

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondent

**FOURTH REPORT OF CROWE SOBERMAN INC. in its capacity as Court-  
appointed Receiver of DEEM MANAGEMENT SERVICES LIMITED and  
THE UPTOWN INC.**

**DATED APRIL 9, 2021**

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- Appendix P Fee Affidavit of Hans Rizarri sworn April 8, 2021
- Appendix Q Fee Affidavit of Brendan Bissell sworn April 9, 2021

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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BETWEEN:

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondent

**APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY  
ACT* AND SECTION 101 OF THE COURTS OF JUSTICE ACT**

**FOURTH REPORT OF THE RECEIVER**

**DATED APRIL 9, 2021**

**INTRODUCTION**

1. On May 31, 2018, pursuant to an order of the Honourable Mr. Justice Wilton-Siegel, made on an application by Donald Dal Bianco (“**Dal Bianco**”), Crowe Soberman Inc. was appointed as Receiver (the “**Receiver**”) of (collectively the “**Property**”):
  - (i) the property known municipally as 215 and 219 Lexington Road, Waterloo, Ontario N2K 2E1 (the “**Real Property**”);
  - (ii) the assets and undertakings of Deem Management Services Limited (“**Deem Management**”) related to the Real Property; and
  - (iii) the property, assets and undertakings of the Uptown Inc. (the “**Uptown**”, together with Deem Management the “**Companies**”).

2. A copy of Justice Wilton-Siegel's Order dated May 31, 2018 (the "**Receivership Order**") is attached hereto as **Appendix "A"**.
3. This report (the "**Fourth Report**") is filed by Crowe Soberman Inc. in its capacity as the Receiver of the Property of the Companies.
4. The orders and reports referred to in this report, together with related Court documents, are posted on the Receiver's website, which can be found at:

<https://www.crowesobermaninc.com/insolvency-cases/deem-management-services-limited/>

## **BACKGROUND**

5. The background to the Property is more fully set out in the First Report dated June 8, 2018, a copy of which is attached hereto without appendices as **Appendix "B"**. By way of overview:
  - a) Deem Management is a company that has been working for many decades in the Ontario nursing home and retirement home sector. It was the registered owner of the Real Property.
  - b) A portion of the Real Property was vacant land where the Project (defined below) had started. The remaining land contained the operating Pinehaven Nursing Home ("**Pinehaven**"), which is an unrelated third-party nursing home business. Part of Deem Management's business involved the collection of rent from Pinehaven.
  - c) The Uptown operated a presentation centre located on the Real Property and was engaged in the planning in connection with the redevelopment of the Real Property, as a seniors retirement residence called the Uptown Residences (the "**Project**"). The work carried out by the Companies had primarily been in the nature of obtaining approvals relative to Phase 1 of the Project, and the excavation and installation of caissons necessary for that part of the development.
  - d) Both Deem Management and the Uptown are owned by Rob Dal Bianco ("**Rob**"), who is the sole director of the Companies, and is the son of Dal Bianco.
  - e) Maxion Management Services Inc. ("**Maxion**") was the general contractor on the Project. The Receiver understands that Maxion is owned by Paul Michelin. The Receiver was advised by counsel for Michelin and Maxion that its clients assert an ownership claim in Uptown, and are therefore claiming a beneficial interest in the Project.

- f) The Receiver understands that Maxion was advised by Rob to cease all construction activities in early 2018. Shortly after construction ceased, around March 7, 2018, various service providers registered construction liens against title to the Property totalling \$7,673,672.48.
- g) In addition to the amounts claimed by the construction lien claimants, the Application Record dated May 28, 2018, outlined various mortgages and loans registered against title to the Property exceeding \$20 million.

## **PROCEDURAL HISTORY OF THE RECEIVERSHIP**

- 6. Following its appointment, the Receiver filed its First Report, dated June 7, 2018 with the Court. The purpose of the First Report was to approve a proposed sales process, which essentially continued a prior sales process already commenced by the Companies.
- 7. The Receiver filed its Second Report with the Court on July 9, 2018 to seek an approval and vesting order for the sale with the preferred purchaser. In addition, the Second Report sought authority to pay the amounts owing under the first ranking mortgage in favour of Institutional Mortgage Capital Canada Inc. (“IMC”) and under the second ranking mortgage in favour of Dal Bianco. An Approval and Vesting Order was granted by the Honourable Justice McEwen on July 17, 2018.
- 8. The Receiver notes that in response to the Second Report, certain construction lien claimants advised of their concerns on the proposed distributions, including whether the holdback obligations of the Companies may be greater than the amount being proposed to be reserved, and what impact repaying the first and second mortgage may have on their claims as set out in the *Construction Act*. Accordingly, the Receiver adjourned the distribution part of its motion to August 14, 2018 in order to gather more information from those lien claimants and to consult with the stakeholders.
- 9. On August 13, 2018 the Receiver filed its Supplementary Report to the Second Report with the Court. The purpose of the Supplementary Report was to report on the Receiver’s review of the mortgagee and lien claimant priority issues and to request authority for the Receiver to pay the IMC mortgage and the second ranking mortgage of Dal Bianco subject to maintaining a reserve of at least \$2,355,904.10 as well as the amounts necessary to pay the

professional fees owing to the Receiver and its counsel, and amounts required to complete the administration of the estate. The Receiver did not at that time seek authority to make any distributions to the third-ranking mortgage in favour of Dal Bianco (“**Third Ranking Mortgage**”), because the circumstances of how and when it was granted required examination. There was also a corresponding set of objections from other creditors.

10. The Honourable Regional Senior Justice Morawetz (as he then was) granted an order to that effect on August 14, 2018, which also directed the Receiver not to make any other distributions except those authorized by the Court.
11. The Receiver filed its Third Report with the Court, dated February 8, 2019. The Third Report, among other things, set out various details on the completion of the sale of the Property. In addition, the Third Report sought directions regarding the enforceability of the Third Ranking Mortgage granted to Dal Bianco. A copy of the Third Report without appendices is attached hereto as **Appendix “C”**.
12. Subsequent to the Third Report, other parties such as Dal Bianco, Deem Management and Maxon submitted affidavit materials on the issues raised in the Third Report or that the parties wanted to raise in that regard. Attempts to arrange cross-examinations on those affidavit proved unsuccessful, but ultimately the parties all agreed that cross-examinations were not required and that the matters were ready for hearing.
13. The Receiver filed a Supplementary Report to the Third Report dated October 30, 2019. The Supplementary Report was in support of the Receiver’s motion for directions regarding the Third Ranking Mortgage. The Supplementary Report also, among other things, set out activities since the Third Report including procedural matters, materials filed by various stakeholders and issues arising from them, and attempts by the receiver to secure the companies’ records.
14. The hearing on the issues raised in the Third Report and in the parties’ affidavit material proceeded before the Honourable Justice Penny on November 21, 2019. Despite the previous position that cross-examinations were not required, several of the parties took the position at that hearing that cross-examinations were required. As a result, the Court set a timetable for the delivery of any further material, for cross-examinations and for a trial of

an issue in March of 2020, a copy of which is attached as **Appendix "D"**. That endorsement also included a direction that all perfected lien claims were deemed to have been set down for trial within the meaning of s. 37 of the *Construction Act*.

15. The Court on November 21, 2019 also approved the Third Report and Supplementary Report as well as the fees and disbursements of the Receiver and of its counsel. A copy of that Order is attached as **Appendix "E"**.

## **PURPOSE**

16. The purpose of this Fourth Report is to:
- a) Report to the Court on the activities of the Receiver since the date of the Supplementary Report to the Third Report;
  - b) Report to the Court and the parties regarding the Receiver's review of the subtrade lien claims;
  - c) Report to the Court on further steps in the Receivership and seek direction from the Court regarding the involvement of the Receiver in those steps;
  - d) Provide the Court with a summary of the Receiver's cash receipts and disbursements for the period from February 1, 2019 to March 31, 2021; and
  - e) Seek an Order:
    - i. Approving the Fourth Report and the Receiver's conduct and activities described therein; and
    - ii. Approving the fees and disbursements of the Receiver and of the Receiver's counsel to February 28, 2021.

## **TERMS OF REFERENCE**

17. In developing this Fourth Report, the Receiver has relied upon certain unaudited financial information prepared by the Companies' management and staff, the Companies' books and records and discussions with their management, staff, agents, and consultants. The

Receiver has not performed an audit or other verification of such information. The Receiver expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this report, or relied upon by the Receiver in preparing this Fourth Report.

## **ACTIVITIES SINCE THE SUPPLEMENT TO THE THIRD REPORT**

### **Severing of s. 78 issues**

18. The parties again failed to conduct cross-examinations on the affidavit materials filed in response to the Third Report, despite the court-ordered timetable in the November 21, 2019 endorsement.
19. As a result, on January 29, 2020, the Receiver and the parties attended a scheduling hearing. The parties requested that the issue of the application of s. 78 of the *Construction Act* be severed from the other issues raised in the Third Report and that such hearing proceed first. Justice Hainey agreed and a hearing date of March 6, 2020 to determine the *Construction Act*. S. 78 issues, with a trial of an issue on the remaining issues in the Third Report rescheduled for June. A copy of the January 29, 2020 endorsement is attached as **Appendix “F”**.

### **The s. 78 motion**

20. In order to prepare for the March 6, 2020 hearing, the Receiver and the parties compiled an agreed statement of facts.
21. On March 6, 2020, the Receiver and the parties attended a hearing before Justice Gilmore to argue the priorities under section 78 of the *Construction Act* between the construction liens and the Third Ranking Mortgage.
22. By reasons released on March 10, 2020, Justice Gilmore held that the lien claimants had priority over the Third Ranking Mortgage in respect of the Property and the proceeds of sale of the Property pursuant to s. 78 of the *Construction Act*. A copy of those reasons for decision is attached as **Appendix “G”**.

### **Appellate issues regarding the s. 78 decision**

23. On March 19, 2020, Don Dal Bianco filed an appeal of the s. 78 decision.
24. As a result of a disagreement among the parties in correspondence, the Receiver filed a Notice of Motion on July 16, 2020, for directions on whether the appeal of March 6 order should be heard in the Court of Appeal or the Divisional Court, and if it is the Divisional Court, then should the proceeding be transferred to that Court. The motion was heard on July 28, 2020.
25. On July 28, Justice Jamal ordered that the motion be heard before a three judge panel because a single judge did not have jurisdiction on the issue. The hearing was set to be heard on September 3, 2020 before the panel.
26. The Receiver attended before the panel at the Court of Appeal and on September 18, 2020 the panel ruled that the jurisdiction to hear the appeal was the Court of Appeal. However, that motion did not address whether leave to appeal was required pursuant to section 193 of the BIA.
27. A motion by Maxion before the Court of Appeal seeking to strike out Dal Bianco's appeal on the basis that it required leave was scheduled for February 8, 2021. That motion did not proceed, because Maxion and Dal Bianco resolved the issue by agreeing that leave to appeal was required and that such leave would be sought at the hearing of the appeal.
28. The Court of Appeal set March 5, 2021 to hear the appeal the s. 78 decision.

### **Further steps in the Receivership**

29. Due to the COVID restrictions on court operations, the scheduled 3 day trial of an issue did not proceed in June of 2020.
30. On June 30, 2020, the Receiver attended a scheduling hearing before Justice Hainey to discuss whether that trial should be scheduled for October 26, 2020 or in the later part of 2021. With the consent of the parties, the Receiver requested that the trial be adjourned to

a date to be set later, because the outcome of the appeal from the decision of Justice Gilmore could make that trial moot.

31. The Receiver then entered discussions with all the stakeholders about a possible a mediation of some or all issues. Although several attempts were made to convene a mediation hearing, Maxion did not agree to a mediation despite all other stakeholders agreeing, and attempts to arrange a mediation among Dal Bianco and the subtrades were ultimately not successful.
32. A case conference before Justice Gilmore on February 9, 2021 was held by the Receiver's counsel in which the parties agreed that a reference to a Master be made to determine the validity and quantum of the lien claims, as well as determining how much is owing to Maxion (if anything) and how much is the statutory holdback for the project.
33. The order for the reference to the Master has not yet been approved by Dal Bianco.

#### **New claim by Maxion and its impact**

34. On February 12, 2021, Maxion and other related companies to Maxion, along with its principal Paul Michelin served an Amended Statement of Claim to a Notice of Action issued March 6, 2020 against the Companies (in receivership), as well as Don Dal Bianco, Rob Dal Bianco and certain partners of Blaney McMurtry, lawyers for Don Dal Bianco. Attached here as **Appendix "H"** is a copy of the Amended Statement of Claim.
35. As a result of this new claim, counsel for Dal Bianco was unable to proceed with the appeal scheduled on March 5, 2021 or to take any other steps while their ability to continue on as counsel was being discussed with their insurer.
36. As of the date of this report, Blaney McMurtry advises that those issues remain unresolved, such that they and Dal Bianco are unable to respond to the issues in the Receivership or to reschedule the appeal.

## SUBTRADE LIEN REVIEW

37. In December of 2019, the subtrade lien claimants asked the Receiver to review their lien claims. In order to do so, the subtrades provided the Receiver with affidavits setting out the basis for those claims as well as certain evidence and documentation. Attached are:
- a) the affidavit of Gordon Ho sworn December 23, 2019 on behalf of EXP Services Inc. as **Appendix “I”**;
  - b) the affidavit of Michael Cianchetti sworn December 18, 2019 on behalf of Deep Foundations Contractors Inc., now GFL Infrastructure Group Inc., as **Appendix “J”**;
  - c) the affidavit of Rod Rowbotham sworn January 17, 2020 on behalf of Onespace Unlimited Inc., as **Appendix “K”**; and
  - d) the affidavit of Roger Kieswetter sworn December 19, 2019 on behalf of Kieswetter Excavating Inc. as **Appendix “L”**.
38. The Receiver also requested further materials from the subtrade lien claimants in connection with allegations by Rob Dal Bianco on behalf of Deem Management that work on the project in question was supposed to have stopped on January 24, 2018, because if that were the case then the timeliness of the steps taken by the lien claimants to enforce their lien claims may have been an issue. The subtrade lien claimants provided the correspondence they had with Maxion as their contracting party between January 24, 2018 and the date of their respective claims for lien. The documentation provided does not suggest that the subtrades were instructed by Maxion to cease work, and Maxion’s evidence is also that work did not cease as of January 24, 2018. Based on the documentation provided and the dates claimed by subtrades as being the last point at which materials or services were supplied to the project, it is the Receiver’s view that the subtrade lien claims be regarded as made in time within the meaning of the *Construction Act* as to both the time required for a lien to be registered (or preserved in that Act’s terminology) and the time for an action to be started in support of a lien with registration of a certificate on title (or perfected in that Act’s terminology). The Receiver’s analysis of the timeliness issues is attached as **Appendix “M”**.
39. Having considered the procedural requirements for the subtrade lien claims, the Receiver also reviewed those claims for their substance, including the quantum sought. The

Receiver has also noted certain further documentation or information that may be necessary in order to establish that the last dates when materials or services were supplied. The results of the Receiver's review in that regard are attached as **Appendix "N"**.

40. The Receiver notes that, even if the Receiver's review of the subtrade lien claims were accepted by the parties or the Court, that would not allow for a determination of the amounts payable to the subtrade lien claimants from the funds held by the Receiver from the sale of the project. This is because of uncertainty about the nature and extent of Maxion's involvement in the project. Maxion has claimed that it was the general contractor, but has also claimed that it was a beneficial owner of part of the project under one or more arrangements with Deem Management<sup>1</sup>, which Deem Management disputes.<sup>2</sup> This yields the following further issues:
- a) if Maxion was the general contractor on the project, then s. 17 of the *Construction Act* limits the right of these subtrades to claim against the funds held by the Receiver to the lesser of (i) what is owed to Maxion as general contractor under its liens, and (ii) the amount of holdback on the project; and
  - b) if Maxion was not the general contractor (for example because it was also an "owner" within the meaning of the *Construction Act* and its jurisprudence, which could result in Maxion being disentitled to a lien) then the subtrade lien claimants could be entitled to the full value of their liens as against the funds held by the Receiver.
41. Maxion did not provide an affidavit for review. While the Receiver has been provided with some documents in connection with Maxion's lien claims through the affidavits filed on the Receiver's motion and Third Report on the Third Ranking Mortgage, what has been provided does not permit a review of Maxion's lien claims.
42. The issues in connection with Maxion's involvement in the project are ones that seem best determined through reference to the construction lien masters at Toronto on account of the

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<sup>1</sup> See for example paragraph 4 of the Affidavit of Paul Michelin sworn September 10, 2019.

<sup>2</sup> See for example paragraph 13 of the Affidavit of Rob Dal Bianco affirmed July 31, 2019.

construction issues that will arise in that regard. Such issues will include (i) whether Maxion was an “owner” and if so what the result of that is, (ii) what contractual arrangement(s) did Maxion have with Deem Management and what was its entitlement(s) for compensation for the services and materials it provided to the project, (iii) what is the proper amount owing to Maxion under its lien claims for the services and materials it provided, (iv) is Maxion entitled to all or any of its second claim for lien, which relates to the period after appointment of the Receiver, (v) are there any grounds for set-off by Deem Management on account of defects or breaches by Maxion, and (vi) what was the total amount of progress on the project at issue, which will then assist in establishing the amount of holdback applicable for the subtrades. There may be more issues that arise as further review of Maxion’s lien claims and the documents in connection with them are reviewed further.

#### **FURTHER STEPS AND DIRECTIONS REGARDING INVOLVEMENT OF THE RECEIVER**

43. There are three broad categories of steps that will, or may, be necessary to take in order to bring the administration of this Receivership to a close.

##### **The s. 78 order appeal**

44. The first is the resolution of the outstanding appeal from the March 6, 2020 decision regarding the priority of the lien claimants as against the Third Ranking Mortgage. The Receiver was involved in the motion at first instance and has submitted a factum for the hearing before the Court of Appeal.
45. The Receiver recommends that it participate in those appellate proceedings for the assistance of the parties and the Court.

##### **The reviewable transaction issues in the Third Report**

46. The second is the resolution of the remaining matters raised by the Receiver’s Third Report, which may engage reviewable transaction issues in connection with the Third Ranking Mortgage. Previous endorsements of this Court have indicated that a trial of an issue will be necessary to resolve those issues.

47. The Receiver recommends that these matters be deferred pending the result of the appellate proceedings regarding the March 6, 2020 decision, because if that decision is upheld then the practical effect will be that the other issues raised in the Third Report will be moot because the Third Ranking Mortgage will already have lost priority as against the lien claims.
48. If it becomes necessary to return to the issues in the Third Report, a schedule to hold cross-examinations and a trial of an issue will be necessary. Previous bookings have been for a three day trial in that regard.

### **The construction issues and a reference**

49. The third is the resolution of the construction issues in Maxion's claims, as noted in paragraph 42, above, as well as any issues regarding the liens of the subtrades that cannot be resolved as among the parties (being principally Deem Management and Dal Bianco, because Maxion has already indicated that it does not oppose any of the subtrade lien claims).
50. The Receiver recommends that all such issues be referred to a construction lien master at Toronto. The form of order in that regard is included in the Receiver's motion record and has been agreed to by all parties other than Dal Bianco.
51. The Receiver notes that its participation in the reference to the construction lien master may or may not be appropriate.
52. Weighing against such participation would be that the parties with actual knowledge of the matters at issue are Maxion, the subtrade lien claimants, Dal Bianco and Deem Management, all of whom are also represented by counsel. It is therefore not clear what benefit the involvement the Receiver would bring as compared to the expense of the fees and disbursements of the Receiver and its counsel in that process.
53. Weighing in favour of such participation would be that the Receiver does already have familiarity with the issues and with some of the facts, even as they pertain to Maxion's claims, and that the Receiver has been previously able to facilitate agreements or

arrangements among the parties in the Receivership to resolve or narrow issues by virtue of its role as an independent court officer.

54. The Receiver makes no recommendation in this regard and instead seeks the input of the parties and, if the parties are unable to agree, the direction of the Court on the extent to which the Receiver should participate in the lien reference proceedings (if at all).

#### **RECEIVERS INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS**

55. Attached to this report as **Appendix “O”**, is the Receiver’s Interim Statement of Receipts and Disbursements for the period May 31, 2018 to February 28, 2021. During this period, receipts were \$20,479,996.12 while disbursements were \$15,007,701.35, resulting in an excess of cash receipts over disbursements of \$5,472,294.77.

#### **PROFESSIONAL FEES**

56. Pursuant to the Receivership Order, the Receiver and its counsel, were granted a Receiver’s Charge against the Property as security for their fees and disbursements and were directed to seek approval for such fees and disbursements. The Receiver and its counsel report on those fees to date and seek such approval.

#### **Fees of the Receiver- Crowe Soberman Inc. (“CSI”)**

57. From February 1, 2019 to March 31, 2021 the total fees incurred by CSI were \$89,809.75 plus HST in the amount of \$11,675.27 for a total of \$101,485.02
58. Attached as **Appendix “P”** is the affidavit of Hans Rizarri sworn April 8, 2021, which includes a detailed summary of services, time charges and applicable hourly rates related to CSI’s detailed statements of account for the period February 1, 2019 to March 31, 2021.

#### **Fees of Counsel to the Receiver- Goldman, Sloan, Nash & Haber LLP (“GSNH”)**

59. From February 1, 2019 to March 31, 2021 the total fees incurred by GSNH were \$151,558.00 plus HST in the amount of \$19,886.68 for a total of \$173,500.98
60. Attached as **Appendix “Q”** is the affidavit of Brendan Bissell sworn April 9, 2021, which includes a detailed summary of services, time charges and applicable hourly rates related

to GSNH's detailed statements of account for the period February 1, 2019 to March 31, 2021

All of which is respectfully submitted this 9<sup>th</sup> day of April, 2021

**Crowe Soberman Inc.**  
**in its capacity as Court-appointed**  
**Receiver of Deem Management Services Limited**  
**and The Uptown Inc., and not in its personal capacity**

A handwritten signature in blue ink, appearing to be a stylized 'B' or similar character.

Tab A

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Court File No.  
CV-17-598657 -  
00CL

THE HONOURABLE MR. )  
JUSTICE H.J. WILTON-SIBER )

WEDNESDAY, THE 30<sup>th</sup> )  
DAY OF MAY, 2018 )



DONALD DAL BIANCO

Applicant

- and -

DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.

Respondents

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*  
and Section 101 of the *Courts of Justice Act*

ORDER  
(Appointing Receiver)

THIS APPLICATION made by the Applicant for an Order 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") appointing Crowe Soberman Inc. ("Crowe Soberman") as receiver (in such capacity, the "Receiver") without security, of the real property known as 215 and 229 Lexington Road, Waterloo, Ontario N2K 2E1, the legal description of which is further set out in the title search attached hereto and marked as **Schedule "A"** to the Receiver's Certificate (hereinafter referred to as the "**Real Property**") and all other property, assets and undertakings of Deem Management Services Limited (the "**Deem Management**") related thereto, and the property, assets and undertakings The Uptown Inc. ("**Uptown**") (collectively, the "**Property**"), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Affidavit of Donald Dal Bianco, sworn May 27<sup>th</sup>, 2018, and the exhibits thereto, and, on hearing the submissions of counsel for the Applicant and all other counsel listed on the counsel slip, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Ariyana Botejue, filed;

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

**APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, Crowe Soberman is hereby appointed Receiver, without security, of the Property, including all proceeds thereof.

**RECEIVER'S POWERS**

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated to, act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to, in consultation with the Applicant, do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, property managers, real estate agents, brokers, listing agent, counsel and such other persons (each a “**Consultant**”) from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (d) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets as the Receiver deems reasonably necessary in order to carry out the powers conferred on the Receiver in this Order;
- (e) to receive and collect all monies and accounts now owed or hereafter owing to the Deem Management or Uptown (collectively, the “Debtors”) with respect to the Property, and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors, including, as may be necessary, to collect funds currently or hereafter in the hands of the Debtors or any Person (as defined below) related thereto;
- (f) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (g) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate in consultation with the Applicant;
- (h) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business with the approval of this Court, and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (i) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (j) to report to, meet with, consult and discuss with the Applicant and or Institutional Mortgage Capital Canada Inc. (“IMC”), and such other affected Persons (as defined below) as the Receiver deems appropriate, on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (k) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (l) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (m) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any Property owned or leased by the Debtors; and
- (n) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

#### DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtors, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons

acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

**NO PROCEEDINGS AGAINST THE RECEIVER**

7. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

**NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

8. **THIS COURT ORDERS** that no Proceeding, against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court. This paragraph 8 shall not prevent IMC from enforcing its rights and remedies, if any, against 209 Lexington Road, Waterloo, Ontario (PIN 22291-0011 LT), including commencing any Proceedings against the Debtors in connection with the same.

9. **THIS COURT ORDERS** that no party other than the Receiver or its Consultants shall advertise, market for sale or sell all or any part of the Property, without the written consent of the Receiver and Applicant, or further order of this Court.

10. **THIS COURT ORDERS** that nothing in paragraph 9, above, shall require Cushman & Wakefield ULC ("C&W") to withdraw any marketing materials in connection with the Property or to delist the Property for sale, provided that, without in any way limiting paragraphs 5 and 6, above, C&W shall provide full disclosure of all information and documents relating to its marketing efforts to the Receiver and that C&W shall further comply with any directions given by the Receiver pending the return of a motion by the Receiver for an order regarding a sales process for the Property, which the Receiver shall bring and make returnable on June 8<sup>th</sup> 2018 on no less than three days' notice to the Service List. *AKW-J*

**NO EXERCISE OF RIGHTS OR REMEDIES**

11. **THIS COURT ORDERS** that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the

Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, (iv) prevent the registration of a claim for lien or (v) prevent IMC from enforcing its rights and remedies in respect of the Real Property in the event Deem Management defaults in its obligation to make payments when due with respect to IMC's mortgage of the Real Property with Deem Management (the "IMC Mortgage"), upon IMC providing 5 days prior written notice of such default to the Receiver.

#### **NO INTERFERENCE WITH THE RECEIVER**

12. **THIS COURT ORDERS** that 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 Debtors, without written consent of the Receiver or leave of this Court.

#### **CONTINUATION OF SERVICES**

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors 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 Debtors or in respect of the Property 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 Receiver, and that the Receiver shall be entitled to the continued use of the Debtors's current 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 Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

## **RECEIVER TO HOLD FUNDS**

14. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## **EMPLOYEES**

15. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA.

## **PIPEDA**

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

17. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver 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 Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver'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.

### **LIMITATION ON THE RECEIVER'S LIABILITY**

18. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

### **RECEIVER'S ACCOUNTS**

19. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, limited to the amount of \$250,000 as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's

Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

21. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

22. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for: i) the purpose of funding amounts which fall due hereafter under the IMC Mortgage (a "Mortgage Payment Loan") or ii) the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures (a "Expenses Loan"). The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the Mortgage Payment Loan, together with interest and charges thereon (provided the interest is in no event greater than 5% without the consent of IMC), in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Subordinate Receiver's Borrowings Charge**") as security for the payment of the Expenses Loan, together with interest and charges thereon, subordinate to the right of IMC pursuant to the IMC Mortgage, but in priority to all other security interests, trusts, liens, charges

and encumbrances, statutory or otherwise, in favour of any Person, and subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA and the Receiver's Borrowing Charge.

23. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

24. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

25. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

26. **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.

27. **THIS COURT ORDERS** that the Applicant, the Receiver, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time in accordance with the Protocol, and the Receiver may post a copy of any or all such materials on its website, ~~at~~.

*Handwritten initials/signature*

28. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver be at liberty to serve 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 Debtors's creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or notice 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**

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

35. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

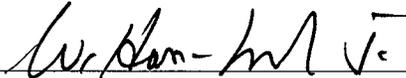
36. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals,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

29. **THIS COURT ORDERS** that the Receiver 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 Receiver 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.

37. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis

to be paid by the Receiver from the Debtors's estate with such priority and at such time as this Court may determine.

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

  
\_\_\_\_\_

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

MAY 31 2018

PER / PAR:



**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

THIS IS TO CERTIFY that Crowe Soberman LLP, the receiver (the "**Receiver**") of certain real property registered on title as being owned by Deem Management Services Limited (the "**Debtors**") and that is listed on Schedule "A" hereto (collectively, the "**Real Property**") and of all the assets, undertakings and properties of the Debtors acquired for or used in relation to the Real Property (together with the Real Property, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 30th day of May, 2018 (the "**Order**") made in an action having Court file number ●, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$500,000 which the Receiver is authorized to borrow under and pursuant to the Order.

The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 2018.

CROWE SOBERMAN LLP, solely in its  
capacity as Receiver of the Property, and not in  
its personal capacity

Per: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE "A" TO THE RECEIVER'S CERTIFICATE  
LEGAL DESCRIPTION OF THE REAL PROPERTY**

PIN: 22291-0628 (LT)

Property Description: PT. BLOCK A PLAN 1313, BEING PTS. 1,4,5 ON 58R-6774 & PT.3 ON 58R-2194. S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF WATERLOO

Address: 215 and 229 Lexington Road, Waterloo, Ontario, N2K 2E1

and

**DONALD DAL BIANCO**

Applicant

Respondents

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER  
(Appointing Receiver)**

**BLANEY MCMURTRY LLP**  
Barristers & Solicitors  
2 Queen Street East, Suite 1500  
Toronto ON M5C 3G5

**David T. Ullmann (LSUC #42357I)**  
Tel: (416) 596-4289  
Fax: (416) 594-2437

**John Wolf (LSUC [insert])**  
Tel: (416) 596-4289  
Fax: (416) 594-2969

**Alexandra Teodorescu (LSUC #63889D)**  
Tel: (416) 596-4279  
Fax: (416) 594-2437

Lawyers for the Applicant, Donald Dal Bianco

Tab B

# **APPENDIX ‘B’**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondent

**FIRST REPORT OF CROWE SOBERMAN INC. in its capacity as Court-  
appointed Receiver of DEEM MANAGEMENT SERVICES LIMITED  
and THE UPTOWN INC.**

**DATED JUNE 8, 2018**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondent

**APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY*  
ACT AND SECTION 101 OF THE COURTS OF JUSTICE ACT**

**FIRST REPORT OF THE RECEIVER  
DATED JUNE 8, 2018**

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondent

**APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY*  
ACT AND SECTION 101 OF THE COURTS OF JUSTICE ACT**

**FIRST REPORT OF RECEIVER**

**DATED JUNE 7, 2018**

**APPENDICES**

**Appendix A-** Receivership Order of Justice Wilton- Siegel– May, 31, 2018

**Confidential Appendix 1-** Cushman & Wakefield- Confidential Information  
Memorandum

**Appendix B-** Cushman & Wakefield- Broker Blast

**Confidential Appendix 2-** Cushman & Wakefield- Data Base

**Confidential Appendix 3-** Project Costs

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondent

**APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY*  
ACT AND SECTION 101 OF THE COURTS OF JUSTICE ACT**

**FIRST REPORT OF THE RECEIVER**

**JUNE 7, 2018**

**INTRODUCTION**

1. On May 31, 2018, pursuant to an order of the Honourable Mr. Justice Wilton-Siegel, made on an application by Donald Dal Bianco (“**Donald**”), Crowe Soberman Inc. was appointed as Receiver (the “**Receiver**”) over the property, assets and undertakings of Deem Management Services Limited (“**Deem Management**”) and the Uptown Inc. (the “**Uptown**”), together (the “**Companies**”). A copy of Justice Wilton-Siegel’s Order dated May 31, 2018 (the “**Receivership Order**”) is attached hereto as **Appendix “A”**.

**PURPOSE OF RECEIVER’S FIRST REPORT**

2. The Receiver prepared and filed its First Report to the Court (the “**First Report**”) for the primary purpose of:

- a) providing the Court with an update of the actions and activities of the Receiver since its appointment, primarily as it relates to the Receiver's review and recommendations of the marketing and the sales process carried out to date; and in support of the Receiver's motion for an order:
  - a. approving the proposed sales process of the Companies assets (the "**Sale Process**"), and the marketing efforts that have been carried out to date by Cushman & Wakefield ULC ("**C&W**") ; and
  - b. approving the activities of the Receiver described herein.
- b) support the Receiver's request for the approval of the Receiver's First Report and the activities of the Receiver described therein;

### **TERMS OF REFERENCE**

3. In developing this Report, the Receiver has relied upon certain unaudited financial information prepared by the Company's management and staff, the Company's books and records and discussions with its management, staff, agents and consultants, including C&W. The Receiver has not performed an audit or other verification of such information. The Receiver expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Report, or relied upon by the Receiver in preparing this Report.

### **BACKGROUND**

4. Deem Management is a company that has been working for many decades in the Ontario nursing home and retirement home sector. It is the registered owner of the property municipally known as 229 Lexington Road, Waterloo, Ontario (the "**Property**").
5. A portion of the Property is vacant land, the remaining land contains an operating nursing home known as the Pinehaven Nursing Home ("**Pinehaven**"). Deem Management's business involves the collection of rent from Pinehaven. Pinehaven is operated by an unrelated third party nursing home business.
6. The Uptown operates a presentation centre located on the Property and is engaged in planning related to the redevelopment of the Property as a seniors retirement residence project called the Uptown Residences (the "**Project**"). There is currently no active construction or development work on the Project. The work done to date has primarily

been in the nature of obtaining approvals relative to Phase 1 of the project, and the excavation and installation of caissons necessary for that part of the development. There is consequently a large hole next door to the Pinehaven home at present.

7. Both Deem Management and the Uptown are owned by Rob Dal Bianco (“**Rob**”), who is the sole director of the Companies, and the son of Donald.
8. Maxion Management Services Inc. (“**Maxion**”) is the general contractor on the Project. The Receiver understands that Maxion is owned by Paul Michelin (“**Michelin**”). The Receiver was also advised by counsel for Michelin and Maxion that its clients assert a joint venture ownership claim, is a shareholder in Uptown, and therefor have a beneficiary interest in the Project.
9. The Receiver understands that Maxion was advised to cease construction by Rob in the early winter of 2018. Shortly after construction ceased, various service providers registered construction liens against title to the Property commencing on March 7, 2018 totalling \$7,673,672.48.
10. In addition to the amounts claimed by the construction lien claimants, the Application Record dated May 30, 2018, outlined various mortgages and loans registered against title to the Property which exceed \$20 million.

#### **EARLY MARKETING OF THE PROJECT AND THE PROPERTY**

11. Prior to the appointment of the Receiver, the Receiver understands that Maxion held discussions with the C&W Seniors Housing Group in March to assist with arranging an equal equity partner for the Project, in order for construction to continue. Over the course of this engagement C&W presented the Project to various parties in the nursing home industry as operators, lenders, and developers. C&W ceased their efforts at the end of March, and was not successful in locating an interested equal equity partner.
12. The C&W Seniors Housing Group was later approached at the end of March by Deem to locate a purchaser to sell its interest in the Property and the Project. The Receiver was advised by C&W that although it did not enter into a formal listing agreement with Deem

until April 24<sup>th</sup>, 2018 (the “**Listing**”), it began softly marketing the Project and the Property in early April.

13. The C&W Seniors Housing Group is in a unique position to market and advertise the Property and the Project, as they appear to be one of the few brokerage houses in Canada that has a department established for the needs of the seniors industry. In establishing this group the Receiver understands that C&W has developed a proprietary data base of over 100 stakeholders in the seniors housing industry in Canada that are existing operators, developers, and lenders (the “**C&W Database**”). Prior to the Listing being finalized, the Receiver was advised that C&W received a Letter of Interest (“**LOI**”) from an interested party, but the terms and conditions were not acceptable to Deem and were not signed back.

#### **POST-LISTING MARKETING EFFORTS OF C&W**

14. The Receiver has held a series of meetings with C&W to review the marketing efforts carried out to date since the Listing. C&W advised the Receiver that its strategy was to exhaustively canvass the senior housing community by targeting the existing operators, builders, institutional capital and private equity groups that are on the C&W Database, and to utilize other divisions and offices of C&W to assist in the marketing.
15. A summary of the sales and marketing efforts undertaken by C&W is set out below:
  - i. C&W created its own Confidential Information Memorandum (“**CIM**”) and broker blast (the “**Broker Blast**”);
  - ii. The CIM was distributed to the C&W Database and over 70 direct calls were made to introduce the opportunity;
  - iii. C&W initiated internal marketing involving staff from C&W’s Waterloo and Vancouver offices;
  - iv. The CIM and Broker Blast were circulated to C&W’s U.S. Healthcare Practice Group;

- v. C&W had agreed to cooperate with other brokers on the listing, the Broker Blast was circulated to approximately 938 brokers;
- vi. The CIM was circulated to approximately 46 retirement home developers that were not previously contacted directly by C&W;
- vii. The opportunity was marketed through C&W's investor data base which contains over 5,000 parties;
- viii. C&W established and maintained an online data room (the "**Data Room**"), where interested parties could remotely complete their due diligence upon execution of a Non-Disclosure Agreement. The Receiver was advised that the materials in the Data Room include architectural drawings, an appraisal report of Phase One of the Project, building permits, site plan agreements, zoning bylaws, confirmation of fees paid to the City of Waterloo, and environmental and feasibility reports. The Receiver was granted access to review the Data Room;
- ix. C&W advised the Receiver that presently they have provided 23 companies and 29 individuals with access to the Data Room;
- x. The opportunity to purchase the Property is posted on C&W's website;
- xi. C&W placed advertisements in the national edition of the Globe & Mail to appear on June 5<sup>th</sup> and June 7<sup>th</sup>;
- xii. C&W toured 4 separate groups through the Property; and
- xiii. C&W has established and marketed a due date for offers of June 12, 2018, at 3:00pm (the "**Due Date**").

Copies of the CIM, the Broker Blast and the responses from the C&W Data Base are attached hereto as **Confidential Appendix "1"**, **Appendix "B"**, and **Confidential Appendix "2"**.

## INITIAL FEEDBACK TO THE PROPERTY

16. C&W advised the Receiver that there are some unique factors in marketing the Project. These related to the amount of value that potential purchasers may recognize for the work in place, the scope of the Project, and the location and zoning restrictions.

### *Work in Place*

17. Included in the CIM, is a break-down of the costs associated with the Project and total work in place. To date, approximately \$6.7 million has been spent on construction hard costs, approximately \$7.6 million has been spent on construction soft costs, approximately \$1.7 million has been spent on development management fees, and approximately \$3.6 million has been paid for development charges, permits and fees to the City of Waterloo, for a total of approximately \$19.7 million (the “**Project Costs**”). C&W advised the Receiver that the parties they have marketed the Project to have ascribed varying value to the Project Costs. Details of the Project Costs are attached hereto as **Confidential Appendix “3”**.

### *Scope of the Project*

18. The Project calls for three separate phases of development. Phase One is a six storey building that calls for 95 senior’s apartments and 95 assisted living suites with 35,000 sq. feet of underground parking. Phase One is approved by the City of Waterloo, construction of Phase One had commenced with the excavation work being completed. Phase Two calls for an eight storey building with an additional 140 units. Phase Three calls for a second eight storey building with 173 units and 6,000 square feet available for commercial/retail space. C&W advised the Receiver that the parties they have marketed the Project to have expressed varying views on the value of the three phases of proposed development.

### *Location and Zoning Restrictions*

19. The Property is situated in the Colonial Acres neighborhood of Waterloo, an area that currently has a small amount of retirement residences, but is one of the oldest and most desirable parts of the city, but with less exposure to retail and amenities within walking distance at present. The current zoning of the Property is site specific to redeveloping a

retirement residence. The Property is on hi-density zoned land, with a requirement to be re-zoned if it is not going to be developed for seniors housing. A new site plan which does not include a retirement component will likely require a full zoning amendment, which can take over a year and further delay any development. C&W has advised the Receiver that these issues militate against a purchaser contemplating a development of multi-units for students and families.

#### **RECCOMENDATION OF C&W**

20. C&W has advised the Receiver that despite the unique factors in marketing the Property and the Project, there are groups that have been contacted in the existing C&W marketing efforts and who recognize the opportunity to purchase zoned retirement land, with a site plan, building permit, work in place, and significant development fees paid to the City of Waterloo. There is also potential flexibility for a group to modify the plans for Phase 2 and Phase 3 to include multi-unit or commercial space, if re-zoned with the city.
21. Over the series of meetings and discussions with C&W, the Receiver was advised that C&W believes that the highest sale price for the Property and the Project will come from a group that is in the senior care industry, shares the vision of Phase 1, are willing to take Phase 1 as is, and be able to justify some of the Project Costs in an offer to purchase. C&W advised the Receiver that they have had discussions with potential purchasers that meet this criteria.

#### **RECEIVER'S REVIEW OF THE SALES PROCESS**

22. The Receiver is cognizant that the Property and the Project are nuanced assets, with a smaller list of potential purchasers than other properties available for sale in Ontario. The Receiver has reviewed in detail the marketing efforts of C&W to date, and is satisfied that they have done a significant amount of work to properly expose the Property and the Project to prospective purchasers, both prior to, and after the Listing was finalized. The Receiver acknowledges that the C&W Senior's Housing Group is in a unique position to continue to market the Property and the Project, due to their expertise in this area, their

extensive knowledge of the Property and the Project, and the market momentum they have acquired since the Listing was finalized.

## **RECEIVER'S RECCOMENDED SALES PROCESS**

23. The Receiver believes that the sales process undertaken by C&W to-date is a worthwhile contribution to realization efforts for the Property and that, with amendment, the Receiver should continue. C&W appears well placed to market the Property to its list of contacts, and the amount of interest generated in a unique asset over the relatively short (since April 24) listing period corroborate that.
24. As C&W has previously advertised the Due Date in its marketing materials, and all potential purchasers are aware of that timeline, C&W should continue to market the Due Date, but should advise parties that offers should be in the form of a non-binding LOI.
25. Due to the nature of the Companies' assets, and the efforts of C&W to date, the Receiver is recommending a two phase sales process which would require interested parties to submit their non-binding LOI's to C&W on the Due Date.
26. In Phase 2 of the proposed process, the Receiver will contact all parties that have submitted an LOI and engage with one or more parties it feels have submitted appropriate offers, and work with them to finalize an offer, in the proper form, it intends to recommend for Court Approval. The Receiver will not accept an offer or recommend it to the Court without either the approval of Institutional Mortgage Capital Canada Inc. and the Applicant or further Order.
27. While Phase 2 takes place, in order to ensure that market exposure for the Property is maximized, C&W will continue to market the Project and the Property for sale, including a listing on MLS, and via the C&W network.
28. During Phase 2 the Receiver will continue to accept expressions of interest prior to finalizing an agreement with the proposed purchaser that the Receiver intends to recommend to the Court, subject to any exclusivity that the Receiver may choose to grant to a proposed purchaser in order to further negotiations. Further marketing efforts will

indicate that LOI's are due on June 12, 2018 or as soon as possible after that time, and that the seller may deal with any potential purchasers at its discretion starting on that date.

29. The primary purpose of this receivership proceeding is to market and sell the Companies' assets in connection with the Property in order to maximize recoveries for all economic stakeholders. The Receiver is of the view that the timeframe is commercially reasonable given the nature of the asset, the marketing efforts done by C&W, and the market of potential purchasers.

### **RECEIVER'S ACTIVITIES**

30. The following is a summary of the Receiver's activities from the date of its appointment:
- a) Shortly following its appointment, the Receiver attended at the Property and the showroom of The Uptown to review and inspect the premises.
  - b) The Receiver attended at Pinehaven to advise of the proceeding and their involvement.
  - c) The Receiver met with staff of Deem Management in order to collect the monthly rental payments from Pinehaven for the balance of 2018. The Receiver has opened its own trust account for this proceeding.
  - d) The Receiver held a series of calls and meetings with C&W Senior's Housing Group to understand the sales process carried out to date.
  - e) The Receiver received certain of the Companies available books and records.
  - f) The Receiver has dedicated a portion of its website to advise stakeholders of this proceeding.
  - g) Drafted the First Report to the Court.

### **RECEIVER'S REQUEST FOR APPROVAL**

31. We submit this First Report to this Honourable Court in support of our Motion respectfully requesting this Honourable Court to:
- a) Approve this First Report, and the activities and actions of the Receiver described herein;
  - b) Approve the Sales Process;

All of which is respectfully submitted this 8<sup>th</sup> day of June 2018

**Crowe Soberman Inc.  
in its capacity as Court-appointed  
Receiver of Deem Management Services Limited  
and The Uptown Inc., and not in its personal capacity**

A handwritten signature in cursive script, appearing to read "H. B. Rizarri", with a long horizontal stroke extending to the right.

for

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Per: Hans Rizarri CPA, CA, CIRP

Tab C

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondent

**THIRD REPORT OF CROWE SOBERMAN INC. in its capacity as Court-  
appointed Receiver of DEEM MANAGEMENT SERVICES LIMITED and  
THE UPTOWN INC.**

**DATED FEBRUARY 8, 2019**

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## APPENDICES

- Appendix A Receivership Order dated March 31, 2018
- Appendix B First Report of the Receiver dated June 8, 2018, without appendices
- Appendix C Second Report of the Receiver dated July 9, 2018, without appendices
- Appendix D Supplementary Report dated August 13, 2018 to the Second Report of the Receiver, without appendices
- Appendix E Order (Interim Distribution) dated August 14, 2019
- Appendix F Endorsement of the Honorable Regional Senior Justice Morawetz dated August 14, 2018
- Appendix G Receiver Certificate filed August 31, 2018
- Appendix H Notice of Assessment for September 2018
- Appendix I Receiver's Interim Statement of Receipts and Disbursements for the period May 31, 2018 to January 31, 2019
- Appendix J Third Ranking Mortgage granted by Deem Management to Don Dal Bianco dated February 23, 2018
- Appendix K Schedule of Advances between 2012 and 2015
- Appendix L Demand Letter dated January 30, 2018
- Appendix M Email from Peter Cass dated February 1, 2018 regarding Demand Letter
- Appendix N Email from John C. Wolf dated February 5, 2018 attaching proposed security documents
- Appendix O Email from Jeffrey Warren dated February 6, 2018 attaching draft Forbearance Agreement
- Appendix P Letter from Jeffrey Warren dated February 28, 2018 enclosing signed Forbearance Agreement
- Appendix Q Email from Paul Michelin of Macion to Phil Reimer of Dentons Canada LLP on November 24, 2017 regarding an intended transaction with Lalu Canada
- Appendix R Email from Paul Michelin of Macion to Phil Reimer of Dentons Canada LLP on December 21, 2017 regarding a possible engagement of Envoy International Inc.

