Court File No. CV-24-00724076-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

(COMMERCIAL LIST)

FOREMOST MORTGAGE HOLDING CORPORATION

Applicant

-and-

BARAKAA DEVELOPER INC., LERRATO INC. and 2145499 ONTARIO INC.

Respondents

AMENDED NOTICE OF MOTION

ALIXPARTNERS RESTRUCTURING, INC. (formerly KSV Restructuring Inc.), in its capacity as the receiver and manager (in such capacity, the "**Receiver**"), without security, of all of the property, assets and undertakings of 2145499 Ontario Inc. ("**2145499**"), and certain real properties of Barakaa Developer Inc. and Lerrato Inc., will make a motion before a Judge of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), on **Friday, September 18, 2026 at 12:00 p.m.**, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard orally via Zoom video conference.

THE MOTION IS FOR:

1. an order substantially in the form attached at **Tab 3** of the Motion Record (the "**Sales Order**"), among other things:

   (a) validating and abridging the time for service of this Notice of Motion and the Motion Record and directing that any further service of the Notice of Motion and

Motion Record be dispensed with such that this Motion is properly returnable on the date scheduled for the hearing of this Motion;

(b) approving, and authorising the Receiver to enter into an Exclusive Listing Agreement with Forest Hill Real Estate Inc. ("**Forest Hill**") to carry out a marketing and sale process in respect of the ten unit (the "**Doric Units**") condominium project owned by 2145499, on behalf of the Receiver (the "**Sale Process**") and approving the Sale Process;

(c) authorizing the Receiver to complete any Doric Unit sale transaction, without further approval of the Court, provided that the total consideration for each Doric Unit under an agreement of purchase and sale is not less than the Target Price, or with the consent of Foremost not less than the Floor Price Amount, set out in the pricing schedule (the "**Pricing Schedule**") forming Confidential Appendix "1" to the Receiver's Sixth Report to Court dated August 31, 2026 (the "**Sixth Report**");

(d) approving the form of approval and vesting order (the "**AVO**") to be obtained by the Receiver with respect to a Permitted Transaction, without the need for a further Court attendance by counsel for any party, including the Receiver;

(e) authorizing the Receiver and its legal counsel to present the completed AVO to the Registrar of the Ontario Superior Court of Justice (Commercial List) together with a certificate of the Receiver attaching a copy of the agreement of purchase and sale confirming the name of the purchaser(s) and the legal description of the purchased Doric Unit; and

(f) sealing Confidential Appendix "1" to the Sixth Report, which includes the Target Prices and Floor Prices for each of the Doric Units pending closing of the final Doric Unit sale transaction by the Receiver or further Court Order; and

(g) such other and further relief as counsel may request and this Honourable Court may allow.

THE GROUNDS FOR THE MOTION ARE:

2. On October 21, 2024, upon an application by Foremost, a secured lender to the Debtors, KSV Restructuring Inc. ("**KSV**") was appointed as Receiver pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") of certain real properties of Barakaa Developer Inc. ("**Barakaa**") and Lerrato Inc. ("**Lerrato**"), and the property, assets and undertakings of 2145499 (together with Barakaa and Lerrato, the "**Debtors**").

3. Effective June 1, 2026, KSV's parent company was acquired by an affiliate of AlixPartners Restructuring Inc. ("**AlixPartners**"), following which KSV changed its name to "AlixPartners Restructuring, Inc.", and AlixPartners was substituted for KSV in all of its ongoing Ontario Court appointments pursuant to a Court Order dated June 3, 2026.

4. The Debtors are real property developers. The Receiver was appointed in respect of:

   (a) two fully constructed homes in Richmond Hill, Ontario owned by Barakaa, both of which have been sold by the Receiver;

   (b) five fully constructed residential freehold townhouses and one parcel of residual real property owned by Lerrato, each of which has been sold by the Receiver; and

   (c) a partially completed 10-unit townhouse condominium project on Doric Road in Ajax, Ontario owned by 2145499 (the "**Project**"), which is the subject matter of this motion.

THE PROJECT

5. As of the date of the Receivership Order, the principal of 2145499, Hitesh Jhaveri, had advised the Receiver that construction of the Project had been substantially completed, other than the installation of an electrical transformer, which was ultimately purchased by the Receiver and was installed in December 2025 at a cost in excess of $500,000.

6. Shortly following its appointment, the Receiver engaged a third-party contractor to, among other things, assess the state of the Doric Units. Several initial material deficiencies were identified, including leaks, mold and multiple workmanship and building code non-compliance issues (collectively, "**Remediation Issues**"), all of which had to be remediated prior to the Doric Units being eligible for occupancy.

7. The Receiver, in consultation with Foremost and Tarion Warranty Corporation ("**Tarion**"), ultimately retained North Lakes Developments Inc. ("**North Lakes**") to remediate and complete the Project. North Lakes' initial budget to complete the work was approximately $662,000, and as of the date of this Report, North Lakes' estimates the cost of the work will total approximately $965,000, as a result of additional Remediation Issues that were discovered during the course of North Lakes's work on the Project, which are more particularly set out in the Sixth Report.

8. Also in consultation with Tarion, the Receiver and North Lakes entered into an agreement (the "**Warranty and Pre-Delivery Inspection Agreement**") pursuant to which: (i) North Lakes would complete the work on the Project; (ii) North Lakes agreed to repair any deficiencies in its own work identified during pre-delivery inspections of the Doric Units by purchasers; and (ii) North Lakes would not have any responsibility nor liability for any warranty claims in respect of work performed by 214. The Warranty and Pre-Delivery Inspection Agreement was accepted by Tarion, which confirmed the eligibility of the Doric Units for Tarion warranty coverage on that basis.

