: CV-16-11389-00CL

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
URBANCORP TORONTO MANAGEMENT INC., URBANCORP (ST. CLAIR
VILLAGE) INC., URBANCORP (PATRICIA) INC., URBANCORP (MALLOW) INC.,
URBANCORP (LAWRENCE) INC., URBANCORP DOWNSVIEW PARK
DEVELOPMENT INC., URBANCORP (952 QUEEN WEST) INC., KING
RESIDENTIAL INC., URBANCORP 60 ST. CLAIR INC., HIGH RES. INC., BRIDGE
ON KING INC. (COLLECTIVELY, THE "APPLICANTS") AND THE AFFILIATED
ENTITIES LISTED IN SCHEDULE "A" HERETO**

NINETEENTH REPORT OF KSV KOFMAN INC.

COURT FILE NO.: CV-16-11549-00CL

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
URBANCORP (WOODBINE) INC. AND URBANCORP (BRIDLEPATH) INC., THE
TOWNHOUSES OF HOGG'S HOLLOW INC., KING TOWNS INC., NEWTOWNS AT
KINGTOWNS INC. AND DEAJA PARTNER (BAY) INC. (COLLECTIVELY, THE
"APPLICANTS")**

AND IN THE MATTER OF TCC/URBANCORP (BAY) LIMITED PARTNERSHIP

TENTH REPORT OF KSV KOFMAN INC.

OCTOBER 24, 2017

1.0 Introduction

1. On April 21, 2016, Urbancorp (St. Clair Village) Inc. (“St. Clair”), Urbancorp (Patricia) Inc. (“Patricia”), Urbancorp (Mallow) Inc. (“Mallow”), Urbancorp Downsview Park Development Inc. (“Downsview”), Urbancorp (Lawrence) Inc. (“Lawrence”) and Urbancorp Toronto Management Inc. (“UTMI”) each filed a Notice of Intention to Make a Proposal (“NOI”) pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (collectively, St. Clair, Patricia, Mallow, Downsview, Lawrence and UTMI are referred to as the “NOI Entities”). KSV Kofman Inc. (“KSV”) was appointed as the Proposal Trustee of each of the Companies.
2. Pursuant to an Order made by the Ontario Superior Court of Justice (Commercial List) (the “Court”) dated May 18, 2016 (the “Initial Order”), the NOI Entities, together with the entities listed on Schedule “A” attached (collectively, the “Cumberland CCAA Entities” and each a “Cumberland CCAA Entity”), were granted protection under the *Companies’ Creditors Arrangement Act* (the “CCAA”) and KSV was appointed monitor of the Cumberland CCAA Entities (the “Monitor”).
3. Certain Cumberland CCAA Entities¹ are known direct or indirect wholly-owned subsidiaries of Urbancorp Cumberland 1 LP (“Cumberland”). Collectively, Cumberland and its direct and indirect subsidiaries are the “Cumberland Entities” and each individually is a “Cumberland Entity”. Each Cumberland Entity is a nominee for Cumberland and, as such, the assets and liabilities of the Cumberland Entities are assets and liabilities of Cumberland. The remaining Cumberland CCAA Entities², other than UTMI, are directly or indirectly wholly owned by Urbancorp Inc. (“UCI”) (collectively, the “Non-Cumberland Entities”). The corporate chart for the Cumberland CCAA Entities and the Non-Cumberland Entities is provided in Appendix “A”.
4. On April 25, 2016, the District Court in Tel Aviv-Yafo, Israel issued a decision appointing Guy Gissin as the functionary officer and foreign representative (the “Foreign Representative”) of UCI and granting him certain powers, authorities and responsibilities over UCI (the “Israeli Proceedings”).
5. On May 18, 2016, the Court issued two orders under Part IV of the CCAA which:
 - a) recognized the Israeli Proceedings as a “foreign main proceeding”;
 - b) recognized Mr. Gissin as Foreign Representative of UCI; and
 - c) appointed KSV as the Information Officer.
6. On April 25, 2016, Urbancorp (Woodbine) Inc. (“Woodbine”) and Urbancorp (Bridlepath) Inc. (“Bridlepath”) each filed a NOI. KSV was appointed as the Proposal Trustee of each of Bridlepath and Woodbine.

¹ St. Clair., Patricia, Mallow, Lawrence, Urbancorp (952 Queen West) Inc., King Residential Inc., Urbancorp 60 St. Clair Inc., High Res. Inc., Urbancorp Partner (King South) Inc., Urbancorp (North Side) Inc. and Bridge on King Inc.

² Vestaco Homes Inc., Vestaco Investments Inc., Urbancorp Power Holdings Inc., UTMI, Downsview, 228 Queens Quay West Limited, Urbancorp Residential Inc., Urbancorp Realtyco Inc., Urbancorp Cumberland 1 GP Inc.

7. Pursuant to an order made by the Court dated October 18, 2016, TCC/Urbancorp (Bay) Limited Partnership ("Bay LP"), Bridlepath and Woodbine and the entities listed on Schedule "B" (collectively, the "Bay CCAA Entities", and together with the Cumberland CCAA Entities, the "CCAA Entities") were granted protection in a separate CCAA proceeding and KSV was appointed Monitor of the Bay CCAA Entities.
8. Each Bay CCAA Entity is a wholly owned subsidiary of Bay LP, except Deaja Partner (Bay) Inc. Each of Bay LP's subsidiaries is a nominee for Bay LP and, as such, their assets and liabilities are assets and liabilities of Bay LP. The corporate chart for the Bay CCAA Entities is provided in Appendix "B".
9. On July 20, 2017, the Court issued orders extending the stay of proceedings for the Cumberland CCAA Entities and the Bay CCAA Entities to October 31, 2017.