- Appendix S Email exchange between Adam Patterson of Maxion and Michael Warner of Firm Capital dated January 19, 2018
- Appendix T Emails among Adam Patterson of Maxion, Peter Murphy of Maxion, and Robb Cacovic of Bridging Finance Inc. regarding possible financing and data room dated January 23, 2018
- Appendix U Email from Paul Michelin of Maxion to Phil Reimer of Dentons on January 28, 2018 regarding a proposed engagement of Stroll Enterprises LLC
- Appendix V Email from Paul Michelin of Maxion to Rob Dal Bianco dated January 28, 2018 regarding potential transaction with Firm Capital
- Appendix W Email from Adam Patterson of Maxion to Rob Dal Bianco on February 2, 2018 that Trez Capital had expressed interest in lending
- Appendix X Letter of intent from Firm Capital Corporation dated February 12, 2018
- Appendix Y Emails among Paul Michelin of Maxion, Adam Patterson of Maxion, and Eli Gutstadt dated March 16, 2018
- Appendix Z Email from Paul Michelin of Maxion to Phil Reimer of Dentons Canada LLP dated March 23, 2018 regarding Core developments consideration of investment
- Appendix AA Email from Adam Patterson of Maxion to Rob Dal Bianco dated April 6, 2018 regarding preferred debt and equity possible transactions
- Appendix BB Emails between Bosco Chan of Livesolar Capital and Paul Michelin of Maxion dated April 23, and 24, 2018 regarding a mortgage commitment
- Appendix CC Email from Paul Michelin to Rob Dal Bianco dated May 11, 2018 regarding a PricewaterhouseCoopers engagement and term sheet
- Appendix DD Independent Security Opinion dated February 8, 2019

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondent

**APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY*  
ACT AND SECTION 101 OF THE COURTS OF JUSTICE ACT**

**THIRD REPORT OF THE RECEIVER**

**FEBRUARY 8, 2019**

**INTRODUCTION**

1. On May 31, 2018, pursuant to an order of the Honourable Mr. Justice Wilton-Siegel, made on an application by Donald Dal Bianco (“**Dal Bianco**”), Crowe Soberman Inc. was appointed as Receiver (the “**Receiver**”) of (collectively the “**Property**”):
  - (i) the property known municipally as 215 and 219 Lexington Road, Waterloo, Ontario N2K 2E1 (the “**Real Property**”),
  - (ii) the assets and undertakings of Deem Management Services Limited (“**Deem Management**”) related to the Real Property, and
  - (iii) the property, assets and undertakings of the Uptown Inc. (the “**Uptown**”, together with Deem Management the “**Companies**”).

2. A copy of Justice Wilton-Siegel's Order dated May 31, 2018 (the "**Receivership Order**") is attached hereto as **Appendix "A"**.
3. This report (the "**Third Report**") is filed by Crowe Soberman Inc. in its capacity as the Receiver of the Property of the Companies.
4. The orders and reports referred to in this report, together with related Court documents, are posted on the Receiver's website, which can be found at:

<https://crowesoberman.com/insolvency/engagements/deem-management-services-limited/>

## **BACKGROUND**

5. The background to the Property is more fully set out in the First Report dated June 8, 2018, a copy of which is attached hereto without appendices as **Appendix "B"**. By way of overview:
  - a) Deem Management is a company that has been working for many decades in the Ontario nursing home and retirement home sector. It was the registered owner of the Real Property.
  - b) A portion of the Real Property was vacant land where the Project had started. The remaining land contained the operating Pinehaven Nursing Home, which is an unrelated third party nursing home business. Part of Deem Management's business involved the collection of rent from Pinehaven.
  - c) The Uptown operated a presentation centre located on the Real Property and was engaged in the planning related to the redevelopment of the Real Property as a seniors retirement residence called the Uptown Residences. The work carried out by the Companies had primarily been in the nature of obtaining approvals relative to Phase 1 of the Project, and the excavation and installation of caissons necessary for that part of the development.
  - d) Both Deem Management and the Uptown are owned by Rob Dal Bianco, who is the sole director of the Companies, and is the son of Dal Bianco.
  - e) Maxion Management Services Inc. ("**Maxion**") was the general contractor on the Project. The Receiver understands that Maxion is owned by Paul Michelin. The Receiver was advised by counsel for Michelin and Maxion that its clients assert a

joint venture ownership claim, is a shareholder in Uptown, and therefore claim a beneficial interest in the Project.

f) The Receiver understands that Maxion was advised to cease construction by Rob in the early winter of 2018. Shortly after construction ceased, various service providers registered construction liens against title to the Property commencing on March 7, 2018 totalling \$7,673,672.48.

g) In addition to the amounts claimed by the construction lien claimants, the Application Record dated May 28, 2018, outlined various mortgages and loans registered against title to the Property which exceed \$20 million.

## **PROCEDURAL HISTORY OF THE RECEIVERSHIP**

### **Sales Process**

6. Following its appointment, the Receiver filed its First Report with the Court. The purpose of the First Report was to approve a proposed sales process, which substantially continued a prior sales process that had been begun by the Companies.

7. Through the sales process, letters of intent were delivered and subsequently the Receiver sought proposed agreements of purchase and sale from two possible purchasers.

### **Approval of sale**

8. The preferred purchaser was disclosed on July 9, 2018 when the Receiver filed its Second Report with the Court to seek an approval and vesting order for the sale with that purchaser. A copy of the Second Report without appendices is attached hereto as **Appendix “C”**. An Approval and Vesting Order was granted by the Honourable Justice McEwen on July 17, 2018.

### **Partial Distribution Authorization**

9. The Second Report had also sought authority to pay the amounts owing under the first ranking mortgage in favour of Institutional Mortgage Capital Canada Inc. (“**IMC**”) and under the second ranking mortgage in favour of Donald Dal Bianco.

10. In response, certain construction lien claimants advised the Receiver of their concerns on the proposed distributions, including whether the holdback obligations of the Companies may be greater than the amount being proposed to be reserved, and what impact repaying the first and second mortgage may have on their claims as set out in the *Construction Act*.
11. The Receiver accordingly adjourned the distribution part of its motion to August 14, 2018 in order to gather more information from those lien claimants and to consult with the stakeholders.
12. On August 13, 2018 the Receiver filed its Supplementary Report to the Second Report with the Court. A copy of the Supplementary Report without appendices is attached hereto as **Appendix “D”**. The purpose of the Supplementary Report was to report on the Receiver’s review of the mortgagee and lien claimant priority issues and to request authority for the Receiver to pay the IMC mortgage and the second ranking mortgage of Don Dal Bianco subject to maintaining a reserve of at least \$2,355,904.10 as well as the amounts necessary to pay the professional fees owing to the Receiver and its counsel, and amounts required to complete the administration of the estate.
13. The Receiver did not at that time seek authority to make any distributions to the third-ranking mortgage in favour of Don Dal Bianco, because the circumstances of how and when it was granted required examination. There was also a corresponding set of objections from other creditors.
14. The Honourable Regional Senior Justice Morawetz granted an order to that effect on August 14, 2018 (the “**August 14th Order**”), which also directed the Receiver not to make any other distributions except those authorized by the Court. A copy of the August 14<sup>th</sup> Order is attached as **Appendix “E”**, and the associated endorsement is attached as **Appendix “F”** along with a typewritten transcription.

**Amendment to the agreement of purchase and sale**

15. The agreement of purchase and sale with the proposed purchaser that had been approved by the Court was subject to a due diligence provision where information and reports from third parties were provided for review. The culmination of that process was a notice of

claimed costs that was sent to the Receiver outlining the items that the purchaser asserted should reduce the purchase price

16. Following the August 14<sup>th</sup> Order, the Receiver continued to work through the due diligence process with the purchaser and held a series of meetings in order to understand the basis for revising the purchase price and its objection to those claims.
17. After extensive negotiations the purchaser and the Receiver agreed on a mutually acceptable adjustment to the purchase price under the agreement, subject to approval by this Court. An assignment to a related company was also agreed upon by the Receiver and the purchaser.
18. On August 27, 2018 the Receiver filed its Second Supplementary Report with the Court. The purpose of the Second Supplementary Report was to support the Receiver's motion for an order authorizing the Receiver to agree to amend the price under the APS and conclude the transaction with the assignee of the purchaser.
19. There was no objection to the approval of the amended transaction with the Purchaser, and the Honourable Justice Hainey accordingly issued an amended approval and vesting order dated August 30, 2018.

## **PURPOSE**

20. The purpose of this Third Report is to:
  - a) Report to the Court on the activities of the Receiver since the date of the Second Supplementary Report to the Second Report;
  - b) Report on the completion of the sale of the Property;
  - c) Report on the interim distributions made by the Receiver;
  - d) Provide the Court with a summary of the Receiver's cash receipts and disbursements for the period May 31, 2018, January 31, 2019;
  - e) Seek an Order:

- i. Approving the Third Report and the Receiver's conduct and activities described therein; and
  - ii. Approving the fees and disbursements of the Receiver and of the Receiver's counsel to January 31, 2019; and
- f) Seek directions regarding the enforceability of the third ranking mortgage granted to Donald Dal Bianco;

## **TERMS OF REFERENCE**

21. In developing this Third Report, the Receiver has relied upon certain unaudited financial information prepared by the Companies' management and staff, the Companies' books and records and discussions with their management, staff, agents and consultants. The Receiver has not performed an audit or other verification of such information. The Receiver expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Report, or relied upon by the Receiver in preparing this Third Report.

## **ACTIVITIES SINCE THE SECOND SUPPLEMENTARY REPORT**

22. Following the granting of the Amended Approval and Vesting Order the Receiver and its counsel diligently worked with the purchaser and assignee and completed the Transaction on August 31, 2018. A copy of the Receiver Certificate filed with the Court is attached hereto as **Appendix "G"**.
23. After closing, the Receiver made distributions as authorized by the August 14<sup>th</sup> Order as follows:
- a) to Donald Dal Bianco in respect of Receiver's Certificates of \$293,694.55;
  - b) to IMC of \$8,299,346.58; and
  - c) to Donald Dal Bianco in respect of the second-ranking mortgage of \$5,002,656.45.
24. There remains a disputed portion of \$90,350.22 out of the amounts claimed by Donald Dal Bianco in connection with the second-ranking mortgage, which is claimed as a three month

default fee. The Receiver is reviewing the appropriateness of that claimed amount and intends to discuss it further with counsel for Donald Dal Bianco.

25. The Receiver collected HST from the Purchaser, because a portion of assets sold by the Receiver was not exempt from HST. The Receiver remitted HST to the Canada Revenue Agency in the amount of \$180,724.31 and completed the HST returns for the Receivership estate to date. A copy of the Notice of Assessment for the HST return of the Uptown for the month of September 2018 is attached hereto as **Appendix “H”**.
26. The Receiver assisted in all ancillary matters as it related to the completion of the transaction, and facilitating communication between the Purchaser and the relevant stakeholders.

#### **RECEIVERS INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS**

27. Attached to this report as **Appendix “I”**, is the Receiver’s Interim Statement of Receipts and Disbursements for the period May 31, 2018 to February 6, 2019. During this period, receipts were \$20,327,575.31 while disbursements were \$14,870,341, resulting in an excess of cash receipts over disbursements of \$5,457,198.90.

#### **DIRECTIONS REGARDING THE THIRD RANKING MORTGAGE**

28. The Receiver has identified a number of possible issues related to the distribution of the remainder of the proceeds of sale of the Property.

#### **The secured creditors**

29. In order to discuss the distribution issues, a summary of the secured creditors of the Companies will assist, which is as follows:
  - a) IMC was holder of the first-ranking mortgage by virtue of postponement, which was registered on May 9, 2017 and which amounted to \$8,299,346.58;
  - b) Donald Dal Bianco was holder of the second ranking mortgage by virtue of postponement, which was registered on June 25, 2015 and which amounted to \$5,002,656.45;

- c) Donald Dal Bianco as holder of the third ranking mortgage by time of registration, which was registered on February 23, 2018, the principal amount of which is \$7,978,753.45;
  - d) Kieswetter Excavating Inc. (“**Kieswetter**”) for a construction lien registered on March 7, 2018 in the amount of \$1,827,409;
  - e) Deep Foundations Inc. (“**Deep**”) for a construction lien registered on March 14, 2018 in the amount of \$918,432;
  - f) Onespace Limited (“**Onespace**”) for a construction lien registered on March 19, 2018 in the amount of \$68,580;
  - g) Maxion for a construction lien registered on March 29, 2018 in the amount of \$4,522,597;
  - h) EXP Services Inc. (“**EXP**”) for a construction lien registered on April 12, 2018 in the amount of \$336,654; and
  - i) Maxion for a further construction lien registered on July 13, 2018 in the amount of \$560,283.
30. As noted above, the first-ranking mortgage of IMC and the second-ranking mortgage of Donald Dal Bianco have been paid, subject to the disputed three-month interest claim by Mr. Dal Bianco on the second-ranking mortgage as noted above.
31. Maxion has advised, by its counsel, that its lien claims include the claims of Kieswetter, Deep, Onespace and EXP. The total amount of the lien claims is therefore the sum of Maxion’s two lien claims, or \$5,082,880.

**Possible issues for further distributions**

32. As noted above, the undistributed proceeds of sale of the Property is \$5,457,198.90.
33. The following are issues that the Receiver has identified may apply to the distribution of those amounts (less further costs of the estate):
- a) Construction holdback: The interests of lien claimants have priority over the interests of all mortgages for holdback for work done for the project at the Property under subsection 78(2) of the *Construction Act*. This holdback obligation has priority over IMC as the first-ranking mortgage, because that mortgage was partially intended for the purpose of financing construction, which then leads to priority of the holdback obligation over the second-ranking Donald Dal Bianco

mortgage by virtue of postponement and priority over the third-ranking Donald Dal Bianco mortgage by virtue of time of registration.

There is a dispute about the proper amount of the holdback obligation. Maxion asserts that this is \$2,377,918.60, based on what it says is the total amount of work done on the site since January/February of 2010.

The Receiver is uncertain whether the nature of the project and the work done, including periodic stops and changes, means that all work since 2010 was necessarily on the same project for purposes of calculating the holdback. Identifying whether all or a lesser amount of that work is the same project, and what is the value of that work, will be required to fully determine this issue.

- b) When work on this project started: Another impact of the uncertainty over when the work on this project started is that a possible limitation on the value of the payments to mortgagees arises in subsection 78(3) of the *Construction Act*. If that work started subsequently to the IMC mortgage, it would be necessary to determine whether the amounts owing under the second-ranking Donald Dal Bianco mortgage and the amounts owing for the non-construction parts of the IMC mortgage exceeded the value of the property when that work began.

This possible issue is factually incongruous with the holdback claims of Maxion, which are based on work having started in 2010, rather than after May 9, 2017 when the IMC mortgage was placed.

- c) Validity of lien claims: There are procedural requirements in the *Construction Act* for the prosecution of lien claims. The claims for lien have not yet been reviewed by the Receiver as to whether they have been registered on title and supported by a Statement of Claim within the requisite time periods, which is a pre-requisite for having a secured claim.
- d) Quantification of lien claims: The lien claims have also not been reviewed for whether the amounts claimed are properly supported. In that regard, the Receiver notes that it has been advised by Rob Dal Bianco, the principal of Deem Management, that it is his assertion that the claims of Maxion have been improperly inflated and that Maxion may in fact owe Deem Management a refund for amounts that were previously overpaid.
- e) Involvement of Paul Michelin in Maxion: The Receiver has determined that Mr. Michelin is undischarged from his second bankruptcy. Mr. Michelin is a principal actor at Maxion, and it is unclear whether he is a legal or *de facto* director of that company. If so, the consequences of being a director when disqualified from doing so under the *Business Corporations Act* require review.
- f) The third-ranking mortgage to Donald Dal Bianco: As will be discussed further below, the circumstances in which the third-ranking mortgage was granted lead to questions about its enforceability.

34. The Receiver believes that the first of those issues that should be addressed is item (f), the enforceability of the third-ranking mortgage. If that mortgage is not valid, the priority issues between the liens and the mortgages will fall away, because there will be sufficient funds to pay the liens in full even if their full amounts are owing.
35. Counsel for Donald Dal Bianco as well as counsel for all the lien claimants agree with this approach.
36. The Receiver has therefore examined the circumstances that may apply to whether the third-ranking mortgage granted to Donald Dal Bianco is valid, in order to seek direction from the Court on that issue. As noted above, the timing and method of how that mortgage was granted lead to questions about its enforceability.
37. In preparing this Third Report, the Receiver has discussed with the stakeholders that it would set out its review to-date of the relevant facts, after which the stakeholders may submit evidence, reply evidence to that of other stakeholders, and conduct any cross-examinations felt to be necessary. Following those further steps, the Receiver will provide a further report to attempt to provide further information and, if appropriate, recommendations regarding the issues raised.

### **The circumstances of the third-ranking mortgage**

#### *The third mortgage*

38. The third-ranking mortgage was granted by Deem Management to Don Dal Bianco on February 14, 2014 and registered on February 23, 2018 as instrument no. WR1099051, a copy of which is attached as **Appendix “J”**. It secured the principal amount of \$7,978,753.45, with interest of \$689,461.20 stated in the mortgage as having accrued between April 1, 2012 to January 26, 2018 at the rate of 5% per annum. Interest was stated as accruing at the rate of the prime rate of Toronto-Dominion Bank plus 2% per annum after January 26, 2018.

*The advances under the third mortgage*

39. Don Dal Bianco has advised the Receiver that amounts owing under this mortgage had been advanced between 2012 and 2015. A schedule of the advances as provided by Mr. Dal Bianco is attached as **Appendix “K”**.
40. The principal amount shown in that schedule of advances is \$7,718,944.47, which is different than the total secured in the mortgage of \$7,978,753.45.
41. Mr. Dal Bianco advised the Receiver that the reason for these advances was for loans to Deem Management for the development and construction project at the Property.
42. Mr. Dal Bianco advised that before February of 2018 there were no documents concerning this loan. The verbal arrangements between him and Deem Management were that the loan was payable on demand, and that Deem Management was the borrower.
43. Mr. Dal Bianco further advised that all of these advances were, to his knowledge, used by Deem Management for the project at the Real Property and to make payments to Maxion or entities affiliated with it or as it directed.

*Demand prior to the third mortgage*

44. The third mortgage was granted after Mr. Dal Bianco made demand on Deem Management in that regard by letter dated January 30, 2018 from his counsel, Peter Cass, a copy of which is attached as **Appendix “L”**. The demand was for \$9,765,538.94, which the Receiver was advised by Mr. Dal Bianco was the principal amount of \$7,978,753.45 plus interest of \$1,786,785.49.
45. The January 30, 2018 demand letter was emailed by Mr. Cass’ office to Rob Dal Bianco of Deem Management, as well as John Wolf of Blaney McMurty LLP, who were counsel to Deem Management at that time. As noted above, Rob Dal Bianco is Mr. Dal Bianco’s son.
46. At the time that this demand was made, Mr. Dal Bianco appears to have been a director and officer of Deem Management. His counsel emailed counsel for Deem Management

on February 1, 2018 to advise that Mr. Dal Bianco was resigning those positions, a copy of which is attached as **Appendix “M”**.

47. Mr. Dal Bianco advises that prior to making formal demand through his counsel in the January 30, 2018 letter, he met with Rob Dal Bianco on behalf of Deem Management to indicate that he would be taking those steps. Mr. Dal Bianco advises that Rob Dal Bianco told him at that point that all construction on the project at the Real Property had stopped or would do so immediately.

*The third mortgage was granted as part of a forbearance agreement and arrangements*

48. The demand by Mr. Dal Bianco led to forbearance agreement discussions between counsel for Mr. Dal Bianco and counsel for Deem Management. Drafts of some of the proposed additional security documents were forwarded by counsel for Mr. Dal Bianco on February 5, 2018, a copy of which is attached as **Appendix “N”**. Counsel for Deem Management confirmed on February 6, 2018 that a forbearance arrangement was being sought and attached a draft agreement in that regard, a copy of which is attached as **Appendix “O”**.
49. The Receiver has been provided with a set of the correspondence between counsel for Mr. Dal Bianco and counsel for Deem Management leading up to the final forbearance agreement and associated documents. There were 15 further emails between counsel regarding the terms of the forbearance, which shows that several items were negotiated, including:
- a) setting a fixed date of August 14, 2018 before which Mr. Dal Bianco would not be entitled to take enforcement steps in the absence of an event of default under the forbearance agreement;
  - b) reducing the rate of the interest that was to be payable on the principal amounts, with Mr. Dal Bianco having sought 8% per annum and Deem Management successfully bargaining for 5% per annum to January 26, 2018 and the TD bank prime rate plus 2% thereafter; and
  - c) as a result of (b), a reduction in the interest owing to January 26, 2018 from the amount claimed of \$1,786,785.49 to the \$689,461.20 stated in the third mortgage.
50. The final form of the forbearance agreement was signed on or about February 28, 2018 when it was sent by counsel for Deem Management to counsel for Mr. Dal Bianco by letter,

a copy of which is attached as **Appendix “P”**. That package also included the other security documents granted in favour of Mr. Dal Bianco under the forbearance arrangements, including:

- a) the third mortgage on the Real Property;
  - b) a general security agreement from Deem Management;
  - c) a guarantee from a separate company called Deem Management Limited (note that Deem Management’s full name is Deem Management Services Limited) for the obligations of Deem Management;
  - d) a general security agreement from Deem Management Limited;
  - e) an agreement amending a pre-existing charge granted by Deem Management Limited in favour of Mr. Dal Bianco over a different property located at 990 Edward Street in Prescott, Ontario for the obligations of Deem Management;
  - f) a guarantee from The Uptown Inc. for the obligations of Deem Management;
  - g) a general security agreement from The Uptown Inc.;
  - h) a guarantee by Rob Dal Bianco (personally) for the obligations of Deem Management;
  - i) a pledge by Rob Dal Bianco of shares owned in Deem Management and Deem Management Limited; and
  - j) a loan agreement between Deem Management and Mr Dal Bianco dated as of Feb. 14, 2018 but effective as of April 1, 2012.
51. The Receiver has no information regarding the recovery, if any, that Mr. Dal Bianco has obtained in respect of the amounts secured by the third mortgage against the other collateral noted at items (b), (c), (d), (e), (h) or (i), above.
52. The Receiver notes that Blaney McMurty LLP acted for Deem Management in the course of the forbearance negotiations and agreements, but has acted for Don Dal Bianco against Deem Management in the application that led to the Receiver’s appointment. The Receiver was advised that Deem Management retained separate counsel, Wagner Sidlofsky LLP, and consented to Blaney McMurty LLP so acting.

*Deem Management's project at the Real Property*

53. The Receiver has inquired of Mr. Dal Bianco as to what he understood was the status of Deem Management's project at the Property at the time that the forbearance arrangements, including the third mortgage, were concluded.
54. Mr. Dal Bianco has advised that he was informed by Rob Dal Bianco on several occasions that Deem Management and Maxion, with whom it had a contractual relationship for the development of the property as contractor among other things, were pursuing a number of lending and equity injection opportunities.
55. Mr. Dal Bianco inquired of Rob Dal Bianco for particulars of those opportunities, and provided the Receiver with a set of 63 emails, text messages and documents exchanged among Deem Management, Maxion and various third party brokers, lenders, or equity advisors between December 6, 2016 and May 18, 2018. Some examples of these that are closer in time to the time when the forbearance agreement and third mortgage were entered into include:
  - a) an email from Paul Michelin of Maxion to Phil Reimer of Dentons Canada LLP on November 24, 2017 regarding an intended transaction with Lulu Canada, a copy of which is attached as **Appendix "Q"**;
  - b) an email from Paul Michelin of Maxion to Phil Reimer of Dentons Canada LLP on December 21, 2017 regarding a possible engagement of Envoy International Inc. a copy of which is attached as **Appendix "R"**;
  - c) an email exchange between Adam Patterson of Maxion and Michael Warner of Firm Capital dated January 19, 2018, a copy of which is attached as **Appendix "S"**;
  - d) emails among Adam Patterson of Maxion, Peter Murphy of Maxion, and Robb Cacovic of Bridging Finance Inc. regarding possible financing and data room dated January 23, 2018, a copy of which is attached as **Appendix "T"**;
  - e) an email from Paul Michelin of Maxion to Phil Reimer of Dentons on January 28, 2018 regarding a proposed engagement of Stroll Enterprises LLC, a copy of which is attached as **Appendix "U"**;
  - f) an email from Paul Michelin of Maxion to Rob Dal Bianco dated January 28, 2018 regarding potential transaction with Firm Capital, a copy of which is attached as **Appendix "V"**;

- g) an email from Adam Patterson of Maxion to Rob Dal Bianco on February 2, 2018 that Trez Capital had expressed interest in lending, a copy of which is attached as **Appendix “W”**;
- h) a letter of intent from Firm Capital Corporation dated February 12, 2018, a copy of which is attached as **Appendix “X”**;
- i) emails among Paul Michelin of Maxion, Adam Patterson of Maxion, and Eli Gutstadt dated March 16, 2018 regarding Up Town investment, a copy of which is attached as **Appendix “Y”**;
- j) email from Paul Michelin of Maxion to Phil Reimer of Dentons Canada LLP dated March 23, 2018 regarding Core developments consideration of investment, a copy of which is attached as **Appendix “Z”**;
- k) email from Adam Patterson of Maxion to Rob Dal Bianco dated April 6, 2018 regarding preferred debt and equity possible transactions, a copy of which is attached as **Appendix “AA”**;
- l) emails between Bosco Chan of Livesolar Capital and Paul Michelin of Maxion dated April 23, and 24, 2018 regarding a mortgage commitment, a copy of which is attached as **Appendix “BB”**; and
- m) an email from Paul Michelin to Rob Dal Bianco dated May 11, 2018 regarding a PricewaterhouseCoopers engagement and term sheet, a copy of which is attached as **Appendix “CC”**.

### **Independent opinion as to validity of the third mortgage**

- 56. Counsel for the Receiver has provided an opinion regarding the validity of the third-ranking mortgage granted to Don Dal Bianco, which has concluded that, subject to the normal qualifications and assumptions, this mortgage would constitute a valid charge on subject Real Property of Deem Management in accordance with its terms. A copy of that opinion is attached as **Appendix “DD”**.
- 57. The applicability of those normal qualifications and assumptions in light of the facts noted in this Report is a matter for direction from the Court.

### **PROFESSIONAL FEES**

- 58. Pursuant to the Receivership Order, the Receiver and its counsel, were granted a Receiver’s Charge against the Property as security for their fees and disbursements and were directed

to seek approval for such fees and disbursements. The Receiver and its counsel report on those fees to date and seek such approval.

**Fees of the Receiver- Crowe Soberman Inc. (“CSI”)**

- 59. From May 31, 2018 to January 31, 2019 the total fees incurred by CSI were \$215,667.00 plus HST in the amount of \$28,036.71 for a total of \$243,703.71.
- 60. Attached separately as part of the Receiver’s motion materials is the affidavit of Hans Rizarri sworn January 31, 2019, which includes a detailed summary of services, time charges and applicable hourly rates related to CSI’s detailed statements of account for the period May 31, 2018 to January 31, 2019.

**Fees of Counsel to the Receiver- Goldman, Sloan, Nash & Haber LLP (“GSNH”)**

- 61. From May 31, 2018 to January 31, 2019 the total fees incurred by GSNH were \$307,496.00 plus HST in the amount of \$40,272.81 for a total of \$350,647.10.
- 62. Attached separately as part of the Receiver’s motion materials is the affidavit of Brendan Bissell sworn February 8, 2019, which includes a detailed summary of services, time charges and applicable hourly rates related to GSNH’s detailed statements of account for the period May 31, 2018 to January 31, 2019.

All of which is respectfully submitted this 8<sup>th</sup> day of February, 2019

**Crowe Soberman Inc.  
in its capacity as Court-appointed  
Receiver of Deem Management Services Limited  
and The Uptown Inc., and not in its personal capacity**



per

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Per: Hans Rizarri CPA, CA, CIRP

Tab D

Superior Court of Justice  
Commercial List

FILE/DIRECTION/ORDER

Dal Bianca

Plaintiff(s)

AND

Maxion

Defendant(s)

Case Management  Yes  No by Judge: \_\_\_\_\_

Counsel	Telephone No:	Facsimile No:

- Order     Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: \_\_\_\_\_
- Time Table approved (as follows):

At the outset of what was to be a full day of argument on the validity of a mortgage, both I and counsel raised issues about whether the matter could be resolved without some viva voce evidence.

It appears there are going to be some credibility issues around

November 21, 2019

Date

[Signature]

Judge's Signature

Additional Pages \_\_\_\_\_

Superior Court of Justice  
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

parties knowledge and intent  
relating to improvements on the  
property and the reasons for and  
timing of the mortgage.

This was resolved on the basis  
that the proceedings today would  
be adjourned.

Parties shall conduct cross-examination  
of the affidavits to highlight  
the specific issues around  
which there are material  
disputes about the facts.

This shall be completed by  
January 15, 2020.

There shall be a 1 hour case  
conference before a judge of  
the Ct to ~~set~~ resolve the

Superior Court of Justice  
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

issues, on which there needs to be a trial and any other matters required to be resolved.

This shall take place on January 29, 2020.

The anticipation of a three day mini-trial I have asked the Ct office to tentatively reserve these days ~~to~~ March 30 to April 2, 2020, for this trial.

This is with the expectation that by January 29 the parties will commit finally to the hearing proceeding on these days.

For purposes of s. 37 of the Construction Act all perfected liens are deemed to have been set down for trial.

Tab E

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

THE HONOURABLE MR ) THURSDAY, THE 21<sup>ST</sup>  
 )  
JUSTICE PENNY ) DAY OF NOVEMBER, 2019  
 )



**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondents

**APPLICATION UNDER** Section 243(1) of the *Bankruptcy and Insolvency Act*  
and Section 101 of the *Courts of Justice Act*

**ORDER**  
**(Administrative Relief)**

**THIS MOTION**, made by the Receiver, Crowe Soberman Inc. in its capacity as receiver (the “**Receiver**”) of the property known municipally as 215 and 219 Lexington Road, Waterloo, Ontario N2K 2E1 (the “**Real Property**”), the assets and undertakings of Deem Management Services Limited (“**Deem Management**”) related to the Real Property (the “**Related Deem Assets**”), and the property, assets and undertakings (the “**Uptown Assets**”) of The Uptown Inc. (the “**Uptown**”, together with Deem Management the “**Debtors**”), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Third Report of the Receiver dated February 8, 2019 (the “**Third Report**”), the affidavit of Hans Rizarri, sworn February 7, 2019 (the “**Rizarri Affidavit**”), the affidavit of R. Brendan Bissell, sworn February 8, 2019 (the “**Bissell Affidavit**”), the Supplementary Report to the Third Report of the Receiver dated October 30, 2019 (the

“**Supplementary Report**”), and on hearing the submissions of counsel for the Receiver, Deem Management Services Limited and The Uptown Inc., Maxion Group Inc., and those other parties appearing on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavits of R. Brendan Bissel sworn February 13, 2019 and Katie Parent sworn November 1, 2019, filed:

#### **NOTICE AND SERVICE**

1. **THIS COURT ORDERS** that service of the Motion Record and the Supplementary Motion Record in respect of this motion and the Third Report and Supplementary Report is hereby validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

#### **APPROVAL OF RECEIVER’S REPORT, ACTIVITIES AND FEES**

2. **THIS COURT ORDERS** that the Third Report and the Supplementary Report, and the activities described in such Reports, be and are hereby approved, provided, however, that only the Receiver in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

3. **THIS COURT ORDERS** that the professional fees and disbursements (inclusive of HST) of the Receiver in the amount of \$243,703.71 as set out in the Rizarri Affidavit be and are hereby approved.

4. **THIS COURT ORDERS** that the professional fees and disbursements (inclusive of HST) of Goldman Sloan Nash & Haber LLP, independent legal counsel of the Receiver, in the amount of \$350,647.10 as set out in the Bissell Affidavit be and are hereby approved.

5. **THIS COURT ORDERS** that the Receiver is authorized to pay all such fees and disbursements from available funds.

MISCELLANEOUS

6. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province to act in aid of and to be complementary to this Court 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 as may be necessary or desirable to give effect to the Order or to assist the Receiver and its agents in carrying out the terms of this Order.

SUPERIOR COURT OF JUSTICE  
ENTERED  
NOV 22 2019 *CO.*  
COUR SUPÉRIEURE DE JUSTICE  
ENTRÉ

*[Handwritten signature]*

---

**DONALD DAL BIANCO**

and

**DEEM MANAGEMENT SERVICES LIMITED and THE  
UPTOWN INC.**

Applicant

Respondents

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST  
Proceeding commenced TORONTO**

---

**ORDER  
(Administrative Relief)**

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**GOLDMAN SLOAN NASH & HABER LLP**  
480 University Avenue, Suite 1600  
Toronto ON M5G 1V2  
Fax: 416-597-3370

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**R. Brendan Bissell (LSO: 40354V)**  
Tel: 416.597.6489  
Fax: 416.597.3370  
Email: [bissell@gsnh.com](mailto:bissell@gsnh.com)

Lawyers for the Receiver, Crowe Soberman Inc.

Tab F

COUNSEL SLIP

COURT FILE

NO.: CY-18-00598657-00CL

DATE: JAN 29, 2020

NO. ON LIST

1

TITLE OF PROCEEDING

BIANCO V. DEEM MANAGEMENT et al.

COUNSEL FOR:

- PLAINTIFF(S)
- APPLICANT(S)
- PETITIONER(S)

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COUNSEL FOR:

- DEFENDANT(S)
- RESPONDENT(S)

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for MAXON  
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D. Ullmann for Don Del Bianco  
416 596-4289  
416 593-2437

January 29, 2020  
Section 78 hearing  
scheduled for 1/2 day  
on Nov 6, 2020.

Exam examinations are  
preferred times to  
be conducted during  
the 1st two weeks  
in April

3-day hearing on  
preferred issue  
scheduled on June 15, 16, 17.

The March 30 - April 2  
dates are vacated.

Harry J.

Tab G

**CITATION:** Dal Bianco v. Deem Management Services et al., 2020 ONSC 1500  
**COURT FILE NO.:** CV-18-598657-00CL  
**DATE:** 20200310

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:** )  
)  
Donald Dal Bianco ) *D. Ullman* for the Applicant  
)  
Applicant )  
)  
**– and –** )  
)  
Deem Management Services Limited and ) *Eric Gionet* and *Andrew Wood*, for the Lien  
The Uptown Inc. ) Claimant Maxion Management Services Inc.  
) – General Contractor  
)  
Respondents )  
)  
Crowe Soberman as Receiver ) *D. Brendan Bissell*, counsel for the Receiver  
)  
)  
) Appearances also by *Harold Rosenberg* on  
) behalf of subtrade lien claimant Deep  
) Foundations  
) -and-  
) *Jeffrey A. Armel* for the lien claimant EXP  
) Services Inc.  
)  
) **HEARD:** March 6, 2020

**C. GILMORE, J.**

**REASONS ON RECEIVER’S MOTION**

**OVERVIEW**

[1] This is a motion initiated by the Receiver to determine competing priorities under s.78 of the *Construction Act* (“the Act”) between registered lien claimants and a registered mortgage. Through various court attendances it was agreed that this motion would be separated from the other issues in dispute in the Receivership so that the priority dispute could be determined on an Agreed Statement of Facts. Excerpts from the Agreed Statement of Facts are set out below.

[2] The parties agreed Maxion Management Services Inc (“Maxion”) would be the moving party on this motion, that Mr. Dal Bianco would respond, and that the Receiver would also make

submissions. Counsel for some of the other lien claimants appeared on this motion but did not make submissions or file material. They are aligned with the position taken by Maxion.

### Receivership Background

[3] On May 31, 2018, pursuant to an order of the Honourable Mr. Justice Wilton-Siegel, Crowe Soberman Inc. was appointed as Receiver (the “**Receiver**”) of:

- (i) the property known municipally as 215 and 219 Lexington Road, Waterloo, Ontario N2K 2E1 (the “**Real Property**”),
  - (ii) the assets and undertakings of Deem Management Services Limited (“**Deem Management**”) related to the Real Property, and
  - (iii) the property, assets and undertakings of the Uptown Inc. (the “**Uptown**”)
- (collectively referred to as the “**Property**”).

[4] The background to the Property was more fully set out in the Receiver’s First Report dated June 8, 2018. In the Third Report, the Receiver has provided the following “overview”:

- a) Deem Management is a company that has been working for many decades in the Ontario nursing home and retirement home sector. It was the registered owner of the Real Property.
- b) A portion of the Real Property was vacant land where the Project had started. The remaining land contained the operating Pinehaven Nursing Home, which is an unrelated third-party nursing home business. Part of Deem Management’s business involved the collection of rent from Pinehaven.
- c) The Uptown operated a presentation centre located on the Real Property and was engaged in the planning related to the redevelopment of the Real Property as a seniors’ retirement residence called the Uptown Residences. The work carried out by the Companies had primarily been in the nature of obtaining approvals relative to Phase 1 of the Project, and the excavation and installation of caissons necessary for that part of the development.
- d) Both Deem Management and the Uptown are owned by Rob Dal Bianco, who is the sole director of the Companies, and is the son of the applicant, Donald Dal Bianco (“Dal Bianco”)
- e) Maxion was the general contractor on the Project. The Receiver understands that Maxion is owned by Paul Michelin. The Receiver was advised by counsel for Michelin and Maxion that its clients assert a joint venture ownership claim, is a shareholder in Uptown, and therefore claim a beneficial interest in the Project.

- f) The Receiver understands that Maxion was advised to cease construction by Rob?? in the early winter of 2018. Shortly after construction ceased, various service providers registered construction liens against title to the Property commencing on March 7, 2018 totaling \$7,673,672.48.
- g) In addition to the amounts claimed by the construction lien claimants, the Application Record dated May 28, 2018, outlined various mortgages and loans registered against title to the Property which exceed \$20 million.

[5] For purposes of this Agreed Statement of Facts and the Priority Motion, the construction Improvement that is the subject of these proceedings will be referred to as “**the Uptown Project**”.

[6] Through the Receivership process, and various Court Orders, the Uptown Project was sold by the Receiver in the summer of 2018. After making certain distributions, including payment of the First and Second Ranking Mortgages described below, the Receiver still holds in trust the sum of \$5,477,224.57 (inclusive of interest but exclusive of the fees of the Receiver and its counsel) from the proceeds of sale.

[7] The Receiver has not been able to distribute these remaining funds as a result of the competing priority claims between the constructions lien claimants and the Dal Bianco 3<sup>rd</sup> Mortgage.

#### The First and Second Ranking Mortgages

[8] IMC was the holder of the first-ranking mortgage, which was registered on May 9, 2017 and which amounted to \$8,299,346.58.

[9] Dal Bianco was the holder of the second ranking mortgage (by virtue of postponement to IMC), which was registered on June 25, 2015 and which amounted to \$5,002,656.45;

[10] The first-ranking mortgage of IMC and the second-ranking mortgage of Dal Bianco have been paid out in this Receivership, subject to some small disputes that are not relevant to this motion.

#### The Dal Bianco “third-ranking” Mortgage

[11] The third-ranking mortgage was granted by Deem Management to Don Dal Bianco on February 14, 2018 and registered on February 23, 2018 as instrument no. WR1099051.

[12] The Dal Bianco 3<sup>rd</sup> Mortgage secured the principal amount of \$7,978,753.45.

[13] The amounts secured by the Dal Bianco 3<sup>rd</sup> Mortgage were all advanced between 2012 and 2015 without security having been registered. The first advance was made on April 22, 2012 and the final advance was made on January 22, 2015.

[14] All of the funds advanced by Dal Bianco that were secured by the Dal Bianco 3<sup>rd</sup> Mortgage were intended, and were in fact used, in an Improvement within the meaning of s. 78 of the *Construction Act* on the real property through the Uptown Project.

#### The Registered Construction Lien Claims

[15] Kieswetter Excavating Inc. (“**Kieswetter**”) registered its construction lien on March 7, 2018 in the amount of \$1,827,409.

[16] Deep Foundations Inc. (“**Deep**”) registered its construction lien on March 14, 2018 in the amount of \$918,432.

[17] Onespace Limited (“**Onespace**”) registered its construction lien on March 19, 2018 in the amount of \$68,580.

[18] Maxion registered its first construction lien on March 29, 2018 in the amount of \$4,522,597.

[19] EXP Services Inc. (“**EXP**”) registered its construction lien on April 12, 2018 in the amount of \$336,654.

[20] Maxion registered its second construction lien on July 13, 2018 in the amount of \$560,283.

[21] The parties have not agreed upon, and the Court is not being asked to make any determination of the timeliness or quantum of any of the above registered lien claims, however all parties agree that at least some amount of the above lien claims will be valid and owing to one or more of the registered lien claimants.

[22] Even though the liens were registered on title to the Real Property on the dates referred to in paragraphs [15] to [20], above, for purposes of the *Construction Act* the first construction lien arose and took effect with respect to the Uptown Project prior to the Dal Bianco 3<sup>rd</sup> Mortgage being registered on title.

#### Analysis

[23] Section 15 of the *Construction Act* sets out that:

15. A person’s lien arises and takes effect when the person first supplies services or materials to the improvement.

[24] The relevant sections of Section 78 of the *Construction Act* sets are set out below:

Priority over mortgages, etc.

**78 (1)** Except as provided in this section, the liens arising from an improvement have priority over all conveyances, mortgages or other agreements affecting the owner's interest in the premises. R.S.O. 1990, c. C.30, s. 78 (1); 2017, c. 24, s. 70.

Building mortgage

**(2)** Where a mortgagee takes a mortgage with the intention to secure the financing of an improvement, the liens arising from the improvement have priority over that mortgage, and any mortgage taken out to repay that mortgage, to the extent of any deficiency in the holdbacks required to be retained by the owner under Part IV, irrespective of when that mortgage, or the mortgage taken out to repay it, is registered. R.S.O. 1990, c. C.30, s. 78 (2).

Prior mortgages, prior advances

**(3)** Subject to subsection (2), and without limiting the effect of subsection (4), all conveyances, mortgages or other agreements affecting the owner's interest in the premises that were registered prior to the time when the first lien arose in respect of an improvement have priority over the liens arising from the improvement to the extent of the lesser of,

(a) the actual value of the premises at the time when the first lien arose; and

(b) the total of all amounts that prior to that time were,

(i) advanced in the case of a mortgage, and

(ii) advanced or secured in the case of a conveyance or other agreement. R.S.O. 1990, c. C.30, s. 78 (3); 2017, c. 24, s. 70, 71.

Prior mortgages, subsequent advances

**(4)** Subject to subsection (2), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that was registered prior to the time when the first lien arose in respect of an improvement, has priority, in addition to the priority to which it is entitled under subsection (3), over the liens arising from the improvement, to the extent of any advance made in respect of that conveyance, mortgage or other agreement after the time when the first lien arose, unless,

(a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or

(b) prior to the time when the advance was made, the person making the advance had received written notice of a lien. R.S.O. 1990, c. C.30, s. 78 (4); 2017, c. 24, s. 53 (1), 70.

Special priority against subsequent mortgages

(5) Where a mortgage affecting the owner's interest in the premises is registered after the time when the first lien arose in respect of an improvement, the liens arising from the improvement have priority over the mortgage to the extent of any deficiency in the holdbacks required to be retained by the owner under Part IV. R.S.O. 1990, c. C.30, s. 78 (5); 2017, c. 24, s. 70.

General priority against subsequent mortgages

(6) Subject to subsections (2) and (5), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that is registered after the time when the first lien arose in respect to the improvement, has priority over the liens arising from the improvement to the extent of any advance made in respect of that conveyance, mortgage or other agreement, unless,

(a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or

(b) prior to the time when the advance was made, the person making the advance had received written notice of a lien. R.S.O. 1990, c. C.30, s. 78 (6); 2017, c. 24, s. 53 (1), 70.

[25] It is important to note the general intention of s.78 which is to give priority to lien claimants over mortgages with certain defined exceptions. The issue to be determined on this motion is whether or not any of the exceptions in s.78 are triggered which would deprive the lien claimants of their priority status.

[26] Given the *prima facie* priority of lien claimants, it is clear that the onus falls upon the mortgagee to prove that its mortgage falls within one of specified exemptions under s.78.

[27] In *Boehmers v. 794561 Ontario Inc.* (1993), affirmed 1995 CanLII 660 (ONCA), the court said:

Section 78(1) is the overarching principle of the regime of the Act for the determination of priorities. It is, if you will, the central interpretative principle for the adjudication of conflicts of this type before the court in this case. Surely, it necessarily implies that, as here, the burden must be on the mortgagee to persuade the court that it somehow falls clearly within a specified exception to the generalized priority of the liens.

[28] This principle was adopted in *Jade-Kennedy Development Corp., Re*, 2016 ONSC 7125 at para 54 (ONSC) upheld on appeal 2017 ONSC 3421(Div. Ct.) (*Jade-Kennedy*) and *XDG Ltd. v. 1099606 Ontario Ltd.*, 2002 CarswellOnt 4535 (*XDG*).

[29] Broadly speaking, s. 78 provides protection to lien holders and should be interpreted in that sense. In *Jade-Kennedy* at para 43, the court emphasized the burden on the mortgagee to persuade the Court that it falls within one of the exceptions to the general priority of lien claimants.

[30] There is no dispute that the 3<sup>rd</sup> mortgage was registered after the time when the first lien arose and is therefore a “subsequent mortgage” within the meaning of the *Act*. Given that it is a subsequent mortgage it is subject to s.78(1) which would give the lien claimants general priority, s.78(5) which gives lien claimants a special priority for deficiencies in any holdbacks and s.78(6) which gives subsequent mortgages priority for specific advances in certain circumstances. In this case, Dal Bianco also relies on s.78(2) claiming that his mortgage falls within the exception for building mortgages.

[31] It is this court’s view that s.78(6) does not apply to give the 3<sup>rd</sup> mortgagee priority in this case. This section is one which contemplates a mortgage registered after a project has commenced. The only way in which a mortgagee can gain priority over lien claimants in this scenario is if the advances were made “in respect of that mortgage,” there were no preserved or protected liens at the time of the advance, and the mortgagee has had written notice of any lien at the time of the advance. The last two conditions do not apply to this case.

[32] In *XDG*, the court addressed the issue of whether a mortgage registered on title as collateral security for a prior indebtedness gained priority. In considering s.78(6), the court made a distinction between “amounts secured” and “amounts advanced.” Given that the monies were advanced under a different financial arrangement and then subsequently secured by a mortgage, s.78(6) was not engaged and no priority was gained over the lien claimants.