9. As of the date of this Report, construction and remediation of the Project is in its final stages and the Doric Units are now ready to be listed for sale. Accordingly, the Receiver is seeking authorization to engage the Sales Agent and commence the Sale Process on the terms set out in the Sixth Report.

THE SALES AGENT AND SALE PROCESS

10. Subject to Court approval, the Receiver intends to retain Forest Hill as sales agent (the "**Sales Agent**") to provide market and sell the Doric Units pursuant to the listing agreement

attached as Appendix "B" to the Sixth Report (the "**Listing Agreement**"). Forest Hill is familiar with the Project as it has been working with the Receiver and Foremost for several months while the Project was being completed.

11. The Listing Agreement was negotiated by the Receiver. The Sales Agent's services include; developing a marketing and sales strategy for the Doric Units; preparing marketing materials and coordinating technology solutions for their marketing and sale, including photographs, videos and virtual tours of the Doric Units; and assisting the Receiver to set the Target Price for each Doric Unit.

12. The proposed commission payable by the Receiver in respect of a Doric Unit sale is 3.5% of the sale price, net of HST, of which 2.5% shall be payable to any co-operating brokerage and 1% shall be payable to the Sales Agent. Where the Sales Agent represents the Receiver and a Doric Unit purchaser in the transaction, the total commission payable to the Sales Agent shall be 3%. The Sales Agent is entitled to be reimbursed for marketing costs capped at $12,000 for the entire Project, to the extent such costs are approved in advance by the Receiver.

13. The Receiver recommends the retention of the Sales Agent given, among other things, it has significant experience marketing residential properties in the Greater Toronto Area, its proposed fee structure is consistent with market and Foremost, as senior secured creditor, consents to its retention pursuant to the terms of the Listing Agreement.

14. The Receiver, in consultation with Foremost and with the assistance of the Sales Agent, has developed the Sale Process for the Doric Units (each a "**Unit Transaction**"). The prices set out in the Pricing Schedule were developed based on Forest Hill's market research, including comparable sales in Ajax and the surrounding area.

15. Subject to Court approval, it is intended that the Receiver will have discretion to accept offers for the Doric Units provided that they are within the percentage of the Target Prices provided in the Pricing Schedule, subject to some additional latitude granted to the

Receiver to accept prices less than the Target Prices, if Foremost consents, and with any further discounts from the Target Prices requiring Court approval.

16. If the Sale Process is approved by the Court, the Sales Agent intends to immediately commence marketing the Doric Units, including listing the Doric Units on MLS and providing notice of the opportunity to prospective individual purchasers, industry contacts and the brokerage community. Thereafter, the Sales Agent will, among other things, conduct open houses, maintain a model suite and report regularly to the Receiver concerning Sale Process progress.

17. Any Unit Transaction shall use an agreement of purchase and sale substantially in the form of the Template Agreement of Purchase and Sale (the "**Template APS**") (attached as Appendix "C" to the Sixth Report), subject to such minor deviations from the Template APS as the Receiver considers appropriate[1].

SEALING

18. The Receiver recommends that Confidential Appendix "1" to the Sixth Report be sealed until the later of a further order of the Court or closing of the final Unit transaction. The only sealed information relates to the Target Prices and Floor Prices for the Doric Units. The Receiver believes making this information available prior to closing the final Unit transaction may negatively impact the Sale Process. This approach is consistent with the decision in *Sherman Estate v. Donovan*, 2021 SCC 25.

19. such further and other grounds as set out in the Sixth Report; and

20. Rules 1.04, 1.05, 2.01, 2.03, 16.04 and 37 of the *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended.

[1] The Template APS was developed in consultation with the Sales Agent and is designed for the receivership context and incorporates the following elements, among others, (i) comprehensive "as-is, where is" protections and risk allocation appropriate to a court-supervised receivership; (ii) limitation of the Receiver's representations and warranties; and (iii) clear closing conditions, including a condition precedent requiring approval and vesting by Court order.

AND FURTHER TAKE NOTICE that the following materials will be filed in support of this motion, namely:

(a) the Receiver's Sixth Report; and

(b) such further and other material as counsel may advise and this Honourable Court may allow.

September 4, 2026

DLA PIPER (CANADA) LLP
Bay Adelaide Centre – West Tower
333 Bay Street, Suite 5100
Toronto, ON M5H 2R2

Edmond Lamek (LSO No. 33338U)
Tel: (416) 365-3444
Cell: (416) 579-1871
Email: edmond.lamek@dlapiper.com

Lawyers for the Receiver

TO: THE SERVICE LIST

Court File No.: CV-24-00724076-00CL

FOREMOST MORTGAGE HOLDING CORPORATION	and	**BARAKAA DEVELOPER INC., LERRATO INC. and 2145499 ONTARIO INC.**
Applicant		**Respondents**

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

NOTICE OF MOTION

DLA PIPER (CANADA) LLP
Suite 5100, Bay Adelaide - West Tower
333 Bay Street
Toronto, ON M5H 2R2

Edmond Lamek (LSO No. 33338U)
Tel.: (416) 365-4444
Email: edmond.lamek@dlapiper.com

Lawyers for the Receiver