1.1 Purposes of this Report

1. The purposes of this report ("Report") are to:
 - a) provide an update on the CCAA proceedings;
 - b) provide the Monitor's rationale for extending the deadline to August 29, 2017 for the Monitor to file a Notice of Revision and Disallowance (the "D&O Disallowance Notice") in respect of an \$8.6 million claim filed by Speedy Electrical Contractors Ltd. ("Speedy") against the directors and officers ("D&Os") of the Cumberland CCAA Entities (the "Speedy D&O Claim");
 - c) detail a recommended distribution to repay in full all admitted third party claims against the Bay CCAA Entities, including individuals who purchased homes ("Home Buyers") on the Woodbine and Bridlepath projects (the "Bay Distribution");
 - d) recommend a form of Additional Vesting Order (the "Additional Vesting Order") be issued ancillary to the initial Approval and Vesting Order as amended and restated on March 14, 2017 and September 13, 2017 (the "Amended and Restated Approval and Vesting Order"), in connection with Monitor's sale process for residential condominium units (the "Residential Units") held by Urbancorp Residential Inc. ("URI") and King Residential Inc. ("KRI"), each of which is a Cumberland CCAA Entity, in order to be able to sell and convey parking units, locker units and bike storage units (the "Additional Units") for which URI or KRI is the registered owner;
 - e) summarize the terms of a recommended loan facility (the "Loan Facility") in the amount of \$500,000 between Cumberland, as lender, and Urbancorp Renewal Power Inc. ("URPI"), as borrower;
 - f) summarize a disagreement between the Foreign Representative and the Monitor concerning the Downsview project;

- g) report on the consolidated cash flow projections of the Cumberland CCAA Entities and of the Bay CCAA Entities for the period November 1, 2017 to January 31, 2018 (“Cash-Flow Statements”);
- h) summarize and seek approval of the fees and expenses of KSV, as Monitor of the CCAA Entities, the Monitor’s counsel, Davies Ward Phillips & Vineberg LLP (“Davies”) and the CCAA Entities’ counsel, WeirFoulds LLP (“WeirFoulds”), for the periods referenced in the attached Fee Affidavits; and
- i) recommend that the Court issue orders:
 - i. validating the efficacy of the D&O Disallowance Notice and the Speedy Dispute (defined below) and deeming their delivery to comply with the Cumberland Claims Procedure Order (defined below);
 - ii. approving the Bay Distribution;
 - iii. granting the Additional Vesting Order in respect of the Additional Units;
 - iv. approving the Loan Facility;
 - v. granting an extension of the stay of proceedings for the CCAA Entities to January 31, 2018; and
 - vi. approving the fees and disbursements of the Monitor, Davies and WeirFoulds, as detailed in this Report.

1.2 Currency

1. All currency references in this Report are to Canadian dollars.

1.3 Restrictions

1. In preparing this Report, the Monitor has relied upon unaudited financial information of the CCAA Entities, the books and records of the CCAA Entities and discussions with representatives of the CCAA Entities. The Monitor has not performed an audit or other verification of such information. The financial information discussed herein is subject to further review. The Monitor expresses no opinion or other form of assurance with respect to the financial information presented in this Report.
2. An examination of the CCAA Entities’ Cash Flow Statements as outlined in the Chartered Professional Accountant Canada Handbook has not been performed. Future oriented financial information relied upon in this Report is based upon the CCAA Entities’ assumptions regarding future events; actual results achieved may vary from this information and these variations may be material.

2.0 Background

1. The CCAA Entities, together with several affiliates, comprise the Urbancorp Group of Companies (collectively, the “Urbancorp Group”). The Urbancorp Group primarily engaged in the development, construction and sale of residential properties in the Greater Toronto Area. The Urbancorp Group also owns rental properties and geothermal assets.

2.1 Urbancorp Inc.

1. UCI was incorporated on June 19, 2015 for the purpose of raising debt in the public markets in Israel. Pursuant to a Deed of Trust dated December 7, 2015, UCI made a public offering of debentures (the “IPO”) in Israel of NIS180,583,000 (approximately \$64 million based on the exchange rate at the time of the IPO) (the “Debentures”).
2. From the monies raised under the IPO, UCI made unsecured loans (the “Shareholder Loans”) totalling approximately \$46 million to each of the NOI Entities (other than UTMI) so that these entities could repay loan obligations owing at the time. The loan agreements in respect of the Shareholder Loans set out that repayment of the Shareholder Loans is subordinate to certain other obligations of the NOI Entities (the “Permitted Obligations”).

3.0 Update on CCAA Proceedings

3.1 Interim Distribution

1. On June 27, 2017, the Court made orders authorizing and directing the Monitor to make the following distributions:
 - a) pay in full the amounts owing to creditors with admitted claims against the Cumberland Entities, other than UCI; and
 - b) pay a 33% dividend to creditors with admitted claims against the Bay CCAA Entities.