[33] *XDG* was appealed to the Divisional Court and upheld. In their reasons, the Divisional Court held that the trial judge’s reasoning was correct in holding that the mortgagee’s priority was limited to the extent of any advance made in respect of the mortgage. Since the advances in that case were made in relation to a credit agreement and not the mortgage, the lien claimants’ priority was not disturbed.

[34] In *Jade-Kennedy* the court relied on the reasoning in *XDG* with respect to monies **advanced** in relation to a mortgage rather than **secured**. Further, it is important to note that in *Jade-Kennedy*, the court referred to *XDG* and held that it “was not necessary to go further and address whether or not the monies advanced under the mortgage benefitted the guarantor and I do not read the decision as doing so” (para 45). The court in *XDG* held that there was no case law cited to demonstrate that proceeds of an advance had to create any “benefit” to the borrower and that such an interpretation of s.78(6) could therefore not be supported (para 46).

[35] In the case at bar, the parties agree that all of the advances made by Dal Bianco between 2012 and 2015 benefitted the project. Dal Bianco argues that it would be absurd for his mortgage not to have priority given that the advances were clearly in relation to and for the benefit of the project. Respectfully, I disagree. As per *Jade-Kennedy*, I find that there is nothing in the wording of s.78 that carves out an exception on that basis. The section speaks to advances as opposed to amounts secured. Further, there is nothing in the section which would permit a lender to gain

priority by retrospectively securing previously advanced sums whether in relation to the project or, in the case of *XDG*, a loan agreement.

[36] I also rely on *561861 Ontario Ltd. v. 1085043 Ontario Inc.* 1998, CarswellOnt 2935. In that case, a sister advanced \$100,000 to a brother in order for him to buy out his estranged wife's interest in his farm. A first mortgage for this sum was registered on the property. The brother sold the farm property to a golf course and a new first mortgage was placed on the golf course property with the sister's mortgage re-registered and ranking second. The original mortgage was discharged. The golf course project went into receivership and lien claims arose. The sister claimed she had priority over the lien claimants as her mortgage was registered prior to the liens arising. The Court did not agree and found that all monies had been advanced in relation to the prior mortgage which had been discharged. As such, the lien claimants retained their priority. The Court held at para 24 "...all monies had been advanced on the prior mortgage in 1991 which was subsequently discharged."

[37] In summary, I do not find that Dal Bianco's mortgage fits into the exclusion of a "subsequent mortgage" as the mortgage (notwithstanding its wording) does not secure advances. All the advances were already made.

[38] Turning to Dal Bianco's arguments in relation to s.78(2), he submits that his mortgage is a "building mortgage" and therefore loses priority only to the extent of any deficiency in the holdbacks. It is clear that s.78 of the *Act*, in addition to providing a form of blanket priority to lien claimants, carves out a number of exceptions to exceptions. That is, even if a mortgagee is able to prove that it falls within one of the exceptions to gain priority, that priority is still subject to the priority created for holdbacks.

[39] Interestingly, the *Act* does not contain a definition for the term "building mortgage." As such, it is important to carefully review the initial wording of that section which says: "Building mortgage – Where a mortgagee takes a mortgage with the intention to secure the financing of an improvement...." The interpretation of this section must be consistent with the overall intention of s.78 which is to grant priority to lien claimants. The section denotes a future intention on the part of a mortgagee; an intention to secure financing.

[40] I agree with Maxion's counsel that using that form of construction, the section should be taken to mean that the mortgage is registered and then funds are advanced in the normal course. What happened in this case was the reverse, and in this Court's view, not what was intended by s.78(2).

[41] I also agree with Maxion's counsel that the position taken by Dal Bianco would mean that if a mortgagee gained priority under s.78(2) as a building mortgage, it would mean that the mortgagee would also have priority as a subsequent mortgagee under s.78(6). Taken to its most concerning conclusion, this could mean that a building mortgage could have priority over registered lien claimants.

[42] Finally, an important point must be made in this case regarding the overall priority of lien claimants and subsequent mortgagees. Particularly in large projects, sub trades must be able to

adequately assess their risk before undertaking work. If mortgagees are entitled to “lie in the weeds” while advancing funds for the project and then attempt to gain priority later by registering mortgages after liens arise, this would be unfair to lien claimants and contrary to the overall protection intended by the *Act*.

**ORDERS AND COSTS**

[43] Maxion’s motion is granted. The lien claimants shall have priority over the registered third mortgage.

[44] As agreed by the parties, the successful party will receive costs of \$25,000. Therefore, Dal Bianco shall pay costs to Maxion of \$25,000.



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C. Gilmore, J.

**Released:** March 10, 2020

**CITATION:** Dal Bianco v. Deem Management Services et al., 2020 ONSC 1500  
**COURT FILE NO.:** CV-18-598657-00CL  
**DATE:** 20200310

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

Donald Dal Bianco

Applicant

– and –

Deem Management Services Limited and The Uptown  
Inc.

Respondents

Crowe Soberman as Receiver

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**REASONS ON RECEIVER'S MOTION**

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C. Gilmore, J.

**Released:** March 10, 2020

Tab H

AMENDED THIS February 12 2021 PURSUANT TO  
MODIFIÉ CE \_\_\_\_\_ CONFORMÉMENT À  
 RULE/LA RÈGLE 26.02 ( 4 )  
 THE ORDER OF \_\_\_\_\_  
L'ORDONNANCE DU \_\_\_\_\_  
DATED / FAIT LE \_\_\_\_\_  
REGISTRAR Aufkanj CLERK  
SUPERIOR COURT OF JUSTICE COUR SUPÉRIEURE DE JUSTICE

Court File No. CV-20-00637618-0000

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

MAXION & ASSOCIATES INC., PAUL MICHELIN, THE MAXION GROUP INC.,  
MAXION MANAGEMENT SERVICES INC., MAXION CONSTRUCTION MANAGEMENT—  
THE UPTOWN INC., 1765414 ONTARIO INC., MAXION CONSTRUCTION MANAGEMENT  
INC. AND MAXION PROPERTY MANAGEMENT INC.

Plaintiffs

-and-

THE UPTOWN INC., DONALD (DON) DAL BIANCO, ROBERT (ROB) DAL BIANCO,  
2453678 ONTARIO INC., DEEM MANAGEMENT SERVICES LIMITED, DEEM  
MANAGEMENT LIMITED, JOHN C. WOLF, CHRISTOPHER KROPKA, JEFFREY M.  
WARREN, STEVEN P. JEFFERY and BLANEY MCMURTRY LLP

Defendants

AMENDED STATEMENT OF CLAIM  
(Notice of Action issued March 6, 2020)

- I. The Plaintiffs claim as against each of the defendants jointly and severally:
  - (a) General damages in the sum of \$40,000,000;
  - (b) Punitive damages in the sum of \$5,000,000;
  - (c) a declaration to the effect that the Forbearance Agreement, the Third Mortgage and the PPSA Securities (as defined below) are null and void, *ab initio*;
  - (d) Prejudgment and post-judgment interest pursuant to the provisions of the *Courts of Justice Act, Ontario*;
  - (e) Costs on a substantial indemnity basis; and
  - (f) Such further and other relief as may be just.

2. The Plaintiffs Maxion & Associates Inc. (“Associates”), The Maxion Group Inc. (“Group”), Maxion Management Services Inc. (“Services”), Maxion Construction Management—The Uptown Inc. (“Management”), 1765414 Ontario Inc. (“176”), Maxion Construction Management Inc. (“Construction”) and Maxion Property Management Inc. (“Property”) are each corporations incorporated pursuant to the laws of the Province of Ontario (sometimes hereinafter referred to collectively as the “Corporate Plaintiffs”).
3. The Plaintiff, Paul Michelin (“Paul”), is a natural person residing in the Province of Ontario. Paul is an officer, director, shareholder and principal of each of the Corporate Plaintiffs.
4. The Defendants The Uptown Inc. (“Uptown”), 2453678 Ontario Inc. (“245”), Deem Management Services Limited and Deem Management Limited are each corporations incorporated pursuant to the laws of the Province of Ontario (sometimes hereinafter referred to as the “Corporate Defendants”).
5. Deem Management Services Limited and Deem Management Limited are further sometimes hereinafter referred to collectively as “Deem”.
6. The Defendant Donald (Don) Dal Bianco (“Don”) is a natural person residing in the Province of Ontario. Don was at all material times an officer, director, shareholder and principal of each of the Corporate Defendants.
7. The Defendant Robert (Rob) Dal Bianco (“Rob”) is the natural son of Don. Rob resides in the Province of Ontario and was at all material times an officer, director, shareholder and principal of each of the Corporate Defendants.
8. The Corporate Defendants and Don and Rob are further sometimes hereinafter referred to collectively herein as the “Dal Bianco Defendants”.
9. The Defendant Blaney McMurtry LLP (“Blaney”) was at all material times and continues to be a law firm practicing as a partnership in the Province of Ontario.

10. The Defendants John C. Wolf (“Wolf”), Christopher Kropka (“Kropka”) and Jeffrey M. Warren (“Warren”) were, at all material times, lawyers practicing law as members of Blaney.
11. The Defendants Wolf, Kropka, Warren and Blaney are further sometimes referred to collectively herein as the “Defendant Lawyers”.
12. The Defendant Lawyers were, at all material times, licensed by the Law Society of Ontario (“LSO”) and subject to the LSO’s Rules of Professional Conduct (the “Rules”). As partners, associates or employees of Blaney, each of the Defendant Lawyers (including Blaney) are jointly and severally liable in respect of the conduct, acts and omissions of the other Defendant Lawyers. Furthermore, to the extent that any of Wolf, Kropka and Warren were associates or employees of Blaney, Blaney is vicariously liable in respect of such associates or employees.
13. Prior to the establishment of the Joint Venture described below, Deem had owned and operated nursing and retirement homes throughout Ontario for many decades. Deem was, at all material times, the registered owner of the lands and premises municipally known as 215 and 219 Lexington Road, Waterloo, Ontario N2K 2E1 (the “Real Property”). Deem owned and operated a nursing home known as “Pinehaven” on a portion of the Real Property.
14. In or about the Spring of 2015 the Plaintiffs and the Dal Bianco Defendants (sometimes referred to herein collectively as the “Joint Venturers”) entered into an oral agreement (the “Oral Agreement”) respecting the assembly of the lands comprising the Real Property and the development thereof (the “Joint Venture”), including the construction and subsequent operation of new seniors’ residence complex to be known as the Uptown Residences (sometimes hereinafter referred to collectively as the “Project”).
15. Throughout the course of the Joint Venture, Don actively participated in and was kept fully informed as to all matters pertaining to the Joint Venture and the Project, until May 31, 2018.

16. The Project involved three separate phases of development. Phase 1 was a six-story building to include 95 seniors' apartments and 95 assisted-living suites with 35,000 square feet of underground parking. Phase 1 was approved by the City of Waterloo and its construction had begun, including the completion of the excavation. Phase 2 called for an eight-story building with an additional 140 units. Phase 3 called for a second eight-story building with 173 units and 6000 square feet available for commercial/retail space.
  
17. The terms of the Oral Agreement governing the Joint Venture provided, *inter alia*, that:
  - (a) Deem would hold legal title to the Real Property in trust for Uptown and further that 50% of the common shares of Uptown be held in trust for the Plaintiffs, except for the Plaintiff Maxion Management Services Inc. ("MMSI"), or their designate or nominee (such that the Plaintiffs or their designate or nominee would be the beneficial owner of 50% of the equity in the Project);
  - (b) the Plaintiffs would conduct the development and/or construction of this Project for the benefit of the Joint Venturers;
  - (c) the Plaintiffs and the Dal Bianco Defendants would act co-operatively to secure financing or further investment in respect of the Project;
  - (d) to the extent that financing for the project was not obtained from third party sources, Don would provide such financing as may be required from time to time for the development and construction of the Project ("Don's Investment") until further third party financing or investment acceptable to the Joint Venturers could be secured to complete the Project and enable the return of Don's Investment;
  - (e) In consideration for Don's Investment, Don would receive preferred shares issued at a par value of One Dollar (\$1) for each dollar of Don's Investment (the "Preferred Shares"), redeemable upon the Joint Venture successfully obtaining sufficient third party financing or capital investment to complete the Project and repay Don's Investment.
  
18. During the course of the Project, the Defendant Lawyers were retained to represent, and in fact represented, the legal interests of the participants in respect of the Joint Venture and the Project. As such, the Defendant Lawyers were kept informed throughout as to all matters pertaining to

the Project, and were charged with the responsibility of seeing to legal matters necessary to advance the Project to its to completion. As such, the Defendant Lawyers were at all material times:

- (a) in a solicitor-client relationship with the Plaintiffs or in a relationship akin to one of solicitor-client with the Plaintiffs;
  - (b) subject to all of the Rules and professional obligations and duties associated with the aforescribed relationship (referred to in subparagraph (a)), including those of a fiduciary and contractual nature and the overriding requirement to avoid conflicts of interest and never to prefer the interests of any of the participants in the Joint Venture (including Don) to those of any other participant therein, or to the Joint Venture itself.
19. From the commencement of the Joint Venture and in furtherance thereof towards completion:
- (a) the Plaintiffs guaranteed certain of the mortgage financing in respect of the Project (the "Guarantees");
  - (b) the Dal Bianco Defendants repeatedly assured and confirmed to the Plaintiffs, and represented to others, that they and the Plaintiffs were equal "Partners" in the Project and, further, that Don's Investment was by way of capital rather than debt (i.e., the Preferred Shares);
  - (c) the Dal Bianco Defendants also assured and confirmed to the Plaintiffs and represented to others that the owners of the Project had placed \$22.5 million of "capital" into the Project and that the "loan to cost ratio for the Project was 68.75%" (which could only be true if Don's Investment constituted capital rather than debt).
  - (d) The Defendant Lawyers were fully aware of all of the said assurances, confirmations and representations and were obliged not to act contrary thereto or to assist any party to do so.
20. Numerous meetings were held amongst Rob, Paul and Don wherein the Dal Bianco Defendants expressly acknowledged the Plaintiffs' 50% beneficial ownership in the Project, the fact that Don's Investment was by way of capital rather than debt, as well as the terms of the Oral Agreement.

21. The Dal Bianco Defendants, through the preparation and distribution of a number of annual Combined Financial Statements (“CFS”) in respect of the corporate participants to the Joint Venture (referred to in the CFS as the “Uptown Corporate Sponsors” of the Project) further assured, confirmed and represented to the Plaintiffs and others (including proposed lenders to, or investors in, the Project) that the Plaintiffs (except MMSI) and the Defendants were equal equity partners in the Project. The said CFS’s utilized and relied, *inter alia*, upon the financial statements provided by Deem which, with the express or implied consent of Don, represented the nature of Don’s Investment as being share capital rather than a loan.
22. All of the Defendants knew that the Plaintiffs would, and did in fact, reasonably rely upon the Dal Bianco Defendants’ aforementioned assurances, confirmations and representations.
23. On May 31, 2018 Don applied to this Honourable Court seeking the appointment of a Receiver in respect of the property, assets and undertakings of Deem and Uptown. Don’s said Application was granted (the “Receivership Order”).
24. The Receivership Order was based upon rights purportedly granted to Don through a “Forbearance Agreement”, a Third Mortgage registered in favour of Don on title to the Real Property (the “Third Mortgage”) and certain security interests granted in respect of Deem’s personal property (the “PPSA Securities”) (collectively, the “Forbearance Transaction”).
25. As at the date of issuance of the Receivership Order, the Real Property was subject to a first ranking mortgage in favour of an arm’s-length corporation known as IMC in the face value of \$8,255,000 (the “IMC Mortgage”); a second ranking mortgage in favour of Don with a face value of \$4,517,511.41 (the “Second Mortgage”) and allegedly the Third Mortgage, also in favour of Don, in the amount of approximately \$8,700,000, made on February 23, 2018. The said mortgage debts were being serviced by the Joint Venture and would have continued to be serviced through to the completion of the project but for the pronouncement of the Receivership Order.

26. The Plaintiffs dispute the validity and enforceability of the Third Mortgage and PPSA Securities. The Plaintiffs state that the purported indebtedness secured thereby never existed, the said amounts being the capital investment made by Don, for which he was to receive the Preferred Shares. The entire Forbearance Transaction was a fraudulent effort to “dress up” and improperly alter Don’s Investment from one of capital to that of a loan secured by the Third Mortgage and the PPSA Securities.
27. The Plaintiffs state that the aforementioned Forbearance Agreement, Third Mortgage and PPSA Securities were entered into in secret, in breach of the fiduciary duties owed by the Defendants to the Plaintiffs. The Plaintiffs only learned of the existence of the Forbearance Transaction and its constituent elements as a result of the Receiver’s Reports subsequently issued.
28. The Defendant Lawyers designed and implemented the Forbearance Transaction on behalf of the non-lawyer Defendants, in breach of their professional and contractual obligations.
29. The Plaintiffs state that the Defendant Lawyers acted negligently and in breach of their fiduciary duties owed to the Plaintiffs in failing to recognize the true nature and effect of the Forbearance Transaction, and thereby improperly or wrongfully preferred the interests of the Dal Bianco Defendants to those of the Plaintiffs contrary to the Rules and their professional and contractual obligations owed to the Plaintiffs.
30. Alternatively, the Plaintiffs further plead that, in the circumstances, the Defendant Lawyers are liable to the Plaintiffs under the doctrine of “knowing assistance”. The Defendant Lawyers knew, or ought to have known:
  - (i) of the Plaintiffs’ interests in the Joint Venture;
  - (ii) that the true nature of Don’s Investment was capital and not debt; and
  - (iii) that the effect of the Forbearance Agreement would be improperly to deprive the Plaintiffs of their interest to the unwarranted benefit of Don.

31. As a consequence of the Receivership Order, the Real Property was sold at a distress price, substantially below fair market value. Furthermore, by virtue of the aforesaid, the Project could not be completed and the Plaintiffs experienced a total loss of their financial investment in the Project and the profits that they would have realized had the Project been completed. Full particulars of the Plaintiffs' losses are currently unknown but will be provided prior to or at the trial of this action.
32. The Plaintiffs state that they have sustained the losses claimed herein as a consequence of all of the Defendants' conduct as pleaded herein. Accordingly, the Plaintiffs are entitled to all of the relief claimed in paragraph 1, above.
33. The Plaintiffs plead and rely upon the provisions of the *Fraudulent Conveyances Act*, R.S.O. 1990, c. F.29, the *Negligence Act*, R.S.O. 1990, c. N.1 and the Rules.
34. The Plaintiffs state that, in the circumstances pleaded herein, the "corporate veils" of the non-lawyer Defendants ought to be lifted or disregarded.
35. The Plaintiffs respectfully submit that this action be tried at the City of Toronto.

Date: April 6, 2020

**BENJAMIN SALSBERG BARRISTER  
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Lawyer for the Plaintiffs

MAXION & ASSOCIATES INC. et al.  
Plaintiffs

-and-

THE UPTOWN INC. et al.  
Defendants

Court File No. CV-20-00637618-0000

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

**AMENDED STATEMENT OF CLAIM**

**BENJAMIN SALSBERG BARRISTER**  
**PROFESSIONAL CORPORATION**  
Barristers and Solicitors  
100 Richmond Street West, Suite 400  
Toronto ON M5H 3K6

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ben@bensalsberglaw.com  
Tel: (416) 417-6040  
Fax: (416) 366-4711

Lawyer for the plaintiffs

Tab I

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

**B E T W E E N :**

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondents

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*  
and Section 101 of the *Courts of Justice Act*

**AFFIDAVIT OF GORDON HO  
(SWORN DECEMBER 23, 2019)**

I, Gordon Ho, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the Vice President, Structural Engineering Central Canada, of EXP Services Inc. ("**EXP**") and was Project Principal for the work performed at 215 Lexington Road, Waterloo, Ontario (the "**Project**").
2. The lands are owned by Deem Management Services Limited and 2453678 Ontario Inc. (collectively, the "**Owners**").
3. On a date unknown to EXP, Deem the Owners hired Maxion Management Services Inc. and Maxion Construction Management Inc. (collectively, "**Maxion**") to perform work on the Project. In turn, Maxion retained EXP to carry out work at the Project.

**THREE SCOPES OF WORK**

4. EXP entered into agreements with Maxion to supply engineering services, including, but not limited to, geotechnical, environmental, structural and inspection and testing services at the Project.

5. Ultimately, EXP performed three phases of work at the Project; Phase 100 – Design Reviews and Site Inspections, Phase 200 – Environmental Work and Soil Remediation and Phase 300 – Caisson Inspection and Concrete Testing.

6. EXP submitted a proposal for its materials testing and inspection services, the first scope of work, on or around November 4, 2014 to Maxion. The work included therein was limited to the evaluation and inspection of the subgrade, earthworks and granular material, and concrete and asphalt. A copy of EXP's November 4, 2014 proposal is attached hereto as **Exhibit "A"**.

7. EXP began performing its work on or around November 18, 2015. A copy of email correspondence between EXP and Maxion, dated November 16 and 17, 2015, and referring to EXP's attendance on site, is attached hereto as **Exhibit "B"**.

8. Maxion ultimately issued a Purchase Order to EXP to complete the work, which included attending on site to perform project walk-throughs, implement demolition specifications, review progress draws and sign off on substantial completion. A copy of Maxion's Purchase Order is attached hereto as **Exhibit "C"**.

9. On or about July 6, 2017, EXP submitted a fee proposal to Maxion for structural consulting services. A copy of the executed fee proposal is attached hereto as **Exhibit "D"**.

10. In July 2017, EXP was granted authority by Upper Canada Consultants to perform site service inspections. A copy of Upper Canada Consultants' July 25, 2017 letter to Maxion in this regard is attached hereto as **Exhibit "E"**, along with the email from Maxion forwarding same.

11. In addition, on the following day, Maxion requested that EXP perform shoring testing services and monitor shoring piles. A copy of Walter Bedenikovich's July 26, 2017 email requesting a quote for this work is attached hereto as **Exhibit "F"**.

12. EXP ultimately issued an Exploratory Test Pitting and Additional Delineation of Stockpiled Soil work plan on November 8, 2017. The work plan was created for the purposes of addressing Maxion's concerns that fill materials included containments that

required disposal of at a Ministry of the Environment and Climate Change certified landfill. A copy of EXP's work plan is attached hereto as **Exhibit "G"**.

13. Furthermore, on September 22, 2017, Maxion requested EXP provide a full-time soil inspector to the Project. A copy of Wade Stever's email to Geordy Fournier is attached hereto as **Exhibit "H"**.

14. After attending on site, it was determined additional soil testing was required. Maxion instructed EXP to proceed with the testing on an urgent basis in October, 2017. A copy of the email exchange between Maxion and EXP is attached hereto as **Exhibit "I"**.

15. In addition, in January 2018, EXP was instructed to perform concrete testing to the caissons on site. EXP was therefore on site at the beginning to 2018 to do same. A copy of Maxion's request is attached hereto as **Exhibit "J"**.

16. Ultimately, EXP's last day on site was March 28, 2018, performing project management review. A copy of the summary of work performed by EXP's employees is attached hereto as **Exhibit "K"**.

#### **OUTSTANDING PAYMENTS**

17. EXP encountered difficulties collecting payments from Maxion throughout the progress on the Project. In fact, on December 17, 2015, Keith Hill, the Project Manager, advised EXP's internal team that work was to be placed on a hold until payment was received from Maxion. A copy of this email is hereto as **Exhibit "L"**.

18. EXP is owed the total of \$336,654.12 from Maxion, calculated as follows:

<b>Invoice No.</b>	<b>Invoice Date</b>	<b>Amount</b>
337000	September 22, 2016	\$2,293.90
341662	October 20, 2016	\$1,146.95
395534	September 19, 2017	\$8,124.70
397216	September 27, 2017	\$21,121.17
402730	October 27, 2017	\$33,451.39

408450	November 24, 2017	\$16,538.37
408454	November 24, 2017	\$149.16
408788	November 27, 2017	\$43,889.20
413328	December 19, 2017	\$11,998.58
413562	December 19, 2017	\$65,438.15
418554	January 25, 2018	\$10,204.24
418611	January 25, 2018	\$32,409.18
425379	March 8, 2018	\$28,356.36
428190	March 23, 2018	\$61,532.77

19. A copy of EXP's Statements of Accounts to Maxion, dated March 26, 2018, is attached hereto as **Exhibit "M"**, along with the underlying invoices.

#### **CLAIM FOR LIEN**

20. As a result of Maxion's non-payment, on April 12, 2018, EXP registered a lien upon the Project in the amount of \$336,654.12. A copy of the lien, registered as Instrument No. WR1106904 in the Land Registry Office of the Regional Municipality of Waterloo (LRO No. 58), is attached hereto as **Exhibit "N"**.

21. The Statement of Claim was issued on May 24, 2018. A copy of the issued Statement of Claim is attached hereto as **Exhibit "O"**.

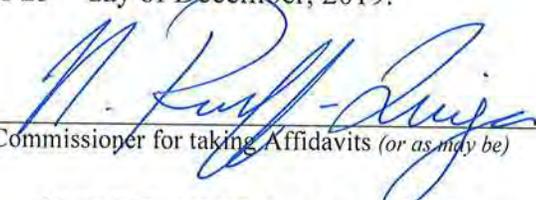
22. The Certificate of Action was likewise issued on May 24, 2018. A copy of the issued Certificate of Action is attached hereto as **Exhibit "P"**.

23. The current Parcel Registers for the Project shows the registrations of the Claim for Lien. A copy of the Parcel Registers, pulled December 19, 2019, are attached hereto as **Exhibit "Q"**.

24. To date, EXP has not recovered any further funds, such that the full value of the lien remains due and owing.

25. I swear this affidavit in support of EXP's Claim for Lien, as required by the endorsement of Justice Penny dated November 21, 2019, and for no other or improper purpose.

SWORN BEFORE ME at the City of Toronto,  
this 23<sup>rd</sup> day of December, 2019.

  
A Commissioner for taking Affidavits (or as may be)

**Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.**

*Gordon Ho*

\_\_\_\_\_  
**GORDON HO**

This is **Exhibit "A"**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.



\_\_\_\_\_  
A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

**Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.**



November 4, 2014

999-25001061-PP

Walter S. Bedenikovich, B.S.c, G.S.C  
Construction Operations  
Maxion Construction Management Inc.  
610 Applewood Crescent, Suite 502  
Vaughn, ON  
L4K 0E3

walterb@maxionconstruction.ca

**Re: Materials Testing and Inspection Services  
Site Services, Access Roads, and Parking Lots  
The Uptown  
215 Lexington Road, Ontario**

Dear Mr. Bedenikovich:

**Exp Services Inc.** is pleased to provide our proposal for the inspection and testing services during the construction of parking lots, access roads, and the installation of site services at the above noted site in Waterloo. We have recently completed the geotechnical investigation for this project and are very familiar with the anticipated soil and groundwater conditions at the site.

It is our understanding that the building will be a one-storey, slab-on-grade structure. It is expected that the inspection and testing services are to be provided for the following:

- Subgrade Evaluation;
- Compaction Testing – for the earthworks and granular materials for the site services, sidewalk, floor slab, and pavement bases;
- Cast in Place Concrete – for sidewalks and curbs;
- Asphalt Paving Monitoring and Sampling – for the pavement areas;
- Associated Laboratory Testing – Concrete, granular, and asphalt

#### **1. Inspection and Testing Fee Schedule and Cost Estimate**

As in all inspection and testing projects of this type, this cost is dependent on actual quantities, the rate of progress of the contractor, and other variables not controlled by the inspection company. Our estimated cost is presented for budget purposes and is based on experience with projects having similar size and scope. Ultimately, the cost will be determined by the actual level of effort and number of visits and tests. Where possible, the number of visits and tests will be decreased for cost savings and efforts will be made to combine multiple inspections during a single site visit.



Client: Maxion Construction Management Inc.  
 Project Name: The Uptown, 215 Lexington Road, Waterloo, ON  
 Project Number: 999-25001061-PP  
 Date: November 4, 2014

We anticipate that the breakdown provided on Table 1 (attached) will satisfy the Inspection and Testing requirements for the suggested services. A cost of \$11,505.00 (plus HST) can be anticipated.

Actual costs would be based on unit rates indicated in the following table:

Staff	Unit Rate
Technician, compaction testing, soil sampling, concrete sampling and testing, concrete sample pick-up	\$50.00 / hr
Senior Technician, subgrade, footing base and reinforcing steel examinations	\$80.00 / hr
Project Engineer, Structural Steel Inspector	\$110.00 / hr
Senior Engineer, meetings, review and consultation	\$130.00 / hr
Secretarial Support	\$45.00 / hr
Transportation costs (time charged at rates shown above)	\$0.54 / km
Laboratory Testing	Unit Cost
Standard Proctor Density Test	\$120 / test
Grain Size Analysis	\$90 / test
Compressive Strength Concrete and Grout Cylinder Testing	\$60.00 / set of 3 cylinders
Asphalt – Extraction (asphalt content) and Gradation	\$180 / sample
Asphalt – Full Marshall Compliance	\$350 / sample

For further detail, refer to 'Inspection and Testing General Conditions' attached.

Client: Maxion Construction Management Inc.  
Project Name: The Uptown, 215 Lexington Road, Waterloo, ON  
Project Number: 999-25001061-PP  
Date: November 4, 2014

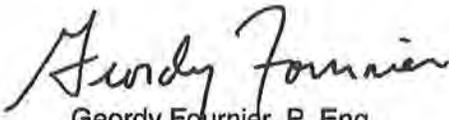
### 3. Invoicing and Insurance

As a professional consulting engineering firm, **exp** maintains a range of insurance coverage to address typical project requirements. This coverage includes professional liability insurance in respect of the services provided by **exp**.

### 4. Closing Comments

We trust that our proposal meets with your approval and we look forward to being of service to you on this project. Should you have any questions or require any clarification, please do not hesitate to contact this office.

Sincerely,



Geordy Fournier, P. Eng  
Geotechnical Services



Rebecca Walker, P. Eng.  
Discipline Manager, Earth and Environment

Attachments:    Inspection and Testing General Conditions  
                          Legal Notification  
                          Work Authorization

Client: Maxion Construction Management Inc.  
 Project Name: The Uptown, 215 Lexington Road, Waterloo, ON  
 Project Number: 999-25001061-PP  
 Date: November 4, 2014

**TABLE 1 – COST ESTIMATE OF INSPECTION AND TESTING**

Activity	No. of Visits	Charge-out Rates	Cost Estimate	Basic On-Site Time
<b>1. Subgrade Review</b> Subgrade for trench base and parking areas	10	\$215/trip	\$2,150.00	1.0 hrs
<b>2. Cast In Place Concrete</b>				
Sidewalks and Curbs	4	\$175/trip	\$700.00	1.25 hr
Sample Pickup (if separate trip)	4	\$75/trip	\$300.00	
Compressive Strength Testing	4	\$60/set of 3	\$240.00	---
<b>3. Compaction Testing</b>				
For earthworks, granular materials for site services, and pavement structure	25	\$195/trip	\$4,875.00	2.0 hrs
Grain Size Analysis	2	\$90/test	\$180.00	--
Proctor Analysis	3	\$120/test	\$360.00	--
<b>4. Asphalt Inspection &amp; Testing</b>				
Compaction Testing on HL8 & HL3	2	\$400/trip	\$800.00	7.0 hr
Full Marshall Compliance	2	\$350/test	\$700.00	--
<b>5. Reporting, Consultation and Project Management</b>			\$ 1,200.00	
<b>Cost Estimate (does not include HST)</b>			<b>\$11,505.00</b>	

\*Refer to General Conditions, attached.

### **Inspection and Testing General Conditions**

1. All site visits are carried out only at the request of the client or his authorized representative.
2. For budgeting purposes, standard charge-out rates per visit (where appropriate) typically include basic on-site time as shown below:
  - 1.25 hr per visit for cast in place concrete;
  - 1.0 hr per visit for footing base evaluation, reinforcing steel review;
  - 2.0 hr per visit for subgrade review and soils compaction;
  - 2.5 hr per visit for roofing, steel deck, structural steel;
  - 4.0 hr per visit for asphalt testing;

The actual charge will be based on unit rates quoted plus travel time and mileage. The time spent on site depends on progress of construction and is beyond the testing company's control.

3. When possible, site inspections, testing, and sample pick-up will be coordinated to reduce the total number of trips to the site, to provide some cost savings to the client. If a separate trip is required to pick up concrete cylinders, a fee of \$75 per trip will be charged.
4. Site inspections by project engineers (such as attendance at site meetings) have not been included in the prices provided. The charges for these services will be based on unit rates quoted.
5. If full-time presence is required, or consulting engineering, or services other than specifically identified in this proposal are required the charge out rate will be in accordance with exp's Schedule of Rates. These rates are applicable until the end of this assignment, assuming a 2014 construction start date.
6. Re-testing of material in our laboratory and return visits to check on substantial deficiencies are not included in the cost estimate for this proposal.
7. Standard Proctor density test will be carried out on the fill materials for use in referencing compaction results. Charges will be applied in accordance with exp's Current Schedule of Rates.
8. Compaction testing will be carried out on the backfill, in accordance with site specifications.

Client: Maxion Construction Management Inc.  
Project Name: The Uptown, 215 Lexington Road, Waterloo, ON  
Project Number: 999-25001061-PP  
Date: November 4, 2014

### **Legal Notification**

This proposal is CONFIDENTIAL INFORMATION and the PROPERTY of exp Services Inc. until such time as an agreement for the services/system outlined herein has been completed with the prospective customer and/or recipient to whom it is specifically addressed. MAXION CONSTRUCTION MANAGEMENT INC. may only disclose or indirectly cause disclosure of the CONFIDENTIAL INFORMATION to its directors, officers, employees, or consultants necessary for the limited purpose of evaluating the proposal for the specific project identified, provided that, before such disclosure, each such director, officer, employee, or consultant is made aware of and agrees to the CONFIDENTIAL NATURE and limited use of the proposal and its contents.

MAXION CONSTRUCTION MANAGEMENT INC. may use the CONFIDENTIAL INFORMATION for the limited purpose of developing and understanding the project with exp Services Inc. and for no other purpose whatsoever.

Disclosure of the CONFIDENTIAL INFORMATION to MAXION CONSTRUCTION MANAGEMENT INC. shall not be construed in any way whatsoever as granting to MAXION CONSTRUCTION MANAGEMENT INC. a license or any other right in the CONFIDENTIAL INFORMATION.

Contents of this document are not to be used in any way detrimental to the interests of exp Services Inc., and it is not to be reproduced in whole or in part without the Company's prior permission. In the event that this proposal is not accepted, all copies are to be returned to exp Services Inc. within 30 days of the date of rejection of this proposal. Thereafter, MAXION CONSTRUCTION MANAGEMENT INC. shall maintain in confidence all the CONFIDENTIAL INFORMATION and shall cease all use of the CONFIDENTIAL INFORMATION.



**exp Services Inc.**  
405 Maple Grove Road, Unit 6  
Cambridge, ON N3E 1B6

Telephone: 519 650 4918  
Facsimile: 519 650 4603

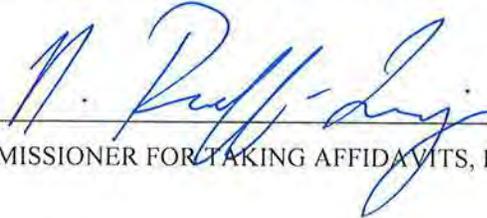
### WORK AUTHORIZATION

<b>Client Name:</b> ("CLIENT")	Maxion Construction Management Inc.		
<b>Address:</b>	610 Applewood Crescent, Suite 502, Vaughn, ON L4K 0E3		
<b>Attention:</b>	Mr. Walter S. Bedenikovich, B.S.c, G.S.C		
<b>Contact Email:</b>	walterb@maxionconstruction.ca	<b>Client ID Number:</b>	
<b>Contact Phone:</b>	905 238-7818	<b>Contact Fax:</b>	877 706-2645
<b>exp Services Inc. ("CONSULTANT") is authorized to provide services at: 215 Lexington Road, Waterloo, ON</b>			
<b>Project Name:</b>	<b>The Uptown</b>		
<b>Project Location:</b>	<b>215 Lexington Road, Waterloo, ON</b>		
The services to be performed are limited to: Construction Inspection and Testing Services			
<b>Project Manager:</b>	Geordy Fournier, P. Eng.		
<b>Charges for the services: as per proposal dated November 4, 2014</b>			
<b>Report Distribution:</b>	Maxion Construction Management Inc.		
Please return one signed copy of this work authorization as confirmation of your requirement and as your authorization for exp Services Inc. to proceed.			
<b>TERMS AND CONDITIONS</b>			
Services to be provided in accordance with the Terms and Conditions and Proposal attached.			
<b>EXP SERVICES INC.</b>		<b>Maxion Construction Management Inc.</b>	
<b>Signature:</b>		<b>Signature:</b>	
<b>Print Name:</b>	Geordy Fournier, P. Eng.	<b>Print Name:</b>	
<b>Project No.:</b>	999-25001061-PP	<b>Date:</b>	
<b>Date:</b>	November 4, 2014		

All invoices are Payable upon receipt. Interest will be charged at 1.5% per month (18% per annum) on any balance after 30 days.  
The CLIENT acknowledges and agrees that exp Services Inc. may, at its sole discretion, hold back issuance of final reports and Certification of Completion Letters (including Schedule C's) until payment of all past due amounts has been received by exp Services Inc..

This is **Exhibit "B"**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.



A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

**Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.**

## Michelle Alexander

---

**From:** Walter Bedenikovich <walterb@maxionconstruction.ca>  
**Sent:** November-17-15 4:15 PM  
**To:** Keith Hill  
**Cc:** Lisa Brindle (Maxion); Emilio Pompilio (Maxion); Bruno Antidormi  
**Subject:** Re: DSS in Waterloo

Thank you Keith ....

One Correction .....Can you please address the insurance Certificate to read " Maxion Management Services Inc. \_ " as indicated on the PO we sent you.

Thanks



### **WALTER S. BEDENIKOVICH B.S.C, G.S.C** **CONSTRUCTION OPERATIONS**

Maxion Construction Management Inc.  
610 Applewood Crescent Suite 502  
Vaughan , Ontario  
L4K 0E3

Phone : (416) 238 7818 X-206  
Fax: (877) 706 2645  
Cell: (905) 399 0964

**From:** Keith Hill <Keith.Hill@exp.com>  
**Date:** Tuesday, November 17, 2015 at 3:40 PM  
**To:** Walter Bedenikovich <walterb@maxionconstruction.ca>  
**Cc:** "Lisa Brindle (Maxion)" <lbrindle@maxion.ca>, Emilio Pompilio <epompilio@maxion.ca>, Bruno Antidormi <brunoa@maxion.ca>  
**Subject:** RE: DSS in Waterloo

Afternoon Walter,  
Please find the attached requested documentation.  
Best Regards,

**Keith Hill**

Project Manager, Senior Environmental Technologist  
exp Services Inc.

t: [+1.519.963.3000](tel:+15199633000) x3406 | m: [+1.226.236.8263](tel:+12262368263) | e: [keith.hill@exp.com](mailto:keith.hill@exp.com)  
[15701 Robin's Hill Road](https://www.exp.com)  
London, ON N5V 0A5  
Canada

**From:** Walter Bedenikovich [<mailto:walterb@maxionconstruction.ca>]  
**Sent:** Monday, November 16, 2015 9:36 AM  
**To:** Keith Hill  
**Cc:** Lisa Brindle (Maxion); Emilio Pompilio (Maxion); Bruno Antidormi

**Subject:** Re: DSS in Waterloo

**Importance:** High

Thank you Keith

I will meet your team on site and ensure we have access to the entire building. In addition please find attached a copy of your Purchase Order for this Scope of work,

Please review and send me a signed copy back along with a current insurance certificate.

If you have any questions please do not hesitate to give me a call.

Regards,



**WALTER S. BEDENIKOVICH B.S.C, G.S.C**

**CONSTRUCTION OPERATIONS**

Maxion Construction Management Inc.

610 Applewood Crescent Suite 502

Vaughan, Ontario

L4K 0E3

Phone: (416) 238 7818 X-206

Fax: (877) 706 2645

Cell: (905) 399 0964

**From:** Keith Hill <[Keith.Hill@exp.com](mailto:Keith.Hill@exp.com)>

**Date:** Monday, November 16, 2015 at 8:58 AM

**To:** Walter Bedenikovich <[walterb@maxionconstruction.ca](mailto:walterb@maxionconstruction.ca)>

**Subject:** RE: DSS in Waterloo

Good Morning Walter,

Kimberly Wood and Jason Bedi from our office will meet you at 229 Lexington Road on Wednesday morning at 9am. I would expect the survey will take the most of the day.

In order to complete the work they will need access to each room in the buildings and the roof of the addition.

Kimberly's contact information is below:

Kimberly Wood, B.E.S

Environmental Technologist

exp Services Inc.

t: +1.519.963.3000 x3408 | m: +1.519.777.1974 | e: [kimberly.wood@exp.com](mailto:kimberly.wood@exp.com)

Have a good day,

Keith Hill

Project Manager, Senior Environmental Technologist

exp Services Inc.

t: +1.519.963.3000 x3406 | m: +1.226.236.8263 | e: [keith.hill@exp.com](mailto:keith.hill@exp.com)

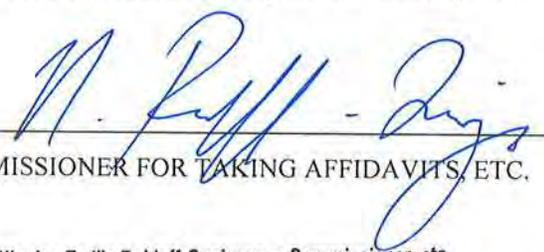
15701 Robin's Hill Road

London, ON N5V 0A5

Canada

This is **Exhibit "C"**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.



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A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.



<b>Design Consultant Issued To:</b> <b>Exp. Services Inc.</b> <b>15701 Robin's Hill Road.</b> <b>London, ON N5V 0A5</b>  Telephone: (519) 963-3000 Attention: Keith Hill	<b>Project / Site Location:</b> <b>Pinehaven Retirement Facility</b> <b>229 Lexington Road</b> <b>Waterloo, ON</b>  Date: March 28, 2016	<b>Purchase Order #</b>  <b>MMSI-PH-1117</b>  This number must appear on all packages, invoices and correspondence
--	---	---

Cost Code	Description	Price
	<p>Prepare and submit all associated documents and administration services for the demolition of 229 Lexington Road, Waterloo Ontario as per exp. fee proposal dated November 2, 2015:</p> <p>Exp will complete the following scopes of service related to the Demolition of the above noted building. Project Management and Admiration of the Contract includes but not limited to:</p> <ol style="list-style-type: none"> <li>1. Permitting and Utility Shutdown Oversight;</li> <li>2. Administration of project walkthroughs and bi-weekly meetings;</li> <li>3. Demolition Specifications Design and implementation;</li> <li>4. Progress Draw Reviews and Substantial Completion Sign Offs.</li> </ol> <p style="text-align: right;">Contract Value (plus HST)</p>	<p style="text-align: right;">\$21,750.00 Disbursements Included</p>

<b>Terms and Conditions of this Order</b>  Attached find the following Appendix which provides greater clarity to the above. a) Appendix "A" – Terms and Conditions	<b>Signed:</b> _____ <b>Maxion Management Services Inc.</b>  <b>Signed &amp; Accepted:</b>  _____ <b>Exp. Service Inc.</b> <b>I have the authority to bind the Company</b>
--	---



## Appendix "A"

### **This Purchase Order is Subject to the Following Terms and Conditions**

1. If the work or a portion of the Prime Contract to be performed hereunder by this Design Consultant shall be cancelled by the Owner in whole or in part, Maxion by a written notice to the Design Consultant, may cancel such work accordingly and Maxion shall be liable to pay for that portion of the work actually performed by the Design Consultant in accordance with the requirements of this Agreement and to the satisfaction of Maxion up to such cancellation. In no event, shall the Design Consultant be entitled to any loss of anticipated profits and any damages whatsoever.
2. This subcontract may be terminated by Maxion upon not less than three (3) days written notice should the design consultant fail substantially to perform in accordance with terms of this subcontract through no fault of the party initiating the termination.
3. The Design Consultant shall submit proper monthly progress draw requests as the Work progresses. Payment by Maxion to the Design Consultant in respect of any particular progress draw, net of the holdback, and adjusted for additions, deductions and set-offs, shall become due and payable 7 days after Maxion receives payment from the Owner pursuant to the Prime Contract for the portion of the Work in respect of which the progress draw is made; provided that, prior to payment being made by Maxion, All Conditions of Payment shall have been satisfied. Monthly progress draw requests shall be submitted in format provided by Maxion.
4. The Design Consultant acknowledges the right of Maxion throughout performance of basic services, to order changes in the Design Consultant work. The Design Consultant shall not carry out any work, which is extra to this agreement, without the prior written approval of Maxion. In the cases of all changes, the Design Consultant shall provide timely quotations complete with a breakdown of all hours in sufficient detail to allow review by Maxion. Invoice 'Approved by Maxion' with the monthly progress draws using the format provided by Maxion.
5. The Design Consultant shall maintain Professional Liability Insurance with a Claim Limit of \$2,000,000.00. Provide certificate of insurance confirming coverage.
6. The General Conditions, Responsibilities of the Client, Engineering Services provided under this agreement, fees and disbursements of the PEO Recommended form of agreement between client and engineer for Professional Engineering services shall form part of this agreement.

## **End of Appendix "A"**

This is **Exhibit "D"**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.



---

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

*Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.*



• **THE UPTOWN, Waterloo, Ontario**

**Proposal Submission for  
Structural Consulting Services**

Prepared For:

**Paul Michelin, President**  
**Emilio Pompilio, Senior Project Associate**  
**Bruno Antidormi, Vice President of Construction**  
~~MAXION CONSTRUCTION MANAGEMENT INC.~~  
610 Applewood Crescent, Suite 502  
Vaughn, Ontario L4K 0E3

*MAXION MANAGEMENT SERVICES INC.*

Prepared By:

**exp Services Inc.**  
220 Commerce Valley Drive West, Suite 500  
Markham, ON L3T 0A8

Date Submitted  
July 6, 2017

**Fee Proposal**



*R*

## Project Understanding

We are pleased to submit the following fee proposal for structural consulting services in regards to the re-start and completion of the above project. We have reviewed the current documentation and project history and it is our understanding that the following is involved to progress the project forward to completion;

### 1. Remobilization:

- Review documentation including drawings and specifications and project history in preparation of re-start meetings and bringing resources up to speed.
- Attending re-start meetings with client and consultants including shoring meeting with shoring design engineers.
- Review of architectural drawings for coordination/confirmation of vertical elements (columns, shear wall locations) from when project was put on hold.
- Review structural drawings for coordination from when project was put on hold.
- Review of shoring drawings and design approaches.

