

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

THE HONOURABLE ) TUESDAY, THE 15<sup>th</sup> DAY  
JUSTICE KERSHMAN ) OF OCTOBER, 2024

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 MIZRAHI DEVELOPMENT GROUP  
(1451 WELLINGTON) INC.



Applicant

**INITIAL ORDER**

**THIS APPLICATION**, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day by judicial videoconference via Zoom at 161 Elgin Street, Ottawa, Ontario.

**ON READING** the affidavit of Sam Mizrahi sworn October 15, 2024 and the Exhibits thereto (the "**Mizrahi Affidavit**"), and the Pre-Filing Report of MNP Inc. ("**MNP**") as the proposed monitor, filed, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, counsel for MNP, counsel for TCC Mortgage Holdings Inc. (in such capacity, the "**DIP Lender**") and such other counsel present, and on reading the consent of MNP to act as the monitor (in such capacity, the "**Monitor**").

## **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application, the Application Record and the Factum is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that unless otherwise indicated or defined herein, capitalized terms have the meanings given to them in the Mizrahi Affidavit.

## **APPLICATION**

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

## **POSSESSION OF PROPERTY AND OPERATIONS**

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, licences, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant, subject to the terms of the Definitive Documents (as hereinafter defined), shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. The Applicant, subject to the terms of the Definitive Documents, is authorized and empowered to continue to retain and employ the employees, independent contractors, sub-contractors, advisors, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.
5. **THIS COURT ORDERS** that the Applicant, with the prior consent of the Monitor and subject to the terms of the Definitive Documents, 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;

- (b) amounts owing for goods and services actually supplied to the Applicant or the Project prior to the date of this Order, with the Monitor and DIP Lender considering, among other factors, whether: (i) the supplier or service provider is essential to the Project or the Business and ongoing operations of the Applicant and the payment is required to ensure ongoing supply, (ii) making such payment will preserve, protect or enhance the value of the Project, the Property or the Business, (iii) making such payment is required to address regulatory concerns, and (iv) the supplier or service provider is required to continue to provide goods or services to the Applicant after the date of this Order, including pursuant to the terms of this Order; and
- (c) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

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

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

7. **THIS COURT ORDERS** that the Applicant, subject to the terms of the Definitive Documents, shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be

deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;

- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

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

## **RESTRUCTURING**

9. **THIS COURT ORDERS** that the Applicant, with the prior consent of the Monitor, shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents, have the right to:

- (a) execute, assign, issue and endorse documents of whatever nature in respect of any of the Property for any purpose pursuant to this Order;



- (b) permanently or temporarily cease, downsize or shut down any of the Applicant's business or operations, and to dispose of redundant or non-material assets not exceeding \$50,000 in any one transaction or \$250,000 in the aggregate; and
- (c) pursue all avenues of financing or refinancing, restructuring, selling, assigning or in any other manner disposing of and/or reorganizing the Applicant's Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material financing or refinancing, restructuring, sale, assignment, disposition or reorganization,

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business.

10. **THIS COURT ORDERS** that, notwithstanding paragraph 9(c), the Applicant, with the prior consent of the Monitor and the DIP Lender, shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents, have the right to sell or lease unsold Units or any commercial space in the Project, as applicable, in the ordinary course without the need for prior approval of this Court.

**NO PROCEEDINGS AGAINST THE APPLICANT, GENERAL CONTRACTOR, THE MONITOR OR THE PROPERTY**

11. **THIS COURT ORDERS** that until and including October 25, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding, demand or enforcement process in any court or tribunal (each, a "**Proceeding**" and collectively, the "**Proceedings**") shall be commenced or continued against or in respect of the Applicant, Mizrahi Inc. (the "**General Contractor**") (other than the ongoing proceedings before Justice Osborne in Court File No. CV-23-00707839-00CL) or the Monitor, except with the written consent of the Applicant, the Monitor and the DIP Lender, or with leave of this Court, and any and all Proceedings currently under way against or in respect of such parties, or affecting the Applicant's Business or the Property, are hereby stayed and suspended pending further Order of this Court.