3.1.1 Cumberland Entities’ Distribution

1. A summary of the distribution to the Cumberland Entities’ creditors and the remaining unpaid claims is provided in the table below.

(\$000s; unaudited)	Total Admitted Claims	Distribution	Unpaid Admitted Claims	Percentage Recovery
UCI (Shareholder Loans)	36,968 ³	29,396	7,572	79.5%
Other creditors	13,510	13,510	-	100.0%
	50,478	42,906	7,572	85.0%

³ UCI also has a claim for Shareholder Loans against Downsview.

2. The table reflects that the Monitor made a distribution of approximately \$42.9 million to the Cumberland Entities' creditors. As the repayment of the Shareholder Loans is subordinated to the repayment of the Permitted Obligations, UCI was required to assign its distributions to those creditors that have claims for Permitted Obligations until those creditors' claims were repaid in full. Since the remaining admitted unsecured claims were relatively insignificant, the Foreign Representative agreed to subordinate repayment of the Shareholder Loans to all currently admitted claims against the Cumberland Entities (but not to any currently disputed claims) such that all currently admitted claims have been repaid in full. Approximately \$7.6 million of UCI's claim against the Cumberland Entities remains unpaid.

3.1.2 Cumberland Entities' Disputed Claims

1. The Monitor has issued Disallowance Notices to several claimants of the Cumberland Entities. The Monitor has reserved for the full amount of the disputed claims. Set out below is a summary of the claimants who have disputed the Disallowance Notices.

(\$000s; unaudited)	
Claimant	Amount
Travelers Insurance Company of Canada ("Travelers")	4,404
Tarion Warranty Corporation ("Tarion")	2,787
Employee Claims	2,456
Speedy	2,324
Other	23
	11,994

2. The following is an update on the Cumberland disputed claims:
 - a) Travelers - The majority of this claim relates to a guarantee made by Bridge on King Inc., a Cumberland CCAA Entity, for a bond provided by Travelers to Tarion in respect of a project being developed by Urbancorp (Leslieville) Inc. ("Leslieville"). Leslieville is subject to receivership proceedings in which Alvarez & Marsal Canada Inc. is the Court appointed receiver. The actual exposure under the guarantee, if any, will be determined once the Leslieville project is completed. The Leslieville project is expected to be completed in 2018.
 - b) Tarion - The Monitor is negotiating a resolution of these claims with Tarion. The Monitor expects to bring a motion shortly to approve a settlement.
 - c) Employee Claims - Approximately \$2.1 million of this claim relates to one former employee of UTMI. The claim asserts that the former employee is entitled to severance and termination against the Cumberland CCAA Entities, as well as profit participation on certain of the Urbancorp Group's projects. The Monitor has been in contact with legal counsel to the former employee. The former employee is ill and is presently unable to move forward with the claim.

- d) Speedy - Speedy filed a secured claim in the amount of \$2,323,638 against KRI (the "Speedy Secured Claim"). The Speedy Secured Claim is based on a guarantee provided by KRI for liabilities owing by Alan Saskin in the amount of \$1,284,727 and Edge on Triangle Parking Inc., an affiliated entity, in the amount of \$1,038,911. The Monitor has been unable to determine if KRI received any direct consideration for providing the secured guarantee. The claim was disallowed on the basis that the transaction could be voidable as a transfer at undervalue, and, in addition, voidable as a fraudulent conveyance or preference. The Monitor is considering next steps with respect to the Speedy Secured Claim.

3.1.3 Speedy D&O Claim

1. On September 15, 2016, the Court issued an order, as amended by a further order dated October 25, 2016, establishing a procedure to identify and quantify claims against the Cumberland CCAA Entities and against the D&Os of the Cumberland CCAA Entities (the "Cumberland Claims Procedure Order").
2. On October 19, 2016, Speedy filed the Speedy Secured Claim and the Speedy D&O Claim. A copy of the Speedy D&O Claim is attached as Appendix "C".
3. Pursuant to the Cumberland Claims Procedure Order, the Monitor was required to send all Notices of Revision or Disallowance by no later than November 11, 2016, unless otherwise ordered by the Court on application by the Monitor.
4. On November 11, 2016, the Monitor disallowed the Speedy Secured Claim. The Monitor also disallowed the Speedy D&O Claim at that time; however, it subsequently learned that it may not have been mailed within the time limits established in the Cumberland Claims Procedure Order due to an administrative error.
5. The Speedy D&O Claim was disallowed on the basis that it is not a claim for which an indemnity would be provided by a Cumberland CCAA Entity. The claim against Mr. Saskin was disallowed without prejudice to Speedy's rights to prove such claim in Mr. Saskin's proposal proceedings (which is ongoing), in which The Fuller Landau Group Inc. is the Proposal Trustee. In addition, a portion of the Speedy D&O Claim is duplicative of the Speedy Secured Claim. The remainder of the Speedy D&O Claim is directly related to services provided by Speedy to Edge on Triangle Park Inc., which is not a Cumberland CCAA Entity.
6. Upon learning on August 23, 2017 that the D&O Disallowance Notice may not have been sent to Speedy, Davies contacted Speedy's counsel the following day to request its consent to extend the time for the Monitor to deliver the D&O Disallowance Notice. Thereafter, Davies attempted to contact Speedy's counsel to confirm its client's positions. Copies of the emails sent by Davies to Speedy's counsel are provided in Appendix "D".