### 2. OBC Addendum 6

- Review with architectural and mechanical consultants for structural coordination of changes related to 2012 OBC latest addendum 6

### 3. Technical Changes to be Completed

- Coordinate structural changes due to deletion of ground base geothermal system.
- Re-design floor shaft sizes, or added shaft locations.
- Re-design extent of roof penthouse.
- Re-design roof mechanical floor slab due to new chillers/cooler and concrete topping.
- Re-design penthouse /roof slab to support future construction scaffolding/shoring loads for potential vertical expansion.
- Design and check concrete stair core A, between 3<sup>rd</sup> and 4<sup>th</sup> floor for stair width change.
- Design/coordinate structure for grading changes on west side.
- Delete or modify retaining walls on west side.
- Design structural provisions for future tunnel connection on west side, from future medical building.
- Basement floor under floor drains.
- Underground cistern tank at south end. Design anchor slab to counter act buoyancy due to water table.
- Re-design/delete ground floor balcony along grid line L.
- Design of common line between Phase I and Phase II. Columns, walls, caissons for future connection of Phase II. Provide frost protection along this column line.

### 4. Construction Site Inspections and Contract Administration

- Periodic field review of construction for rebar and structural steel, including written reports and attending site meetings.
- Shop drawing review.
- Coordination with site during construction including site instructions.
- Certification of substantial completion.

The above scope of structural services does not include for the design and preparation of structural drawings and specifications including field review of construction for the 2 additional floors. It is our understanding that to accelerate progressing forward on this project, this concept is not being considered for the project re-start.



6. **COST ESTIMATES.** If CONSULTANT provides an estimate of probable costs or a budget for the Work that is developed by CONSULTANT during the performance of the Scope of Services, the CLIENT hereby acknowledges that neither CONSULTANT nor CLIENT has control over other professional fees, land development, or other costs related to the entire Project. Therefore CONSULTANT does not warrant or represent the Project costs will not vary from the Project Budget. Neither CONSULTANT nor the CLIENT has control over the cost of labour, materials or equipment, over the contractor's methods of determining bid prices, or over competitive bidding, market, or negotiating conditions. CONSULTANT therefore does not warrant or represent that bids or negotiated prices will not vary from the estimate of probable construction cost.
7. **DISPUTES.** Any dispute arising under this Agreement shall first be resolved by taking the following steps. A successive step shall be taken if the issue is not resolved at the preceding step: 1) by the technical and contractual personnel for each Party, 2) by executive management of each Party, 3) by mediation, 4) by arbitration if both Parties agree or 5) through the court system in the Province of Ontario.
8. **STANDARD OF CARE.** CONSULTANT shall perform its services in a manner consistent with the standard of care and skill ordinarily exercised by members of the profession practicing under similar conditions in the geographic vicinity and at the time the services are performed. This Agreement neither makes nor intends a warranty or guarantee, express or implied.
9. **INDEMNITY.** Notwithstanding any other provision of this Agreement, the CLIENT agrees to indemnify, defend and hold harmless CONSULTANT, its officers, directors, employees and subconsultants (collectively "CONSULTANT") against all damages, liabilities or costs including reasonable legal fees and defense costs arising out of or in any way connected with this Project or the performance of the services under this Agreement, excepting those damages, liabilities or costs attributable to the negligent acts or omissions by CONSULTANT.
10. **LIMITATION OF LIABILITY.** Notwithstanding any other provision of this Agreement, the total liability of CONSULTANT, its officers, directors and employees, to the CLIENT and anyone claiming by or through the CLIENT, for any and all claims, losses, costs or damages from any cause in any way related to the project or the Agreement, shall not exceed the fees paid to the CONSULTANT. CONSULTANT shall not be liable for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or this Agreement. CLIENT and CONSULTANT agree that any legal actions arising directly or indirectly from this Agreement and/or CONSULTANT's performance of the Services shall be filed no later than two years from the date the Services have been performed.
11. **RESPONSIBILITY.** CONSULTANT is not responsible for the completion or quality of work that is dependent upon information provided by or services performed by the CLIENT or third parties not under the direct control of CONSULTANT. CONSULTANT is not responsible for the acts or omissions or for any damages resulting from the actions of such parties. CONSULTANT does not assert control or assume responsibility for a Contractor not retained directly by CONSULTANT or over a CLIENT's employees, work site, work methods or property.
12. **OWNERSHIP AND CONFIDENTIALITY.** Unless otherwise agreed to by the parties in writing, all documents (including reports, drawings and specifications, and electronic or digital copies) required to be prepared by or on behalf of CONSULTANT in connection with the Services will become the property of the CLIENT upon full and final payment of the Compensation. The copyright and all intellectual property in the documents and designs shall be retained by CONSULTANT. CONSULTANT hereby grants to CLIENT a non-exclusive right and royalty-free license to use, disclose and reproduce the documents solely for the purpose of the project. CLIENT will not distribute or convey CONSULTANT's reports or recommendations to any person or organization other than those identified in the project description without CONSULTANT's written authorization. CLIENT releases CONSULTANT from liability and agrees to defend, indemnify, protect and hold harmless CONSULTANT from any and all claims, liability, damages or expenses arising, in whole or in part, from unauthorized use. Information provided by either party with respect to the project's design, supplies, management, costs, description or other pertinent information are confidential. The parties agree not to disclose such information to third parties unless necessary to the project's execution or already a matter of public knowledge.
13. **FIELD REPRESENTATION.** The presence of CONSULTANT's or its subcontractors' field personnel, may be required for the purpose of providing project administration, assessment, observation and/or field testing. Should a contractor(s) not retained by CONSULTANT be involved in the project, CLIENT will advise such contractor(s) that CONSULTANT's services do not include supervision or direction of the means, methods or actual work of the contractor(s), its employees or agents. CLIENT will also inform contractor that the presence of CONSULTANT's field representative for project administration, assessment, observation or testing, will not relieve the Contractor of its responsibilities for performing the work in accordance with applicable regulations, or in accordance with project plans and specifications. If a contractor is involved on the project, CLIENT agrees CONSULTANT shall not be responsible for working conditions on the job site including the safety and security of persons or property.
14. **ENVIRONMENTAL CONDITIONS.** CLIENT shall have responsibility and liability for the environmental conditions on the site. Without limiting the generality of the foregoing, CONSULTANT shall have no liability to the CLIENT or any third party for Mould Related Claims, contaminants, or any other hazardous, dangerous or toxic substance. For the purposes of this section, Mould Related Claims means any claim arising out of or resulting from the actual, alleged or threatened existence, effects, ingestion, inhalation, abatement, testing, monitoring, remediation, enclosure, decontamination, repair, removal or the actual or alleged failure to detect Mould, Mildew or other Fungus in any form. Mould, Mildew, or other Fungus means any plant-like group that does not produce chlorophyll and derives food either by decomposing organic matter from dead plants and animals or by parasitic attachment to living organisms or any substance specifically or commonly referred to as mould, mildew, or fungus, and includes any and all mycotoxins, spores, scents, or other byproducts that are produced by the aforementioned groups or substances. CLIENT shall be responsible for and promptly pay for the removal and lawful disposal of Mould, Mildew, or other Fungus, contaminants, hazardous materials, asbestos, samples and cuttings unless otherwise agreed in writing. The discovery of such conditions on the site shall result in the issuance of a Change Order to the extent that the services of CONSULTANT are required.



Initials: 

15. **TERMINATION.** This Agreement may be terminated by either party upon ten (10) days written notice to the other. In the event of termination, CLIENT shall pay for all charges for work performed and demobilization by CONSULTANT. The limitation of liability and indemnity obligations of this Agreement shall be binding notwithstanding any termination of this Agreement.
16. **SOLICITATION.** Neither Party will, directly or indirectly, for a period of two years from the expiration date of this Agreement, solicit for employment or any other engagement the services of any person who is now employed by the other Party or any affiliate, except in the course of general recruitment efforts.
17. **ASSIGNMENT.** Neither CLIENT nor CONSULTANT shall assign its interest in this Agreement without the written consent of the other.
18. **GOVERNING LAW.** This Agreement is governed by the laws of the Province of Ontario.

## B Structural General Conditions

1. **ADDITIONAL SITE VISITS.** Additional site visits over and above the maximum allowed for above will be charged at \$700 per visit, plus mileage.
1. **REIMBURSABLE EXPENSES.** All reimbursable expenses, i.e. printing, plotting, courier, long distance telephone costs, etc. will be charged at cost. Mileage will be charged at a rate of \$0.60 per kilometre.
2. **DRAWING COORDINATION.** Our fees do not include for drawing coordination with other consultants. We will coordinate the structural drawings and work with the other consultants. It is our understanding that the prime consultant will be performing drawing coordination services between disciplines. As such, we expect to receive a redlined set of structural drawings from the prime consultant indicating where structural drawings need to be adjusted to coordinate with other consultants' drawings, minimum (3) three working days before issuing for building permit and/or tender.
3. **BUILDING DEPARTMENT.** Our fee does not include requests by the building department for information over and above that which is provided on or should have been provided on the drawings. Additional work caused by requests from the building department will be charged at our usual hourly rates.
4. **REVISION WORK.** All approved revision work will be charged at the following per diem rates:

Role	Hourly rate
Principal/Senior Technical Specialist/Advisor	\$190.00
Sr. Associate, Sr. Project Manager/Engineer	\$165.00
Associate, Project Manager/Engineer	\$150.00
Sr. Structural Designer (CAD/BIM)	\$140.00
Engineering Designer (EIT)	\$130.00
Structural Designer (CAD/BIM)	\$130.00
Structural CAD/BIM Operator	\$115.00
Administration	\$70.00

5. **JOB SITE SAFETY.** Exp Services Inc., including its employees and representatives, are not responsible for job site safety. Responsibility for job site safety shall be the sole responsibility of the general contractor and subcontractors.
6. **BUILDING DIMENSIONS.** In accordance with the Professional Engineers of Ontario recommendations, building dimensions are not provided on the structural drawings. Required dimensions for structural elements will be provided on the structural drawings. All other dimensions shall be provided by the architect.
7. **SATISFACTION WITH SERVICES.** Payment of any invoice by the CLIENT to the CONSULTANT shall be taken to mean that the CLIENT is satisfied with the CONSULTANT's services to the date of payment and is not aware of any deficiencies in those services.
8. **PERSONAL LIABILITY.** The CLIENT expressly agrees that exp Services Inc. employees and principals shall have no personal liability to the CLIENT in respect of a claim, whether in contract, tort and/or any other causes of action in law. Accordingly, the CLIENT expressly agrees that it will bring no proceedings and take no action in any court of law against any of exp Services Inc. employees or principals in their personal capacity.



Initials: 

9. **SOIL CONSULTANT.** This fee proposal is based on the CLIENT retaining a qualified soil consultant to provide soil consulting services for this project. By accepting this proposal, the CLIENT acknowledges and understands that exp Services Inc. and its representatives rely fully on the soil design parameters provided by the soil consultant for the design of the building foundations and grade supported floor slab. Exp Services Inc. assumes no responsibility for inadequate performance of the soil supporting the building foundations and grade supported floor slab.
10. **CONSENT.** This contract contains a limited liability clause and the CLIENT has read and consents to all terms.

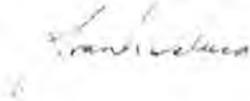
## Closing

We trust that this proposal is to your satisfaction. We look forward to the opportunity to continue working with you on this project. If you have any questions and/or wish to discuss our fee proposal further, please contact the undersigned.

Thank you for your consideration.

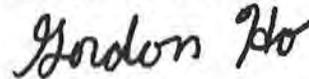
Sincerely,

**EXP SERVICES INC.**



Frank Deluca P.Eng.,  
Senior Associate

**EXP SERVICES INC.**



Gordon Ho P.Eng., M.A.S.C.  
Manager, Structural Division, Central Canada



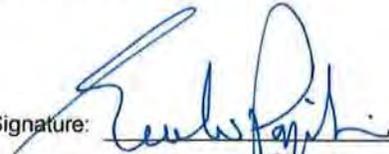
Initials: FD

Please **initial** the bottom right hand corner of each page where indicated, **sign** and **return one copy** of this Work Authorization Agreement below as confirmation of your requirement and as your authorization for **exp** Services Inc. to proceed.

### Work Authorization Agreement

I have read and understood the services to be provided in this proposal, and accept the structural general conditions and terms and conditions of this contract.

Sincerely,

Signature:   
Name: EMILIO POMPLUN  
Telephone: 416-238-7818 x 202 Email: \_\_\_\_\_  
Company: MAXIM MANAGEMENT SERVICES INC.  
Address: 600 APPLEWOOD CRESCENT, SUITE 502  
City, Province: VAUGHAN, ONTARIO  
Postal Code, Country: L4K 0E3, CANADA  
Signed this 10<sup>th</sup> Day of November Month, 2017 Year

All invoices are Payable upon receipt. Interest will be charged at 1.5% per month (18% per annum) on any balance after 30 days. The CLIENT acknowledges and agrees that **exp** Services Inc. may, at its sole discretion, hold back issuance of final reports and Certification of Completion Letters (including Schedule C's) until payment of all past due amounts has been received by **exp** Services Inc.



## Appendix "A"

### **This Purchase Order is Subject to the Following Terms and Conditions**

1. If the work or a portion of the Prime Contract to be performed hereunder by this Design Consultant shall be cancelled by the Owner in whole or in part, Maxion by a written notice to the Design Consultant, may cancel such work accordingly and Maxion shall be liable to pay for that portion of the work actually performed by the Design Consultant in accordance with the requirements of this Agreement and to the satisfaction of Maxion up to such cancellation. In no event, shall the Design Consultant be entitled to any loss of anticipated profits and any damages whatsoever.
2. The Design Consultant shall submit proper monthly progress draw requests as the Work progresses. Payment by Maxion to the Design Consultant in respect of any particular progress draw, net of the holdback, and adjusted for additions, deductions and set-offs, shall become due and payable 7 days after Maxion receives payment from the Owner pursuant to the Prime Contract for the portion of the Work in respect of which the progress draw is made; provided that, prior to payment being made by Maxion, All Conditions of Payment shall have been satisfied. Monthly progress draw requests shall be submitted in format provided by Maxion.
3. The Design Consultant acknowledges the right of Maxion throughout performance of basic services, to order changes in the Design Consultant work. The Design Consultant shall not carry out any work, which is extra to this agreement, without the prior written approval of Maxion. In the cases of all changes, the Design Consultant shall provide timely quotations complete with a breakdown of all hours in sufficient detail to allow review by Maxion. Invoice 'Approved by Maxion' with the monthly progress draws using the format provided by Maxion.
4. Disbursement expenses are to be billed monthly with a detailed list of expenses provided. These include printing, municipal information, plotting, graphic reproduction, photocopying, courier and travel. Expenses are to be billed at cost + 10% administration fee.
5. The Design Consultant shall maintain Professional Liability Insurance with a Claim Limit of \$2,000,000.00. Provide certificate of insurance confirming coverage.
6. The General Conditions, Responsibilities of the Client, Engineering Services provided under this agreement, fees and disbursements of the PEO Recommended form of agreement between client and engineer for Professional Engineering services shall form part of this agreement.
7. For Consultants attending site for inspections, a general liability certificate in accordance with our project specific insurance requirements and a copy of a current WSIB clearance certificate will be required prior to release of any payment. Consultants shall comply with the requirements of the Maxion Safety Policy.

**End of Appendix "A"**



This is **Exhibit "E"**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.

A handwritten signature in blue ink, appearing to read "N. Ruhloff-Queiruga", written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.



UPPER CANADA  
CONSULTANTS  
ENGINEERS/PLANNERS

Upper Canada  
Planning &  
Engineering Ltd.

261 Martindale Road  
Unit 1  
St. Catharines, ON  
L2W 1A1

Phone 905-688-9400  
Fax 905-688-5274

July 25, 2017  
File: 1001

Maxion Construction Management Inc.  
610 Applewood Crescent Suite 502  
Vaughan , Ontario  
L4K 0E3

Attn: Mr. Walter S. Bedenikovich, B.S.c, G.S.C - V.P. Construction Operations

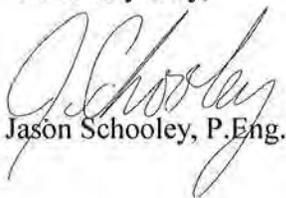
**Re: Construction Inspection**  
**The Uptown, 229 Lexington Road, Waterloo**

---

As the City of Waterloo requires construction inspection of the site servicing and grading by the developments consultant, we grant the authority of EXP Services Inc. (EXP) to complete the construction inspections on our behalf. We are unavailable to conduct these daily inspections as required by the City. The role of EXP is to observe the construction of servicing and note any changes to the servicing as required due to unforeseen issues. The final as-constructed plans will be prepared by our offices at the completion of the project, and we will be providing final certification of the servicing and grading.

Should you have any questions or concerns regarding the information provided, please do not hesitate to contact our office.

Yours very truly,



Jason Schooley, P.Eng.



## Michelle Alexander

---

**From:** Walter Bedenikovich <walterb@maxion.ca>  
**Sent:** July-26-17 2:25 PM  
**To:** Geordy Fournier; Andrew John Holford  
**Cc:** Wade Stever; Justin Michelin; Jason Schooley  
**Subject:** FW: 215 Lexington -The Uptown Development Engineering  
**Attachments:** Inspection to EXP.pdf  
  
**Importance:** High

Geordy / Andrew

Please find below correspondence from the City of Waterloo , with regards to the Site Services inspections we are asking EXP to preform on behalf of Upper Canada, I will need this information they are requesting from you. ( I have attached a Letter UCC has submitted addressing EXP will be inspecting the site services on behalf of UCC ).

In addition is exp capable of confirming Invert pipe elevations during your inspection visits.

Please let me know and submit your documents at your earliest.

Thanks



### **WALTER S. BEDENIKOVICH B.S.C, G.S.C**

**V.P CONSTRUCTION OPERATIONS**

Maxion Construction Management Inc.  
610 Applewood Crescent Suite 502  
Vaughan , Ontario  
L4K 0E3

Phone : (416) 238 7818 X-206

Fax: (877) 706 2645

Cell: (905) 399 0964

**From:** Ronda Werner <[Ronda.Werner@waterloo.ca](mailto:Ronda.Werner@waterloo.ca)>  
**Date:** Wednesday, July 26, 2017 at 2:14 PM  
**To:** Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>, Jason Schooley <[JSchooley@ucc.com](mailto:JSchooley@ucc.com)>  
**Cc:** Justin Michelin <[Justin@maxion.ca](mailto:Justin@maxion.ca)>, Luke Martin <[Luke.Martin@waterloo.ca](mailto:Luke.Martin@waterloo.ca)>  
**Subject:** RE: 215 Lexington -The Uptown Development Engineering

Hi Walter,

I have received a copy of the letter from Jason Schooley, dated July 25, 2017 indicating EXP Services will be completing the construction inspections on behalf of Upper Canada Consultants. The City is in acceptance on the condition we receive the following information:

- Contact information from EXP for the inspector, and confirmation on his/her experience in servicing and grading inspection.

- Full time inspection by EXP is provided during service connections.
- Inspection reports, including photographic records, are submitted on a regular basis. Specifically during service connections in the right of way.

Regards,



Ronda Werner, CET  
 Engineering Services  
 Integrated Planning & Public Works  
 City of Waterloo  
 100 REGINA ST. S. | PO BOX 337 STN WATERLOO  
 Waterloo, ON, N2J 4A8  
 P: 519.747.8720 | F: 519.747.8523 | TTY: 1.886.786.3941  
 E: [ronda.werner@waterloo.ca](mailto:ronda.werner@waterloo.ca)  
[www.waterloo.ca](http://www.waterloo.ca)

**From:** Walter Bedenikovich [<mailto:walterb@maxion.ca>]  
**Sent:** Tuesday, July 25, 2017 3:49 PM  
**To:** [jschooley@ucc.com](mailto:jschooley@ucc.com)  
**Cc:** Justin Michelin; Ronda Werner  
**Subject:** Re: 215 Lexington -The Uptown Development Engineering

Jason .... Please advise if we need to respond in greater detail in addition to the letter you sent to me earlier.



**WALTER S. BEDENIKOVICH B.S.C, G.S.C**  
**V.P CONSTRUCTION OPERATIONS**  
 Maxion Construction Management Inc.  
 610 Applewood Crescent Suite 502  
 Vaughan, Ontario  
 L4K 0E3

Phone : (416) 238 7818 X-206  
 Fax: (877) 706 2645  
 Cell: (905) 399 0964

**From:** Ronda Werner <[Ronda.Werner@waterloo.ca](mailto:Ronda.Werner@waterloo.ca)>  
**Date:** Tuesday, July 25, 2017 at 3:44 PM  
**To:** Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>, Jason Schooley <[JSchooley@ucc.com](mailto:JSchooley@ucc.com)>  
**Cc:** Luke Martin <[Luke.Martin@waterloo.ca](mailto:Luke.Martin@waterloo.ca)>, Justin Michelin <[Justin@maxion.ca](mailto:Justin@maxion.ca)>, Bruno Antidormi <[brunoa@maxion.ca](mailto:brunoa@maxion.ca)>, "g.davis@maxionconstruction.ca" <[g.davis@maxionconstruction.ca](mailto:g.davis@maxionconstruction.ca)>  
**Subject:** RE: 215 Lexington -The Uptown Development Engineering

Hi Walter,

Further to my email below, there appears to be some confusion on who will be inspecting and certifying the sediment and erosion controls, site services and grading, and stormwater management for the development. Please be aware,

Upper Canada Consultants must be on-site for inspection to ensure compliance with the terms of the Site Plan Agreement specifically section 19 and 23.

Jason: can you please provide us with your inspector's contact information?  
Regards,

◆ ◆ ◆ ◆ ◆

Ronda Werner, CET  
Engineering Services  
Integrated Planning & Public Works  
City of Waterloo  
100 REGINA ST. S. | PO BOX 337 STN WATERLOO  
Waterloo, ON, N2J 4A8  
P: 519.747.8720 | F: 519.747.8523 | TTY: 1.886.786.3941  
E: [ronda.werner@waterloo.ca](mailto:ronda.werner@waterloo.ca)  
[www.waterloo.ca](http://www.waterloo.ca)

**From:** Ronda Werner  
**Sent:** Wednesday, July 19, 2017 3:12 PM  
**To:** Walter Bedenikovich ([walterb@maxion.ca](mailto:walterb@maxion.ca))  
**Cc:** Luke Martin  
**Subject:** RE: 215 Lexington -The Uptown Development Engineering

Hi Walter,

Our Inspector, Luke Martin, was on site today and noticed portions of the silt fencing require repair and other areas where sediment had accumulated to a point where the sediment should be removed and filter fabric replaced. Could you please provide me with a contact from Upper Canada Consultants who may meet with Luke on site to go over the areas of concern and who can then certify the erosion and sediment controls on site comply with the accepted plan, April 24, 2014.

Further, could you please ensure an inspector from Upper Canada Consultants is on site periodically during construction in order to provide the City with as-recorded drawings?

Thanks in advance,

◆ ◆ ◆ ◆ ◆

Ronda Werner, CET  
Engineering Services  
Integrated Planning & Public Works  
City of Waterloo  
100 REGINA ST. S. | PO BOX 337 STN WATERLOO  
Waterloo, ON, N2J 4A8  
P: 519.747.8720 | F: 519.747.8523 | TTY: 1.886.786.3941  
E: [ronda.werner@waterloo.ca](mailto:ronda.werner@waterloo.ca)  
[www.waterloo.ca](http://www.waterloo.ca)

**From:** Ronda Werner  
**Sent:** Wednesday, July 19, 2017 9:39 AM  
**To:** 'Walter Bedenikovich'  
**Subject:** RE: 215 Lexington -The Uptown Development Engineering

Hi Walter,  
Yes, I have the drawing. I require clarification on the revisions, please.  
Thanks,

  
Ronda Werner, CET  
Engineering Services  
Integrated Planning & Public Works  
City of Waterloo  
100 REGINA ST. S. | PO BOX 337 STN WATERLOO  
Waterloo, ON, N2J 4A8  
P: 519.747.8720 | F: 519.747.8523 | TTY: 1.886.786.3941  
E: [ronda.werner@waterloo.ca](mailto:ronda.werner@waterloo.ca)  
[www.waterloo.ca](http://www.waterloo.ca)

**From:** Walter Bedenikovich [<mailto:walterb@maxion.ca>]  
**Sent:** Wednesday, July 19, 2017 9:34 AM  
**To:** Ronda Werner  
**Cc:** Bruno Antidormi; Luke Martin  
**Subject:** Re: 215 Lexington -The Uptown Development Engineering

Morning Ronda

Lee forwarded a copy of the current drawings to your team yesterday afternoon.

I will send you a copy officially from our office as well.

Thanks

Walter

Sent from my iPhone

On Jul 19, 2017, at 9:28 AM, Ronda Werner <[Ronda.Werner@waterloo.ca](mailto:Ronda.Werner@waterloo.ca)> wrote:

Hi Walter,  
How are you? I hope you're enjoying your summer.

Lee Kieswetter has contacted our inspector for servicing but it appears they have an updated drawing from what was accepted by the City of Waterloo. Could you please forward me a copy of the current revision with clarification on all modifications to the design between revision 7 - February 19, 2014, and revision 11 - April 15, 2015.

Thanks in advance,



Ronda Werner, CET  
Engineering Services  
Integrated Planning & Public Works  
City of Waterloo  
100 REGINA ST. S. | PO BOX 337 STN WATERLOO  
Waterloo, ON, N2J 4A8  
P: 519.747.8720 | F: 519.747.8523 | TTY: 1.886.786.3941  
E: [ronda.werner@waterloo.ca](mailto:ronda.werner@waterloo.ca)  
[www.waterloo.ca](http://www.waterloo.ca)

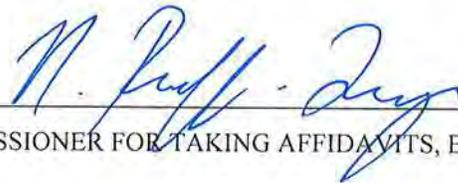
**IMPORTANT NOTICE:** This communication (including attachments) is intended solely for the named addressee(s) and may contain information that is privileged, confidential and exempt from disclosure. No waiver of confidence, privilege, protection or otherwise is made. If you are not the intended recipient of this communication, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited.

**IMPORTANT NOTICE:** This communication (including attachments) is intended solely for the named addressee(s) and may contain information that is privileged, confidential and exempt from disclosure. No waiver of confidence, privilege, protection or otherwise is made. If you are not the intended recipient of this communication, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited.

**IMPORTANT NOTICE:** This communication (including attachments) is intended solely for the named addressee(s) and may contain information that is privileged, confidential and exempt from disclosure. No waiver of confidence, privilege, protection or otherwise is made. If you are not the intended recipient of this communication, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited.

This is **Exhibit "F"**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.



---

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.

## Michelle Alexander

---

**From:** Walter Bedenikovich <walterb@maxion.ca>  
**Sent:** July-26-17 1:55 PM  
**To:** Geordy Fournier  
**Cc:** Bruno Antidormi; Andrew John Holford  
**Subject:** FW: Uptown Shoring Design Review proposal  
**Attachments:** Shoring Design Review proposal Uptown.pdf  
**Importance:** High

Geordy

I was only looking for a quote to monitor the Shoring installation and not a review of the design.

I would like to see a budget for the following scope of work.

- **Shoring Testing Services** ; Witness and reporting of all soil anchor performance testing 200% Performance test , 133% anchor Proof Test.

-**Pile Monitoring Services:** Provide and install reflective targets on shoring piles at top of the shoring and adjacent structures for horizontal and vertical displacements.

- collect data on a weekly basis for the duration of the excavation. Assume 20 weeks for 2 levels underground.

I hope this helps

Thanks



### **WALTER S. BEDENIKOVICH B.S.C,G.S.C**

**V.P CONSTRUCTION OPERATIONS**

Maxion Construction Management Inc.

610 Applewood Crescent Suite 502

Vaughan , Ontario

L4K 0E3

Phone : (416) 238 7818 X-206

Fax: (877) 706 2645

Cell: (905) 399 0964

**From:** Geordy Fournier <[geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)>

**Date:** Wednesday, July 26, 2017 at 1:20 PM

**To:** Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>

**Subject:** Uptown Shoring Design Review proposal

Hi Walter,

Here the budget estimate and Work Authorization for the shoring design review. Some of it has been done, but need this sign back to finish the review.

Regards,



**Geordy Fournier, P. Eng. | exp**

Geotechnical Engineer

exp Services Inc.

t: +1.519.650.4918 x230 | m: +1.519.748.7313 | e: [geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)

405 Maple Grove Road, Unit 6

Cambridge, ON N3E 1B6

CANADA

*exp.com | legal disclaimer*

*keep it green. read from the screen*

This is **Exhibit "G"**

referred to in the Affidavit of Gordon Ho

sworn before me this 23rd day of December, 2019.



---

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.



**exp** Services Inc.  
15701 Robin's Hill Road, Unit 2  
London, ON N5V 0A5  
Telephone: (519) 963-3000  
Facsimile: (519) 453-1551

November 8, 2017

KCH-00241573

Maxion Management Services Inc.  
610 Applewood Crescent, Suite 502  
Vaughan, Ontario  
L4K 0E3

Attention: Mr. Bruno Antidormi, Executive VP

**Re: Exploratory Test Pitting and Additional Delineation of Stockpiled Soil**  
**215 Lexington Avenue**  
**Waterloo, Ontario**

Dear Mr. Antidormi:

Pursuant to our meeting yesterday at the Site, EXP Services Inc. (EXP) is providing the following work plan to address the contaminants of concern (COCs) previously identified in the fill materials at your development property located at 215 Lexington Avenue in Waterloo, Ontario. The work plan is designed to allow Maxion Group (Maxion) to consider various management options for the fill materials up to and including disposal at a Ministry of Environment & Climate Change (MOECC) certified landfill facility.

#### **BACKGROUND**

On October 25, 2017, EXP visited that Site and collected a total of 75 samples from three (3) stockpiles at the Site (see Appendix A of this letter for Stockpile sampling locations sketches). A total of fifteen (15) of those samples were submitted to Maxxam Analytics for analysis one or more of the following: metals & inorganics, polyaromatic hydrocarbons (PAHs); volatile organic compounds (VOCs) and petroleum hydrocarbons (PHCs), Fractions F1-F4.

The laboratory data was compared to the various Ministry of Environment & Climate Change Site Condition Standards (SCSs) consistent with the potential off-Site management options considered possible for the fill materials being generated at this Site. The assessment SCSs applicable to a given site in Ontario are established under subsection 168.4(1) of the Environmental Protection Act. Tabulated generic criteria are provided in "Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act" ("the SGWS Standards"), Ministry of the Environment & Climate Change (MOECC), effective July 1, 2011. These criteria are based on site sensitivity (sensitive or non-sensitive), ground water use (potable or non-potable), property use (residential, parkland, institutional, commercial, industrial, community and agricultural/other), soil type (coarse or medium/fine textured) and restoration depth (full or stratified restoration). In addition, site specific criteria may be established on the basis of the findings of a

Risk Assessment carried out in accordance with Part IX and Schedule C of Ontario Regulation 153/04 (O.Reg.) 153/04), as amended.

For the purposes of this assessment, EXP compared the results of the testing to the following SCSs (all for coarse grained soils as this is considered to be the predominant soil texture of the on-Site fill materials):

- Table 1 – Background (Residential / Parkland / Institutional / Industrial / Commercial / Community Property Use scenarios);
- Table 2 – Applicable to sites with potable groundwater and full depth restoration (Agricultural or Other; Residential / Parkland / Institutional; and, Industrial / Commercial / Community Property Use scenarios; and,
- Table 3 – Applicable to sites with non-potable groundwater and full depth restoration (Residential / Parkland / Institutional & Industrial / Commercial / Community Property Use scenarios).

Based on the sampling results noted below, as a result of the petroleum hydrocarbon testing results, none of the stockpiles can be considered to pass the Table 1 (Agricultural / Other or the Residential / Parkland / Institutional / Industrial / Commercial / Community Property Use scenarios. The other comparison results were as follows noted below:

#### **Stockpile 1**

An area near our Test Pit (TP) "D" was found to have a concentration of lead above the 2011 MOECC Table 3 SCS for Industrial / Commercial / Community Property Use. Lead was also found to be above the Table 2 SCSs for Agricultural or Other Property Use in TPs C and F. All other metals and inorganic parameters in this stockpile were below the 2011 MOECC Table 2 SCSs for Residential / Parkland / Institutional Property Use scenarios) and, hence all other 2011 MOECC Table 2 or Table 3 SCSs. All PHC fraction concentrations in this stockpile were measured at levels below the Table 2 SCSs for Agricultural or Other Property Use. All PAH concentrations in this stockpile were measured at levels below the Table 1 SCSs for Agricultural or Other Property Use. Hence, if the Table 3 exceedance of lead in the area of TP D can be isolated and removed, this stockpile can be considered to meet the Table 2 SCSs for Residential / Parkland / Institutional Property Use.

#### **Stockpile 2**

An area near our TP "N" was found to have a concentration of cyanide above the 2011 MOECC Table 3 SCS for Industrial / Commercial / Community Property Use. All other metals and inorganics parameters in this stockpile were measured at concentrations below the Table 1 SCS for Agricultural or Other Property Use. All PHC fraction concentrations in this stockpile were measured at levels below the Table 2 SCSs for Agricultural or Other Property Use. PAH parameters in TPs G and K from this stockpile (northern 1/3<sup>rd</sup>) were measured at concentrations above the Table 3 SCSs for Industrial / Commercial / Community Property Use. All PAH concentrations in the samples collected from the southern 2/3<sup>rd</sup> of this stockpile were measured at levels below the Table 2 SCSs for Residential / Parkland / Institutional Property Use. Hence, if the Table 3 exceedance of cyanide lead in the area of TP N can be isolated and removed, this stockpile can be considered to meet the Table 2 SCSs for Residential / Parkland / Institutional Property Use on the southern 2/3<sup>rd</sup>, but failing the Table 3 SCSs for Industrial / Commercial / Community Property Use on the

northern 1/3<sup>rd</sup> which would necessitate this material likely needing disposal at an MOECC certified disposal facility.

### Stockpile 3

An area near our TP "O" was found to have concentrations of PHCs (Fractions F3 and F4 Gravimetric) lead above the 2011 MOECC Table 2 and Table 3 SCS for Residential / Parkland / Institutional Property Use scenarios. It was noted that the PHC concentrations in this sample would pass the Table 2 and Table 3 SCSs for Industrial / Commercial / Community Property Use. All metals and inorganics parameters were below the Table 1 SCSs for Agricultural or Other Property Use scenarios. An exceedance of benzo(a)pyrene (PAH) of the Table 3 SCSs for Industrial / Commercial / Community Property Use was encountered in this sample. Hence, this stockpile is considered to not pass the Table 3 SCS for Industrial / Commercial / Community Property Use which would necessitate this material likely needing disposal at an MOECC certified disposal facility.

### WORK PLAN

Based on the above-noted sampling results, it was decided by Maxis that the remaining fill materials to be excavated be pre-screened for metals & inorganics, BTEX, PHCs and PAHs. The testing will consist of advancing test pits through the fill material into the underlying native soil on a grid of approximately five (5) metre centres. The general areas of the locations are shown on our attached sketch in Appendix A. The results will be compared to the Table 1, Table 2 and Table MOECC SCSs noted above in order to classify the fill materials for off-Site placement up to and including disposal at a MOECC certified landfill facility.

In order to more fully characterize and delineate the Table 3 SCS exceedances in Stockpiles 1 and 2, additional test locations will be advanced at the general locations shown on the sketches provided in Appendix B. Soil samples collected from the stockpiles will be tested for lead, cyanide and PAHs as shown.

Since the initial stockpile sampling, another stockpile referred to as "Stockpile 4" has been generated. As part of these ongoing testing efforts, sampling of this stockpile will be carried out as well. It is estimated that approximately 10 samples will be collected from the stockpile and will be submitted for analysis of BTEX, PHCs (F1-F4), PAHs and Metals & Inorganics.

### COSTING

The work will be carried out on a time and material basis as noted below:

- Field Technician - \$85/hr
- Senior Field Technician - \$110/hr
- Senior Project Scientist - \$140/hr
- Project Manager - \$185/hr

#### Laboratory Costs

- Metals & Inorganics - \$90
- Volatile Organic Compounds - \$75
- Benzene, Toluene, Ethylbenzene & Xylenes (BTEX) and Petroleum Hydrocarbons (Fractions F1-F4) - \$90
- Polyaromatic Hydrocarbons (PAHs) - \$85
- Gravimetric Analysis for F4 Petroleum Hydrocarbons - \$30

Disbursements

- Various supplies including zip lock bags, flagging, paint etc. charged on an as per basis.
- Photoionization Detector for sample screening - \$150 per day
- Mileage - \$0.50 per kilometre

REPORTING

Once received, the data will be compared to the Table 1, Table 2 and Table 3 SCSs for the various land use scenarios. This will allow Maxion to determine their management options for the excess fill material up to and including disposal at a MOECC certified landfill facility if the material fails to meet the least stringent Table 3 SCSs for Industrial / Commercial / Community Property Use or if a suitable receiver cannot be found for the material. The findings will be graphically depicted on the Site drawing provided by Maxion which will assist in the future segregation / delineation efforts.

CLOSURE

We trust that this information satisfies your current requirements. Should you have any comments or concerns, please contact the undersigned.

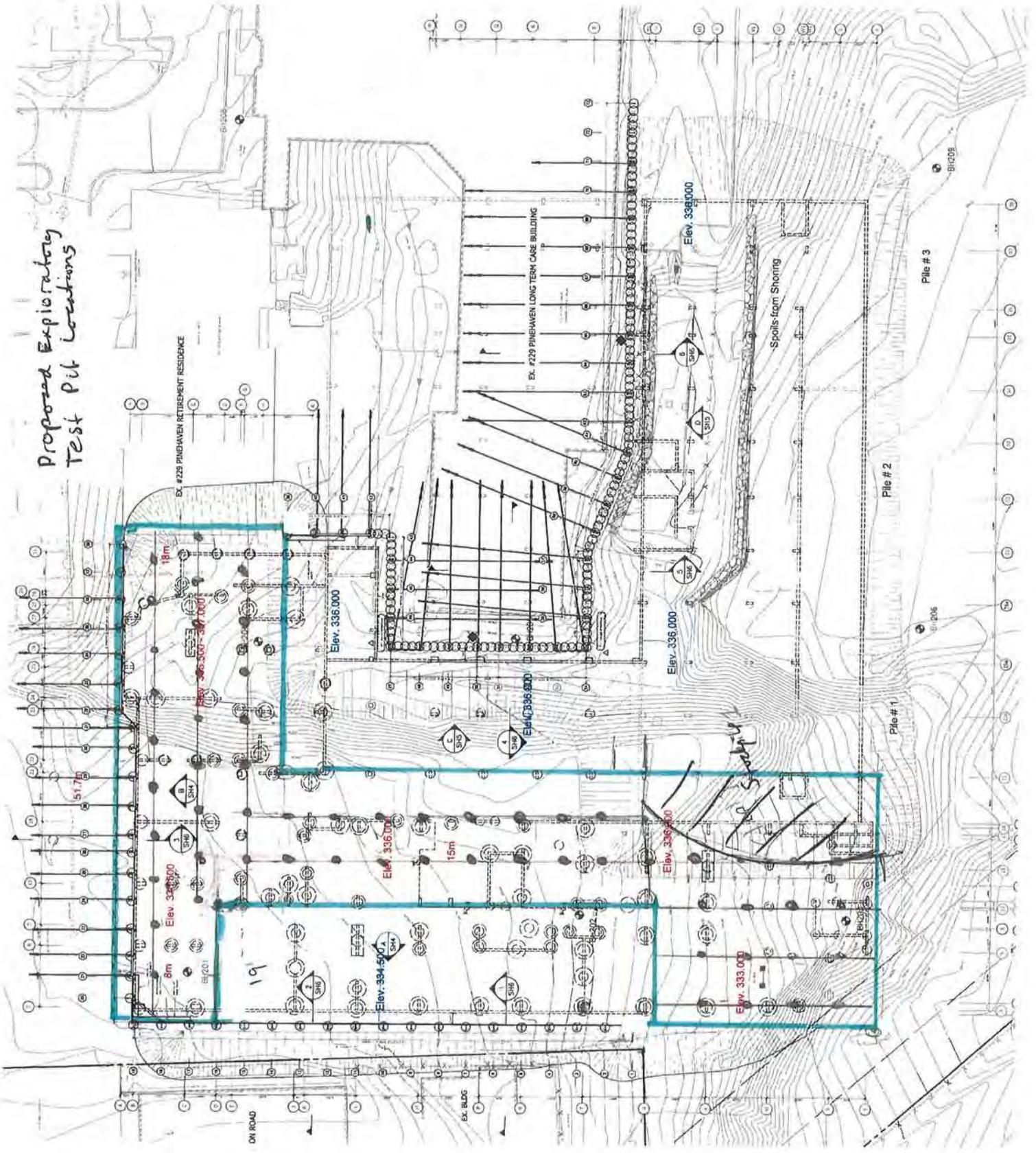
Yours truly,  
exp Services Inc.