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

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

## **NO INTERFERENCE WITH RIGHTS**

13. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence, authorization or permit in favour of or held by the Applicant or General Contractor except with the written consent of the Applicant, the Monitor and the DIP Lender, or leave of this Court.

## **CONTINUATION OF SERVICES**

14. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant, General Contractor, or contractual, statutory or regulatory mandates for the supply of goods and/or services to the Applicant, the General Contractor or the Project, including without limitation all trademark license and other intellectual property, computer software, communication and other data services, construction management services, project management services, permit and planning management services, accounting services, centralized banking services, payroll and benefit services, warranty services, subcontracts, trade suppliers, equipment vendors and rental companies, insurance, vehicle and transportation services, temporary labour and staffing services, freight services, equipment vendors and rental companies, utility, customs, clearing, warehouse and logistics services or other services to the Business, the Applicant, the General Contractor and/or the Project, are hereby restrained until

further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods, services, trademarks or other intellectual property as may be required by the Applicant, the General Contractor and/or the Project and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names and building and other permits, provided in each case that the normal prices or charges for all such goods or services or trademarks or other intellectual property received or used after the date of this Order are paid by the Applicant, the General Contractor and/or the Project in accordance with normal payment practices of the Applicant, the General Contractor and/or the Project or such other practices as may be agreed upon by the supplier or service provider and the Applicant and/or General Contractor, the Monitor and the DIP Lender, or as may be ordered by this Court.

15. **THIS COURT ORDERS** that, without limiting the generality of the foregoing, no insurer providing insurance to the Debtor or its directors or officers shall terminate or fail to renew such insurance on the existing terms thereof provided that such insurer is paid any premiums, as would be paid in the normal course, in connection with the continuation or renewal of such insurance at current prices, subject to reasonable annual increases in the ordinary course with respect to such premiums.

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

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

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

17. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any



obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

#### **APPOINTMENT OF MONITOR**

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

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

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) liaise with and assist the Applicant with respect to all matters relating to the Business, Property, the Project and related restructuring, and such other matters as may be relevant to the proceedings herein;
- (d) in the Monitor's discretion, receive and collect, on behalf of the Applicant, all monies and accounts now owed or hereafter owing to the Applicant and to exercise all remedies of the Applicant, on behalf of the Applicant and in consultation with the Applicant and with the consent of the DIP Lender, in collecting such monies, including without limitation, to enforce any security held by the Applicant;



- (e) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender and its counsel at the times set out in the DIP Agreement, financial and other information as agreed to between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (f) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, at the times set out in the DIP Agreement, or as otherwise agreed to by the DIP Lender;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

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

21. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release

or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

23. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its respective employees and representatives acting in such capacities shall incur any liability or obligation as a result of the appointment of the Monitor or the carrying out by it 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 to the Monitor by the CCAA or any applicable legislation.

24. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and

counsel for the Applicant on a monthly basis, or pursuant to such other arrangements as may be agreed to between the Applicant and such parties.

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

26. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Applicant's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$100,000.00, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, in connection with the Project and these proceedings, 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 33 and 35 hereof.

#### **DIP FINANCING**

27. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from the DIP Lender in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that the indebtedness under such credit facility shall not exceed \$2,345,000.00 plus applicable interest, fees, expenses and costs (the total amount outstanding from time to time, the "**DIP Obligations**") unless permitted by further Order of this Court.

28. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicant and the DIP Lender dated as of October 15, 2024 (the "**DIP Agreement**"), filed.

29. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents, including for greater certainty the DIP Agreement (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP



Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

30. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 33 and 35 hereof.