7. On August 29, 2017, the Monitor delivered the D&O Disallowance Notice to Speedy’s counsel. A copy of the letter sent by Davies to Speedy’s counsel, together with the D&O Disallowance Notice, is attached as Appendix “E”.
8. On September 8, 2017, Speedy’s counsel issued a Notice of Dispute in respect of the D&O Disallowance Notice, while reserving its rights under the Cumberland Claims Procedure Order (the “Speedy Dispute”). A copy of the Speedy Dispute is attached as Appendix “F”.
9. The Monitor recommends the Court issue an order validating the efficacy of the D&O Disallowance Notice and the Speedy Dispute and deeming their delivery to comply with the Cumberland Claims Procedure Order. The failure to file the D&O Disallowance Notice by the deadline was inadvertent. The Monitor believes that the disallowance is meritorious and that the requested relief is not prejudicial to Speedy given that a reserve has been established for Speedy’s Secured Claim.

3.1.4. Bay CCAA Entities’ Distribution

1. A summary of the distribution to the Bay CCAA Entities’ creditors and the remaining unpaid admitted claims in the Bay CCAA Entities’ proceedings is provided in the table below.

(\$000s; unaudited)	Total Admitted Claims	Distribution	Unpaid Admitted Claims	Percentage recovery
Home buyers	7,114	2,347	4,767	33%
Third party creditors	1,047	345	702	33%
	8,161	2,692	5,469	33%
Intercompany creditors	1,154	381	773	33%
	9,315	3,073	6,242	33%

2. The table reflects that the Monitor made a distribution of approximately \$3.1 million to the Bay CCAA Entities’ creditors with admitted claims (33% of the admitted claims). Approximately \$6.2 million of the admitted claims remain unpaid, including approximately \$5.5 million to Home Buyers and third party creditors (the “Home Buyer and Third Party Claims”).

3.1.5 Bay CCAA Entities' Disputed Claims

1. The Monitor has issued Disallowance Notices to several claimants of the Bay CCAA Entities. The Monitor has reserved funds for the disputed claims. Set out below is a summary of the claimants who have disputed the Disallowance Notices.

(unaudited; \$000)	
Claimant	Amount
Secured Claim	
Terra Firma Capital Corporation ("TFCC") (principal, interest and cost reserve)	10,014
Unsecured Claims	
Employee Claims	2,456
Tarion	716
	<hr/>
	3,172
	<hr/>
Total Disputed Claims	<hr/> <hr/> 13,186

2. In addition to the disputed claims set out above, the Foreign Representative, on behalf of UCI, has filed a motion to late file a claim of \$8 million on the basis of misrepresentation and negligent misrepresentation in connection with promissory notes totalling \$8 million that were issued by Bay LP; the Court previously issued a decision confirming the Monitor's disallowance of UCI's claim for the amounts owing under the promissory notes.
3. As reflected above, the most significant disputed claims relate to UCI and TFCC. Due to the amount of these claims, the Monitor has been unable to make any further distributions to creditors of the Bay CCAA Entities. TFCC and the Foreign Representative are attempting to negotiate a settlement of the claims against Bay LP. The Monitor is unaware of the terms of settlement. The Monitor has advised the Foreign Representative and TFCC that any settlement of their claims against the Bay CCAA Entities requires Court approval on notice to any affected stakeholders.
4. A motion to resolve TFCC's claim was originally scheduled to be heard on September 5, 2017. It was adjourned on consent to October 19, 2017. On October 12, 2017, legal counsel to TFCC advised the Monitor that it was seeking an adjournment of the motion *sine die* to provide additional time to finalize a settlement between TFCC and the Foreign Representative. As the settlement discussions have spanned several months and require additional time to be resolved, the Monitor advised that it was not prepared to consent to the adjournment unless TFCC and the Foreign Representative agreed to allow the Monitor to repay the balance of the Home Buyer and Third Party Claims.
5. TFCC has agreed, and the Foreign Representative is not opposed to, the immediate repayment of the Home Buyer and Third Party Claims. A letter signed by counsel to TFCC and an email from the Functionary confirming same is provided in Appendix "G".

3.1.6 Bay Distribution

1. The Monitor recommends a \$5.5 million distribution to repay, in full, the Home Buyer and Third Party Claims. A summary of the recommended distribution is reflected below.

(C\$000s; unaudited)	Amount
Cash available for Bay Distribution	
Current bank balance	17,061
Cash holdback for costs in administration	(3,000)
Net cash available	14,061
Distribution to Home Buyers and Third Party Claimants	(5,469)
Remaining funds available for distribution	8,592

2. The table reflects that following the distribution, there will be approximately \$8.6 million remaining in the Bay LP bank account. The remaining bank balance is sufficient to repay in full the employee claims, the Tarion claims and the intercompany claims should the Monitor be required to repay them. It will be a condition of the Monitor that any settlement provide, *inter alia*, that all admitted claims be paid in full.
3. The recommended distribution includes approximately \$480,000 to be paid to TFCC in connection with its admitted claims against the Bay CCAA Entities.