Bob Dufton, H.B.Sc., P.Geo., QPESA  
Senior Environmental Scientist

**Appendix A**  
**Site Drawing with Approximate Locations of Investigative Test Pits**

Proposed Exploratory  
Test Pit Locations

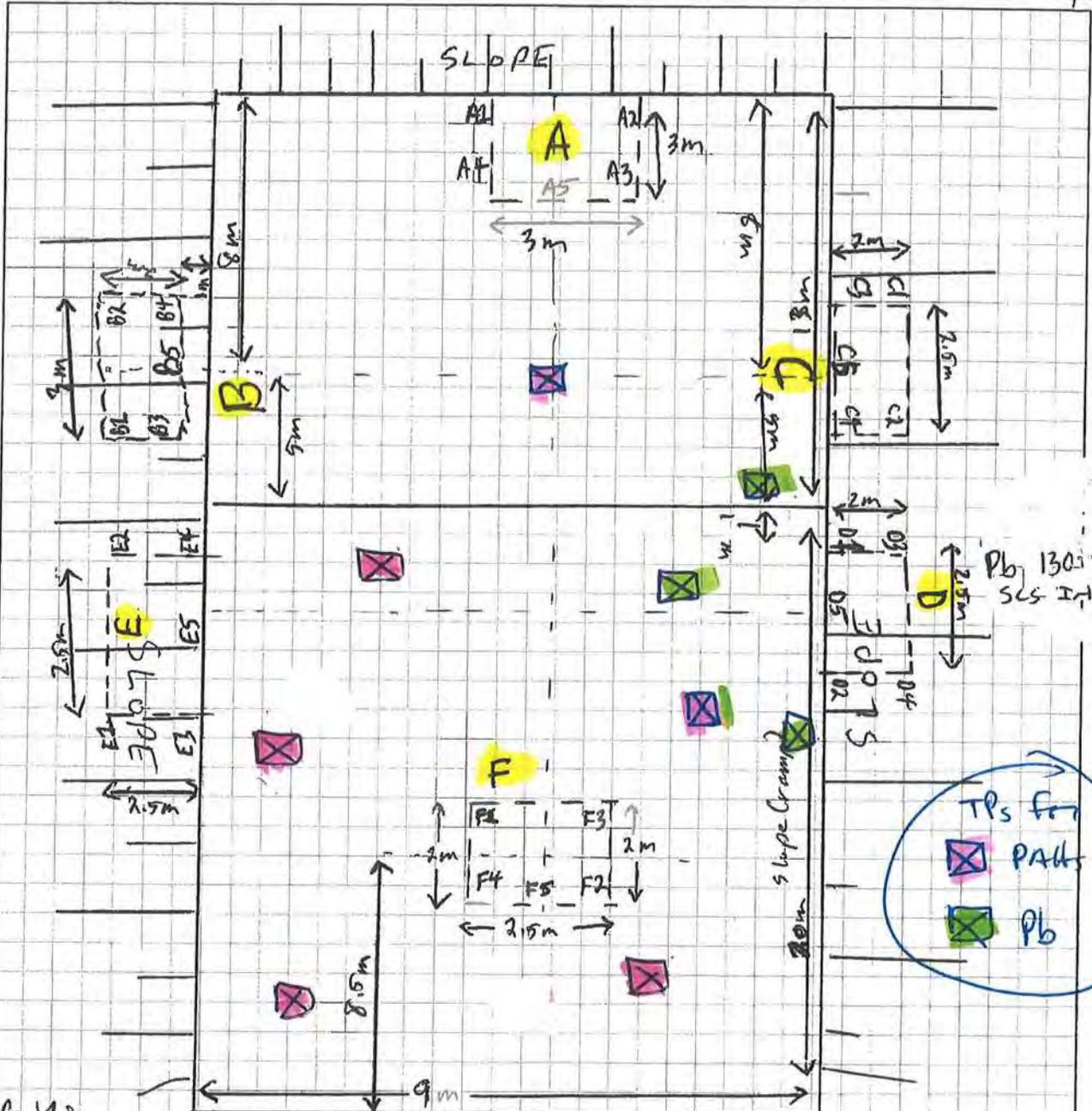


**Appendix B**  
**Site Sketch – Existing Sampled Stockpiles 1 and 2**



# Stockpile 1

Project: Uptown	Project N° Kelt - 00241973-135
Description: Environmental Sample Locations - Pile #1	Prepared By: C. Friedman
	Date: Oct. 25/17
	Other: Page 114



Sample depths

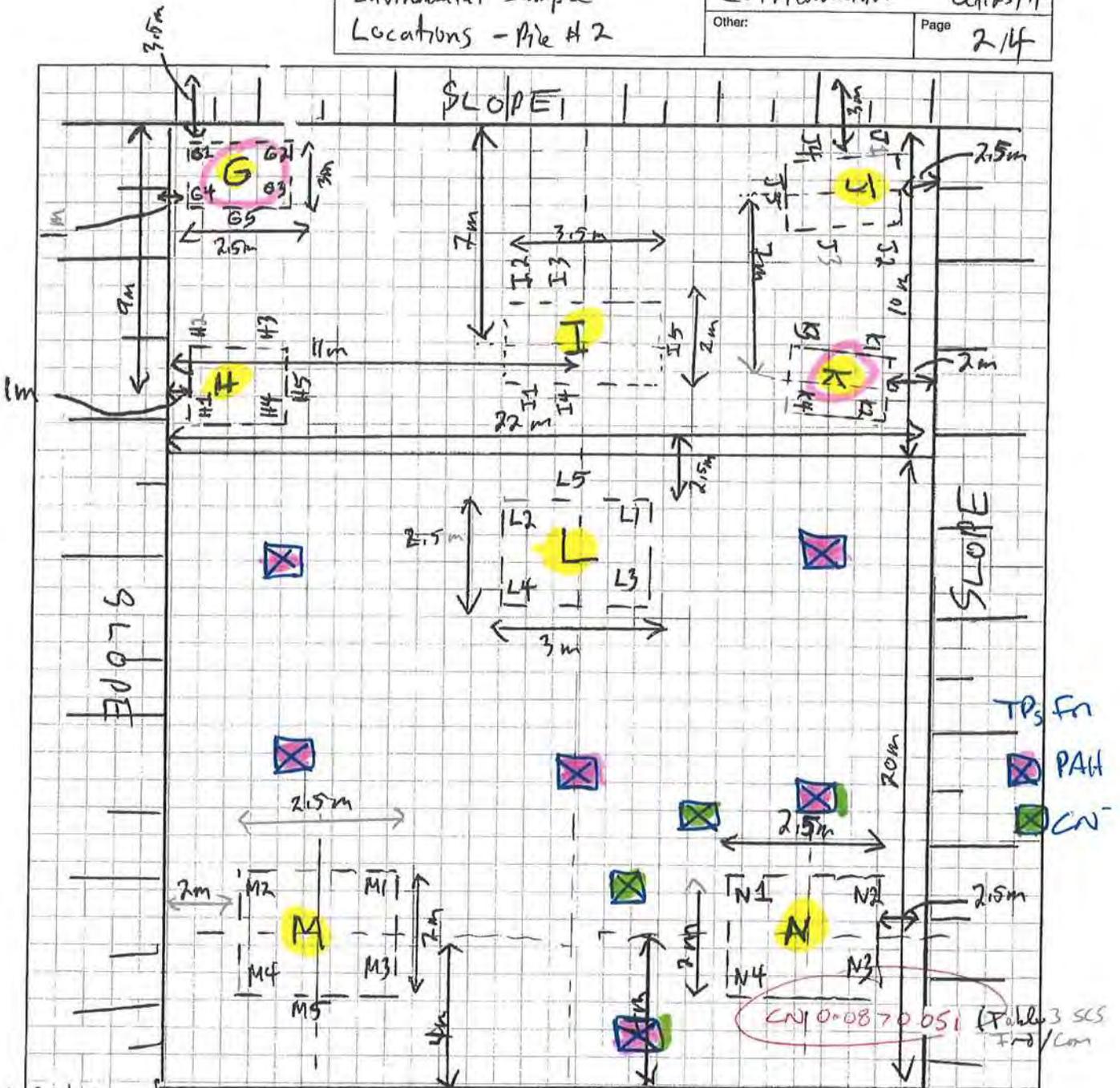
A1 → 1.5m	B1 → 2.1m	C1 → 3.0m	D1 → 4.0m	E1 → 3.0m	F1 → 1.5m
A2 → 1.5m	B2 → 2.1m	C2 → 3.0m	D2 → 4.0m	E2 → 3.0m	F2 → 1.5m
A3 → 0.75m	B3 → 1.2m	C3 → 1.5m	D3 → 2.0m	E3 → 1.0m	F3 → 1.0m
A4 → 0.75m	B4 → 1.2m	C4 → 1.5m	D4 → 2.0m	E4 → 1.5m	F4 → 2.0m
A5 → 0.9m	B5 → 0.3m	C5 → 0.3m	D5 → 1.2m	E5 → 1.0m	F5 → 0.3m



○ - PAH Fail Table 3 SCS for In/Com

# Stockpile 2

Project: Uptown	Project N° KCH-00241573-BS
Description: Environmental Sample Locations - Pile # 2	Prepared By: C. Friedmann
	Date: Oct 25/17
Other:	Page 2/4

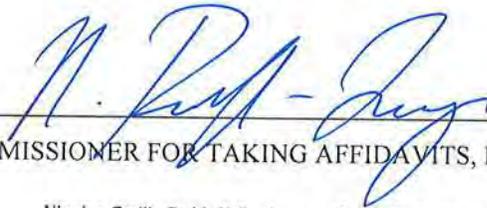


### Sample Depths

G1 → 4m	H1 → 3m	I1 → 2.3m	J1 → 3.5m	K1 → 3.3m	L1 → 2.5m	M1 → 2.5m	N1 → 2.5m
G2 → 4m	H2 → 3m	I2 → 3.3m	J2 → 3.5m	K2 → 3.3m	L2 → 2.5m	M2 → 2.5m	N2 → 2.5m
G3 → 1.5m	H3 → 1.5m	I3 → 2m	J3 → 2m	K3 → 1.5m	L3 → 1.5m	M3 → 1m	N3 → 1m
G4 → 1.5m	H4 → 1.5m	I4 → 2m	J4 → 2m	K4 → 1.5m	L4 → 1.5m	M4 → 1m	N4 → 1m
G5 → 0.3m	H5 → 0.3m	I5 → 0.3m	J5 → 0.3m	K5 → 0.3m	L5 → 0.3m	M5 → 0.3m	N5 → 0.3m

This is **Exhibit “H”**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.



---

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.

## Michelle Alexander

---

**From:** Geordy Fournier <geordy.fournier@exp.com>  
**Sent:** March-28-18 3:31 PM  
**To:** Andrew John Holford  
**Subject:** FW: The Uptown - Caisson Drilling - Geotechnical Inspection

### Geordy Fournier, P.Eng.

EXP | Geotechnical Engineer

t : +1.519.650.4918, 230 | m : +1.519.748.7313 | e : [geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)

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*keep it green, read from the screen*

**From:** Geordy Fournier  
**Sent:** Friday, September 22, 2017 9:39 AM  
**To:** 'Wade Stever' <[wstever@maxion.ca](mailto:wstever@maxion.ca)>  
**Cc:** Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>; Justin Michelin <[justin@maxion.ca](mailto:justin@maxion.ca)>  
**Subject:** RE: The Uptown - Caisson Drilling - Geotechnical Inspection

Hi Wade,

We can have someone there on Monday. Can you send me the layout and Deep's shop drawings for these caissons?  
Regards,

### Geordy Fournier, P. Eng. | exp

Geotechnical Engineer

exp Services Inc.

t : +1.519.650.4918 x230 | m : +1.519.748.7313 | e : [geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)

405 Maple Grove Road, Unit 6

Cambridge, ON N3E 1B6

CANADA

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*keep it green, read from the screen*

**From:** Wade Stever [<mailto:wstever@maxion.ca>]  
**Sent:** Friday, September 22, 2017 9:08 AM  
**To:** Geordy Fournier <[geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)>  
**Cc:** Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>; Justin Michelin <[justin@maxion.ca](mailto:justin@maxion.ca)>  
**Subject:** The Uptown - Caisson Drilling - Geotechnical Inspection

Hi Geordy,

Caisson drilling #1 - #8 will commence Monday morning. We require a full-time soil inspector on Monday to confirm if we are sufficiently socketed into stratum specified on soils report. Please confirm if you can have someone here Monday morning.

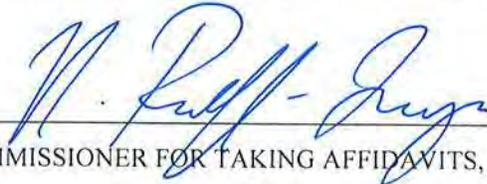
Thank you,

Wade Stever  
The Maxion Group  
[wstever@maxion.ca](mailto:wstever@maxion.ca)  
Mobile (647) 292-4822  
[www.maxion.ca](http://www.maxion.ca)



This is **Exhibit "I"**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.



\_\_\_\_\_  
A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.

## Michelle Alexander

---

**From:** Geordy Fournier <geordy.fournier@exp.com>  
**Sent:** March-28-18 3:32 PM  
**To:** Andrew John Holford  
**Subject:** FW: MCM-TUI - Additional Soil Testing

### Geordy Fournier, P.Eng.

EXP | Geotechnical Engineer

t : +1.519.650.4918, 230 | m : +1.519.748.7313 | e : [geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)

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*keep it green, read from the screen*

**From:** Justin Michelin [<mailto:justin@maxion.ca>]  
**Sent:** Thursday, October 26, 2017 2:40 PM  
**To:** Geordy Fournier <[geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)>  
**Cc:** Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>; Wade Stever <[wstever@maxion.ca](mailto:wstever@maxion.ca)>; Andrew John Holford <[Andrew.Holford@exp.com](mailto:Andrew.Holford@exp.com)>  
**Subject:** Re: MCM-TUI - Additional Soil Testing

Hi Geordy,

Please proceed with the rushed analysis.

Thanks,

### JUSTIN MICHELIN

Maxion Construction Management Inc.  
610 Applewood Crescent Suite 502  
Vaughan, Ontario  
L4K 0E3

**MAXION**

CONSTRUCTION MANAGEMENT

Telephone: (705) 728-2818 x 205

Facsimile: (705) 728-4612

[www.maxion.ca](http://www.maxion.ca)

**From:** Geordy Fournier <[geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)>  
**Date:** Thursday, October 26, 2017 at 9:57 AM  
**To:** Justin Michelin <[justin@maxion.ca](mailto:justin@maxion.ca)>  
**Cc:** Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>, Wade Stever <[wstever@maxion.ca](mailto:wstever@maxion.ca)>, Andrew John Holford <[Andrew.Holford@exp.com](mailto:Andrew.Holford@exp.com)>  
**Subject:** RE: MCM-TUI - Additional Soil Testing

Hi Justin,

The estimate isn't ready yet but main thing at this time is whether Rush analysis is required or not. The samples from the stockpiles will be delivered to the lab today. The estimated cost for the lab analysis is around \$4,500. With Rush

analysis, the analytical cost will double but results by end of day Friday. Regular turnaround is one week for results. Please let us know.

Regards,

**Geordy Fournier, P. Eng. | exp**

Geotechnical Engineer

exp Services Inc.

t: +1.519.650.4918 x230 | m: +1.519.748.7313 | e: [geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)

405 Maple Grove Road, Unit 6

Cambridge, ON N3E 1B6

CANADA

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*keep it green, read from the screen*

**From:** Justin Michelin [<mailto:justin@maxion.ca>]

**Sent:** Wednesday, October 25, 2017 2:27 PM

**To:** Geordy Fournier <[geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)>

**Cc:** Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>; Wade Stever <[wstever@maxion.ca](mailto:wstever@maxion.ca)>

**Subject:** MCM-TUI - Additional Soil Testing

Hi Geordy,

Can you send us your fee proposal for the additional Soil Testing we require?

Keep me posted,

**JUSTIN MICHELIN**

Maxion Construction Management Inc.

610 Applewood Crescent Suite 502

Vaughan, Ontario

L4K 0E3

**MAXION**

CONSTRUCTION MANAGEMENT

Telephone: (705) 728-2818 x 205

Facsimile: (705) 728-4612

[www.maxion.ca](http://www.maxion.ca)

This is **Exhibit "J"**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.



A handwritten signature in blue ink, reading "N. Emilio - Queiruga", is written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.

## Michelle Alexander

---

**From:** Geordy Fournier <geordy.fournier@exp.com>  
**Sent:** March-28-18 3:35 PM  
**To:** Andrew John Holford  
**Subject:** FW: The Uptown - Concrete Compressive Strength Testing

### Geordy Fournier, P.Eng.

EXP | Geotechnical Engineer

t : +1.519.650.4918, 230 | m : +1.519.748.7313 | e : [geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)

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**From:** Wade Stever [<mailto:wstever@maxion.ca>]

**Sent:** Tuesday, January 16, 2018 2:59 PM

**To:** Geordy Fournier <[geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)>; Arif Kidwai <[Arif.Kidwai@exp.com](mailto:Arif.Kidwai@exp.com)>

**Cc:** Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>; Nick Louzada <[nlouzada@maxion.ca](mailto:nlouzada@maxion.ca)>

**Subject:** Re: The Uptown - Concrete Compressive Strength Testing

Yes it is. We will be commencing caissons C9 – C40 over the course of the next couple of weeks.

We will require concrete testing every day at 8:30am. If anything changes, I will let you know right away.

Thank you,

Wade Stever

The Maxion Group

[wstever@maxion.ca](mailto:wstever@maxion.ca)

Mobile (647) 292-4822

[www.maxion.ca](http://www.maxion.ca)



**From:** Geordy Fournier <[geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)>

**Date:** Tuesday, January 16, 2018 at 1:58 PM

**To:** Wade Stever <[wstever@maxion.ca](mailto:wstever@maxion.ca)>, Arif Kidwai <[Arif.Kidwai@exp.com](mailto:Arif.Kidwai@exp.com)>

**Cc:** Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>, Nick Louzada <[nlouzada@maxion.ca](mailto:nlouzada@maxion.ca)>

**Subject:** RE: The Uptown - Concrete Compressive Strength Testing

Hi Wade,

That should be fine. Is this the start of the caissons?

**Geordy Fournier, P.Eng. | EXP**

Geotechnical Engineer

EXP Services Inc.

t: +1.519.650.4918 x230 | m: +1.519.748.7313 | e: [geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)  
405 Maple Grove Road, Unit 6  
Cambridge, ON N3E 1B6  
CANADA

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*keep it green. road from the source*

**From:** Wade Stever [<mailto:wstever@maxion.ca>]

**Sent:** Tuesday, January 16, 2018 1:52 PM

**To:** Geordy Fournier <[geordy.fournier@exp.com](mailto:geordy.fournier@exp.com)>; Arif Kidwai <[Arif.Kidwai@exp.com](mailto:Arif.Kidwai@exp.com)>

**Cc:** Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>; Nick Louzada <[nlouzada@maxion.ca](mailto:nlouzada@maxion.ca)>

**Subject:** The Uptown - Concrete Compressive Strength Testing

Hi Geordy and Arif,

We would like to schedule concrete testing tomorrow morning (1 set of 3) for 8:30am. Please advise on availability.

Thank you,

Wade Stever

The Maxion Group

[wstever@maxion.ca](mailto:wstever@maxion.ca)

Mobile (647) 292-4822

[www.maxion.ca](http://www.maxion.ca)

THE  
**MAXION**  
GROUP

This is **Exhibit "K"**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.

  
A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.

Maxion Management Services KCH-00241573-BS

Name	Hours	Timesheet	Comment
Baines, Andrew	8.25	Nov 2017	
Cheng, Stephen	5	Jan 2018	
Chiu, Botel	0.75	March 16, 2018	Project Review
Chmiel, Eva	19	March 2, 2018	Inspection Report
Dufton, Bob	147.5	Feb 7, 2018	Review / Reporting
Ellis, Jordan	125	Feb 7, 2018	Updating Sample Location Plan
Fournier, Geordy	130.5	March 28, 2018	Project Management
Fournier, Geordy		March 22, 2018	Invoice Review
Friedmann, Chris	521.25	Feb 13, 2018	Reconcile Weight Bills
Holford, Andrew	31	May 31, 2018	On Site Meeting Regarding Lein
Holford, Andrew		Jan 10, 2018	Invoices and Project Management
Kidwai, Arif	236.75	March 2, 2018	Results Reporting
Kidwai, Arif		March 1, 2018	Cylinder Cap/Break
Leung, Kevin	10	August 2017	
Suderman, Zach	12	November 2017	
Vaskovic, Nebojsa	3	September 2017	
Wang, Hongliu	44	September 2017	
Wehrle, Chas	5	October 2017	
	1299		

This is **Exhibit "L"**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.

A handwritten signature in blue ink, appearing to read "N. Ruhloff-Queiruga", written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.

## Michelle Alexander

---

**From:** Franca Rigitano <Franca.Rigitano@exp.com>  
**Sent:** December-17-15 1:56 PM  
**To:** Keith Hill; Rebecca Walker  
**Cc:** Botel Chiu; Lloyd Gonsalves  
**Subject:** RE: MAXION GROUP

**Importance:** High

Thanks Keith.. I will keep you updated

### **Franca Rigitano | exp**

Collections Manager  
exp Services Inc.  
t: +1.905.793-9809x2271 | e: franca.rigitano@exp.com  
1595 Clark Blvd  
Brampton, ON L6T 4V1  
Canada

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*Keep it green. read from the screen*

**From:** Keith Hill  
**Sent:** Thursday, December 17, 2015 1:53 PM  
**To:** Franca Rigitano; Rebecca Walker  
**Cc:** Botel Chiu; Lloyd Gonsalves  
**Subject:** RE: MAXION GROUP

Just talked with Franca.

We will put a hold on any future work until payment is received.

If I happen to talk with my Walter at Maxion Group I will also ask about payment of past invoices.

Regards,

### **Keith Hill**

Project Manager, Senior Environmental Technologist  
exp Services Inc.  
t: +1.519.963.3000 x3406 | m: +1.226.236.8263 | e: keith.hill@exp.com  
15701 Robin's Hill Road  
London, ON N5V 0A5  
Canada

**From:** Franca Rigitano  
**Sent:** Thursday, December 17, 2015 1:26 PM  
**To:** Rebecca Walker; Keith Hill  
**Cc:** Botel Chiu; Lloyd Gonsalves  
**Subject:** MAXION GROUP  
**Importance:** High

We are having collections issues with this client.. I am very surprised to see another invoice billed for this client. My understanding is that we have stop all work please advise.

Thanks

Cost Billing Accounts Receivable Purchasing

Client: **The Maxion Group**  
Contact: **Bedenikovich, walterb@maxionconstruct**  
Contact Phone/Fax: **(416) 238-781 (977) 706-264**

Address: **Vaughan-610 Applewoo**  
**610 Applewood Crescent**  
**Suite 502...**

Invoice Selection Filter  
Status: **Unpaid**  
Time Frame: **Period Job-to-Date**

JTD Information

Billed	4,150.00
Tax Billed	539.50
Received	
Total AR	4,689.50
Retainer	

Refresh Invoice List

Currency Code: **CAD** Average age of receivab: **10 Days**

Aged A/R (As of 12/17/2015)

Invoice	Invoice Date	Balance	0-30	31-60	61-90	91-120	Last Recei
000000292957	12/7/2015	4,689.50	4,689.50				
		<b>Σ</b>	4,689.50	4,689.50			



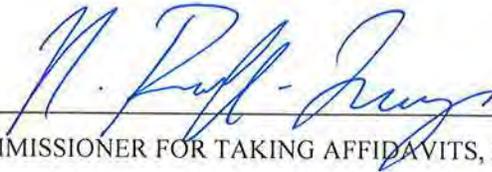
**Franca Rigitano**  
Collections Manager  
exp Services inc.  
t: +1.905.793-9809x2271 | e: franca.rigitano@exp.com  
1595 Clark Blvd  
Brampton, ON L6T 4V1  
Canada

exp.com | legal disclaimer  
keep it green, read from the screen

This is **Exhibit "M"**

referred to in the Affidavit of Gordon Ho

sworn before me this 23rd day of December, 2019.



\_\_\_\_\_  
A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.

# Statement

EXP Services Inc.  
56 Queen Street East, Suite 301  
Brampton, ON L6V 4M8

March 26, 2018

Emilio Pompilio  
Maxion Management Services Inc.  
610 Applewood Crescent, Suite 502  
Vaughan, ON L4K 0E3

<b>Current</b>	28,356.36
<b>Past Due</b>	96,903.76
<b>Balance Due</b>	125,260.12

**Outstanding Invoices**

Number	Date	Invoiced	Received	Balance Due	Days Outstanding	Interest
<b>Project Number: STR-02015162-01 The Uptown, Waterloo</b>						
337000	9/22/2016	2,293.90		2,293.90	550.00	643.80
341662	10/20/2016	1,146.95		1,146.95	522.00	304.57
397216	9/27/2017	21,121.17		21,121.17	180.00	1,709.95
402730	10/27/2017	33,451.39		33,451.39	150.00	2,166.55
408450	11/24/2017	16,538.37		16,538.37	122.00	821.21
408454	11/24/2017	149.16		149.16	122.00	7.41
413328	12/19/2017	11,998.58		11,998.58	97.00	433.89
418554	1/25/2018	10,204.24		10,204.24	60.00	165.22
425379	3/8/2018	28,356.36		28,356.36	18.00	
<b>Total for STR-02015162-01</b>		<b>125,260.12</b>		<b>125,260.12</b>		<b>6,252.59</b>
<b>Statement Totals</b>		<b>125,260.12</b>		<b>125,260.12</b>		<b>6,252.59</b>
<b>Current</b>	<b>31 - 60 Days</b>	<b>61 - 90 Days</b>	<b>91 - 120 Days</b>	<b>121 - 150 Days</b>	<b>Over 150 Days</b>	
28,356.36	18,204.24		11,998.58	50,138.92	24,562.02	

Terms: Payment on Receipt of Invoice - Interest of 1.5% per month compounded 19.7% annually on amounts unpaid within 30 days. Ces honoraires sont payables sur réception. Après 30 jours, toute facture impayée portera intérêt à un taux de 1.5% par mois (19.7% par année).



exp Services Inc.  
 220 Commerce Valley Drive, Suite 500  
 Markham, ON L3T 0A8  
 Tel: (905) 695-3217  
 Fax: (905) 470-7700  
 Tax Registration Number: 894637008RT0001

Walter Bedenikovich  
 Maxion Management Services Inc.  
 610 Applewood Crescent, Suite 502  
 Vaughan, ON L4K 0E3

September 22, 2016  
 Invoice No: 000000337000

Project Manager Gordon Ho  
 Project STR-02015162-01 Field Review - The Uptown , Waterloo  
Progress Invoice for period ending: August 31, 2016

	STR-200	RFI 45	-----	
<b>Fee</b>				
Total Fee		7,000.00		
Percent Complete	29.00	Total Earned	2,030.00	
		Previous Fee Billing	0.00	
		Current Fee Billing	2,030.00	
		<b>Total Fee</b>		<b>2,030.00</b>
		<b>Total this Phase</b>		<b>\$2,030.00</b>
<b>Taxes</b>				
ON HST		13.00 % of 2,030.00	263.90	
	<b>Total Taxes</b>		<b>263.90</b>	<b>263.90</b>
		<b>Total this Invoice</b>		<b>\$2,293.90</b>

**Please Remit To:**

exp Services Inc.  
 150 Main Street  
 PO Box 74029 Brampton Down Town  
 Brampton, ON L6V 4J7

Terms: Payment on Receipt of Invoice - Interest of 1.5% per month compounded 19.7% annually on amounts unpaid within 30 days.

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exp Services Inc.  
 220 Commerce Valley Drive, Suite 500  
 Markham, ON L3T 0A8  
 Tel: (905) 695-3217  
 Fax: (905) 470-7700  
 Tax Registration Number: 894637008RT0001

Walter Bedenikovich  
 Maxion Management Services Inc.  
 610 Applewood Crescent, Suite 502  
 Vaughan, ON L4K 0E3

October 20, 2016  
 Invoice No: 000000341662

Project Manager Gordon Ho  
 Project STR-02015162-01 Field Review - The Uptown , Waterloo  
Progress Invoice for period ending: September 30, 2016

	STR-200	RFI 45	-----	
<b>Fee</b>				
Total Fee		7,000.00		
Percent Complete	43.50	Total Earned	3,045.00	
		Previous Fee Billing	2,030.00	
		Current Fee Billing	1,015.00	
		<b>Total Fee</b>		<b>1,015.00</b>
		<b>Total this Phase</b>		<b>\$1,015.00</b>
<b>Taxes</b>				
ON HST		13.00 % of 1,015.00	131.95	
	<b>Total Taxes</b>		<b>131.95</b>	<b>131.95</b>
		<b>Total this Invoice</b>		<b>\$1,146.95</b>

**Please Remit To:**

exp Services Inc.  
 150 Main Street  
 PO Box 74029 Brampton Down Town  
 Brampton, ON L6V 4J7

Terms: Payment on Receipt of Invoice - Interest of 1.5% per month compounded 19.7% annually on amounts unpaid within 30 days.  
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 220 Commerce Valley Drive, Suite 500  
 Markham, ON L3T 0A8  
 Tel: (905) 695-3217  
 Fax: (905) 470-7700  
 Tax Registration Number: 894637008RT0001

Emilio Pompilio  
 Maxon Management Services Inc.  
 610 Applewood Crescent, Suite 502  
 Vaughan, ON L4K 0E3

September 27, 2017  
 Invoice No: 000000397216

Project Manager Gordon Ho  
 Project STR-02015162-01 The Uptown , Waterloo  
Progress Invoice for period ending: August 31, 2017

STR-100 Field Review

**Interim Invoice for:**

- Project Restart/Remobilization
- Shoring Review
- Consultants Meetings
- Site Meeting

<b>Fee</b>	<b>18,691.30</b>
<b>Total this Phase</b>	<b>\$18,691.30</b>

**Billings to Date**

	<b>Current</b>	<b>Prior</b>	<b>Total</b>
Fee	18,691.30	9,300.00	27,991.30
Tax	2,429.87	1,209.00	3,638.87
<b>Totals</b>	<b>21,121.17</b>	<b>10,509.00</b>	<b>31,630.17</b>

**Taxes**

ON HST	13.00 % of 18,691.30	2,429.87	
<b>Total Taxes</b>		<b>2,429.87</b>	<b>2,429.87</b>

**Total this Invoice \$21,121.17**

**Please Remit To:**

exp Services Inc.  
 150 Main Street  
 PO Box 74029 Brampton Down Town  
 Brampton, ON L6V 4J7

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exp Services Inc.  
 220 Commerce Valley Drive, Suite 110  
 Markham, ON L3T 0A8  
 Tel: (905) 695-3217  
 Fax: (905) 470-7700  
 Tax Registration Number: 894637008RT0001

Emilio Pompilio  
 Maxion Management Services Inc.  
 610 Applewood Crescent, Suite 502  
 Vaughan, ON L4K 0E3

October 27, 2017  
 Invoice No: 000000402730

Project Manager Gordon Ho  
 Project STR-02015162-01 The Uptown , Waterloo  
Progress Invoice for period ending: September 30, 2017

STR-100 Field Review

**Interim Invoice for:**

- Project Restart/Remobilization
- Shoring Review
- Consultants Meetings
- Site Meeting

<b>Fee</b>		<b>29,603.00</b>
	<b>Total this Phase</b>	<b>\$29,603.00</b>

**Billings to Date**

	Current	Prior	Total
Fee	29,603.00	27,991.30	57,594.30
Tax	3,848.39	3,638.87	7,487.26
<b>Totals</b>	<b>33,451.39</b>	<b>31,630.17</b>	<b>65,081.56</b>

**Taxes**

ON HST	13.00 % of 29,603.00	3,848.39	
<b>Total Taxes</b>		<b>3,848.39</b>	<b>3,848.39</b>

**Total this Invoice \$33,451.39**

**Please Remit To:**

exp Services Inc.  
 150 Main Street  
 PO Box 74029 Brampton Down Town  
 Brampton, ON L6V 4J7

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exp Services Inc.  
 220 Commerce Valley Drive, Suite 110  
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 Email: [billingenquiries@exp.com](mailto:billingenquiries@exp.com)  
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 Fax: (905) 470-7700  
 Tax Registration Number: 894637008RT0001

Emilio Pompilio  
 Maxion Management Services Inc.  
 610 Applewood Crescent, Suite 502  
 Vaughan, ON L4K 0E3

November 24, 2017  
 Invoice No: 000000408450

Project Manager Gordon Ho  
 Project STR-02015162-01 The Uptown , Waterloo  
Progress Invoice for period ending: October 31, 2017

STR-100 Field Review		Current	Prior	Total
<u>Interim Invoice for:</u>				
• Project Restart/Remobilization -----		0.00	20,000.00	20,000.00
• OBC Addendum 6-----		0.00	33,136.42	33,136.42
• Technical Changes to be completed -----		1,753.71	16,078.33	17,832.04
• Construction Site & Contract Admin -----		2,014.69	4,379.55	6,394.24
• Suite Changes Floors 4, 5 and 6 -----		10,867.33	0.00	<u>10,867.33</u>
			<b>TOTAL</b>	<b><u>\$88,230.03</u></b>

Fee				14,635.73
			<b>Total this Phase</b>	<b>\$14,635.73</b>
Taxes				
ON HST		13.00 % of 14,635.73		1,902.64
	<b>Total Taxes</b>			<b>1,902.64</b>
			<b>Total this Invoice</b>	<b>\$16,538.37</b>

**Please Remit to:**

**exp Services Inc.**  
**56 Queen Street East, Suite 301**  
**Brampton, ON L6V 4M8 Canada**

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 Fax: (905) 470-7700  
 Tax Registration Number: 894637008RT0001

Emilio Pompilio  
 Maxion Management Services Inc.  
 610 Applewood Crescent, Suite 502  
 Vaughan, ON L4K 0E3

November 24, 2017  
 Invoice No: 000000408454

Project Manager Gordon Ho  
 Project STR-02015162-01 The Uptown , Waterloo  
Progress Invoice for period ending: October 31, 2017

STR-300		Reimbursable Expenses			
<b>Reimbursable Expenses</b>					
Mileage					
10/2/2017	Deluca, Frank	35 Km @ \$.60 / Km		21.00	
10/4/2017	Deluca, Frank	35 Km @ \$.60 / Km		21.00	
10/18/2017	Marcello, Paolo - Site Visit # 2	150 Km @ \$.60 / Km		90.00	
	<b>Total Reimbursables</b>			<b>132.00</b>	<b>132.00</b>
			<b>Total this Phase</b>		<b>\$132.00</b>
<b>Taxes</b>					
	ON HST		13.00 % of 132.00	17.16	
	<b>Total Taxes</b>			<b>17.16</b>	<b>17.16</b>
			<b>Total this Invoice</b>		<b>\$149.16</b>

**Please Remit to:**

**exp Services Inc.**  
**56 Queen Street East, Suite 301**  
**Brampton, ON L6V 4M8 Canada**

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 220 Commerce Valley Drive, Suite 110  
 Markham, ON L3T 0A8  
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 Tel: (905) 695-3217  
 Fax: (905) 470-7700  
 Tax Registration Number: 894637008RT0001

Emilio Pompilio  
 Maxion Management Services Inc.  
 610 Applewood Crescent, Suite 502  
 Vaughan, ON L4K 0E3

December 19, 2017  
 Invoice No: 000000413328

Project Manager Frank Deluca  
 Project STR-02015162-01 The Uptown , Waterloo  
Progress Invoice for period ending: November 30, 2017

STR-100 Field Review		Current	Prior	Total
<u>Interim Invoice for:</u>				
• Project Restart/Remobilization -----		0.00	20,000.00	20,000.00
• OBC Addendum 6-----		0.00	33,136.42	33,136.42
• Technical Changes to be completed -----		0.00	17,832.04	17,832.04
• Construction Site & Contract Admin -----		1,615.13	6,394.24	8,009.37
• Suite Changes Floors 4, 5 and 6 -----		8,905.52	10,868.33	19,772.85
			<b>TOTAL</b>	<b><u>\$98,750.68</u></b>
Reimbursable Expenses-----		<b>\$97.56</b>		
Fee				10,618.21
			<b>Total this Phase</b>	<b>\$10,618.21</b>
<b>Taxes</b>				
ON HST		13.00 % of 10,618.21	1,380.37	
	<b>Total Taxes</b>		<b>1,380.37</b>	<b>1,380.37</b>
			<b>Total this Invoice</b>	<b>\$11,998.58</b>

**Please Remit to:**

**exp Services Inc.**  
**56 Queen Street East, Suite 301**  
**Brampton, ON L6V 4M8 Canada**

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exp Services Inc.  
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 Tel: (905) 695-3217  
 Fax: (905) 470-7700  
 Tax Registration Number: 894637008RT0001

Emilio Pompilio  
 Maxion Management Services Inc.  
 610 Applewood Crescent, Suite 502  
 Vaughan, ON L4K 0E3

January 25, 2018  
 Invoice No: 000000418554

Project Manager Frank Deluca  
 Project STR-02015162-01 The Uptown , Waterloo  
Progress Invoice for period ending: December 31, 2017

STR-000		Structural Services				
Fee						
Billing Phase	Fee	Percent Complete	Earned	Previous Fee Billing	Current Fee Billing	
Project Restart/Remobilization	20,000.00	100.00	20,000.00	20,000.00	0.00	
OBC Addendum 6	35,000.00	94.6755	33,136.42	33,136.42	0.00	
Technical Changes to Be completed	45,000.00	56.3376	25,351.91	17,832.04	7,519.87	
Construction Site Inspection and CA	50,000.00	17.0087	8,504.37	8,009.37	495.00	
Suite Changes floors 4,5 and 6	20,738.28	100.00	20,738.28	19,722.85	1,015.43	
<b>Total Fee</b>	<b>170,738.28</b>		<b>107,730.98</b>	<b>98,700.68</b>	<b>9,030.30</b>	
		<b>Total Fee</b>				<b>9,030.30</b>
				<b>Total this Phase</b>		<b>\$9,030.30</b>
Taxes						
ON HST			13.00 % of 9,030.30	1,173.94		
	<b>Total Taxes</b>			<b>1,173.94</b>		<b>1,173.94</b>
				<b>Total this Invoice</b>		<b>\$10,204.24</b>

**Please Remit to:**

**exp Services Inc.**  
**56 Queen Street East, Suite 301**  
**Brampton, ON L6V 4M8 Canada**

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EXP Services Inc.  
 220 Commerce Valley Drive, Suite 110  
 Markham, ON L3T 0A8  
 Email: [billingenquiries@exp.com](mailto:billingenquiries@exp.com)  
 Tel: (905) 695-3217  
 Fax: (905) 470-7700  
 Tax Registration Number: 894637008RT0001

Emilio Pompilio  
 Maxion Management Services Inc.  
 610 Applewood Crescent, Suite 502  
 Vaughan, ON L4K 0E3

March 8, 2018  
 Invoice No: 000000425379

Project Manager Frank Deluca  
 Project STR-02015162-01 The Uptown , Waterloo  
Progress Invoice for period ending: February 28, 2018

STR-000		Structural Services				
Fee						
Billing Phase	Fee	Percent Complete	Earned	Previous Fee Billing	Current Fee Billing	
Project Restart/Remobilization	20,000.00	100.00	20,000.00	20,000.00	0.00	
OBC Addendum 6	35,000.00	100.00	35,000.00	33,136.42	1,863.58	
Technical Changes to Be completed	45,000.00	100.00	45,000.00	25,351.91	19,648.09	
Construction Site Inspection and CA	50,000.00	24.1736	12,086.82	8,504.37	3,582.45	
Suite Changes floors 4,5 and 6	20,738.28	100.00	20,738.28	20,738.28	0.00	
<b>Total Fee</b>	<b>170,738.28</b>		<b>132,825.10</b>	<b>107,730.98</b>	<b>25,094.12</b>	
		<b>Total Fee</b>				<b>25,094.12</b>
				<b>Total this Phase</b>		<b>\$25,094.12</b>
Taxes						
ON HST			13.00 % of 25,094.12	3,262.24		
	<b>Total Taxes</b>			<b>3,262.24</b>		<b>3,262.24</b>
				<b>Total this Invoice</b>		<b>\$28,356.36</b>

**PLEASE REMIT PAYMENT TO: EXP Services Inc.**  
 By Mail: 56 Queen Street East, Suite 301, Brampton ON L6V 4M8 CANADA  
 By Phone: 1-855-876-0397  
 By Email: [ClientPayments@exp.com](mailto:ClientPayments@exp.com)

Terms: Payment on Receipt of Invoice - Interest of 1.5% per month compounded 19.7% annually on amounts unpaid within 30 days.  
 Ces honoraires sont payables sur réception. Après 30 jours, toute facture impayée portera intérêt à un taux de 1.5% par mois

# Statement

**EXP Services Inc.**  
 56 Queen Street East, Suite 301  
 Brampton, ON L6V 4M8

March 26, 2018

Walter Bedenkovich  
 Maxion Construction Management - The Uptown Inc.  
 215 Lexington Road  
 Waterloo, ON N2K 2E1

<b>Current</b>	
<b>Past Due</b>	8,124.70
<b>Balance Due</b>	8,124.70

**Outstanding Invoices**

	Number	Date	Invoiced	Received	Balance Due	Days Outstanding	Interest
Project Number: LON-00015408-EN 229 Lexington Rd., Waterloo - Demo Admin							
	395534	9/19/2017	8,124.70		8,124.70	188.00	692.85
<b>Current</b>	<b>31 - 60 Days</b>	<b>61 - 90 Days</b>	<b>91 - 120 Days</b>	<b>121 - 150 Days</b>	<b>Over 150 Days</b>		
					8,124.70		

**Terms: Payment on Receipt of Invoice - Interest of 1.5% per month compounded 19.7% annually on amounts unpaid within 30 days. Ces honoraires sont payables sur réception. Après 30 jours, toute facture impayée portera intérêt à un taux de 1.5% par mois (19.7% par année).**



exp. Services Inc.  
 15701 Robin's Hill Road  
 London, ON, Canada, N5V 0A5  
 Tel: (519) 963 3000 Fax: (519) 963 1152  
 Tax Registration Number: 894637008RT0001  
 September 19, 2017  
 Project No: LON-00015408-EN  
 Invoice No: 395534

Walter Bedenikovich  
 walterb@maxion.ca  
 Maxion Construction Management - The Uptown Inc.  
 215 Lexington Road  
 Waterloo, ON N2K 2E1  
 Project Manager Keith Hill

**P.O #: MCM-TUI-01**

For Professional Services in Connection with: 229 Lexington Road, Waterloo, ON

**SCOPE OF WORK:**

- Demolition Administration and Abatement Consulting

**Fees and costs for meetings, inspections and consulting as per proposal rates Dated April 28, 2017**

Meetings - 3 @ \$500.00 Each - \$1,500.00

Inspections - 3 @ \$500.00 Each - \$1,500.00

Demolition Sequence Reviews, Edits, Consulting Time (P. Eng) - 8 Hrs @ \$155.00/Hr - \$1,240.00

Travel Allowance - \$1,000.00

Project Management - 15 Hrs @ \$130.00/Hr - \$1,950.00

**Progress Invoice for period ending: August 25, 2017**

**Fees**

Total Fees			7,190.00	
	<b>Total Fees</b>		<b>7,190.00</b>	<b>7,190.00</b>
		<b>7,190.00</b>		<b>7,190.00</b>

**Taxes**

ON HST		13.00 % of 7,190.00	934.70	
	<b>Total Taxes</b>		<b>934.70</b>	<b>934.70</b>

**Total this Invoice \$8,124.70**

**Please Remit to:**

**EXP Services Inc.**  
**56 Queen Street East, Suite 301**  
**Brampton, ON L6V 4M8 Canada**

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# Statement

**EXP Services Inc.**  
 56 Queen Street East, Suite 301  
 Brampton, ON L6V 4M8

March 26, 2018

Walter Bedenikovich  
 Maxion Management Services Inc.  
 610 Applewood Crescent  
 Suite 502  
 Vaughan, ON L4K 0E3

<b>Current</b>	61,532.77
<b>Past Due</b>	141,736.53
<b>Balance Due</b>	203,269.30

**Outstanding Invoices**

Number	Date	Invoiced	Received	Balance Due	Days Outstanding	Interest																												
<b>Project Number: KCH-00241573-BS 215 Lexington Road, Waterloo, ON - Inspa</b>																																		
408788	11/27/2017	43,889.20		43,889.20	119.00	2,108.24																												
413562	12/19/2017	65,438.15		65,438.15	97.00	2,366.35																												
418611	1/25/2018	32,409.18		32,409.18	60.00	524.76																												
428190	3/23/2018	61,532.77		61,532.77	3.00																													
<b>Total for KCH-00241573-BS</b>		<b>203,269.30</b>		<b>203,269.30</b>		<b>4,999.36</b>																												
<b>Statement Totals</b>		<b>203,269.30</b>		<b>203,269.30</b>		<b>4,999.36</b>																												
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;"></td> <td style="width: 15%; text-align: center;"><b>31 - 60</b></td> <td style="width: 15%; text-align: center;"><b>61 - 90</b></td> <td style="width: 15%; text-align: center;"><b>91 - 120</b></td> <td style="width: 15%; text-align: center;"><b>121 - 150</b></td> <td style="width: 15%; text-align: center;"><b>Over 150</b></td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Days</td> <td></td> </tr> <tr> <td style="text-align: right;"><b>Current</b></td> <td style="text-align: right;"><b>32,409.18</b></td> <td></td> <td style="text-align: right;"><b>109,327.35</b></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: right;"><b>61,532.77</b></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>								<b>31 - 60</b>	<b>61 - 90</b>	<b>91 - 120</b>	<b>121 - 150</b>	<b>Over 150</b>			Days	Days	Days	Days	Days		<b>Current</b>	<b>32,409.18</b>		<b>109,327.35</b>				<b>61,532.77</b>						
	<b>31 - 60</b>	<b>61 - 90</b>	<b>91 - 120</b>	<b>121 - 150</b>	<b>Over 150</b>																													
	Days	Days	Days	Days	Days																													
<b>Current</b>	<b>32,409.18</b>		<b>109,327.35</b>																															
<b>61,532.77</b>																																		

Terms: Payment on Receipt of Invoice - interest of 1.5% per month compounded 19.7% annually on amounts unpaid within 30 days. Ces honoraires sont payables sur réception. Après 30 jours, toute facture impayée portera intérêt à un taux de 1.5% par mois (19.7% par année).



exp Services Inc  
 4 Cataract Street, Suite 315  
 Kingston, ON K7K 1Z7  
 Email: [billingenquiries@exp.com](mailto:billingenquiries@exp.com)  
 Tel: (613) 542-1253  
 Fax: (613) 547-3767  
 Tax Registration Number: 894637008RT0001

Walter Bedenkovich  
 Maxion Management Services Inc.  
 610 Applewood Crescent  
 Suite 502  
 Vaughan, ON L4K 0E3

November 27, 2017  
 Project No: KCH-00241573-BS  
 Invoice No: 408788

Project Manager: Andrew Halford

Project KCH-00241573-BS 215 Lexington Road, Waterloo, ON - Inspection/Testing

**Professional Services for period ending October 27, 2017**

Phase KCH-100 Platform Design and Review

Stage 1- Platform Design and Review	\$7,000	
Work Completed	\$7,000	
Previously Invoiced	\$0.00	
Due this Invoice	\$7,000	\$7,000

Stage 2- Platform Design and Review	\$5,000	
Work Completed	\$5,000	
Previously Invoiced	\$0.00	
Due this Invoice	\$5,000	\$5,000

Stage 3- Platform Design and Review	\$4,500	
Work Completed	\$4,500	
Previously Invoiced	\$0.00	
Due this Invoice	\$4,500	\$4,500

Stage 4- Platform Design and Review	\$2,500	
Work Completed	\$2,500	
Previously Invoiced	\$0.00	
Due this Invoice	\$2,500	\$2,500

**Lump Sum Engineering Fee** **19,000.00**

**Sub-Total: \$19,000.00**

Phase KCH-200 Environmental Testing

Terms: Payment on Receipt of Invoice - Interest of 1.5% per month compounded 19.7% annually on amounts unpaid within 30 days.  
 Ces honoraires sont payables sur réception. Après 30 jours, toute facture impayée portera intérêt à un taux de 1.5% par mois (19.7% par année).

	Hours	Rate	Amount		
Technician	19.5	\$60	\$1,170.00		
Senior Technician	27.5	\$85	\$2,337.50		
Project Manager	6	\$150	\$900.00		
Senior Engineer	7	\$175	\$1,225.00		
Principal Engineer	0	\$200	\$0		
Admin Support	0.5	\$60	\$30	\$5,662.50	
Reimbursable Expenses					
Field and Lab			\$43		
Mileage			\$ 97	\$140.00	
<b>Lump Sum Engineering Fee</b>					<b>5,802.50</b>
<b>Sub-Total:</b>					<b>\$5,802.50</b>

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Phase	KCH-300	Caisson Inspections			
		Hours	Rate	Amount	
Technician		10	\$60	\$600.00	
Senior Technician		97.5	\$85	\$8,287.50	
Project Manager		21	\$150	\$3,150.00	
Senior Engineer		2	\$175	\$350.00	
Principal Engineer		4	\$200	\$800.00	
Admin Support		8.5	\$60	\$510	\$13,697.50
Reimbursable Expenses					
Field and Lab				\$15	
Mileage				\$770	\$340.00
<b>Lump Sum Engineering Fee</b>					<b>14,037.50</b>
<b>Sub-Total:</b>					<b>\$14,037.50</b>

		<b>38,840.00</b>			
<b>Taxes</b>					
ON HST			13.00 % of 38,840.00	5,049.20	
	<b>Total Taxes</b>			<b>5,049.20</b>	<b>5,049.20</b>
<b>Total this invoice:</b>					<b>\$43,889.20</b>

**PLEASE REMIT PAYMENT TO: exp Services Inc., 56 Queen Street East, Suite 301, Brampton, ON L6V 4M8**



exp Services Inc  
 4 Cataraqui Street, Suite 315  
 Kingston, ON K7K 1Z7  
 Email: [billingenquiries@exp.com](mailto:billingenquiries@exp.com)  
 Tel: (613) 542-1253  
 Fax: (613) 547-3767

Tax Registration Number: 894637008RT0001

Walter Bedenkovich  
 Maxion Management Services Inc.  
 610 Applewood Crescent  
 Suite 502  
 Vaughan, ON L4K 0E3

December 19, 2017  
 Project No: KCH-00241573-BS  
 Invoice No: 413562

Project Manager: Andrew Holford  
 Project KCH-00241573-BS 215 Lexington Road, Waterloo, ON - Inspection/Testing  
Professional Services for period ending November 24, 2017

Phase	KCH-200	Environmental Testing			
		Hours	Rate	Amount	
Technician		10	\$60	\$600.00	
Senior Technician		126	\$85	\$10,710.00	
Project Manager		1.5	\$150	\$225.00	
Senior Engineer		54.5	\$175	\$9,537.50	
Principal Engineer		10	\$200	\$2000.00	
Admin Support		0.5	\$60	\$30.00	\$23,102.50
<b>Reimbursable Expenses</b>					
Field and Lab				\$373.11	
Mileage				\$610.00	
Equipment Rental				\$31,626.76	\$32,609.87
<b>Sub-Total:</b>					<b>\$55,712.37</b>

Phase	KCH-300	Caisson Inspections		
		Hours	Rate	Amount
Technician		2.5	\$60	\$150.00
Senior Technician		16.5	\$85	\$1,402.50
Project Manager		0	\$150	\$0
Senior Engineer		3	\$175	\$525.00
Principal Engineer		0	\$200	\$0

	Hours	Rate	Amount	
Admin Support	2	\$60	\$120.00	\$2,197.50
				<b>Sub-Total:</b>
				<b>\$2,197.50</b>
	<b>57,909.87</b>			
<b>Taxes</b>				
ON HST			13.00 % of 57,909.87	7,528.28
<b>Total Taxes</b>				<b>7,528.28</b>
				<b>Total this Invoice:</b>
				<b>\$65,438.15</b>

Please Remit Payment to: EXP Services Inc., 56 Queen Street East, Suite 301, Brampton, ON L6V 4M8

Terms: Payment on Receipt of Invoice - Interest of 1.5% per month compounded 19.7% annually on amounts unpaid within 30 days.  
 Ces honoraires sont payables sur réception. Après 30 jours, toute facture impayée portera intérêt à un taux de 1.5% par mois (19,7% par année).