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

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Agreement, Definitive Documents or the DIP Lender’s Charge, the DIP Lender, may cease making advances to the Applicant, and with leave of the Court sought on not less than three (3) business days’ notice to the Applicant and the Monitor, may exercise any and all of its others rights and remedies against the Applicant or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Lender’s Charge, including without limitation, to set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Lender’s Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

32. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or

any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the “**BIA**”), with respect to any advances made under the Definitive Documents.

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

33. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP Lender’s Charge (collectively, the “**Charges**”), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$100,000.00; and

Second – DIP Lender’s Charge (to the maximum amount of the DIP Obligations at the relevant time).

34. **THIS COURT ORDERS** that the filing, registration or perfection of 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.

35. **THIS COURT ORDERS** that the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person; provided that the Charges shall rank behind Encumbrances in favour of any Persons that have not been served with notice of the application for this Order. The Applicant and the beneficiaries of the Charges shall be entitled to seek priority of the Charges ahead of such Encumbrances on a subsequent motion including, without limitation, on the Comeback Date (as defined below), on notice to those Persons likely to be affected thereby.

36. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Charges, or further Order of this Court.

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

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

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



## SERVICE AND NOTICE

39. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish only once in the National Post a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of this Order: (A) make this Order publicly available in the manner prescribed under the CCAA; (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000; and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not be required to make the claims, names and addresses of individuals who are creditors publicly available, unless otherwise ordered by this Court.

40. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) 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 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: [www.mnpdebt.ca/mizrahiottawa](http://www.mnpdebt.ca/mizrahiottawa).

41. **THIS COURT ORDERS** that the Monitor shall maintain and update as necessary a list of all Persons appearing in person or by counsel in this proceeding (the “**Service List**”). The Monitor shall post the Service List, as may be updated from time to time, on the case website as part of the public materials in relation to this proceeding. Notwithstanding the foregoing, the Monitor nor its counsel shall have any liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

42. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide is not practicable, the Applicant, the Monitor, and their respective counsel 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 or other electronic transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service, distribution or notice by courier, personal delivery or facsimile or other electronic 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. Any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of Subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

#### **COMEBACK HEARING**

43. **THIS COURT ORDERS** that the comeback motion in this proceeding shall be heard on October 25, 2024 at 2:00 PM EST (the "**Comeback Date**").

#### **FORBEARANCE AGREEMENT**

44. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered, *nunc pro tunc*, to enter into the Forbearance Agreement. Such Forbearance Agreement is hereby approved and the Applicant is authorized and directed to comply with all terms and conditions of the Forbearance Agreement.

#### **GENERAL**

45. **THIS COURT ORDERS** that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than five (5) business days' notice to the Service List and 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; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 33 and 35 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

46. **THIS COURT ORDERS** that, notwithstanding paragraph 45 of this Order, each of the Applicant, the Monitor or the DIP Lender may from time to time apply to this Court to amend,

vary or supplement this Order or for advice and directions in the discharge of its powers and duties hereunder or in the interpretation of this Order.

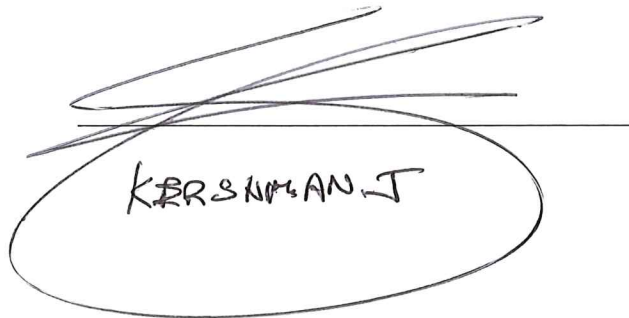
47. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

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

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

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

51. **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 without the need for entry or filing.



KERSHMAN, J.



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 MIZRAHI DEVELOPMENT GROUP  
(1451 WELLINGTON) INC.

Court File No. BK24-00000230-0033

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
OTTAWA

**INITIAL ORDER**

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