3.2 Geothermal Assets

1. Certain of the Cumberland CCAA Entities have an interest in geothermal assets located at four condominium projects developed by entities in the Urbancorp Group of Companies (collectively, the "Geothermal Assets"). The condominium projects are as follows:

Condominium Name	Address
Edge	36 Lisgar Street, Toronto
Curve	170 Sudbury Street, Toronto
Bridge	38 Joe Shuster Way, Toronto
Fuzion	20 Joe Shuster Way, Toronto

2. Pursuant to energy supply agreements, each condominium corporation (collectively, the "Condo Corporations") is required to pay URPI for the supply of the geothermal energy. URPI is neither a subsidiary of UCI nor is it subject to CCAA proceedings. The Monitor understands that URPI is owned by Alan Saskin. URPI is required to pay the revenue it receives from the Condo Corporations to the Urbancorp entity that holds the geothermal energy system, net of a management fee of approximately 3% payable to URPI and other costs (such as repairs and maintenance costs).

3. The registered owners of the geothermal energy systems appear to be Vestaco Homes Inc. (Bridge), Vestaco Investments Inc. (Curve) and 228 Queen's Quay West Ltd. (Edge), each of which is a Cumberland CCAA Entity. The registered owner of the Fuzion geothermal energy system appears to be Urbancorp New Kings Inc. ("UNKI") and Urbancorp Management Inc., each as to 50% and each of which is not subject to CCAA proceedings. The Fuller Landau Group Inc. ("Fuller Landau"), in its capacity as Monitor of certain of the other entities in the Urbancorp Group of Companies, including Edge Residential Inc., Edge on Triangle Park Inc. and Bosvest Inc. (collectively, the "Edge Companies"), has indicated that the Edge Companies may have an interest in the Edge geothermal system.
4. The Bridge and Fuzion Condo Corporations have failed to make payments to URPI under their supply agreements since March, 2016. The Edge Condo Corporation has failed to make payments to URPI under its supply agreement since April, 2016.⁴ As a result, URPI has engaged its own counsel to litigate against these Condo Corporations. The Condo Corporations have filed cross claims alleging, *inter alia*, that certain of the Geothermal Assets require repairs and that the Condo Corporations are paying more for heating and cooling than traditional energy sources.
5. The Monitor understands that the Condo Corporations for Edge, Bridge and Fuzion have paid into their lawyer's trust account at least some of the amounts owing to URPI pending resolution of the litigation proceedings. A trial date has not been scheduled.
6. The Monitor has reviewed the expert reports issued by consultants to URPI and the relevant Condo Corporations. The opinions in the reports vary considerably. In order to establish an independent opinion, the Monitor recently retained a consultant to review the issues in the litigation.
7. The Monitor understands that the Condo Corporation for Curve alleges that it exercised a right to purchase its geothermal system, and, accordingly, is no longer making any payments to URPI. No payment has been received in connection with the alleged purchase. A further Court hearing may be required to deal with URPI's claim against Curve.
8. If and when the geothermal litigation is resolved, the Monitor intends to work with Fuller Landau and other relevant parties with an interest in these assets to sell the Geothermal Assets.

3.3 URPI Loan Facility

1. URPI has no revenue because it has not been receiving payments from the Condo Corporations.
2. URPI filed two claims against the Cumberland Entities totaling \$580,000. The claims were admitted. Rather than making a distribution to URPI, the Monitor reached an agreement with URPI that it would fund maintenance costs associated with the Geothermal Assets and the costs of the geothermal litigation from URPI's distribution. To date, approximately \$312,000 has been paid from URPI's distribution in respect of these costs (\$268,000 remains).

⁴ On August 30, 2016, the Edge Condo Corporation made a \$260,000 partial payment to URPI in respect of amounts owing.

3. URPI has been advised that it likely needs to make a repair to the Bridge Geothermal Assets which could cost as much as \$400,000. URPI is also continuing to incur legal costs.
4. In order to protect the value of the Geothermal Assets, the Monitor is prepared to make a loan to URPI, if approved by the Court. The terms of the Loan Facility are set out in a term sheet (the "Term Sheet"). A copy of the Term Sheet is attached as Appendix "H".
5. The significant terms of the Loan Facility are below.
 - a) Lender: Cumberland;
 - b) Borrower: URPI;
 - c) Amount: \$500,000;
 - d) Repayment Date: the earliest of (i) the first anniversary of the date of the first advance; and (ii) conversion of the CCAA proceedings into a proceeding under the *Bankruptcy and Insolvency Act* or such earlier date upon which repayment is required due to the occurrence of an Event of Default;
 - e) Security: first ranking security interest in and lien on all now-owned and hereafter-acquired assets and property of the URPI, real and personal, tangible or intangible and all proceeds therefrom;
 - f) Interest rate: 12% per annum, compounded monthly and payable on the Repayment Date;
 - g) Advance Conditions:
 - i. The Term Sheet is approved by order of the Court;
 - ii. Cumberland is satisfied that URPI has complied with and is continuing to comply in all material respects with all applicable laws, regulations, policies in relation to its property and business;
 - iii. all amounts due and owing to Cumberland at such time shall have been paid or shall be paid from the requested advance;
 - iv. no event of default shall have occurred or will occur as a result of the requested advance;
 - v. any necessary third-party approvals to preserve or perfect Cumberland's security will have been obtained;
 - vi. there are no liens ranking in priority to the security other than as permitted; and
 - vii. URPI shall be in compliance with all covenants and obligations contained in the Term Sheet;