**exp Services Inc**  
 4 Cataract Street, Suite 315  
 Kingston, ON K7K 1Z7  
 Email: [billingenquiries@exp.com](mailto:billingenquiries@exp.com)  
 Tel: (613) 542-1253  
 Fax: (613) 547-3767  
 Tax Registration Number: 894637008RT0001

Walter Bedenikovich  
 Maxion Management Services Inc.  
 810 Applewood Crescent  
 Suite 502  
 Vaughan, ON L4K 0E3

January 25, 2018  
 Project No: KCH-00241573-BS  
 Invoice No: 418611

Project Manager: Andrew Holford  
 Project KCH-00241573-BS 215 Lexington Road, Waterloo, ON - Inspection/Testing  
**Professional Services for period ending December 29, 2017**

Phase	KCH-200	Environmental Testing	Hours	Rate	Amount	
Technician			10	\$60	\$600.00	
Senior Technician			126	\$85	\$10,710.00	
Project Manager			1.5	\$150	\$225.00	
Senior Engineer			54.5	\$175	\$9,537.50	
Principal Engineer			10	\$200	\$2000.00	
Admin Support			0.5	\$60	\$30.00	\$23,102.50
<b>Reimbursable Expenses</b>						
Field and Lab					\$373.11	
Mileage					\$610	\$983.11

**Professional Personnel**

	Hours	Rate	Amount
Environmental Technician	230.75	85.00	19,613.75
Senior Engineer	38.00	175.00	6,650.00
<b>Totals</b>	<b>268.75</b>		<b>26,263.75</b>
<b>Total Labor</b>			<b>26,263.75</b>

**Reimbursable Expenses**

Equip Rental			
12/12/2017	PINE ENVIRONMENTAL SERVICES INC.	PINE ENVIRONMENTAL INV#CA1-170016217	247.50

<b>Field and Lab</b>			
Field supplies for sampling			172.41

**Mileage**

Site visits (1,200km) @ \$0.50 600.00

**OS Lab Test**

12/11/2017 Maxxam Analytics Inc. MAXXAM CP3292660 629.53

1,649.44

**Lump Sum Engineering Fee**

27,913.19

**Sub-Total:**

\$27,913.19

Phase KCH-300 Calsson Inspections

**Professional Personnel**

	Hours	Rate	Amount
Project Support	50	45.00	22.50
Senior Technician	6.00	85.00	510.00
Senior Engineer	1.00	175.00	175.00
Totals	7.50		707.50
<b>Total Labor</b>			<b>707.50</b>

**Reimbursable Expenses**

Mileage			
12/21/2017	Kidwai, Arif	Travel to site 3 trips	60.00
	<b>Total Reimbursables</b>		<b>60.00</b>

**Sub-Total:**

\$767.50

28,680.69

**Taxes**

ON HST	13.00 % of 28,680.69	3,728.49
<b>Total Taxes</b>		<b>3,728.49</b>

**Total this Invoice:**

\$32,409.18

PLEASE REMIT PAYMENT TO: exp Services Inc., 56 Queen Street East, Suite 301, Brampton, ON L6V 4M8

Terms: Payment on Receipt of Invoice - Interest of 1.5% per month compounded 19.7% annually on amounts unpaid within 30 days.  
Ces honoraires sont payables sur réception. Après 30 jours, toute facture impayée portera intérêt à un taux de 1.5% par mois (19,7% par année).



exp Services Inc  
 4 Cataraqui Street, Suite 315  
 Kingston, ON K7K 1Z7  
 Email: [billingenquiries@exp.com](mailto:billingenquiries@exp.com)  
 Tel: (613) 542-1253  
 Fax: (613) 547-3767  
 Tax Registration Number: 894637008RT0001

Walter Bedenikovich  
 Maxion Management Services Inc.  
 610 Applewood Crescent  
 Suite 502  
 Vaughan, ON L4K 0E3

March 23, 2018  
 Project No: KCH-00241573-BS  
 Invoice No: 428190

Project Manager: Andrew Halford  
 Project KCH-00241573-BS 215 Lexington Road, Waterloo, ON - Inspection/Testing  
**Professional Services for period ending February 23, 2018**

Phase KCH-100 Platform Design and Review

Additional Requested Full Time caisson platform inspections and reviews including subgrade and compaction testing.

Professional Personnel	Hours	Rate		
Senior Technician	46.50	85.00	3,952.50	
Senior Engineer	22.25	175.00	3,893.75	
	<b>68.75</b>		<b>7,846.25</b>	<b>7,846.25</b>
<b>Reimbursable Expenses</b>				
Mileage				
2/6/2018	Kidwai, Arif	Travel to site	18.02	
	<b>Total Reimbursables</b>		<b>18.02</b>	<b>18.02</b>
	<b>Sub-Total:</b>		<b>7,864.27</b>	<b>7,864.27</b>
			<b>Sub-Total:</b>	<b>\$7,864.27</b>

Phase KCH-200 Environmental Testing

Professional Personnel	Hours	Rate		
Engineering Technician	198.50	85.00	16,872.50	
Engineer in Training	43.50	60.00	2,610.00	
Senior Engineer	2.50	175.00	437.50	
Field Engineer	53.00	115.00	6,095.00	
	<b>297.50</b>	<b>435.00</b>	<b>26,015.00</b>	<b>26,015.00</b>
<b>Reimbursable Expenses</b>				
Equip Rental				
1/18/2018	PINE ENVIRONMENTAL SERVICES INC.	PINE ENVIRONMENTAL SERVICES INC. INV#CA1-170018268	675.00	
2/8/2018	PINE ENVIRONMENTAL SERVICES INC.	PINE ENVIRONMENTAL SERVICES INC. CA1- 180001680	675.00	

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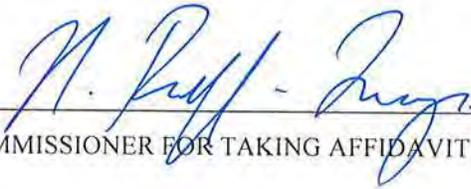
	2/23/2018	PINE ENVIRONMENTAL SERVICES INC.	PINE ENVIRONMENTAL SERVICES INC. CA1-180002462	663.75	
Field and Lab	1/5/2018	Friedmann, Chris	stakes, marking paing, pails	52.94	
<b>Mileage</b>				<b>639.98</b>	
OS Lab Test	1/3/2018	Maxxam Analytics Inc. INV#CP3297708	Maxxam Analytics Inc.	2,976.00	
	1/9/2018	Maxxam Analytics Inc. CP3299795	Maxxam Analytics inc.-	526.00	
	1/22/2018	Maxxam Analytics Inc. CP3302105	Maxxam Analytics Inc.	789.00	
	1/22/2018	Maxxam Analytics Inc. CP3302106	Maxxam Analytics Inc.	789.00	
	1/29/2018	Maxxam Analytics Inc.	MAXXAM CP3303563	424.00	
	2/8/2018	Maxxam Analytics Inc. INV#CP3306704	Maxxam Analytics Inc.	2,480.00	
	2/21/2018	Maxxam Analytics Inc. CP3295589	Maxxam Analytics Inc.-	1,018.10	
	2/21/2018	Maxxam Analytics Inc. CP3295602	Maxxam Analytics Inc.-	263.00	
		<b>Total Reimbursables</b>		<b>11,971.77</b>	<b>11,971.77</b>
			<b>Sub-Total:</b>		<b>\$37,986.77</b>

Phase KCH-300 Caisson Inspections					
<b>Professional Personnel</b>			<u>Hours</u>	<u>Rate</u>	
Project Support			7.50	45.00	337.50
Senior Technician			66.00	85.00	5,610.00
Senior Engineer			11.25	175.00	1,968.75
Manager			1.00	200.00	200.00
			<b>85.75</b>	<b>505.00</b>	<b>8,116.25</b>
<b>Reimbursable Expenses</b>					
Mileage					486.49
		<b>Sub-Total:</b>			<b>486.49</b>
				<b>Sub-Total:</b>	<b>\$8,602.74</b>
				<b>Sub- Total (for invoice)</b>	<b>54,453.78</b>
<b>Taxes</b>					
ON HST				13.00 % of 54,453.78	7,078.99
		<b>Total Taxes</b>			<b>7,078.99</b>
				<b>Total this Invoice:</b>	<b>\$61,532.77</b>

PLEASE REMIT PAYMENT TO: EXP Services Inc.  
 By Mail: 56 Queen Street East, Suite 301, Brampton ON L6V4M8 CANADA  
 By Phone: 1-855-876-0397  
 By Email: ClientPayments@exp.com

This is **Exhibit "N"**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.

A handwritten signature in blue ink, appearing to read "N. Ruhloff-Queiruga", is written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.

**Properties**

PIN 22291 - 0628 LT  
 Description PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194. S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF WATERLOO  
 Address WATERLOO

PIN 22291 - 0011 LT  
 Description PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 556933, 562886, 694759; WATERLOO  
 Address 209 LEXINGTON ROAD WATERLOO

**Consideration**

Consideration \$ 336,654.12

**Claimant(s)**

Name EXP SERVICES INC.  
 Address for Service c/o Koskie Minsky LLP  
 900 - 20 Queen St. W.  
 Toronto, ON M5H 3R3  
 Attn: Jeffrey Arnel  
 Tel: 416-595-2069  
 Email: jarnel@kmlaw.ca

I, Andrew John Holford, am the agent of the lien claimant and have informed myself of the facts stated in the claim for lien and believe them to be true.

I, Andrew John Holford, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Statements**

Name and Address of Owner DEEM MANAGEMENT SERVICES LIMITED and 2453678 ONTARIO INC., 209 Lexington Rd., Unit F2, Waterloo, ON N2K 2E1 Name and address of person to whom lien claimant supplied services or materials MAXION MANAGEMENT SERVICES INC., and MAXION CONSTRUCTION MANAGEMENT INC. 610 Applewood Crescent, Suite 502 Vaughan, ON L4K 0E3 Time within which services or materials were supplied from 2015/11/18 to 2018/03/02 Short description of services or materials that have been supplied Engineering Services including but not limited to geotechnical, environmental, structural and inspecting and testing. Contract price or subcontract price N/A Amount claimed as owing in respect of services or materials that have been supplied \$336,654.12 inclusive of HST

The lien claimant claims a lien against the interest of every person identified as an owner of the premises described in said PIN to this lien

**Signed By**

Jeffrey Aaron Arnel	900-20 Queen St. West Toronto M5H 3R3	acting for Applicant(s)	Signed	2018 04 12
Tel	416-595-2125			
Fax	416-204-2892			

I have the authority to sign and register the document on behalf of the Applicant(s).

**Submitted By**

KOSKIE MINSKY LLP	900-20 Queen St. West Toronto M5H 3R3	2018 04 12
Tel	416-595-2125	
Fax	416-204-2892	

The applicant(s) hereby applies to the Land Registrar.

**Fees/Taxes/Payment**

Statutory Registration Fee	\$63.65
Total Paid	\$63.65

**File Number**

Claimant Client File Number : 180528

This is **Exhibit "O"**

referred to in the Affidavit of Gordon Ho  
sworn before me this 23rd day of December, 2019.



A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, *etc.*,  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN THE MATTER OF THE CONSTRUCTION LIEN ACT,  
R.S.O. 1990 c. C. 30, AS AMENDED**

**BETWEEN:**

**EXP SERVICES INC.**

Plaintiff

- and -

**MAXION MANAGEMENT SERVICES INC.,  
MAXION CONSTRUCTION MANAGEMENT INC.,  
DEEM MANAGEMENT SERVICES LIMITED and 2453678 ONTARIO INC.**

Defendants

**STATEMENT OF CLAIM**

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$» for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: May 24/2018

Issued by



Local registrar

Address of court office 85 Frederick Street  
Kitchener, ON N2H 0A7

**TO: MAXION MANAGEMENT SERVICES INC.**

610 Applewood Crescent, Suite 502  
Vaughan, ON L4K 0E3

**AND TO: MAXION CONSTRUCTION MANAGEMENT INC.**

610 Applewood Crescent, Suite 502  
Vaughan, ON L4K 0E3

**AND TO: DEEM MANAGEMENT SERVICES LIMITED**

209 Lexington Road, Unit F2  
Waterloo, ON N2K 2E1

**AND TO: 2453678 ONTARIO INC.**

209 Lexington Road, Unit F2  
Waterloo, ON N2K 2E1

**CLAIM**

I. The plaintiff claims:

- (a) payment of the sum of \$336,654.12 inclusive of applicable taxes by the defendants, or any of them;
- (b) a declaration and judgment that the plaintiff, EXP Services Inc. ("**EXP**") is entitled to a lien against the property hereinafter described in the sum of \$336,654.12;
- (c) damages in the amount of \$336,654.12 against the defendants, Maxion Management Services Inc. and Maxion Construction Management Inc. (collectively "**Maxion**") for breach of contract;
- (d) payment of pre-judgment and post-judgment interest on the said sum of \$336,654.12 by the defendants or any of them;
- (e) in the event of default of payment of the said sum of \$336,654.12 plus interest as aforesaid and costs by the defendants, or any of them, all of the estate and interest of the defendants, Deem Management Services Limited ("**Deem Management**") and 2453678 Ontario Inc. ("**2453678 Ontario**"), in the lands and premises may be sold and the proceeds applied in and towards payment of EXP's claim together with interest and costs pursuant to the *Construction Lien Act*, R.S.O. 1990 c. C.30, as amended (the "**Act**");
- (f) for the purposes aforesaid and for all other purposes, that all proper directions be given, inquiries made and accounts taken;

- (g) payment of costs on a substantial indemnity basis together with all applicable taxes; and
- (h) such further and other relief as this Honourable Court may deem just.

2. The plaintiff, EXP, is a corporation incorporated pursuant to the laws of Canada and has a head office in Brampton, Ontario. The plaintiff carries on business as a professional engineering company.

3. The defendants, Maxion, carry on business in the Province of Ontario as general contractors / construction managers from their registered head office in Vaughan, Ontario.

4. The defendants, Deem Management and 2453678 Ontario, are the owners of the lands referred to in the Claim for Lien hereinafter set forth.

5. EXP states that it entered into an agreement with Maxion to supply engineering services, including but not limited to geotechnical, environmental, structural and inspecting and testing (the "**Services**") at the lands described in the Claim for Lien attached hereto as Schedule "A".

6. EXP states that it supplied the Services to the said lands and premises referred to in the Claim for Lien which work was subsequently incorporated into the improvement.

7. EXP last supplied the Services to the improvement on or about March 2, 2018 and Maxion owes it the sum of \$336,654.12 plus interest and costs as herein pleaded in respect of the Services.

8. The price or sums agreed upon for the supply of the Services were the amounts indicated on each of EXP's invoices, which invoices have been sent or delivered to Maxion and which invoices EXP craves leave to produce and refer to at the trial of this action.
9. By reason of the supply of the said Services as hereinbefore set out, EXP became and is entitled to a lien upon the estate or interest of Deem Management and 2453678 Ontario in the lands and premises more particularly described in the Claim for Lien hereinafter set forth in the sum of \$336,654.12, inclusive of applicable taxes, together with interest and costs of this action pursuant to the relevant provision of the *Act*.
10. On or about April 12, 2018, the plaintiff in pursuant of the said Act, caused to be registered a claim for lien in the Land Titles Division for the Land Registry Office of Waterloo District (No. 58), as Instrument No. WR1106904, which Claim for Lien is in the words and figures as set out in Schedule "A" attached hereto to this Statement of Claim.
11. The lands referred to herein, which are more particularly described in EXP's Claim for Lien, are the lands occupied by Deem Management and 2453678 Ontario and are the lands upon which EXP performed its work in accordance with the contract hereinbefore referred to.
12. EXP states that it supplied the said materials and services that were required to be incorporated into the said improvement, at the request of, upon the credit of, on behalf of, with the privity and consent of, and for the direct benefit of all of the defendants.
13. EXP states that the statutory holdback required to be retained by Deem Management and 2453678 Ontario is equal to or greater than the amount of EXP's Claim for Lien. EXP therefore

claims to be entitled to be paid by Deem Management and 2453678 Ontario the total sum due and owing as hereinbefore set out. EXP pleads and relies upon Sections 21 and 22 of the *Act*.

14. EXP states that by reason of its supply of the Services it had agreed to supply as hereinbefore described, that it has enhanced the value of the lands and premises and that the defendants or any of them have received the benefit of same and have been unjustly enriched for the amount of \$336,654.12 at the expense of and to the detriment of EXP. EXP pleads and relies upon the doctrines of unjust enrichment and *quantum meruit*.

15. EXP proposes that this action be tried in the City of Kitchener, in the Province of Ontario.

May \_\_\_\_, 2018

**KOSKIE MINSKY LLP**  
20 Queen Street West, Suite 900  
Toronto ON M5H 3R3

**Jeffrey A. Armel** LS#: 35749P  
Tel: (416) 595-2069 / Fax: (416) 204-2826

Lawyers for the Plaintiff

Schedule "A"

LRO # 58 Construction Lien

Recorded as WR1106904 on 2018 04 12 at 16:48

The applicant(s) hereby applies to the Land Registrar,

yyyy mm dd Page 1 of 2

**Properties**

**PIN** 22291 - 0628 LT  
**Description** PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194. S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF WATERLOO  
**Address** WATERLOO

**PIN** 22291 - 0011 LT  
**Description** PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 556933, 562888, 694759; WATERLOO  
**Address** 209 LEXINGTON ROAD  
 WATERLOO

**Consideration**

**Consideration** \$ 338,654.12

**Claimant(s)**

**Name** EXP SERVICES INC.  
**Address for Service** c/o Koskie Minsky LLP  
 900 - 20 Queen St. W.  
 Toronto, ON M5H 3R3  
 Attn: Jeffrey Armel  
 Tel: 416-595-2069  
 Email: jarmel@kmlaw.ca

I, Andrew John Holford, am the agent of the lien claimant and have informed myself of the facts stated in the claim for lien and believe them to be true.

I, Andrew John Holford, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Statements**

Name and Address of Owner DEEM MANAGEMENT SERVICES LIMITED and 2453678 ONTARIO INC., 208 Lexington Rd., Unit F2, Waterloo, ON N2K 2E1 Name and address of person to whom lien claimant supplied services or materials MAXION MANAGEMENT SERVICES INC., and MAXION CONSTRUCTION MANAGEMENT INC. 610 Appiewood Crescent, Suite 502 Vaughan, ON L4K 0E3 Time within which services or materials were supplied from 2015/11/18 to 2018/03/02 Short description of services or materials that have been supplied Engineering Services including but not limited to geotechnical, environmental, structural and inspecting and testing. Contract price or subcontract price N/A Amount claimed as owing in respect of services or materials that have been supplied \$338,654.12 inclusive of HST

The lien claimant claims a lien against the interest of every person identified as an owner of the premises described in said PIN to this lien

**Signed By**

Jeffrey Aaron Armel 900-20 Queen St. West acting for Signed 2018 04 12  
 Toronto Applicant(s)  
 M5H 3R3

Tel 416-595-2125  
 Fax 416-204-2892

I have the authority to sign and register the document on behalf of the Applicant(s).

**Submitted By**

KOSKIE MINSKY LLP 900-20 Queen St. West 2018 04 12  
 Toronto  
 M5H 3R3

Tel 416-595-2125  
 Fax 416-204-2892

Schedule "A"

LRO # 58 Construction Lien

Received as WR1106804 on 2018 04 12 at 16:48

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 2 of 2

**Fees/Taxes/Payment**

Statutory Registration Fee \$63.65

Total Paid \$63.65

**File Number**

Claimant Client File Number : 180528

**EXP SERVICES INC.**  
Plaintiff

**MAXION MANAGEMENT SERVICES  
INC., et al**  
Defendants

Court File No.:

**CV-18-0000651-0000**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN THE MATTER OF THE CONSTRUCTION**  
**LIEN ACT, R.S.O. 1990 c. C. 30, AS AMENDED**

Proceeding commenced at **Kitchener**

**STATEMENT OF CLAIM**

**KOSKIE MINSKY LLP**  
20 Queen Street West, Suite 900  
Toronto ON M5H 3R3

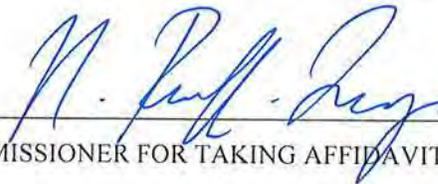
**Jeffrey A. Armel** LS#: 35749P  
Tel: (416) 595-2069 / Fax: (416) 204-2826

Lawyers for the Plaintiff

This is **Exhibit "P"**

referred to in the Affidavit of Gordon Ho

sworn before me this 23rd day of December, 2019.



---

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.

Court File No.: CV-18-00000651-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN THE MATTER OF THE CONSTRUCTION LIEN ACT,  
R.S.O. 1990, c. C.30, AS AMENDED**

BETWEEN:

**EXP SERVICES INC.**

Plaintiff

- and -

**MAXION MANAGEMENT SERVICES INC.,  
MAXION CONSTRUCTION MANAGEMENT INC.,  
DEEM MANAGEMENT SERVICES LIMITED and 2453678 ONTARIO INC.**

Defendants

**CERTIFICATE OF ACTION**

I certify that an action has been commenced in the Superior Court of Justice under the *Construction Lien Act* between the above parties in respect of the premises described in Schedule A to this certificate, and relating to the claim(s) for lien bearing the following registration numbers:

WR1106904

Date: May 24, 2018

  
.....  
«registrar or local registrar»

## SCHEDULE A

*PIN* 22291 - 0628 LT

*Description* PT. 8 BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-8774 & PT. 3 ON 58R-2194. S/T  
EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853489; CITY OF  
WATERLOO

*Address* WATERLOO

*PIN* 22291 - 0011 LT

*Description* PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 556933,  
562886, 694769; WATERLOO

*Address* 209 LEXINGTON ROAD  
WATERLOO

**EXP SERVICES INC.**  
Plaintiff and

**MAXION MANAGEMENT SERVICES  
INC., et al**  
Defendants

Court File No.:

**CV-18-00000631-0000**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at **Kitchener**

**CERTIFICATE OF ACTION**

**KOSKIE MINSKY LLP**  
20 Queen Street West, Suite 900  
Toronto ON M5H 3R3

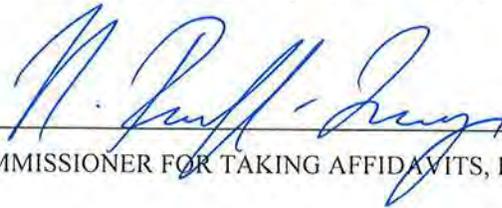
**Jeffrey A. Armel LS#: 35749P**  
Tel: (416) 595-2069 / Fax: (416) 204-2826

Lawyers for the Plaintiff

This is **Exhibit "Q"**

referred to in the Affidavit of Gordon Ho

sworn before me this 23rd day of December, 2019.



A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Nicolas Emilio Ruhloff-Queiruga, a Commissioner, etc.  
Province of Ontario, while a Student-at-Law,  
Expires June 14, 2021.



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LAND REGISTRY OFFICE #58

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

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PAGE 1 OF 3  
PREPARED FOR MICHELLE  
ON 2019/12/19 AT 15:59:39

22291-0011 (LPT)

CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

PROPERTY DESCRIPTION: PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 566933, 562896, 594759; WATERLOO

PROPERTY REMARKS:  
RECENTLY:  
RE-ENTRY FROM 22291-0326  
CAPACITY SHARE

RIN CREATION BASED  
2002/10/21

OWNERS' NAMES  
PHILIP HILL HEIGHTS LIMITED

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT		INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2002/10/18 **				
**SUBJECT.		ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO				
**		SUBSECTION 4(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION OUTLIES				
**		AND ESCREATS OR FOREFEITURE TO THE CROWN.				
**		THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF				
**		IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY				
**		CONVENTION.				
**		ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.				
**		DATE OF CONVERSION TO LAND TITLES: 2002/10/21 **				
582X365	1971/04/13	PLAN EXPROPRIATION				C
58R973	1974/04/17	PLAN REFERENCE				C
58R1229	1975/01/24	PLAN REFERENCE				C
556933	1975/11/20	TRANSFER EASEMENT			THE CORP. OF THE CITY OF WATERLOO	C
562896	1976/02/09	TRANSFER EASEMENT			UNION GAS LIMITED	C
58R3190	1980/09/19	PLAN REFERENCE				C
64759	1980/12/10	TRANSFER EASEMENT			THE CORPORATION OF THE CITY OF WATERLOO	C
730066	1982/07/23	CHARGE			THE TORONTO-DOMINION BANK	C
622322	1985/08/30	TRANSFER			SIMONS, EUGENE	C

\*\*\* COMPLETELY DELETED \*\*\*

\*\*\* DELETED AGAINST THIS PROPERTY \*\*\*

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

22281-0011 (12)

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
NR8693138	2012/06/06	TRANSFER		*** COMPLETELY DELETED *** SIMONS, EUGENE	SIMONS, EUGENE SIMONS, JEANNE	
NR867595	2015/02/18	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK		
	REMARKS: 739064					
NR867623	2015/02/18	TRANSFER		*** COMPLETELY DELETED *** SIMONS, EUGENE SIMONS, JEANNE	2453678 ONTARIO INC.	
	REMARKS: PLAN/REG ACT STATEMENTS.					
NR867624	2015/02/18	CHARGE		*** COMPLETELY DELETED *** 2453678 ONTARIO INC.		
NR867625	2015/02/18	NO ASSIGN RENT GEN		*** COMPLETELY DELETED *** 2453678 ONTARIO INC.		
	REMARKS: NR867624.					
NR103628	2017/05/09	CHARGE		*** COMPLETELY DELETED *** 2453678 ONTARIO INC.		
NR103629	2017/05/09	NO ASSIGN RENT GEN		*** COMPLETELY DELETED *** 2453678 ONTARIO INC.		
	REMARKS: NR103629.					
NR1100946	2018/02/07	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** KIEBMEYER EXCAVATING INC.	INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.	
NR1101811	2018/03/12	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** CRH CANADA GROUP INC.		
NR1102154	2018/03/14	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** DEEP FOUNDATIONS CONTRACTORS INC.		
NR1102417	2018/03/15	APL DEL CONST LIEN		*** COMPLETELY DELETED *** CRH CANADA GROUP INC.		
	REMARKS: NR1102417.					

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 3 OF 3

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22291-0011 (LT)

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHGD
WR1102923	2018/03/19	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** ONESPACE UNLIMITED INC.		
WR1106904	2018/04/12	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** EXP SERVICES INC.		
WR1107271	2018/04/16	CERTIFICATE		*** COMPLETELY DELETED *** KIESRETER EXCAVATING INC.		
WR1107360	2018/04/16	CERTIFICATE		*** COMPLETELY DELETED *** DEEP FOUNDATIONS CONTRACTORS INC.		
WR1110511	2018/05/02	CERTIFICATE		*** COMPLETELY DELETED *** ONESPACE UNLIMITED INC.		
WR1130026	2019/06/11	JUDGT FORECLOSURE	\$1,700,000	SUPERIOR COURT OF JUSTICE	SIMMONS, EUGENE SIMMONS, JEANNE	C
WR1198417	2019/07/19	ACL AMEND ORDER		*** COMPLETELY DELETED *** SUPERIOR COURT OF JUSTICE	SIMMONS, EUGENE SIMMONS, JEANNE	C
WR1199803	2019/07/26	TRANSFER	\$2,350,000	SIMMONS, EUGENE SIMMONS, JEANNE	PHILIP HILL HEIGHTS LIMITED	C
WR1199804	2019/07/26	CHARGE	\$1,500,000	PHILIP HILL HEIGHTS LIMITED	SIMMONS, EUGENE SIMMONS, JEANNE	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
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LAND REGISTRY OFFICE #58

22291-0628 (LT)

PAGE 1 OF 6

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PROPERTY DESCRIPTION: PART BLOCK A PLAN 1313 AND PART LOT 7 GERMAN COMPANY TRACT, PARTS 1, 4 & 5, PLAN 586774 & PART J, PLAN 582194; SUBJECT TO AN EASEMENT IN CROSS OVER PART 1, PLAN 5817957 AS IN MB83459; CITY OF WATERLOO

PROPERTY REMARKS: PLANNING ACT CONSENT AS IN 451112. PLANNING ACT CONSENT AS IN 315407. PLANNING ACT CONSENT AS IN 278385.

ESTATE/QUALIFIER: RECENTLY. DIVISION FROM 22291-0625

ST CONVERSION QUALIFIED: CAPACITY SHARE

OWNERS' NAMES: RYGADE PROPERTY CORP.

2IN CREATION DATE: 2015/02/20

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2015/02/20 **						
**SUBJECT,		ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:				
**		SUBSECTION 4(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *				
**		AND AGREENTS OR FOREFEITURE TO THE CROWN.				
**		THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY CONVENTION.				
**		ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.				
**DATE OF CONVERSION TO LAND TITLES: 2002/10/21 **						
429796	1970/06/05	AGREEMENT		THE CORPORATION OF THE CITY OF WATERLOO		C
5862194	1978/01/04	PLAN REFERENCE		THE CORPORATION OF THE CITY OF WATERLOO		C
620622	1978/02/08	AGREEMENT		THE CORPORATION OF THE CITY OF WATERLOO		C
620623	1978/02/08	AGREEMENT		DEEM MANAGEMENT SERVICES LIMITED		C
620634	1978/02/08	TRANSFER		THE REGIONAL MUNICIPALITY OF WATERLOO		C
952613	1989/07/22	AGREEMENT		THE CORPORATION OF THE CITY OF WATERLOO		C
958866	1989/08/18	AGREEMENT		THE CORPORATION OF THE CITY OF WATERLOO		C
REMARKS: DEVELOPMENT						
586774	1989/07/07	PLAN REFERENCE		THE CORPORATION OF THE CITY OF WATERLOO		C

\*\* DELETED AGAINST THIS PROPERTY \*\*

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY. NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 2 OF 6

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22291-0638 (LT)

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\* CERTIFIED IN ACCORDANCE WITH THE LAND TILES ACT \* SUBJECT TO RESERVATIONS IN CROSS GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
100705	1988/07/19	CERTIFICATE TITLE		*** DELETED AGAINST THIS PROPERTY ***	LEXINGTON HOLDINGS LIMITED	
	REMARKS: DELETED OCT. 3/19 BY M. AGLIANI					
WR157723	2005/09/21	CHARGE		*** DELETED AGAINST THIS PROPERTY *** DEEM MANAGEMENT SERVICES LIMITED	MONTRUSE MORTGAGE CORPORATION LTD.	
WR157724	2005/09/21	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** DEEM MANAGEMENT SERVICES LIMITED	MONTRUSE MORTGAGE CORPORATION LTD.	
WR276832	2007/02/08	CHG AGR PUR & SALE		*** DELETED AGAINST THIS PROPERTY *** LEXINGTON HOLDINGS LIMITED	2126826 ONTARIO INC.	
	REMARKS: EXPIRES 60 DAYS FROM 2007/02/12 (DELETED 2015/02/16)					
WR278215	2007/02/16	TRANSFER		*** DELETED AGAINST THIS PROPERTY *** LEXINGTON HOLDINGS LIMITED	2126826 ONTARIO INC.	
	REMARKS: PLANNING ACT STATEMENTS					
WR440869	2008/01/22	CHARGE		*** DELETED AGAINST THIS PROPERTY *** 2126826 ONTARIO INC.	SAL BIANCO, DON	
WR440870	2008/01/22	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** 2126826 ONTARIO INC.	SAL BIANCO, JON	
	REMARKS: WR440869					
WR592614	2011/01/18	NOTICE		*** DELETED AGAINST THIS PROPERTY *** DEEM MANAGEMENT SERVICES LIMITED	MONTRUSE MORTGAGE CORPORATION LTD.	
	REMARKS: WR157723					
WR597847	2011/02/17	AGY CH NAME OWNER		*** DELETED AGAINST THIS PROPERTY *** 2126826 ONTARIO INC.	DEEM MANAGEMENT SERVICES LIMITED	
WR677725	2012/03/22	APL CONSOLIDATE		DEEM MANAGEMENT SERVICES LIMITED		
WR17857	2013/06/26	PLAN REFERENCE				
WR553469	2014/11/27	TRANSFER EASEMENT		SJ DEEM MANAGEMENT SERVICES LIMITED	WATERLOO NORTH HYDRO INC.	
WR553469	2014/11/27	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** MONTRUSE MORTGAGE CORPORATION LTD.	WATERLOO NORTH HYDRO INC.	
	REMARKS: WR157723 TO WR553469					
WR553468	2014/11/27	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY ***		

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF BASES AND THAT YOU HAVE PICKED THEM ALL UP.

22291-0628 (LD)

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
WR875231	2015/04/10	NOTICE		DAL BIANCO, DON	WATERLOO NORTH HYDRO INC.	
WR875232	2015/04/10	POSTPONEMENT		THE CORPORATION OF THE CITY OF WATERLOO *** COMPLETELY DELETED *** MONTROSE MORTGAGE CORPORATION LTD.	DEEM MANAGEMENT SERVICES LIMITED	
WR875233	2015/04/10	POSTPONEMENT		REMARKS: WR157223 TO WR332231	THE CORPORATION OF THE CITY OF WATERLOO	
WR888817	2015/06/25	CHARGE		*** COMPLETELY DELETED *** DAL BIANCO, DON	THE CORPORATION OF THE CITY OF WATERLOO	
WR888818	2015/06/25	NO ASSEN RENT GEN		*** COMPLETELY DELETED *** DEEM MANAGEMENT SERVICES LIMITED	DAL BIANCO, DONALD	
WR888819	2015/06/25	POSTPONEMENT		REMARKS: WR888817	DAL BIANCO, DONALD	
WR888820	2015/06/25	POSTPONEMENT		*** COMPLETELY DELETED *** DAL BIANCO, DON	DAL BIANCO, DONALD	
WR888821	2015/06/25	DISCH OF CHARGE		*** COMPLETELY DELETED *** DAL BIANCO, DON	DAL BIANCO, DONALD	
WR888822	2015/06/25	DISCH OF CHARGE		REMARKS: WR440859 TO WR388816	DAL BIANCO, DONALD	
WR931210	2016/01/18	CHARGE		*** COMPLETELY DELETED *** MONTROSE MORTGAGE CORPORATION LTD.	VECTOR FINANCIAL SERVICES LIMITED	
WR931211	2016/01/18	NO ASSEN RENT GEN		REMARKS: WR157223	VECTOR FINANCIAL SERVICES LIMITED	
WR931210	2016/01/18	CHARGE		*** COMPLETELY DELETED *** DEEM MANAGEMENT SERVICES LIMITED	VECTOR FINANCIAL SERVICES LIMITED	
WR931211	2016/01/18	NO ASSEN RENT GEN		*** COMPLETELY DELETED *** DEEM MANAGEMENT SERVICES LIMITED	VECTOR FINANCIAL SERVICES LIMITED	
WR931210	2016/01/18	CHARGE		REMARKS: WR931210	VECTOR FINANCIAL SERVICES LIMITED	

NOTE: JOINTING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY. WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
 NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PLOTTED THEM ALL UP.



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LAND REGISTRY OFFICE #58

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 4 OF 6  
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22291-0628 (LT)

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\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
WR932527	2016/01/22	POSTPONEMENT REMARKS: WR898817 TO WR931210		*** COMPLETELY DELETED *** DAL BIANCO, DONALD	VECTOR FINANCIAL SERVICES LIMITED	
WR1030186	2017/05/08	NOTICE REMARKS: WR588817		*** COMPLETELY DELETED *** DEEM MANAGEMENT SERVICES LIMITED	DAL BIANCO, DONALD	
WR1030548	2017/05/09	NOTICE OF LEASE		DEEM MANAGEMENT SERVICES LIMITED	SCHAEFEL VILLAGES INC.	
WR1030822	2017/05/09	CHARGE		*** COMPLETELY DELETED *** DEEM MANAGEMENT SERVICES LIMITED	INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.	
WR1030848	2017/05/09	POSTPONEMENT REMARKS: WR898817 TO WR1030822		*** COMPLETELY DELETED *** DAL BIANCO, DONALD	INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.	
WR1030974	2017/05/10	DISCH OF CHARGE REMARKS: WR931210		*** COMPLETELY DELETED *** VECTOR FINANCIAL SERVICES LIMITED		
WR1039051	2018/02/23	CHARGE		*** COMPLETELY DELETED *** DEEM MANAGEMENT SERVICES LIMITED	DAL BIANCO, DONALD	
WR1100946	2018/03/07	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** KIESMETTER EXCAVATING INC.		
WR1101611	2018/03/12	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** CRF CANADA GROUP INC.		
WR1102114	2018/03/14	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** DEEP FOUNDATIONS CONTRACTORS INC.		
WR1102417	2019/03/15	AGL DEL CONST LIEN REMARKS: WR1102511		*** COMPLETELY DELETED *** CRF CANADA GROUP INC.		
WR1102923	2019/03/19	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** ONESPACE UNLIMITED INC.		
WR1104680	2018/03/29	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** MAXION MANAGEMENT SERVICES INC.		

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT SHARES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



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LAND  
REGISTRY  
OFFICE #58

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

32291-0228 (LP)

PAGE 5 OF 6  
PREPARED FOR MICHELLE  
ON 2019/12/19 AT 15:59:03

teradata press

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT - SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
WR1106904	2018/04/12	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** EXP SERVICES INC.		
WR1107271	2018/04/16	CERTIFICATE		*** COMPLETELY DELETED *** KIESWEITER EXCAVATING INC.		
WR1107360	2018/04/16	CERTIFICATE		*** COMPLETELY DELETED *** DEEP FOUNDATIONS CONTRACTORS INC.		
WR1110411	2018/05/02	CERTIFICATE		*** COMPLETELY DELETED *** ONESPACE UNLIMITED INC.		
WR1116147	2018/06/12	APL COURT ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	CROWE SOBERMAN INC.	
WR1120825	2018/06/25	CERTIFICATE		*** COMPLETELY DELETED *** MAXION MANAGEMENT SERVICES INC.		
WR1125115	2018/07/13	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** MAXION MANAGEMENT SERVICES INC.		
WR1126285	2018/08/31	APL VESTING ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST		
WR1161602	2018/08/31	EXECUTION AGAINST DEEM MANAGEMENT SERVICES LIMITED 15192238-18262328 OCTOBER 5, 2018 - DELETED OCT 3/19 BY M. GILLIANT PURSUANT TO WR1161602			FAR EAST ALUMINIUM WORKS CANADA CORP.	
WR1161602	2019/01/07	TRANSFER	\$2	FAR EAST ALUMINIUM WORKS CANADA CORP.	HYGATE PROPERTY CORP.	C
58R20489	2019/05/24	PLAN REFERENCE		LAND REGISTRAR, WATERLOO LAND REGISTRY OFFICE		C
WR1209095	2019/09/04	LR'S ORDER				C
58P20620	2019/09/05	PLAN REFERENCE		THE CORPORATION OF THE CITY OF WATERLOO	HYGATE PROPERTY CORP.	C
WR1209803	2019/09/09	NOTICE				C
WR1213867	2019/10/03	CHARGE	\$76,000,000	HYGATE PROPERTY CORP.	HSBC BANK CANADA	C

NOTE: ROOING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
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LAND  
REGISTRY  
OFFICE #58

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 6 OF 8

PREPARED FOR MICHELLE

ON 2019/12/19 AT 15:59:03

22291-0628 (LT)

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

teranel express

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
W1215608 REGISTRAR: W1215607	2015/10/03	NO ASSIGN REVF GEN		RYGATE PROPERTY CORP.	HSEC BANK CANADA	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

DAL BIANCO v. DEEM MANAGEMENT SERVICES LIMITED et al.

Court File No.: CV-18-598657-00CL

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

Proceeding commenced at Toronto

**AFFIDAVIT OF GORDON HO**

**KOSKIE MINSKY LLP**  
20 Queen Street West, Suite 900  
Toronto ON M5H 3R3

**Jeffrey Armel, LS#: 35749P**  
Tel: 416-595-2069/ Fax: 416-204-2826

Lawyers for the Lien Claimant,  
EXP Services Inc.

Tab J

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

**B E T W E E N:**

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondents

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*  
and Section 101 of the *Courts of Justice Act*

**AFFIDAVIT OF MICHAEL CIANCHETTI  
(Sworn December 18, 2019)**

I, Michael Cianchetti, of the City of Vaughan, in the Region of York, *make oath and say as follows:*

1. I was an officer of Deep Foundations Contractors Inc. (*Deep*) and as such I have knowledge of the matters hereinafter deposed. By articles of amalgamation filed May 1, 2018, Deep was amalgamated into the corporation known as GFL Infrastructure Group Inc. (*GFL*), of which I am vice-president of construction. In this affidavit, I will continue to refer to the amalgamated corporation by the name of "Deep".
2. In this Affidavit, where I rely upon the advice and information of another person, I believe that advice and information to be true.
3. Deep carries on business as a building foundations contractor.

4. On May 26, 2017, Deep responded to a request to tender the Uptown Waterloo Project (the **Project**), for the supply of labour and materials for caissons and lagged shoring, among other things. A copy of Deep's tender proposal dated May 26, 2017 is attached as **Exhibit 1**. The subcontract price was \$1,860,000.

5. Deep's proposal was accepted by the general contractor, Maxion Construction Management Inc. (**Maxion**). Attached as **Exhibit 2** is a copy of the letter dated June 1, 2017 from Dave Wiley, a Project Manager for Deep, to Bruno Antidormi of Maxion, confirming the award of the subcontract to Deep by Maxion on May 31, 2017.

6. A formal Subcontract Agreement between Deep and Maxion was never executed.

7. A revision to the contract drawings in July 2017 caused the subcontract price to be increased to \$2,110,000.00.

8. Deep commenced its supply of materials, equipment, work and services to the Project on July 11, 2017, as indicated on the time card records for the John Accaputo, Cody Christensen, Jess Ford, Peter Kelly, Nicholas Steppacher and Andrew Waldron-James, which are hereto attached as **Exhibit 3**.

9. Deep's last supply of work, equipment, services and materials to the Project was February 1, 2018. Attached as **Exhibit 4** is a copy of Deep's daily log for the Project for February 1, 2018. It indicated that four workers attended the Project site on that date, namely, Brad Burrows, Matthew DePalma, Mike Medeiros and Deep's project manager, Adam Plomske. The project manager's entry for that date stated: "*AGF tied 8 cages. Took lagging pkg. and welding pkg. off rent, zoom boom off rent as well. Put all equipment on wood, locked and cleaned site up. Left site.*" I was advised by Plomske that he made that entry and he confirmed it was the last date that Deep attended the Project site. Also, that all equipment was put onto "wood planks", the word "planks" was omitted from the entry.

10. During the course of providing its services and work to the Project, Deep duly delivered progress bills to Maxion along with invoice breakdowns.

11. Attached as **Exhibit 5** are copies of Deep's progress bills and invoice breakdowns as follows:

<b>Application No.</b>	<b>Date</b>	<b>Invoice No.</b>
1	July 25, 2017	19312
2	August 23, 2017	19426
3	September 25, 2017	19619
4	October 26, 2017	19700
5	November 23, 2017	19741
6	December 19, 2017	19901
7	January 24, 2018	20024
8	February 2, 2018	20100
9	February 1, 2018	20222
Holdback	February 2, 2018	1759

12. During the project, Maxion authorized several change orders to Deep's subcontract.

13. One change order was for a shoring wall revision priced at \$47,000.00. This change was evidenced by several emails exchanged between Maxion and Deep between October 17, 2017 and October 26, 2017. Copies of the relevant emails in reverse chronological order are attached as **Exhibit 6**.

14. Deep made a standby delay claim against Maxion in a December 12, 2017 letter by Adam Plomske, of Deep to Walter Bedenikovich of Maxion. A copy of the letter is attached as **Exhibit 7**. Deep's claim was for \$150,000.00.

15. Maxion approved subcontract change order number 3, dated January 2, 2018, for \$28,000.00. A copy of the Change Order is attached as **Exhibit 8**. The change was for drilling and the supply of concrete and reinforcing steel for 4 additional caissons for the tower crane.

16. Maxion approved subcontract change order number 4 dated January 31, 2018 for \$36,540.00. A copy of the Change Order is attached as **Exhibit 9**. It was for winter concrete premium charge.

17. Maxion issued subcontract Change Order number 5 dated January 31, 2018 for \$3,955.13. A copy of the Change Order is attached as **Exhibit 10**. It was for concrete chipping over poured caissons.

18. A schedule of the change orders and extras, dated March 3, 2018, is attached as **Exhibit 11**.

19. A copy if Deep's statement of account with Maxion dated March 14, 2018 is attached as **Exhibit 12**. It shows a balance due and owing to Deep from Maxion of \$918,432.38.

20. Deep duly provided the services, labour, equipment and materials required pursuant to its subcontract with Maxion, as set out in Deep's progress bills.

21. Maxion failed and / or neglected to pay Deep's outstanding account in respect to the Project.

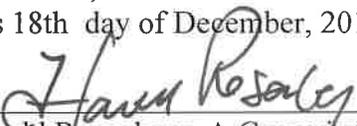
22. As a result of the failure to retire Deep's outstanding account, Deep registered a claim for lien for \$918,432.38 against the title to the Project lands on March 14, 2018. Deep's Construction Lien was registered as Instrument No. WR1102134.

23. Deep perfected its lien by commencing an action under the *Construction Act* on April 12, 2018 and by registering a Certificate of Action against the title to the Project lands. Attached as **Exhibit 13** is a copy of the Certificate of Action registered as Instrument No. WR1107360.