- h) Litigation:
- i. The Monitor can require URPI to instruct its counsel in respect of the litigation to take instructions directly from the Monitor. Such instructions may include, in the Monitor's sole discretion but after consultation with URPI, settling the litigation provided that, in the event of a disagreement between Monitor and URPI, the Monitor will bring a motion to have the matter determined by the Court; and
 - ii. UTPI has also agreed, if so requested by the Monitor in its sole discretion, but after consultation with URPI, to replace UPRI's litigation counsel in respect of the litigation provided that, in the event of a disagreement between Monitor and URPI, the Monitor will bring a motion to have the matter determined by the Court.
6. The Monitor recommends the Court approve the Loan Facility so that it can attempt to resolve the litigation and, in due course, commence a realization process for the Geothermal Assets. Absent the Loan Facility, URPI will neither have funding to defend itself in the litigation nor to continue to maintain the Geothermal Assets. This would put at risk the ability to realize on the Geothermal Assets, which were stated in the prospectus issued in connection with the Debentures to have a value in the tens of millions of dollars.

3.4 Condominium Sale Process

1. On December 14, 2016, the Court issued an order (the "Sale Process Order") approving a sale process for 28 Residential Units held by URI and KRI⁵. Pursuant to the Sale Process Order, Brad J. Lamb Realty Inc. ("Brad Lamb Realty") is marketing the Residential Units for sale.
2. On January 27, 2017, the Court issued an order, as amended and restated on March 14, 2017 (the "Approval and Vesting Order"), which authorized the Monitor to enter into a form of sale agreement for each of the respective Residential Units as each is sold and, upon the delivery of a Monitor's certificate concerning any sale, vested the Residential Unit pertaining to the relevant sale agreement in and to the purchaser free and clear of related scheduled encumbrances. The relevant schedule to the Approval and Vesting Order only lists the Residential Units registered on title as being owned by KRI and URI.
3. The Additional Units are comprised of the following: 52 parking units, seven locker units and 66 bike storage units for which URI and KRI are the registered owner.
4. The Additional Units have separate Property Identification Numbers and, therefore, cannot be vested by registration of the Approval and Vesting Order on title without the schedule to the Approval and Vesting Order being amended to specifically reference these Property Identification Numbers and related encumbrances.

⁵ URI and KRI are nominee companies for Urbancorp Realty Co. and Urbancorp Cumberland 1 LP, respectively.

5. On September 11, 2017, the Monitor brought a motion to add a single parking unit and locker unit so it could complete a sale of a Residential Unit which was scheduled to close immediately. The Monitor advised in its motion materials that it intended to add the remaining Additional Units to the Approval and Vesting Order, but it still required certain information. On September 13, 2017, the Court issued the Amended and Restated Approval and Vesting Order to allow for the sale of the parking unit and locker unit.
6. The Monitor is now recommending the Court enter the Additional Vesting Order so that it can sell and vest title to the Additional Units. The parties that will have their encumbrances vested off title are:
 - Travelers;
 - The Bridge Condo Corporation;
 - Speedy;
 - TD Bank;
 - CIBC Mortgages Inc.; and
 - Kareg Leasing Inc.
7. Each of these parties have been served with this Report and the accompanying motion materials; however, the proposed order does not prejudice any of the parties as their claims will attach to the net proceeds from the sale of the Additional Units. A copy of the proposed Additional Vesting Order is attached as Appendix “I”.

3.5 Update on Condominium Sale Process

1. Since the commencement of the sale process, the Monitor has closed thirteen transactions for the Residential Units. A summary of the net proceeds from the transactions is provided in the table below. The net proceeds from the remaining Residential Units is expected to be approximately \$2.5 million.

(\$000's; unaudited)	No. of units sold	Gross Proceeds	Mortgages	Costs ⁶	Net Proceeds
KRI	6	2,298	1,195	166	937
URI	7	2,747	2,089	196	462
	13	5,045	3,284	362	1,399

2. As of July 1, 2017, all of the Residential Units are vacant. Brad Lamb Realty is presently marketing two Residential Units at a time.
3. The Additional Units represent unsold inventory from the Cumberland CCAA Entities' various condominium developments. In order to sell the Additional Units, the Monitor intends to:
 - a) list the Additional Units on Toronto Real Estate Board Multiple Listing Services;

⁶ Includes professional fees of \$10,000 per unit and broker fees

- b) advertise the Additional Units in the various condominiums; and
- c) instruct Brad Lamb Realty to solicit interest from prospective purchasers of the Residential Units.

3.6 Urbancorp New Kings Inc.

1. Cumberland is the shareholder of UNKI. UNKI appears to be a nominee for Cumberland. UNKI is not subject to the CCAA proceedings. UNKI owns a 50% interest in a development located at 1100 King Street West, Toronto (the “Kingsclub Development”). The remaining 50% interest of the Kingsclub Development is owned by King Liberty North Corporation (“KLNC”), an affiliate of First Capital (S.C.) Corporation (“FCSCC”).⁷
2. The Kingsclub Development is a significant project located on King Street West in Toronto. It is presently under construction and is to consist of retail space, residential space and related parking spaces. The retail development is projected to be completed by the beginning of 2018 and the residential development is projected to be completed by the end of 2018.
3. Pursuant to the Initial Order, Robert Kofman, the President of KSV and the person with primary oversight of these proceedings on behalf of the Monitor, or such representative of KSV as Mr. Kofman may designate in writing from time-to-time, was appointed to the management committee of the Kingsclub Development in place of Alan Saskin, the sole officer and director of UNKI.
4. As of August 31, 2017, UNKI and KLNC had borrowed approximately \$117.6 million from Bank of Nova Scotia (the “BNS Loan”) and \$69.3 million from FCSCC (“FCSCC Loan”) in connection with the financing of the Kingsclub Development.
5. The Monitor, KLNC and FSSCC have entered into a Court-approved standstill agreement in respect of the Kingsclub Development (the “Standstill Agreement”). The Standstill Agreement is intended to facilitate an orderly completion of the Kingsclub Development. The Monitor is continuing to oversee the Kingsclub Development with a view to generating recoveries from this asset. The proceeds, if any, from this project cannot be quantified at this time.

3.7 Downsview

1. Downsview Homes Inc. (“DHI”) owns land located at 2995 Keele Street in Toronto, which is being developed into condominiums and other residences (the “Downsview Project”). The shares of DHI are owned by Downsview (51%) and Mattamy (Downsview) Limited, an affiliate of Mattamy Homes (“Mattamy”) (49%).
2. Downsview’s only known asset is its interest in DHI.

⁷ Kings Club Development Inc., a nominee entity, is the registered owner of the Kingsclub Development on behalf of its beneficial owners, UNKI (50%) and KLNC (50%).

3. Prior to the commencement of the CCAA proceedings, Mattamy made advances to DHI on behalf of Downsview. Downsview also has obligations to Mattamy under a co-ownership agreement with Mattamy (“Ownership Agreement”). Pursuant to the Ownership Agreement and other agreements, Downsview’s shares of DHI are subject to transfer restrictions in favour of Mattamy and are pledged as security to Mattamy.
4. At the commencement of the Cumberland CCAA Proceedings, Downsview was required to make an equity injection into the Downsview Project of approximately \$8 million in order to secure construction financing. Downsview did not have the cash to fund its portion of the required equity; however, Mattamy agreed to loan Downsview the funds it required. On June 15, 2017, the Court approved a debtor-in-possession financing facility (the “DHI Facility”) in the amount of \$8 million between Mattamy, as lender, and Downsview, as borrower, as well as a charge in favour of Mattamy over Downsview’s assets, properties and undertakings to secure repayment of the amounts borrowed by Downsview under the DHI Facility. To date, approximately \$7.59 million has been borrowed by Downsview under the DHI Facility. Interest and costs continue to accrue.
5. The Downsview Project consists of two phases. The first phase is scheduled to be completed in the first half of 2018, while the second phase is not expected to be completed for several years.
6. The Monitor is continuing to oversee this project, including reviewing pro-formas and corresponding routinely with Mattamy. Due various issues on each phase of the project, there is significant uncertainty at this time as to the value of Downsview’s interest in the Downsview Project.
7. The Foreign Representative has advised the Monitor repeatedly that: a) the Monitor has not kept it apprised of the status of the Downsview Project; and b) it would like to commence a sale process in the near term for Downsview’s interest in the Downsview Project.
8. The Monitor disagrees with the Foreign Representative on both counts.
 - a) Status updates: Since the outset of these proceedings, the Monitor has kept the Foreign Representative apprised of the status of the Downsview Project during in-person meetings, telephonically and via email correspondence. As Mattamy controls the Downsview project, it is reliant on Mattamy for information. Mattamy and the Monitor have regularly scheduled update calls, after which Monitor has provided updates to the Foreign Representative or its counsel as to all material developments which have been communicated to it by Mattamy.

- b) Sale Process. The Monitor has advised the Foreign Representative that it does not believe a sale process would generate significant proceeds at this time given: a) uncertainty regarding construction issues on the first phase; b) uncertainty regarding the phase two development plan; c) the development timeframe for the second phase will likely see that phase completed in 2021 or 2022; d) Mattamy, as the joint venture partner, is likely to impose restrictions on the sale of Downsview's interest in the project in accordance with its contractual rights noted above; and e) any purchaser of the Downsview interest will want to ensure that it has a suitable arrangement with Mattamy.
9. Notwithstanding the Monitor's views as to the timing to commence a sale process, the Monitor has advised the Foreign Representative that it is prepared to meet with Mattamy to consider the attributes of a sale process so that, *inter alia*, it understands how Mattamy would wish to participate in such process, including information it would make available to interested parties.
10. The Foreign Representative noted in its most recent report filed in the Israeli Proceedings dated October 2, 2017 that it has been in contact with several entities interested in making offers for several of the Urbancorp Group's assets. The Foreign Representative has also advised the Monitor previously that expressions of interest have been communicated to it regarding Downsview. The Monitor and its counsel have repeatedly requested that the Foreign Representative direct interested parties to the Monitor, as the sale of Downsview is exclusively within the jurisdiction of the CCAA proceedings. The Foreign Representative has never done so.