24. Deep's Statement of Claim is attached as **Exhibit 14**. Deep's claim for lien is appended to it as a schedule.

25. I make this Affidavit in support of Deep's lien claim under the *Construction Act*.

**SWORN** before me at the City )  
of Toronto, )  
in the Province )  
of Ontario, )  
this 18th day of December, 2019 )

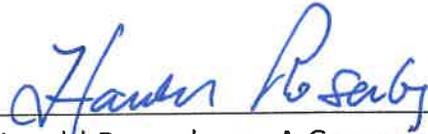
  
\_\_\_\_\_  
Harold Rosenberg, A Commissioner, etc.

  
\_\_\_\_\_  
**Michael Cianchetti**

This is

**Exhibit 1**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



---

Harold Rosenberg, A Commissioner, etc.



Deep Foundations Contractors Inc.  
145 Ram Forest Road  
Stouffville, Ontario L4A 2G8  
Tel: 905-750-5900 Web: deep.ca

P14-214DW  
May 26, 2017

PROJECT: Uptown Waterloo

TENDER FOR: SHORING

- BASIS OF TENDER:
- a) Structural drawings dated 3/12/2015, issued for caisson tender.
  - b) Shoring layout per above noted structural drawings, with wood lagging only instead of caisson wall (between gridlines L and U per previous owner request, proposed at other areas by Deep).
  - c) No specifications Received.
  - d) No addenda received.
  - e) Geotechnical report BRM-00604100-A0 by Exp Services Inc. dated November 21, 2013.
  - f) To supply and install 222 caissons and 15,000ft<sup>2</sup> of lagged shoring.
  - g) Drill depths and diameters per the above noted drawings.
  - h) No rock drilling is included.
  - i) No down-hole entry for inspection or cleaning of caissons.
  - j) Suitable drilling platform to be provided at the top of shoring, and caisson cut-off elevations capable of supporting our equipment and concrete trucks per the new OHSA construction regulation O.REG. 345/15.
  - k) All overhead obstructions will be relocated away from our work area by others, no low headroom work has been allowed for.
  - l) Payment 30 days from invoice date.
  - m) Holdback to be paid 45 days from the completion of our work.
  - n) No maintenance holdback retention.
  - o) Based on wrap up insurance provided.
  - p) Anticipated Start Date: June 2017.

PRICES: Our base price for 15,000ft<sup>2</sup> of lagged shoring and 222 caissons per the above noted drawings is .....\$ 1,860,000.00

INCLUDED CAISSONS: Drill only auger cleaned caissons.  
Supply and place caisson concrete, placed by free-fall methods.  
Supply and place caisson reinforcing.

INCLUDED SHORING: Preparation of shop drawings.  
Supply and place soldier piles, lagging, struts, walers, rakers, soil and rock anchors (including shoring concrete), as applicable.

EXCLUDED CAISSONS: Layout, survey work and as built drawings.  
Winter heating of concrete.  
Location, protection or relocation of utilities.



P14-214DW  
May 26, 2017

Supply and placing of anchor bolts and dowels.  
Site access, preparation, maintenance and dewatering.  
On-site handling and disposal of spoil material.  
Final trimming of caissons (where over pour is required due to ground conditions or when cut off is greater than 1.2m below working grade).  
Breakout and removal of boulders, limestone and other underground obstructions (known or unknown) will be executed on a time and material basis at standard rates.  
Tremie concrete methods.  
Inspection, testing, monitoring and field review.  
Caisson caps.  
Flagmen and traffic control.  
Bonds.  
Any allowance for working on mats.  
Responsibility for liquidated damages.  
H.S.T.

EXCLUDED  
SHORING:

Layout, survey work and as built drawings.  
Winter heating of concrete.  
Location, protection or relocation of utilities.  
Site access, preparation, maintenance and dewatering.  
On-site handling and disposal of spoil material.  
Breakout and removal of boulders, limestone and other underground obstructions (known or unknown) will be executed on a time and material basis at standard rates.  
Inspection, testing, monitoring and field review.  
Flagmen and traffic control.  
Bonds.  
Any allowance for working on mats.  
Any excavation for lagging or raker footings.  
The removal of shoring, rakers or walers. Work to be carried out on a time and material basis at standard rate.  
Site dewatering to accommodate the installation of the lagging.  
Installation of lagging through wet soils will be completed on a time and material basis, at standard rates and recorded daily.  
Winter protection of the shoring.  
Cut down soldier piles.  
Responsibility for liquidated damages.  
H.S.T.

SPECIAL  
CONDITIONS:

To be met and provided for by the client, as required at no cost to DFCI prior to mobilization on site.

Note that specific reference to site working platforms, services, traffic control and vibration damages is included in the O&S General Conditions.



P14-214DW  
May 26, 2017

Working platforms shall be capable of supporting our equipment (drill rigs, cranes, etc.). If required, purchaser will provide and maintain all materials such as, stone, rubble, filter cloth, etc., to ensure the working platform is stable.

Prior to drilling, a "work permit" shall be reviewed and signed by the purchaser ensuring no utilities are present within our work area, or that the utilities are adequately protected.

We are signatory to Local 793 and Local 183. Work will proceed utilizing these trades only. If this project requires other signatory trades, they will be provided for by the client at no cost to DFCI.

No surcharges will be introduced to the shoring system including but not limited to, utilities, formwork, cranes, backhoes and ready mix trucks.

Survey the shoring wall location (piles, lagging, bracing, etc.) during bulk excavation at each bracing level to ensure no interference or other impacts to the permanent structure. DFCI will not accept any liability for additional work due to an incomplete or inaccurate survey.

Provide graded level work area at top of soldier piles and tieback elevations to accommodate our equipment.

Purchaser to supply 2" potable water supply.

Secant wall concrete strengths specified on the shoring design drawings constitute the minimum strengths that will be provided.

The client acknowledges that the execution of our work causes vibration which may damage surrounding structures and services, and will indemnify and protect DFCI from any claims.

Schedule start, interim and completion dates to be mutually agreed.

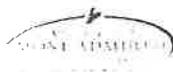
Offer is subject to:

- a) Design approvals where applicable
- b) Availability of materials included at time of tender
- c) Tender valid for 30 days.

GENERAL  
CONDITIONS:  
DEEP FOUNDATIONS CONTRACTORS INC.

The OAFS General Conditions (June 2016) attached, form part of this tender.

Per: Dave Wiley, P.Eng,





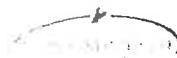
ONTARIO ASSOCIATION OF FOUNDATION SPECIALISTS

General Conditions Applicable to this Tender  
and to the Agreement between the Tenderer and the Client

Update June 2016

Page 1 of 2

Tenderer – the OAFS Member submitting this Tender		
Client – the Entity to Whom this Tender is submitted (Owner, General Contractor, Constructor)		
1.	Acceptance Period	The tender is subject to revision or withdrawal if not accepted within 30 days.
2.	Bonding	The cost of bonds is not included in the tender.
3.	H.S.T./G.S.T	H.S.T. and G.S.T. are not included in the tender.
4.	Inclusion of General Conditions of CCDC 2 or Subcontract Conditions of CCA 1	If the Client is the owner or the agent of the owner of the project, then the General Conditions of the current version of the CCDC 2 Stipulated Price Contract shall apply to the tender and to the Agreement between the Tenderer and the Client ("the Agreement"). If the Client is not the owner, or the agent of the owner of the project, then the Subcontract Conditions of the current version of the CCA 1 Stipulated Price Subcontract shall apply. The OAFS General Conditions shall take priority over the CCDC 2 General Conditions and the CCA 1 Subcontract Conditions.
5.	Priority of Documents	The Tender Letter followed by these General Conditions have priority over all other documents.
6.	Terms of Payment	Unless noted otherwise within the Tender, 90% of monthly progress invoices for all work performed including extras, shall be paid by the Client to the Tenderer without deduction, within 30 days of invoice date. Holdback shall be paid 45 days after substantial performance of the Tenderer's work. The tender prohibits any maintenance holdbacks.
7.	Transportation of Equipment	Unless noted otherwise in the Tender, the Tenderer has not allowed for transportation of oversize equipment during haul-load season.
8.	Work Schedule	Unless otherwise stated in the tender, the tender price is based on (i) one mobilization by the Tenderer, (ii) sufficient access to the work site being provided to the Tenderer and (iii) the readiness of the site for the Tenderer's work to enable it, once mobilized, to work continuously and without interruption and to complete its work based on the sequence of operations determined by it, failing which the Client shall pay for its additional expenses at Standard Rates.
9.	Delays	The Tenderer is not responsible for delays due to strikes, fire, flood, accident or causes beyond its control. For delays caused by the Client, the Client shall pay the Tenderer for its additional expenses as extra work at Standard Rates.
10.	Hours of Work	Unless otherwise stated in the tender, the tender price is based upon the performance of the Tenderer's work using only day shift labour charged at normal straight time hours of work, in accordance with its collective agreements.
11.	Contaminated or Hazardous Materials	Unless otherwise stated in the tender, the Tenderer will not test for, locate, handle, remove or dispose of on or off site, any contaminated or hazardous soils, water or other such materials. The Tenderer shall not be responsible for associated costs.
12.	Insurance	The Tenderer has \$5,000,000.00 in liability and property damage insurance. Any insurance policy issued to the Tenderer, in which others are named as additional insureds, is effective only with respect to liability arising out of the Tenderer's negligence.
13.	Vibrations	The Tenderer shall not be responsible for damage, disruption or displacement of or to existing properties, structures, facilities or services, caused or contributed to by vibrations caused by it, and the Client shall indemnify and hold the Tenderer harmless for all claims relating thereto.
14.	Extra Work	All work not clearly identified as the Tenderer's work in the Tenderer's submission is extra work for which the Client shall pay at Standard Rates. The Client shall review and confirm the accuracy of the Tenderer's work records daily.
15.	Caisson Cleaning and Inspection	The Ontario Association of Foundation Specialists does not endorse the practice of hand cleaning and visual inspection of the base of caissons. Entry into the caisson excavation will be carried out under Confined Space procedures and only where naturally occurring atmospheric conditions continuously meet the acceptable limits specified in the Ontario Construction Regulation 632/05, Confined Spaces, Section 19. Hand cleaning and visual inspection of the base of caissons shall be limited to caissons 900 mm in diameter and larger.
16.	Caisson Work Exclusions	Hand cleaning of caisson tops, including the removal of laitance, cleaning of reinforcing steel, protection of caissons and reinforcing steel after concrete is poured, forming above grade and the supply or placing of anchor bolts, dowels, caisson caps and pile caps is not included in the tender.
17.	Temporary Shoring	The Client shall carry out its work expeditiously in order to minimize the working life of temporary shoring systems. The Tenderer shall not be responsible for the condition or performance of temporary shoring systems remaining in use for more than six months after installation and the Client shall indemnify and hold the Tenderer harmless for all claims relating thereto.
18.	Obstructions	Work performed by the Tenderer to remove surface and subsurface obstructions, known or unknown, including boulders and limestone, that interfere with or increase the cost of its work is extra work for which the Client shall pay at Standard Rates.
19.	Pile obstructions	Pre-angering, jetting and pre-excavation to remove obstructions to advance driven piles is extra work for which the Client shall pay at Standard Rates.
20.	Unacceptable Piles	Work performed by the Tenderer to drive piles that are damaged or exceed specified tolerances due to obstructions or other conditions beyond its control and that are determined to be unacceptable by a qualified inspector, shall be paid for by the Client as if the piles were completed. Work performed and expenses incurred by the Tenderer, including standby time, to drive additional or replacement piles or to take other remedial measures is extra work for which the Client shall pay at Standard Rates.
21.	Retapping Piles	The tender includes retapping up to 10% of the driven piles unless driving to bedrock, in which case retapping is not required. Additional pile retapping work performed by the Tenderer is extra work for which the Client shall pay at Standard Rates.



ONTARIO ASSOCIATION OF FOUNDATION SPECIALISTS  
General Conditions Applicable to this Tender  
and to the Agreement between the Tenderer and the Client

Update June 2016

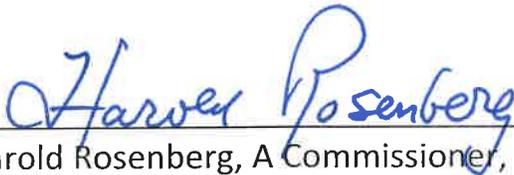
Page 2 of 2

22.	Pile Capacity Verification	OAFS does not condone the verification of driven piles using the Hiley graph testing method. Verification of driven piles will be by dynamic testing or other means that does not require any worker to be within 4m of an operating pile hammer.
23.	Load Testing	Unless otherwise stated in the tender, the Tenderer will not perform dynamic or static load testing of foundation elements unless paid for as extra work.
24.	Pile Cut-offs	If the Tenderer agrees to perform pile cut-offs, then its obligation to do so shall terminate once it has completed installing piles. Unless noted otherwise the Tenderer retains pile cutoff materials.
25.	Noise and Exhaust	Unless otherwise stated in the tender, the Tenderer shall not be required to minimize or control noise from its operations or exhaust emissions from its equipment.
26.	Standard Rates	Standard Rates for payment to the Tenderer for all extra work and standby time shall be the rates provided by the Tenderer for equipment, labour and materials and which are to be incorporated into the agreement between the Tenderer and the Client.
<b>ITEMS 27 TO 46 WILL BE PROVIDED BY THE CLIENT AT ITS OWN EXPENSE</b>		
27.	Client on-site Supervision	On-site supervision of their own work and coordination with Foundation Contractor. The Tenderer will also provide their own On-site Supervision.
28.	Site Conditions	Conduct an inspection of the work area to identify potential hazards including utilities, services, obstructions, structures and soil conditions that may endanger a worker. Site preparation including removal of hazards where practical or disconnection or inactivation, including preparation of a written report that indicates hazards identified, hazards removed and hazards disconnected or inactivated. Site maintenance and site access to enable the Tenderer to perform its work, including the installation, operation and removal of its equipment and vehicles. Dry, stable and level working surfaces, including ramps and benches to be provided.
29.	Adjacent Structures	Confirmation of the underside elevation of footings, basements, elevator pistons, etc.
30.	Work Adjacent to Active Highway	When working adjacent to live traffic, a safe work buffer zone of approximately one lane width will be provided free of charge to the Tenderer.
31.	Working Platform for Drilling Operations	In complete accordance with Ontario Regulation 345/15 made under the Occupational Health and Safety Act and Regulation for Construction Projects for Rotary Foundation Drill Rigs exerting a ground pressure of 200 kilopascals or more under its tires, crawlers, or outrigger pads, design, inspect, maintain and modify as required a suitable working platform. Certify compliance; provide written reports, and an inspection log. A Guidance Document on Working Platforms, Certificate of Compliance and Log are attached. Refer to the Regulation for specific details.
32.	Storage Area	Secure on-site storage areas suitably located for the Tenderer's materials, tools and equipment.
33.	Site Protection and Maintenance	Site protection and maintenance, traffic and pedestrian control, barricades, fences, hoarding, site security, site cleaning, street cleaning, snow removal, dust control and flagpersons.
34.	Hazards	In complete accordance with Ontario Regulation 345/15 made under the Occupational Health and Safety Act and Regulation for Construction Projects, identify, remove and/or protect potential hazards. Provide a written report. Refer to the Regulations for specific details.
35.	Utilities, etc.	Copies of certified locates and test pit information in accordance with TSSA and CSA requirements prior to the Tenderer's mobilization. The location, exposure, protection, removal, diversion and repair of and to underground, surface, above-ground and overhead services and utilities before the Tenderer requires access to these areas of the site.
36.	Permits, etc.	All permits, licences, fees and rights, including rights to encroachment.
37.	Survey & Layout	All survey and layout work (including benchmarks, lines and levels), pile locations, as-built drawings and records.
38.	Site Dewatering and Unwatering	All site dewatering and unwatering including ground water and surface water.
39.	Inspection, etc.	Inspection, analysis, reporting, testing (including concrete testing), pre-construction surveying, shoring system monitoring, vibration monitoring and QVE certification. Verification and approval of founding materials and elevations. Shoring monitoring at a minimum to the requirements of OPSS 539.
40.	Drill Spoil	On-site handling, containment, stock-piling, removal and disposal of drill spoil, including water and fluids, from the drilling locations so as not to impede the Tenderer's operations.
41.	Lagging Excavation	All excavation shall be carried out neatly by machine to the back face of the lagging in maximum 1.2m lifts, and as required by the Tenderer to suit its shoring installation sequence. Lagging through unstable or wet soils, if performed by the Tenderer, shall be extra work.
42.	Detailed Excavation	Removal of ground heave and backfilling of voids resulting from pile driving in a manner that does not hinder the Tenderer's operations. Trimming of caisson walls in a manner that does not compromise their integrity. Excavation for raker footings. Excavation of berms.
43.	Weather Protection	Cold weather, frost and erosion protection of exposed shoring, backslopes, piles, caissons and adjacent footings.
44.	Removal of Shoring	Removal and disposal of any part of the shoring system, including destressing of tiebacks.
45.	Potable Water	An adequate supply of potable water to meet the Tenderer's drilling and grouting requirements.
46.	Other Services	Electricity, night floodlighting, portable toilets, sanitary services and hand wash facilities.

This is

**Exhibit 2**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



Handwritten signature of Harold Rosenberg in blue ink, written over a horizontal line.

Harold Rosenberg, A Commissioner, etc.



Deep Foundations Contractors Inc.  
145 Ram Forest Road  
Stouffville, Ontario L4A 2G8  
Tel: 905-750-5900 Web: deep.ca

P14-214DW  
June 1, 2017

Maxion Construction Management Inc.  
610 Applewood Crescent Suite 502  
Vaughan, Ontario  
L4K 0E3

Attention: Bruno Antidormi

Re: Contract Award – Uptown Lifestyle project

Dear Sir:

This letter refers to your e-mail dated May 31, 2017 in which you awarded Deep Foundations Contractors Inc. a subcontract for the shoring and caissons work at the Uptown Waterloo project in the amount of \$1,860,000.00.

Any contract that may be issued later will incorporate by appendix, our tender letter referenced P14-214 dated May 26, 2017. Until such time, we will be proceeding with our work under the terms of our tender letter.

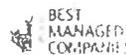
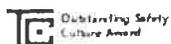
Please forward the Autocad drawings so that we may begin the shoring design.

Start date to be mutually agreed.

Thank you for awarding this contract to Deep Foundations Contractors Inc.

Yours truly,  
DEEP FOUNDATIONS CONTRACTORS INC.

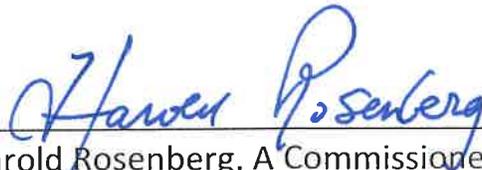
Per: Dave Wiley, P.Eng.  
Project Manager



This is

**Exhibit 3**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



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Harold Rosenberg, A Commissioner, etc.

15

# PR Time Card Entry List

PR Group: 1 Payroll Date: 15/07/17 All Employees Cert Jobs Only? N  
 All Post Dates Totals by Posting Date? Y Earnings Recap? Y All Timecards All Work Orders

Timecard Date	Craft Class	PR Dept	Temp Sft JC Dept	Job/Phase	Eq CT	Equipment Usage	Rev Code	Phase	EC	Rate	Hours	Am't
PR Group: 1	Hourly											

MAXIM CONSTR. - UPTOWN LIFESTYLE JOB # 17-0059 JH

Employee: 1 Accaputo John

Timecard Date	Craft Class	PR Dept	Temp Sft JC Dept	Job/Phase	Eq CT	Equipment Usage	Rev Code	Phase	EC	Rate	Hours	Am't
17-0059-700 102.30	NONUNION			Yard Staff/OT					1	31.52000	1.00	31.52
Timecard Totals for Tuesday, July 11, 2017 : 1.00 31.52												
17-0059-700 102.30	NONUNION			Yard Staff/OT					1	31.52000	2.50	78.80
Timecard Totals for Wednesday, July 12, 2017 : 2.50 78.80												
Employee Totals 3.50 110.32												
Earnings Code Recap 1 Regular Time for Job Timecards 3.50 110.32												
Employee: 1 Accaputo John												

Employee: 352 Christensen Cody

Timecard Date	Craft Class	PR Dept	Temp Sft JC Dept	Job/Phase	Eq CT	Equipment Usage	Rev Code	Phase	EC	Rate	Hours	Am't
17-0059-700 102.30	NONUNION			Yard Staff/OT					1	26.70000	1.00	26.70
Timecard Totals for Tuesday, July 11, 2017 : 1.00 26.70												
17-0059-700 102.30	NONUNION			Yard Staff/OT					1	26.70000	2.50	66.75
Timecard Totals for Wednesday, July 12, 2017 : 2.50 66.75												
Employee Totals 3.00 93.45												
Earnings Code Recap 1 Regular Time for Job Timecards 3.00 93.45												
Employee: 352 Christensen Cody												

Employee: 55 Duncan Paul

Timecard Date	Craft Class	PR Dept	Temp Sft JC Dept	Job/Phase	Eq CT	Equipment Usage	Rev Code	Phase	EC	Rate	Hours	Am't
17-0059-700 102.40	NONUNION			Field/ON					1	40.50000	4.00	162.00
Timecard Totals for Wednesday, July 12, 2017 : 4.00 162.00												
Employee Totals 4.00 162.00												
Earnings Code Recap 1 Regular Time for Job Timecards 4.00 162.00												
Employee: 55 Duncan Paul												

Employee: 64 Ford Jesse

Timecard Date	Craft Class	PR Dept	Temp Sft JC Dept	Job/Phase	Eq CT	Equipment Usage	Rev Code	Phase	EC	Rate	Hours	Am't
17-0059-700 101.11	NONUNION			Field/ON					1	40.50000	3.00	121.50
Timecard Totals for Tuesday, July 11, 2017 : 3.00 121.50												
17-0059-700 101.11	NONUNION			Field/ON					1	40.50000	3.00	121.50
Timecard Totals for Wednesday, July 12, 2017 : 3.00 121.50												
17-0059-700 101.11	NONUNION			Field/ON					2	60.75000	6.50	264.88
Timecard Totals for Saturday, July 15, 2017 : 6.50 264.88												
Employee Totals 12.00 507.38												
Earnings Code Recap 12 Regular Time for Job Timecards 12.00 507.38												
Employee: 64 Ford Jesse												

# PR Time Card Entry List

PRGroup: 1 Payroll Date: 15/07/17 All Employees Cert Jobs Only? N  
 All Post Dates Totals by Posting Date? Y Earnings ReCap? Y All Timecards All Work Orders

PR Group	1	Hourly	Craft Class	Temp Sft	JCDcpt	Job/Phase	Eq CT	Equipment	Cost Code	Equipment Usage	Phase	Rev Code	EC	Rate	Hours	Amnt
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PR End Date: 15/07/17

Employee: 69 Kelly Peter Daniel																
Earnings Code Recap																
1 Regular Time for Job Timecards																
2 Overtime for Job Timecards																
12 Mileage for Job Timecards																
Employee Totals																
16.50 894.13																
Employee: 64 Ford Jesse																
Earnings Code Recap																
1 Regular Time for Job Timecards																
2 Overtime for Job Timecards																
12 Mileage for Job Timecards																
Employee Totals																
16.00 548.00																
0.50 30.38																
0.00 215.75																
Employee: 64 Ford Jesse																
16.50 894.13																

Employee: 69 Kelly Peter Daniel																
Earnings Code Recap																
1 Regular Time for Job Timecards																
Employee Totals																
18.04 63.00																
Employee: 69 Kelly Peter Daniel																
3.00 63.00																

Employee: 152 Knapp Ethan																
Earnings Code Recap																
1 Regular Time for Job Timecards																
Employee Totals																
18.04 18.04																
Employee: 152 Knapp Ethan																
1.00 18.04																

Employee: 270 Steppacher Nicholas																
Earnings Code Recap																
1 Regular Time for Job Timecards																
Employee Totals																
4.50 361.93																
Employee: 270 Steppacher Nicholas																
16.50 972.53																

Employee: 257 Waldron-James Andrew																
Earnings Code Recap																
1 Regular Time for Job Timecards																
Employee Totals																
16.00 560.16																
Employee: 257 Waldron-James Andrew																
0.50 30.95																
0.00 281.42																
Employee: 270 Steppacher Nicholas																
16.50 972.53																

# PR Time Card Entry List

PRGroup: 1 Payroll Date: 15/07/17 All Employees Cert Jobs Only? N  
 All Post Dates Totals by Posting Date? Y Earnings Recap? Y All Timecards All Work Orders

Timecard Date	Craft/Class	PRDep/Temp Sft	Job/Phase	Eq CT	Equipment Usage	Equipment Phase	Rev Code	EC	Rate	Hours	Am't
PR Group: 1 Hourly											
PR End Date: 15/07/17											
Employee: 257 Waldron-James Andrew											
15/07/17	NON-NON7		17-0058-700 102 30			The Uptown Lifestyle Community		1	18.73000	1.00	18.73
Timecard Totals for Tuesday, July 11, 2017 :											
15/07/17	NON-NON7		17-0058-700 102 30			The Uptown Lifestyle Community		1	18.73000	2.00	37.46
Timecard Totals for Wednesday, July 12, 2017 :											
Employee Totals											
Earnings Code Recap 1 Regular Time for Job Timecards 0.00											
Employee: 257 Waldron-James Andrew											
3.00 56.19											
3.00 56.19											
3.00 56.19											

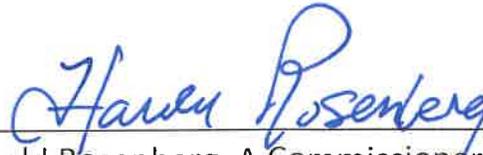
- Continued

- Continued

This is

**Exhibit 4**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



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Harold Rosenberg, A Commissioner, etc.

# PM Daily Project Log - Options

Project: 17-0059- All Log #s Dates: 01/02/18 - 01/02/18

Log Date: 01/02/18

Daily Log: 111 Project Managers Daily Log

Weather : Snow

Temp: 2 - -8

Wind:

Completed 49,51,55,54,42

Agf tied 8 cages

Took lagging pkg and welding pkg off rent, zoom boom off rent as well

Put all equipment on wood locked and cleaned site up. Left site.

### Employees

Contact	StartTime	EndTime	Phase	Worked	Location
Brad Burrows	7:00 am	5:00 am	101.000.1 CAISSONS	Y	
Matthew DePalma	7:00 am	4:00 am	101.000.1 CAISSONS	Y	
Mike Medeiros	7:00 am	4:00 am	101.000.1 CAISSONS	Y	
	7:00 am	4:00 am	101.000.1 CAISSONS	Y	

### Equipment

EMCo	Equipment	Firm	Quantity	Location
1	78-00-2521		0	
1	10-10-0049		0	
1	70-00-0706		0	

# PM Daily Project Log

Project: 17-0059- All Log #s Dates: 01/02/18 - 01/02/18

Log Date: 01/02/18

Daily Log: 111 Project Managers Daily Log

Weather : Snow

Temp: 2 - -8

Wind:

Completed 49,51,55,54,42

*Agf lied 8 cages*

*Took lagging pkg and welding pkg off rent, zoom boom off rent as well*

*Put all equipment on wood locked and cleaned site up. Left site.*

This is

**Exhibit 5**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



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Harold Rosenberg, A Commissioner, etc.

Progress Bill



From: Deep Foundations Contractors Inc.  
 145 Ram Forest Road  
 Stouffville, ON L4A 2G8

Invoice: 19312  
 Date: July 25, 2017  
 Application #: 1

To: Maxion Construction Management Inc.  
 610 Applewood Crescent  
 Vaughan, ON L4K 0E3

Invoice Due Date: August 24, 2017  
 Payment Terms: Net 30 days

Contract: 17-0059- The Uptown Lifestyle Community

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Completed And Stored To Date	%	Amount Previous	Quantity This Period	Amount This Period	Total	
													Contract	Quantity
1	The Uptown Lifestyle Community	0.00	0.000	LS	0.000	0.00	0.00	0.00	0.00%	0.00	0.000	0.00		
2	Engineering	25,000.00	1.000	ls	1.000	25,000.00	0.00	25,000.00	100.00%	0.00	1.000	25,000.00		
3	Mobilization	50,000.00	1.000	ls	0.500	50,000.00	0.00	25,000.00	50.00%	0.00	0.500	25,000.00		
		75,000.00						50,000.00		0.00		50,000.00		

Gross Billing TTD	50,000.00
Less Previous Application	0.00
Total This Period	50,000.00
Less 10.00% Holdback	5,000.00
	45,000.00
ONHST	5,850.00
Total Due This Invoice	50,850.00

INTEREST AT THE RATE OF 2% PER MONTH WILL BE CHARGED ON ALL OVERDUE ACCOUNTS  
 HST REGISTRATION #87187 7866

Progress Bill



From: Deep Foundations Contractors Inc.  
 145 Ram Forest Road  
 Stouffville, ON L4A 2G8

Invoice: 19428  
 Date: August 23, 2017  
 Application #: 2

To: Maxion Construction Management Inc.,  
 610 Applewood Crescent  
 Vaughan, ON L4K 0E3

Invoice Due Date: September 22, 2017  
 Payment Terms: Net 30 days

Contract: 17-0059- The Uplown Lifestyle Community

Item	Description	Contract Amount	Contract Quantity	UM	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period	
								Completed And Stored To Date	%				
1	The Uplown Lifestyle Community	0.00	0.000	LS	0.000	0.00	0.00	0.00	0.00%	0.00	0.000	0.00	
2	Engineering	25,000.00	1.000	ls	1.000	25,000.00	0.00	25,000.00	100.00%	25,000.00	0.000	0.00	
3	Mobilization	50,000.00	1.000	ls	0.500	50,000.00	0.00	25,000.00	50.00%	25,000.00	0.000	0.00	
4	Shoring - Drilling	500,000.00	1.000	ls	0.150	500,000.00	0.00	75,000.00	15.00%	0.00	0.150	75,000.00	
5	Shoring - Tiebacks	300,000.00	1.000	ls	0.000	300,000.00	0.00	0.00	0.00%	0.00	0.000	0.00	
6	Shoring - Lagging	85,000.00	1.000	ls	0.000	85,000.00	0.00	0.00	0.00%	0.00	0.000	0.00	
7	Caissons	1,150,000.00	1.000	ls	0.000	1,150,000.00	0.00	0.00	0.00%	0.00	0.000	0.00	
								125,000.00		50,000.00		75,000.00	
								2,110,000.00					

Gross Billing TTD	125,000.00
Less Previous Application	50,000.00
Total This Period	75,000.00
Less 10.00% Holdback	7,500.00
ONHST	67,500.00
Total Due This Invoice	8,775.00
	76,275.00

Progress Bill

From: Deep Foundations Contractors Inc.  
 145 Ram Forest Road  
 Stouffville, ON L4A 2G8

Invoice: 19619

Date: September 25, 2017

Application #: 3



To: Maxion Construction Management - The Uptown Inc.  
 610 Applewood Crescent  
 Vaughan, ON L4K 0E3

Invoice Due Date: October 25, 2017

Payment Terms: Net 30 days

Contract: 17-0059- The Uptown Lifestyle Community

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Completed And Stored To Date	%	Amount Previous	Quantity This Period	Amount This Period
1	The Uptown Lifestyle Community	0.00	0.000	LS	0.000	0.00	0.00	0.00	0.00%	0.00	0.000	0.00
2	Engineering	25,000.00	1.000	ls	1.000	25,000.00	0.00	25,000.00	100.00%	25,000.00	0.000	0.00
3	Vibrator	50,000.00	1.000	ls	0.500	50,000.00	0.00	25,000.00	50.00%	25,000.00	0.000	0.00
4	Shoring - Drilling	500,000.00	1.000	ls	0.850	500,000.00	0.00	425,000.00	85.00%	75,000.00	0.700	350,000.00
5	Shoring - brack	300,000.00	1.000	ls	0.000	300,000.00	0.00	0.00	0.00%	0.00	0.000	0.00
6	Shoring - brack	85,000.00	1.000	ls	0.000	85,000.00	0.00	0.00	0.00%	0.00	0.000	0.00
7	cessors	1,150,000.00	1.000	ls	0.050	1,150,000.00	0.00	57,500.00	5.00%	0.00	0.050	57,500.00
		2,110,000.00						532,500.00		125,000.00		407,500.00

Gross Billing TTD	532,500.00
Less Previous Application	125,000.00
Total This Period	407,500.00
Less 10.00% Holdback	40,750.00
ONHST	366,750.00
Total Due This Invoice	47,677.50
	414,427.50



Progress Bill



From: Deep Foundations Contractors Inc.  
 145 Ram Forest Road  
 Stouffville, ON L4A 2G8

Invoice: 19700  
 Date: October 26, 2017  
 Application #: 4

To: Maxion Construction Management Inc.  
 610 Applewood Crescent  
 Vaughan, ON L4K 0E3

Invoice Due Date: November 25, 2017  
 Payment Terms: Net 30 days

Contract: 17-0059- The Uptown Lifestyle Community

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total Completed And Stored To Date	%	Amount Previous	Quantity This Period	Amount This Period
	The Uptown Lifestyle Community	0.00	0.000	LS	0.000	0.00	0.00	0.00	0.00%	0.00	0.000	0.00
1	Engineering	25,000.00	1,000	ls	1,000	25,000.00	0.00	25,000.00	100.00%	25,000.00	0.000	0.00
2	Material	50,000.00	1,000	ls	0.500	50,000.00	0.00	25,000.00	50.00%	25,000.00	0.000	0.00
3	Shoring - Drilling	500,000.00	1,000	ls	1,000	500,000.00	0.00	500,000.00	100.00%	425,000.00	0.150	75,000.00
4	Shoring - Ties	350,000.00	1,000	ls	0.200	300,000.00	0.00	60,000.00	20.00%	0.00	0.200	60,000.00
5	Shoring - Lagging	85,000.00	1,000	ls	0.500	85,000.00	0.00	42,500.00	50.00%	0.00	0.500	42,500.00
6	Cassette	1,150,000.00	1,000	ls	0.150	1,150,000.00	0.00	172,500.00	15.00%	57,500.00	0.100	115,000.00
		2,110,000.00						825,000.00		532,500.00		292,500.00

Gross Billing TTD	825,000.00
Less Previous Application	532,500.00
Total This Period	292,500.00
Less 10.00% Holdback	29,250.00
ONHST	263,250.00
Total Due This Invoice	34,222.50
	297,472.50

INTEREST AT THE RATE OF 2% PER MONTH WILL BE CHARGED ON ALL OVERDUE ACCOUNTS  
 HST REGISTRATION #87187 7866



Progress Bill



From: Deep Foundations Contractors Inc,  
145 Ram Forest Road  
Stouffville, ON L4A 2G8

Invoice: 19791  
Date: November 23, 2017  
Application #: 5

To: Maxion Construction Management Inc.,  
610 Applewood Crescent  
Vaughan, ON L4K 0E3

Invoice Due Date: December 23, 2017  
Payment Terms: Net 30 days

Contract: 17-0059- The Ubiqvm Lifestyle Community

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	The Ubiqvm Lifestyle Community	0.00	0.000	LS	0.000	0.00	0.00	0.00	0.00%	0.00	0.000	0.00
2	Engineering	25,000.00	1.000	ls	1.000	25,000.00	0.00	25,000.00	100.00%	25,000.00	0.000	0.00
3	Mobilization	50,000.00	1.000	ls	0.500	50,000.00	0.00	25,000.00	50.00%	25,000.00	0.000	0.00
4	Shoring - Drilling	500,000.00	1.000	ls	1.000	500,000.00	0.00	500,000.00	100.00%	500,000.00	0.000	0.00
5	Shoring - Tieback	300,000.00	1.000	ls	0.250	300,000.00	0.00	75,000.00	25.00%	60,000.00	0.050	15,000.00
6	Shoring - Lagging	85,000.00	1.000	ls	0.350	85,000.00	0.00	46,750.00	55.00%	42,500.00	0.050	4,250.00
7	Cruciforms	1,150,000.00	1.000	ls	0.150	1,150,000.00	0.00	172,500.00	15.00%	172,500.00	0.000	0.00
8	SCC #01 - Expanded Shoring Piles	47,000.00	1.000	ls	0.300	47,000.00	0.00	23,500.00	50.00%	0.00	0.500	23,500.00
9	SCC #02 - Boulder Obstruction	9,681.53	1.000	ls	1.000	9,681.53	0.00	9,681.53	100.00%	0.00	1.000	9,681.53
		3,165,681.53				677,431.53		825,000.00				52,431.53

Gross Billing TTD	877,431.53
Less Previous Application	625,000.00
Total This Period	52,431.53
Less 10.00% Holdback	5,243.15
	47,188.38
	6,134.49
Total Due This Invoice	53,322.87

INTEREST AT THE RATE OF 2% PER MONTH WILL BE CHARGED ON ALL OVERDUE ACCOUNTS  
HST REGISTRATION #87187 7866

28

Deep Foundations  
 145 Ham Court Road  
 Shelburne, ON L0A 2G5

VOICE BREAKDOWN

Chief: Mackin Construction Management - The Updown  
 Project Name: The Updown  
 Site Location: 215 Lexington Road, Waterloo, Ontario  
 Date: 25 Nov 17  
 Invoice No: 18791

Mackin Construction Management - The Updown Inc  
 215 Lexington Road  
 Waterloo, Ontario, N2K 2E1  
 Attention: Walter Bedonkowski

Date: 25 Nov 17  
 Invoice # This Project: 18791  
 M3LR: 87187785

DESCRIPTION	UNIT PRICE	QUANTITY	AMOUNT	TAX	TOTAL
Excavation	\$25.00/0.00	125.00/0.00	\$3,125.00	0.00	\$3,125.00
Masonry	\$15.00/0.00	15.00/0.00	\$225.00	0.00	\$225.00
Forming - Drift	\$10.00/0.00	10.00/0.00	\$100.00	0.00	\$100.00
Shoring - Timber	\$10.00/0.00	10.00/0.00	\$100.00	0.00	\$100.00
Shoring - Scaffolding	\$10.00/0.00	10.00/0.00	\$100.00	0.00	\$100.00
Concrete	\$10.00/0.00	10.00/0.00	\$100.00	0.00	\$100.00
Reinforcing Steel	\$10.00/0.00	10.00/0.00	\$100.00	0.00	\$100.00
Other	\$10.00/0.00	10.00/0.00	\$100.00	0.00	\$100.00
<b>TOTAL CONTRACT</b>			<b>\$3,750.00</b>		<b>\$3,750.00</b>
<b>TOTAL VALUE OF WORK COMPLETED</b>					
Less 10% Retention					
<b>Total</b>					

Site Location: 215 Lexington Road, Waterloo, Ontario  
 Project Name: The Updown  
**TOTAL CONTRACT** \$ 3,750.00

TOTAL CONTRACT	\$3,750.00	PREVIOUS	\$25,000.00	THIS PERIOD	\$25,000.00
Less 10% Retention	\$375.00				
<b>Total</b>	<b>\$3,375.00</b>				

85% 15%

\$	47,169.34
\$	19,134.45
<b>Total</b>	<b>\$66,303.79</b>

This is the Contract or Program Control system only. Changes to the program of the applications for payment as submitted by the Subcontractor, the Retention for the purposes of this invoice. The Subcontractor shall be given the opportunity to discuss the Contract or Program Control system.

# Progress Bill



**From:** Deep Foundations Contractors Inc.  
145 Ram Forest Road  
Stouffville, ON L4A 2G8

**Invoice:** 19901  
**Date:** December 19, 2017  
**Application #:** 6

**To:** Maxion Construction Management - The Uptown Inc.  
610 Applewood Crescent  
Vaughan, ON L4K 0E3

**Invoice Due Date:** January 18, 2018  
**Payment Terms:** Net 30 days

**Contract:** 17-0059- The Uptown Lifestyle Community

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total Completed And Stored To Date	%	Amount Previous	Quantity This Period	Amount This Period
1	The Uptown Lifestyle Community	0.00	0.000	LS	0.000	0.00	0.00	0.00	0.00%	0.00	0.000	0.00
2	Engineering	25,000.00	1.000	ls	1.000	25,000.00	0.00	25,000.00	100.00%	25,000.00	0.000	0.00
3	Mobilization	50,000.00	1.000	ls	0.500	50,000.00	0.00	25,000.00	50.00%	25,000.00	0.000	0.00
4	Shoring - Drilling	500,000.00	1.000	ls	1.000	500,000.00	0.00	500,000.00	100.00%	500,000.00	0.000	0.00
5	Shoring - Tieback	300,000.00	1.000	ls	0.280	300,000.00	0.00	84,000.00	28.00%	75,000.00	0.030	9,000.00
5	Shoring - Legging	85,000.00	1.000	ls	0.900	85,000.00	0.00	76,500.00	90.00%	46,750.00	0.350	29,750.00
7	Caissons	1,150,000.00	1.000	ls	0.150	1,150,000.00	0.00	172,500.00	15.00%	172,500.00	0.000	0.00
8	SCO #01 - Extended Shoring Piles 11.17	47,000.00	1.000	ls	1.000	47,000.00	0.00	47,000.00	100.00%	23,500.00	0.500	23,500.00
10	SCO #02 - Boulder Obstruction	9,681.53	1.000	ls	1.000	9,681.53	0.00	9,681.53	100.00%	9,681.53	0.000	0.00
		2,166,681.53						939,681.53		877,431.53		62,250.00

Gross Billing TTD	939,681.53
Less Previous Application	877,431.53
Total This Period	62,250.00
Less 10.00% Holdback	6,225.00
	56,025.00
ONHST	7,283.25
Total Due This Invoice	63,308.25

INTEREST AT THE RATE OF 2% PER MONTH WILL BE CHARGED ON ALL OVERDUE ACCOUNTS  
HST REGISTRATION #87187 7866

**INVOICE BREAKDOWN**

Client Maxion Construction Management - The Uptown Inc.  
 Project Name: The Uptown  
 Site Location: 215 Lexington Road, Waterloo, Ontario

Date: 15-Dec-17  
 Invoice No.: 19901

DESCRIPTION	CONTRACT VALUE	TOTAL WORK COMPLETED TO DATE	LESS PREVIOUSLY BILLED	AMOUNT REQUESTED THIS CERTIFICATE	BALANCE TO COMPLETE
<b>Engineering</b>	\$25,000.00	\$25,000.00	\$25,000.00	\$0.00	\$0.00
		100%	100%		
<b>Mobilization</b>	\$50,000.00	\$25,000.00	\$25,000.00	\$0.00	\$25,000.00
		50%	50%		
<b>Shoring - Drilling</b>	\$500,000.00	\$500,000.00	\$500,000.00	\$0.00	\$0.00
		100%	100%		
<b>Shoring - Tiebacks</b>	\$300,000.00	\$84,000.00	\$75,000.00	\$9,000.00	\$216,000.00
		28%	25%		
<b>Shoring - Lagging</b>	\$85,000.00	\$76,500.00	\$46,750.00	\$29,750.00	\$8,500.00
		90%	55%		
<b>Caissons</b>	\$1,150,000.00	\$172,500.00	\$172,500.00	\$0.00	\$977,500.00
		15%	15%		
<b>Original Contract Value Phase 1</b>	<b>\$2,110,000.00</b>	<b>\$883,000.00</b>	<b>\$844,250.00</b>	<b>\$38,750.00</b>	<b>\$1,227,000.00</b>
		41.85%	40.01%		
<b>Approved Change Orders</b>					
<b>Extended Shoring P11-17</b>	\$47,000.00	\$47,000.00	\$23,500.00	\$23,500.00	\$0.00
		100%	50%		
<b>Obstruction Drilling - October 5th, 2017</b>	\$9,681.53	\$9,681.53	\$9,681.53	\$0.00	\$0.00
		100%	100%		
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		0%	0%		
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		0%	0%		
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		0%	0%		
	<b>\$56,681.53</b>	<b>\$56,681.53</b>	<b>\$33,181.53</b>	<b>\$23,500.00</b>	<b>\$0.00</b>
		100.00%	58.54%		
<b>WAITING FOR APPROVAL CHANGE ORDERS</b>					
<b>Extended Tiebacks around Existing Building</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		0%	0%		
<b>New Casing Shoe</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		0%	0%		
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		0%	0%		
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		0%	0%		
		#DIV/0!	#DIV/0!		
<b>TOTAL REVISED CONTRACT VALUE</b>	<b>\$2,166,681.53</b>	<b>\$939,681.53</b>	<b>\$877,431.53</b>	<b>\$62,250.00</b>	<b>\$1,227,000.00</b>
		43.37%	40.50%		
	<b>CONTRACT VALUE</b>	<b>TOTAL WORK COMPLETED TO DATE</b>	<b>LESS PREVIOUSLY BILLED</b>	<b>AMOUNT REQUESTED THIS CERTIFICATE</b>	<b>BALANCE OUTSTANDING</b>

Progress Billing to End of Month Billing

When the Consultant or Payment Certifier makes any changes to the amount of the applications for payment as submitted by the Subcontractor, the Subcontractor shall be notified promptly in writing. The Subcontractor shall be given the opportunity to defend the Contractor's submission without delay.