3.8 Urbancorp Downtown Developments Inc.

1. In or around June, 2014, UTMI advanced \$750,000 to Urbancorp Downtown Developments Inc. ("UDDI"), an affiliated entity not subject to insolvency proceedings, to fund a deposit in connection with the purchase of land by UDDI. In December 2014, approximately \$250,000 was returned to UTMI by UDDI.
2. In addition, the books and records of UTMI reflect an intercompany balance of \$200,000 owing by UDDI to UTMI.
3. The property that was to be purchased by UDDI was expropriated by the Toronto Catholic District School Board ("TCDSB") prior to closing.
4. UDDI is negotiating a settlement with TCDSB. UDDI has acknowledged by email that the proceeds from TCDSB, after costs, will first be used to satisfy the amounts owing to UTMI.

4.0 Cash Flow Forecasts

1. Consolidated cash flow projections have been prepared for the CCAA Entities for the period November 1, 2017 to January 31, 2018 (the "Period"). The Cash-Flow Statements and the CCAA Entities' statutory reports on the cash flow pursuant to Section 10(2)(b) of the CCAA are attached as Appendices "J" and "K", respectively.
2. The expenses in the Cash-Flow Statements are primarily comprised of payroll, general and administrative expenses, professional fees and advances to URPI in connection with the Loan Facility. The CCAA Entities have sufficient cash to pay all disbursements during the Period.
3. Based on the Monitor's review of the Cash-Flow Statements, there are no material assumptions which seem unreasonable in the circumstances. The Monitor's statutory reports on the cash flows are attached as Appendix "L".

5.0 Request for an Extension

1. The CCAA Entities are seeking an extension of the stay of proceedings from October 31, 2017 to January 31, 2018. The Monitor supports their request for extensions of the stay of proceedings for the following reasons:
 - a) the CCAA Entities are acting in good faith and with due diligence;
 - b) no creditor will be prejudiced if the extensions are granted;
 - c) it will allow the Cumberland CCAA Entities and the Monitor further time to deal with the remaining assets owned by the Cumberland CCAA Entities, including the Residential Units, the Geothermal Assets, the Downsview Project and the Kingsclub Development;
 - d) it will allow the Monitor the opportunity to resolve the disputed claims; and
 - e) as of the date of this Report, neither the CCAA Entities nor the Monitor is aware of any party opposed to an extension.

6.0 Professional Fees

- The fees and disbursements of the Monitor, Davies and WeirFoulds for the period are summarized below.

Firm	Period	(\$)		
		Fees	Disbursements	Total
<u>Cumberland CCAA Entities</u>				
KSV	Jul 1/17 – Sept 30/17	205,908.00	2,661.23	208,569.23
Davies	Jul 1/17 – Sept 30/17	191,884.00	7,610.61	199,494.61
WeirFoulds	Jun 1/17 – Sept 30/17	5,854.50	308.43	6,162.93
Total		403,646.50	10,580.27	414,226.77
<u>Bay CCAA Entities</u>				
KSV	Jun 1/17 – Sept 30/17	153,820.25	-	153,820.25
Davies	Jul 1/17 – Sept 30/17	58,376.50	306.19	58,682.69
WeirFoulds	Jun 1/17 – Jul 31/17	4,084.50	509.29	4,593.79
Total		216,281.25	815.48	217,096.73

- Detailed invoices are provided in appendices to the fee affidavits filed by representatives of KSV, Davies and WeirFoulds which are provided in Appendices “M”, “N” and “O”, respectively.
- The average hourly rates for the Monitor, Davies and WeirFoulds are as follows:

Firm	Average Hourly Rate (\$)
<u>Cumberland CCAA Entities</u>	
KSV	478.41
Davies	669.28
WeirFoulds	527.43
<u>Bay CCAA Entities</u>	
KSV	462.48
Davies	883.15
WeirFoulds	474.94

- Since the last fee approval motion, the main matters addressed by Davies include: resolving issues related to disputed claims, dealing with counsel to TFCC and UCI in respect of their claims against Bay LP, dealing with the sale of the Residential Units and dealing with matters related to the Geothermal Assets and the Downsview Project. As reflected in the table above, WeirFoulds has incurred limited professional fees since the last fee approval motion.
- The Monitor is of the view that the hourly rates charged by Davies and WeirFoulds are consistent with rates charged by law firms practicing in the area of restructuring and insolvency in the downtown Toronto market, and that the fees charged are reasonable and appropriate in the circumstances.

7.0 Conclusion and Recommendation

1. Based on the foregoing, the Monitor respectfully recommends that the Court make an order granting the relief detailed in Section 1.1(1)(i) of this Report.

* * *

All of which is respectfully submitted,

Handwritten signature in blue ink that reads "KSV Kofman Inc".

**KSV KOFMAN INC.
IN ITS CAPACITY AS CCAA MONITOR OF
THE CCAA ENTITIES
AND NOT IN ITS PERSONAL CAPACITY**

Schedule "A"

Urbancorp Toronto Management Inc.

Urbancorp (952 Queen West) Inc.

King Residential Inc.

Urbancorp 60 St. Clair Inc.

High Res. Inc.

Bridge on King Inc.

Urbancorp Power Holdings Inc.

Vestaco Homes Inc.

Vestaco Investments Inc.

228 Queen's Quay West Limited

Urbancorp Cumberland 1 LP

Urbancorp Cumberland 1 GP Inc.

Urbancorp Partner (King South) Inc.

Urbancorp (North Side) Inc.

Urbancorp Residential Inc.

Urbancorp Realtyco Inc.