# Progress Bill



From: Deep Foundations Contractors Inc.  
145 Ram Forest Road  
Stouffville, ON L4A 2G8

Invoice: 20024

Date: January 24, 2018

Application #: 7

To: Maxion Construction Management - The Uptown Inc.  
610 Applewood Crescent  
Vaughan, ON L4K 0E3

Invoice Due Date: February 23, 2018

Payment Terms: Net 30 days

Contract: 17-0059- The Uptown Lifestyle Community

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	The Uptown Lifestyle Community	0.00	0.000	LS	0.000	0.00	0.00	0.00	0.00%	0.00	0.000	0.00
2	Engineering	25,000.00	1.000	ls	1.000	25,000.00	0.00	25,000.00	100.00%	25,000.00	0.000	0.00
3	Mobilization	50,000.00	1.000	ls	0.500	50,000.00	0.00	25,000.00	50.00%	25,000.00	0.000	0.00
4	Shoring - Drilling	500,000.00	1.000	ls	1.000	500,000.00	0.00	500,000.00	100.00%	500,000.00	0.000	0.00
5	Shoring - Tieback	300,000.00	1.000	ls	0.280	300,000.00	0.00	84,000.00	28.00%	84,000.00	0.000	0.00
6	Shoring - Lagging	85,000.00	1.000	ls	0.900	85,000.00	0.00	76,500.00	90.00%	76,500.00	0.000	0.00
7	Caissons	1,150,000.00	1.000	ls	0.293	1,150,000.00	0.00	336,950.00	29.30%	172,500.00	0.143	164,450.00
8	SCC #1 - Extended Shoring Piles	47,000.00	1.000	ls	1.000	47,000.00	0.00	47,000.00	100.00%	47,000.00	0.000	0.00
9	SCC #02 - Boulder Obstruction	9,681.53	1.000	ls	1.000	9,681.53	0.00	9,681.53	100.00%	9,681.53	0.000	0.00
		2,135,681.53						1,104,131.53		939,681.53		164,450.00

Gross Billing TTD	1,104,131.53
Less Previous Application	939,681.53
Total This Period	164,450.00
Less 10.00% Holdback	16,445.00
	148,005.00
ONHST	19,240.65
Total Due This Invoice	167,245.65

INTEREST AT THE RATE OF 2% PER MONTH WILL BE CHARGED ON ALL OVERDUE ACCOUNTS  
HST REGISTRATION #87187 7866

**INVOICE BREAKDOWN**

Client Maxion Construction Management - The Uptown Inc.  
 Project Name: The Uptown  
 Site Location: 215 Lexington Road, Waterloo, Ontario

Date: 25-Jan-18  
 Invoice No.: 20024

DESCRIPTION	CONTRACT VALUE	TOTAL WORK COMPLETED TO DATE	LESS PREVIOUSLY BILLED	AMOUNT REQUESTED THIS CERTIFICATE	BALANCE TO COMPLETE
Engineering	\$25,000.00	\$25,000.00 100%	\$25,000.00 100%	\$0.00	\$0.00
Mobilization	\$50,000.00	\$25,000.00 50%	\$25,000.00 50%	\$0.00	\$25,000.00
Shoring - Drilling	\$500,000.00	\$500,000.00 100%	\$500,000.00 100%	\$0.00	\$0.00
Shoring - Tiebacks	\$300,000.00	\$84,000.00 28%	\$84,000.00 28%	\$0.00	\$216,000.00
Shoring - Lagging	\$85,000.00	\$76,500.00 90%	\$76,500.00 90%	\$0.00	\$8,500.00
Calssons	\$1,150,000.00	\$336,950.00 29%	\$172,500.00 15%	\$164,450.00	\$813,050.00
Original Contract Value Phase 1	\$2,110,000.00	\$1,047,450.00 49.64%	\$883,000.00 41.85%	\$164,450.00	\$1,062,550.00
<b>Approved Change Orders</b>					
Extended Shoring P11-17	\$47,000.00	\$47,000.00 100%	\$47,000.00 100%	\$0.00	\$0.00
Obstruction Drilling - October 5th, 2017	\$9,681.53	\$9,681.53 100%	\$9,681.53 100%	\$0.00	\$0.00
	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
	\$56,681.53	\$56,681.53 100.00%	\$56,681.53 100.00%	\$0.00	\$0.00
<b>WAITING FOR APPROVAL CHANGE ORDERS</b>					
Extended Tiebacks around Existing Building	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
New Casing Shoe	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
		#DIV/0!	#DIV/0!		
<b>TOTAL, REVISED CONTRACT VALUE:</b>	<b>\$2,166,681.53</b>	<b>\$1,104,131.53</b> 50.96%	<b>\$939,681.53</b> 43.37%	<b>\$164,450.00</b>	<b>\$1,062,550.00</b>
	CONTRACT VALUE	TOTAL WORK COMPLETED TO DATE	LESS PREVIOUSLY BILLED	AMOUNT REQUESTED THIS CERTIFICATE	BALANCE OUTSTANDING

Progress Billing to End of Month Billed

Where the Consultant or Payment Certifier makes any changes to the amount of the applications for payment as submitted by the Subcontractor, the Subcontractor shall be notified promptly in writing. The Subcontractor shall be given the opportunity to defend the Contractor's submission without delay.

Deep Foundations  
145 Ram Forest Road  
Stouffville, ON L4A 2G8

Maxlon Construction Management - The Uptown Inc.  
215 Lexington Road  
Waterloo, Ontario, N2K 2E1  
Attention: Walter Bedenikovlch

Dated: 25-Jan-18  
Invoice No.: 20024  
Project No:  
HST#: 871877866

Site Location: 215 Lexington Road, Waterloo, Ontario  
Project Name: The Uptown

TOTAL CONTRACT \$ 2,166,681.53

	TO DATE	PREVIOUS	THIS CLAIM
TOTAL VALUE OF WORK COMPLETED	\$1,104,131.53	\$939,681.53	\$164,450.00
Less 10% Holdback	\$ (110,413.15)	\$ (93,968.15)	\$ (16,445.00)
			\$148,005.00

HST 13%

\$	148,005.00
	\$19,240.65
<b>Total</b>	<b>\$167,245.65</b>

Progress Bill

From: Deep Foundations Contractors Inc.  
 145 Ram Forest Road  
 Stouffville, ON L4A 2G8



Invoice: 20100  
 Date: February 02, 2018  
 Application #: 8

To: Maxion Construction Management -The Uptown Inc.  
 610 Applewood Crescent  
 Vaughan, ON L4K 0E3

Invoice Due Date: March 04, 2018  
 Payment Terms: Net 30 days

Contract: 17-0059- The Uptown Lifestyle Community

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Completed And Stored To Date	%	Amount Previous	Quantity This Period	Amount This Period
1	Engineering	25,000.00	1,000	Is	1,000	25,000.00	0.00	25,000.00	100.00%	25,000.00	0.000	0.00
2	Mobilization	50,000.00	1,000	Is	0.500	50,000.00	0.00	25,000.00	50.00%	25,000.00	0.000	0.00
3	Shoring - Drilling	500,000.00	1,000	Is	1,000	500,000.00	0.00	500,000.00	100.00%	500,000.00	0.000	0.00
4	Shoring - Telescopic	300,000.00	1,000	Is	0.280	300,000.00	0.00	84,000.00	28.00%	84,000.00	0.000	0.00
5	Shoring - Jacking	85,000.00	1,000	Is	0.900	85,000.00	0.00	76,500.00	90.00%	76,500.00	0.000	0.00
6	Caissons	1,150,000.00	1,000	Is	0.311	1,150,000.00	0.00	357,650.00	31.10%	336,950.00	0.018	20,700.00
7	SCC #01 - Extended Shoring Piles	47,000.00	1,000	Is	1,000	47,000.00	0.00	47,000.00	100.00%	47,000.00	0.000	0.00
8	SCC #02 - Boulder Construction	9,681.53	1,000	Is	1,000	9,681.53	0.00	9,681.53	100.00%	9,681.53	0.000	0.00
9	SCC #3 - Caissons for Tower Crane	28,000.00	1,000	Is	0.000	28,000.00	0.00	0.00	0.00%	0.00	0.000	0.00
10	Rebar on site	12,974.80	1,000	Is	1,000	12,974.80	0.00	12,974.80	100.00%	0.00	1,000	12,974.80
11	Demolition	25,000.00	1,000	Is	1,000	25,000.00	0.00	25,000.00	100.00%	0.00	1,000	25,000.00
12	SCC #4 - Under-heat	36,450.00	1,000	Is	0.233	36,450.00	0.00	8,492.85	23.30%	0.00	0.233	8,492.85
13	SCC #5 - Choking Caissons	3,955.15	1,000	Is	1,000	3,955.15	0.00	3,955.15	100.00%	0.00	1,000	3,955.15
		2,273,061.46						1,175,254.33		1,104,131.53		71,122.80

Gross Billing TTD 1,175,254.33  
 Less Previous Application 1,104,131.53  
 Total This Period 71,122.80

35

Progress Bill

From: Deep Foundations Contractors Inc.  
145 Ram Forest Road  
Stouffville, ON L4A 2G8



Invoice: 20100  
Date: February 02, 2018  
Application #: 8

To: Maxion Construction Management -The Uptown Inc.  
610 Applewood Crescent  
Vaughan, ON L4K 0E3

Invoice Due Date: March 04, 2018  
Payment Terms: Net 30 days

Contract: 17-0059- The Uptown Lifestyle Community

Less 10.00% Holdback	7,112.29
	<u>64,010.51</u>
	8,321.36
Total Due This Invoice	<u>72,331.87</u>

INTEREST AT THE RATE OF 2% PER MONTH WILL BE CHARGED ON ALL OVERDUE ACCOUNTS  
HST REGISTRATION #87187 7866

INVOICE BREAKDOWN

Client Maxion Construction Management - The Uptown Inc.  
 Project Name: The Uptown  
 Site Location: 215 Lexington Road, Waterloo, Ontario

Date: 23-Feb-18  
 Invoice No.: 20100

DESCRIPTION	CONTRACT VALUE	TOTAL WORK COMPLETED TO DATE	LESS PREVIOUSLY BILLED	AMOUNT REQUESTED THIS CERTIFICATE	BALANCE TO COMPLETE
Engineering	\$25,000.00	\$25,000.00 100%	\$25,000.00 100%	\$0.00	\$0.00
Mobilization	\$50,000.00	\$25,000.00 50%	\$25,000.00 50%	\$0.00	\$25,000.00
Shoring - Drilling	\$500,000.00	\$500,000.00 100%	\$500,000.00 100%	\$0.00	\$0.00
Shoring - Tiebacks	\$300,000.00	\$84,000.00 28%	\$84,000.00 28%	\$0.00	\$216,000.00
Shoring - Lagging	\$85,000.00	\$76,500.00 90%	\$76,500.00 90%	\$0.00	\$8,500.00
Caissons	\$1,150,000.00	\$357,650.00 31%	\$336,950.00 29%	\$20,700.00	\$792,350.00
Rebar on-site	\$12,974.80	\$12,974.80 100%	\$0.00 0%	\$12,974.80	\$0.00
Demobilization	\$25,000.00	\$25,000.00 100%	\$0.00 0%	\$25,000.00	\$0.00
Original Contract Value Phase 1	\$2,147,974.80	\$1,106,124.80 51.50%	\$1,047,450.00 48.76%	\$58,674.80	\$1,041,850.00
<b>Approved Change Orders</b>					
SC0#1 - Extended Shoring P11-17	\$47,000.00	\$47,000.00 100%	\$47,000.00 100%	\$0.00	\$0.00
SC0#2 - Obstruction Drilling - October 5th, 2017	\$9,681.53	\$9,681.53 100%	\$9,681.53 100%	\$0.00	\$0.00
SC0#3 - Tower crane caissons	\$20,000.00	\$0.00 0%	\$0.00 0%	\$0.00	\$20,000.00
SC0#4 - Concrete winter heat	\$36,450.00	\$8,492.85 23%	\$0.00 0%	\$8,492.85	\$27,957.15
SC0#5 - Chipping caissons	\$3,955.15	\$3,955.15 100%	\$0.00 0%	\$3,955.15	\$0.00
	\$125,086.68	\$69,129.53 55.27%	\$56,681.53 45.31%	\$12,448.00	\$55,957.15
<b>WAITING FOR APPROVAL CHANGE ORDERS</b>					
Extended Tiebacks around Existing Building	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
New Casing Shoe	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
		#DIV/0!	#DIV/0!		
<b>TOTAL REVISED CONTRACT VALUE</b>	\$2,273,061.48	\$1,175,254.33 51.70%	\$1,104,131.53 48.57%	\$71,122.80	\$1,097,807.15
	CONTRACT VALUE	TOTAL WORK COMPLETED TO DATE	LESS PREVIOUSLY BILLED	AMOUNT REQUESTED THIS CERTIFICATE	BALANCE OUTSTANDING

Progress Billing to End of Month Billing

Where the Consultant or Payment Certifier makes any changes to the amount of the applications for payment as submitted by the Subcontractor, the Subcontractor shall be notified promptly in writing. The Subcontractor shall be given the opportunity to defend the Contractor's submission without delay.

Deep Foundations  
 145 Ram Forest Road  
 Stouffville, ON L4A 2G8

Maxion Construction Management - The Uptown Inc.  
 215 Lexington Road  
 Waterloo, Ontario, N2K 2E1  
 Attention: Walter Bedenkovlch

Dated: 23-Feb-18  
 Invoice No.: 20100  
 Project No:  
 HST#: 871877866

Site Location: 215 Lexington Road, Waterloo, Ontario  
 Project Name: The Uptown

TOTAL CONTRACT \$ 2,273,061.48

	TO DATE	PREVIOUS	THIS CLAIM
TOTAL VALUE OF WORK COMPLETED	\$1,175,254.33	\$1,104,131.53	\$71,122.80
Less 10% Holdback	\$ (117,525.43)	\$ (110,413.15)	\$ (7,112.28)
			\$64,010.52

	TO DATE	PREVIOUS	THIS CLAIM
TOTAL VALUE OF WORK COMPLETED	\$0.00	\$0.00	\$0.00
TOTAL VALUE OF WORK COMPLETED	\$0.00	\$0.00	\$0.00

HST 13%

	\$ 64,010.52
	\$8,321.37
<b>Total</b>	<b>\$72,331.89</b>

Progress Bill

From: Deep Foundations Contractors Inc.  
145 Ram Forest Road  
Stouffville, ON L4A 2G8



Invoice: 20222  
Date: February 01, 2018  
Application #: 9

To: Maxion Construction Management - The Uptown Inc.  
610 Applewood Crescent  
Vaughan, ON L4K 0E3

Invoice Due Date: April 14, 2018  
Payment Terms: Net 30 days

Contract: 17-0039- The Uptown Lifestyle Community

Item	Description	Contract Amount	Contract Quantity	Unit	Quantity JTD	Unit Price	Materials On-Site	Completed And Stored To Date	%	Amount Previous	Quantity This Period	Amount This Period
1	Engineering	25,000.00	1,000	IS	1,000	25,000.00	0.00	25,000.00	100.00%	25,000.00	0.000	0.00
2	Installation	50,000.00	1,000	IS	0,500	50,000.00	0.00	25,000.00	50.00%	25,000.00	0.000	0.00
3	Shoring - Drilling	500,000.00	1,000	IS	1,000	500,000.00	0.00	500,000.00	100.00%	500,000.00	0.000	0.00
4	Shoring - Wastack	300,000.00	1,000	IS	0,260	300,000.00	0.00	84,000.00	28.00%	84,000.00	0.000	0.00
5	Shoring - Lagging	85,000.00	1,000	IS	0,900	85,000.00	0.00	76,500.00	90.00%	76,500.00	0.000	0.00
6	Caissons	1,150,000.00	1,000	IS	0,322	1,150,000.00	0.00	370,624.80	32.23%	370,624.80	0.000	0.00
7	SCC #0 - Extended Shoring Piles 11x17	47,000.00	1,000	IS	1,000	47,000.00	0.00	47,000.00	100.00%	47,000.00	0.000	0.00
8	SCC #02 - Boulder Obstruction	9,681.53	1,000	IS	1,000	9,681.53	0.00	9,681.53	100.00%	9,681.53	0.000	0.00
9	SCC #3 - Caissons for Tower Crane	28,000.00	1,000	IS	0,000	28,000.00	0.00	0.00	0.00%	0.00	0.000	0.00
10	Demolition	25,000.00	1,000	IS	1,000	25,000.00	0.00	25,000.00	100.00%	25,000.00	0.000	0.00
11	SCC #4 - Under Heat	36,450.00	1,000	IS	0,233	36,450.00	0.00	8,492.85	23.30%	8,492.85	0.000	0.00
12	SCC #5 - Chipping Caissons	3,955.15	1,000	IS	1,000	3,955.15	0.00	3,955.15	100.00%	3,955.15	0.000	0.00
13	Delay Claim - Pile 11x17 Standby	104,000.00	1,000	IS	1,000	104,000.00	0.00	104,000.00	100.00%	0.00	1.000	104,000.00
		2,354,085.68						1,279,254.33		1,175,254.33		104,000.00

Gross Billing TTD	1,279,254.33
Less Previous Application	1,175,254.33
Total This Period	104,000.00
Less 10.00% Holdback	10,400.00
	93,600.00
	12,168.00
Total Due This Invoice	105,768.00

INTEREST AT THE RATE OF 2% PER MONTH WILL BE CHARGED ON ALL OVERDUE ACCOUNTS  
HST REGISTRATION #87187 7866

**INVOICE BREAKDOWN**

Client Maxlon Construction Management - The Uptown Inc.  
 Project Name: The Uptown  
 Site Location: 215 Lexington Road, Waterloo, Ontario

Date: 01-Feb-18  
 Invoice No.: 20222

DESCRIPTION	CONTRACT VALUE	TOTAL WORK COMPLETED TO DATE	LESS PREVIOUSLY BILLED	AMOUNT REQUESTED THIS CERTIFICATE	BALANCE TO COMPLETE
Engineering	\$25,000.00	\$25,000.00 100%	\$25,000.00 100%	\$0.00	\$0.00
Mobilization	\$50,000.00	\$25,000.00 50%	\$25,000.00 50%	\$0.00	\$25,000.00
Shoring - Drilling	\$500,000.00	\$500,000.00 100%	\$500,000.00 100%	\$0.00	\$0.00
Shoring - Tiebacks	\$300,000.00	\$84,000.00 28%	\$84,000.00 28%	\$0.00	\$216,000.00
Shoring - Lagging	\$85,000.00	\$76,500.00 90%	\$76,500.00 90%	\$0.00	\$8,500.00
Caissons	\$1,150,000.00	\$370,624.00 31%	\$370,624.00 31%	\$0.00	\$779,375.20
Delay Claim - Pile 11-17 Standby	\$104,000.00	\$104,000.00	\$0.00	\$104,000.00	\$0.00
Demobilization	\$25,000.00	\$25,000.00 100%	\$25,000.00 100%	\$0.00	\$0.00
Original Contract Value Phase 1	\$2,239,000.00	\$1,210,124.80 54.05%	\$1,106,124.80 49.40%	\$104,000.00	\$1,028,875.20
<b>Approved Change Orders</b>					
SC0#1 - Extended Shoring P11-17	\$47,000.00	\$47,000.00 100%	\$47,000.00 100%	\$0.00	\$0.00
SC0#2 - Obstruction Drilling - October 5th, 2017	\$9,681.53	\$9,681.53 100%	\$9,681.53 100%	\$0.00	\$0.00
SC0#3 - Tower crane caissons	\$20,000.00	\$0.00 0%	\$0.00 0%	\$0.00	\$20,000.00
SC0#4 - Concrete winter heat	\$16,450.00	\$8,492.85 23%	\$8,492.85 0%	\$0.00	\$27,957.15
SC0#5 - Chipping caissons	\$3,955.15	\$3,955.15 100%	\$3,955.15 0%	\$0.00	\$0.00
	\$125,086.68	\$69,129.53 55.27%	\$69,129.53 65.27%	\$0.00	\$55,957.15
<b>WAITING FOR APPROVAL CHANGE ORDERS</b>					
Extended Tiebacks around Existing Building	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
New Casing Shoe	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
	\$0.00	\$0.00 0%	\$0.00 0%	\$0.00	\$0.00
		#DIV/0!	#DIV/0!		
<b>TOTAL REVISED CONTRACT VALUE</b>	\$2,364,086.68	\$1,279,254.33 54.11%	\$1,175,254.33 49.71%	\$104,000.00	\$1,084,832.35
	CONTRACT VALUE	TOTAL WORK COMPLETED TO DATE	LESS PREVIOUSLY BILLED	AMOUNT REQUESTED THIS CERTIFICATE	BALANCE OUTSTANDING

Progress Billing to End of Month Billed

When the Consultant or Payment Certifier makes any changes to the amount of the applications for payment as submitted by the Subcontractor, the Subcontractor shall be notified promptly in writing. The Subcontractor shall be given the opportunity to defend the Contractor's submission without delay.

Deep Foundations  
145 Ram Forest Road  
Stouffville, ON L4A 2G8

Maxion Construction Management - The Uptown Inc.  
215 Lexington Road  
Waterloo, Ontario, N2K 2E1  
Attention: Walter Bedenikovich

Dated: 01-Feb-18  
Invoice No.: 20222  
Project No:  
HST#: 871877866

Site Location: 215 Lexington Road, Waterloo, Ontario  
Project Name: The Uptown

TOTAL CONTRACT \$ 2,364,086.68

	TO DATE	PREVIOUS	THIS CLAIM
TOTAL VALUE OF WORK COMPLETED	\$1,279,254.33	\$1,175,254.33	\$104,000.00
Less 10% Holdback	\$ (127,925.43)	\$ (117,525.43)	\$ (10,400.00)
			\$93,600.00

	TO DATE	PREVIOUS	THIS CLAIM
TOTAL VALUE OF WORK COMPLETED	\$0.00	\$0.00	\$0.00
TOTAL VALUE OF WORK COMPLETED	\$0.00	\$0.00	\$0.00

HST 13%

\$	93,600.00
	\$12,168.00
<b>Total</b>	<b>\$105,768.00</b>



42

Deep Foundations Contractors Inc.  
 145 Ram Forest Road  
 Stouffville, Ontario L4A 2G8  
 Tel: 905-750-5900 Web: deep.ca

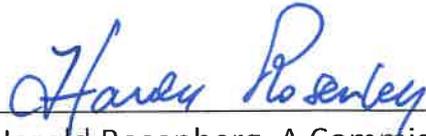
<p>TO: Maxion Construction management - The Uptown Inc.          610 Applewood Crescent          Vaughan, Ontario          L4K 0E3</p> <p>PROJECT: The Uptown Lifestyle Community</p> <p>HOLDBACK BILLING: Completed February 1, 2018</p> <p>ORIGINAL CONTRACT: 1,106,124.80</p> <p>ADDITIONS: Delay Claim Pile 11-17 Standby 104,000.00          Change orders 69,129.53</p>	<p>HOLDBACK INVOICE NO. Revised 1759</p> <p>DATE: February 2, 2018</p> <p>CONTRACT: 17-0059 AP</p> <p>G.S.T/H.S.T. 87187-7866</p>	<p><u>1,279,254.33</u></p> <p>HST Tax 166,303.06</p> <p><u>TOTAL CONTRACT 1,445,557.39</u></p> <hr/> <p>HOLDBACK BILLING \$127,925.43</p> <p>HST 13% 16,630.31</p> <p><u>TOTAL AMOUNT OF HOLDBACK DUE this billing \$144,555.74</u></p>
---	---	---



This is

**Exhibit 6**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



---

Harold Rosenberg, A Commissioner, etc.

**Mario Cianchetti**

---

**From:** Walter Bedenikovich <walterb@maxion.ca>  
**Sent:** Thursday, October 26, 2017 2:53 PM  
**To:** Justin Huynh  
**Cc:** Justin Michelin; Bruno Antidormi; Wade Stever  
**Subject:** Re: The Uptown - Shotcrete Slope Pile 11 - 17  
  
**Importance:** High

Afternoon Justin... Maxion will issue you a SCO for \$47,000.00 for this West Shoring wall Revision. A SCO will follow upon receipt of your duly executed subcontract with Maxion.

I trust you will find this acceptable.

Thanks

**WALTER S.BEDENIKOVICH B.S.c,G.S.C****V.P CONSTRUCTION OPERATIONS**

Maxion Construction Management Inc.  
 610 Applewood Crescent Suite 502  
 Vaughan , Ontario  
 L4K 0E3

Phone : (416) 238 7818 X-206

Fax: (877) 706 2645

Cell: (905) 399 0964

**From:** Justin Huynh <jhuynh@deep.ca>  
**Date:** Tuesday, October 24, 2017 at 11:45 AM  
**To:** Walter Bedenikovich <walterb@maxion.ca>  
**Cc:** Justin Michelin <Justin@maxion.ca>, Bruno Antidormi <brunoa@maxion.ca>, Wade Stever <wstever@maxion.ca>  
**Subject:** RE: The Uptown - Shotcrete Slope Pile 11 - 17

Walter,

As discussed, we can do the following to help mitigate the costs

- ? Added tiebacks – \$36,250
- ? Added lagging – \$8,250
- ? Added engineering – \$2,500

Total: \$47,000

Please let me know if this is acceptable

Justin

---

Justin Huynh | Project Manager

Deep Foundations Contractors Inc.  
145 Ram Forest Rd. | Stouffville, ON | L4A 2G8

Telephone: 905-750-5900  
Mobile: 416-576-9292  
Fax: 905-726-8345

[jhuynh@deep.ca](mailto:jhuynh@deep.ca)  
[www.deep.ca](http://www.deep.ca)



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**From:** Justin Huynh  
**Sent:** October-19-17 3:31 PM  
**To:** Wade Stever <[wstever@maxion.ca](mailto:wstever@maxion.ca)>  
**Cc:** Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>; Justin Michelin <[justin@maxion.ca](mailto:justin@maxion.ca)>; Bruno Antidormi <[brunoa@maxion.ca](mailto:brunoa@maxion.ca)>  
**Subject:** RE: The Uptown - Shotcrete Slope Pile 11 - 17

Wade,

Terraprobe can get a revision out for Wednesday – maybe sooner

There will be an additional cost of \$54,000, broken down as follow

- ? Added tiebacks – \$40,500
- ? Added lagging – \$10,000
- ? Added engineering – \$3,500

Please issue a Change Order and we will proceed

Let me know if you have any questions

Justin

---

Justin Huynh | Project Manager

Deep Foundations Contractors Inc.  
145 Ram Forest Rd. | Stouffville, ON | L4A 2G8

Telephone: 905-750-5900  
Mobile: 416-576-9292  
Fax: 905-726-8345

[jhuynh@deep.ca](mailto:jhuynh@deep.ca)  
[www.deep.ca](http://www.deep.ca)



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**From:** Wade Stever [<mailto:wstever@maxion.ca>]  
**Sent:** October-19-17 3:01 PM  
**To:** Justin Huynh <[jhuynh@deep.ca](mailto:jhuynh@deep.ca)>  
**Cc:** Oleg Skorik <[OSkorik@deep.ca](mailto:OSkorik@deep.ca)>; Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>; Justin Michelin <[justin@maxion.ca](mailto:justin@maxion.ca)>; Bruno Antidormi <[brunoa@maxion.ca](mailto:brunoa@maxion.ca)>  
**Subject:** Re: The Uptown - Shotcrete Slope Pile 11 - 17

Hi Justin,

Please proceed with this design. How soon can we get an approved drawing to proceed?

Thank you,

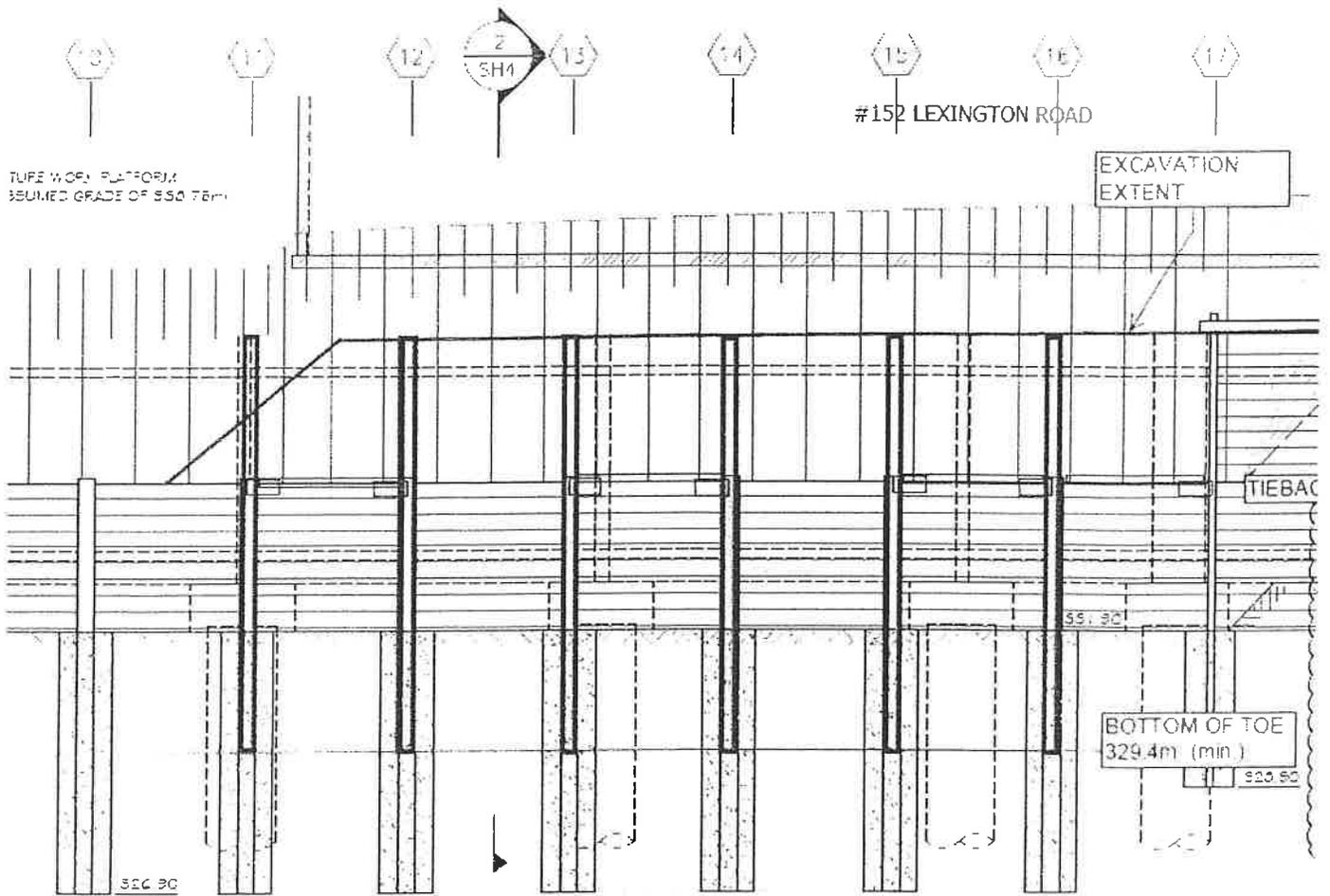
Wade Stever  
The Maxion Group  
[wstever@maxion.ca](mailto:wstever@maxion.ca)  
Mobile (647) 292-4822  
[www.maxion.ca](http://www.maxion.ca)



**From:** Justin Huynh <[jhuynh@deep.ca](mailto:jhuynh@deep.ca)>  
**Date:** Thursday, October 19, 2017 at 10:29 AM  
**To:** Wade Stever <[wstever@maxion.ca](mailto:wstever@maxion.ca)>  
**Cc:** Oleg Skorik <[OSkorik@deep.ca](mailto:OSkorik@deep.ca)>, Walter Bedenikovich <[walterb@maxion.ca](mailto:walterb@maxion.ca)>, Justin Michelin <[justin@maxion.ca](mailto:justin@maxion.ca)>, Bruno Antidormi <[brunoa@maxion.ca](mailto:brunoa@maxion.ca)>  
**Subject:** RE: The Uptown - Shotcrete Slope Pile 11 - 17

Wade,

Is this what you have in mind ?



**Justin Huynh** | Project Manager

Deep Foundations Contractors Inc.  
145 Ram Forest Rd. | Stouffville, ON | L4A 2G8

Telephone: 905-750-5900  
Mobile: 416-576-9292  
Fax: 905-726-8345

[jhuynh@deep.ca](mailto:jhuynh@deep.ca)  
[www.deep.ca](http://www.deep.ca)



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**From:** Wade Stever [mailto:wstever@maxion.ca]  
**Sent:** October-18-17 3:46 PM  
**To:** Justin Huynh <jhuynh@deep.ca>  
**Cc:** Oleg Skorik <OSkorik@deep.ca>; Walter Bedenikovich <walterb@maxion.ca>; Justin Michelin <justin@maxion.ca>; Bruno Antidormi <brunoa@maxion.ca>  
**Subject:** Re: The Uptown - Shotcrete Slope Pile 11 - 17

Hi Justin,

See attached photos of our current site condition. The elevation that your dozer is currently sitting at is +-336.700. The existing ground surface elevation next to the east wall of the plaza is +-340.760.

Can you get Terraprobe to re-design this area based on the elevations we currently have. We would like to explore the idea of building up the Shoring platform between piles 11 to 16 an additional 2.2m.

Thank you,

Wade Stever  
The Maxion Group  
wstever@maxion.ca  
Mobile (647) 292-4822  
www.maxion.ca



**From:** Justin Huynh <jhuynh@deep.ca>  
**Date:** Wednesday, October 18, 2017 at 9:47 AM  
**To:** Wade Stever <wstever@maxion.ca>  
**Cc:** Oleg Skorik <OSkorik@deep.ca>, Walter Bedenikovich <walterb@maxion.ca>, Justin Michelin <justin@maxion.ca>, Bruno Antidormi <brunoa@maxion.ca>  
**Subject:** Re: The Uptown - Shotcrete Slope Pile 11 - 17

Wade, we'll take a look at it

Justin Huynh  
Deep Foundations Contractors

Sent from my mobile

Justin Huynh | Project Manager

Deep Foundations Contractors Inc.  
145 Ram Forest Rd. | Stouffville, ON | L4A 2G8

Telephone: 905-750-5900  
Mobile: 416-576-9292  
Fax: 905-726-8345

[jhuynh@deep.ca](mailto:jhuynh@deep.ca)  
[www.deep.ca](http://www.deep.ca)



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On Oct 18, 2017, at 9:19 AM, Wade Stever <[wstever@maxion.ca](mailto:wstever@maxion.ca)> wrote:

Good Morning Justin,

It is to my understanding that Deep can provide a service to shotcrete the embankment of our excavation next to the plaza. In order to provide a safe work zone, we need to look at the option to shotcrete the slope, as we cannot obtain the 1:1 slope without compromising the footings of the plaza. EXP has provided us with a detail, please see attached. Attached you will also see our current site condition.

Can you please provide us with a detail for this application? Please provide pricing at the earliest.

Thank you,

Wade Stever  
The Maxion Group  
[wstever@maxion.ca](mailto:wstever@maxion.ca)  
Mobile (647) 292-4822  
[www.maxion.ca](http://www.maxion.ca)

<image001.png>

<sketch of slope at ex plaza opt1[2].pdf>

<IMG\_0604.jpg>

<IMG\_0603.jpg>

This is

**Exhibit 7**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



---

Harold Rosenberg, A Commissioner, etc.



Deep Foundations Contractors Inc.  
 145 Ram Forest Road  
 Stouffville, Ontario L4A 2G8  
 Tel: 905-750-5900 Web: deep.ca

December 12<sup>th</sup>, 2017

The Maxion Group  
 610 Applewood Crescent Suite 502  
 Vaughan, Ontario  
 L4K 0E3

Attention: **Walter Bedenikovich**

Subject: **Standby Delay Claim**

Following our meeting on December 6, 2017, we have separated our proposed delay claim according to the following 2 items.

**Delay #1 - Change in Conditions - Pile #11-17 redesign**

We consider the first claim relating to standby following the change in soil conditions on piles #11-17.

Please refer to the breakdown as follows:

Item	Description	Date	Duration (working days)
1	Notification from Maxion regarding slope instability from piles #11-17	October 18, 2017	0
2	RCO from Deep (email dated Oct 19 2017)	October 19, 2017	0
3	RCO received from Maxion (email dated Oct 26 2017)	October 26, 2017	5
4	Revised drawings issued by Terraprobe	October 26, 2017	0
5	Revised drawings reviewed by EXP	November 6, 2017	8
6	Platform approval for drilling piles #11-17	November 15, 2017	7

**Total 20 days**





Deep Foundations Contractors Inc.  
145 Ram Forest Road  
Stouffville, Ontario L4A 2G8  
Tel: 905-750-5900 Web: deep.ca

**Delay #2 – Standby due to contaminated soil stockpiling**

Following completion of the P3 caissons from Stage 2 elevation on October 17, 2017, drilling of the P3 caissons was to resume on matting. The discovery of contaminated soil resulted in stockpiling material in the proposed drilling area. The BG28 installed its last caisson on October 5<sup>th</sup>. There has been 38 days since October 5<sup>th</sup>

**Summary**

The standard accepted standby rate is 50% of the Ontario Provincial Standard Specification 127. For an 8 hours day, the rate for a BG24 or BG28 is 50% \* 8 \* 645.55 = \$2,582 / day.

The total cost, up to December 4<sup>th</sup>, is the following

Delay 1 – Pile 11-17 redesign	20 days	\$52,000
Delay 2 – Contamination	38 days	\$98,000

Should you have any questions regarding the above please advise.

Regards,

**Adam Plomske, P. Eng.**  
Project Manager, Deep Foundations Contractors

- cc Kyle McMahon
- ad Exhibit E-01 – Schedule annotated
- Exhibit E-02 – OPSS 127
- Exhibit E-03 – OPSS 100 General Conditions



This is

**Exhibit 8**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



---

Harold Rosenberg, A Commissioner, etc.

Maxion Construction Management - The Uptown Inc.  
610 Applewood Crescent  
Vaughan ON L4K 0E3



**SUBCONTRACT CHANGE ORDER**

Date: January 2 2018

Subcontract Number 00000003

Change Order Number: 3

<b>To:</b> Deep Foundations 145 Ram Forest Rd. Stouffville ON L4A2G8 ATTN: Adam Plomske		<b>Project:</b> The Uptown Phase 1 Project# :14000001 215 Lexington Road Waterloo ON N2K 2E1	
<b>Cost Code</b>	<b>Description of Change:</b>	<b>Sub Totals</b>	
SCO No. 3	Drill , Supply Concrete and Reinforcing Steel for 4 Additional Caissons for the Tower Crane.	\$	28,000.00
31 40 00			

Original Contract Amount	\$	2,110,000.00
Previously Approved SCO	\$	56,681.53
Current Subcontract Amount:	\$	2,166,681.53
Net Change of this SCO	\$	28,000.00
New Total Subcontract Amount:	\$	2,194,681.53

Accepted By:

Deep Foundations Contractors Inc.  
Subcontractor (Company Name)

Maxion Construction Management - The Uptown Inc.  
Contractor (Company Name)

Signature

\_\_\_\_\_  
Signature

JAN 10 2018  
Date

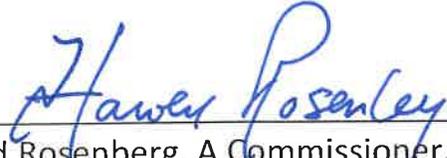
\_\_\_\_\_  
Date

- \* All Terms and Conditions of the original Subcontract apply to this Change Order
- \* All costs above are HST Extra
- \* No additional time will be granted to the schedule unless it is requested prior to this document being signed.

This is

**Exhibit 9**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



---

Harold Rosenberg, A Commissioner, etc.

Maxion Construction Management - The Uptown Inc.  
 610 Applewood Crescent  
 Vaughan ON L4K 0E3



**SUBCONTRACT CHANGE ORDER**

Date: January 31 2018

Subcontract Number 00000004

Change Order Number: 4

<b>To:</b> Deep Foundations 145 Ram Forest Rd. Stouffville ON L4A2G8 ATTN: Adam Plomske		<b>Project:</b> The Uptown Phase 1 Project# :14000001 215 Lexington Road Waterloo ON N2K 2E1	
<b>Cost Code</b>	<b>Description of Change:</b>	<b>Sub Totals</b>	
SCO No. 4 31 40 00	Winter Concrete Premium Charge at \$18.00 / M3 ( Nov 1 to April 15 ) Actual Totals to be Tracked on a Monthly Basis	\$	36,540.00

Original Contract Amount	\$	2,110,000.00
Previously Approved SCO	\$	84,681.53
Current Subcontract Amount:	\$	2,194,681.53
Net Change of this SCO	\$	36,540.00
New Total Subcontract Amount:	\$	2,231,221.53

**Accepted By:**

Deep Foundations Contractors Inc.  
 Subcontractor (Company Name)

Maxion Construction Management - The Uptown Inc.  
 Contractor (Company Name)

Signature

\_\_\_\_\_  
 Signature

FEB 0 1 2018

Date

Date

- \*All Terms and Conditions of the original Subcontract apply to this Change Order
- \* All costs above are HST Extra
- \* No additional time will be granted to the schedule unless it is requested prior to this document being signed.

This is

**Exhibit 10**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019

A handwritten signature in blue ink, reading "Harold Rosenberg", is written over a horizontal line. The signature is cursive and fluid.

Harold Rosenberg, A Commissioner, etc.

Maxion Construction Management - The Uptown Inc.  
610 Applewood Crescent  
Vaughan ON L4K 0E3



**SUBCONTRACT CHANGE ORDER**

Date: January 31 2018

Subcontract Number 00000004

Change Order Number: 5

<b>To:</b> Deep Foundations 145 Ram Forest Rd. Stouffville ON L4A2G8 ATTN: Adam Plomske		<b>Project:</b> The Uptown Phase 1 Project# :14000001 215 Lexington Road Waterloo ON N2K 2E1	
<b>Cost Code</b>	<b>Description of Change:</b>	<b>Sub Totals</b>	
SCO No. 5	Concrete Chipping Over Poured Caissons	\$	3,955.15
31 40 00			

Original Contract Amount	\$	2,110,000.00
Previously Approved SCO	\$	121,221.53
Current Subcontract Amount:	\$	2,231,221.53
Net Change of this SCO	\$	3,955.15
New Total Subcontract Amount:	\$	2,235,176.68

**Accepted By:**

Deep Foundations Contractors Inc.  
Subcontractor (Company Name)

Signature

FEB 01 2018  
Date

Maxion Construction Management - The Uptown Inc.  
Contractor (Company Name)

\_\_\_\_\_  
Signature

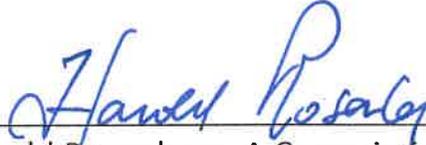
\_\_\_\_\_  
Date

- \* All Terms and Conditions of the original Subcontract apply to this Change Order
- \* All costs above are HST Extra
- \* No additional time will be granted to the schedule unless it is requested prior to this document being signed.

This is

**Exhibit 11**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



---

Harold Rosenberg, A Commissioner, etc.



C17-0059 Uptown Waterloo

**CLAIM LOG - 215 Lexington Road, Waterloo**

Week Ending March-03-18 SUBTRADE: Deep Foundations Contractors Inc

RFQ#	DESCRIPTION	DATE SUBMITTED	EXTENSION OF TIME	TOTAL AMOUNT	% COMPLETE TO DATE	CURRENT AMOUNT	CHANGE ORDER NUMBER	DATE OF PAYMENT	TOTAL PAYMENT RECEIVED
1	Extended Shoring	10/20/17	8 days	\$47,000.00	100%		SCO #1		
2	Obstruction Drilling	11/03/2017	.5 days	\$9,661.53	100%		SCO #2		
3	Concrete Winter Heat			\$35,540.00	23.3%		SCO #4		
4	Classon Concrete Chipping - T&M	1/30/18		\$3,955.15	100%		SCO #5		
5	Obstruction - Casing Shoe	11/23/17		\$21,000.00					
6	Delay #1 - Pile 11-17 Redesign	12/12/2017		\$52,000.00	100%				
7	Delay #2 - Contamination	12/12/2017		\$98,000.00					
8	Drill supply concrete and steel for 4 edd'l calissons	22/12/2017		\$28,000.00	0%		SCO #3		
9	Demobilization	09/02/2018		\$25,000.00	100%				
10									
11									
12									
13									
<b>TOTALS:</b>				<b>\$470,000.00</b>		<b>\$470,000.00</b>			<b>\$470,000.00</b>

This is

**Exhibit 12**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



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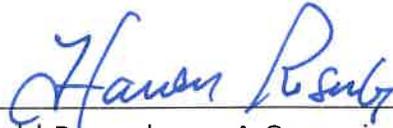
Harold Rosenberg, A Commissioner, etc.



This is

**Exhibit 13**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



---

Harold Rosenberg, A Commissioner, etc.

64

**Properties**

*PIN* 22291 - 0628 LT  
*Description* PT, BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194. S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF WATERLOO  
*Address* WATERLOO

*PIN* 22291 - 0011 LT  
*Description* PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 556933, 562886, 694759; WATERLOO  
*Address* 209 LEXINGTON ROAD  
 WATERLOO

**Party From(s)**

*Name* DEEP FOUNDATIONS CONTRACTORS INC.  
*Address for Service* 145 Ram Forest Road  
 Stouffville, Ontario  
 L4A 2G8

I, Michael Cianchetti, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Party To(s)***Capacity**Share*

*Name* MAXION CONSTRUCTION MANAGEMENT - THE UPTOWN INC  
*Address for Service* 610 Applewood Crescent, Suite 502  
 Vaughan, Ontario  
 L4K 0E3

*Name* MAXION CONSTRUCTION MANAGEMENT INC.  
*Address for Service* 610 Applewood Crescent, Suite 502  
 Vaughan, Ontario  
 L4K 0E3

*Name* DEEM MANAGEMENT SERVICES LIMITED  
*Address for Service* 229 Lexington Road, Unit nF2  
 Waterloo, Ontario  
 N2K 2E1

*Name* 2453678 ONTARIO INC.  
*Address for Service* 610 Applewood Crescent, Suite 502  
 Vaughan, Ontario  
 L4K 0E3

*Name* DAL BIANCO, DONALD  
*Address for Service* 87 Huron Street  
 Southampton, Ontario  
 L9Y 1C7

*Name* INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.  
*Address for Service* TD Centre, TD North Tower  
 77 King Street West  
 P.O. Box 117, Suite 4120  
 Toronto, Ontario  
 M5K 1G8

65

LRO # 58 Certificate

Received as WR1107360 on 2018 04 16 at 15:00

The applicant(s) hereby applies to the Land Registrar

yyyy mm dd Page 2 of 5

<b>Party To(s)</b>	<b>Capacity</b>	<b>Share</b>
--------------------	-----------------	--------------

Name SIMNOS, EUGENE  
 Address for Service 254 Anita Court  
 Waterloo, Ontario  
 N2K 2R4

<b>Statements</b>
-------------------

This document relates to registration number(s)WR1102134

Schedule: See Schedules

<b>Signed By</b>
------------------

Flavio Battiston	202-1013 Wilson Avenue North York M3K 1G1	acting for Party From(s)	Signed	2018 04 16
Tel 416-630-7151				
Fax 416-630-7472				

I have the authority to sign and register the document on behalf of the Party From(s).

<b>Submitted By</b>
---------------------

BATTISTON AND ASSOCIATES	202-1013 Wilson Avenue North York M3K 1G1			2018 04 16
Tel 416-630-7151				
Fax 416-630-7472				

<b>Fees/Taxes/Payment</b>
---------------------------

Statutory Registration Fee	\$63.65
Total Paid	\$63.65

ONTARIO  
SUPERIOR COURT OF JUSTICE

IN THE MATTER of the *Construction Lien Act*,  
R.S.O. 1990, c. C.30, as amended

BETWEEN:

DEEP FOUNDATIONS CONTRACTORS INC.

Plaintiff

- and -

MAXION CONSTRUCTION MANAGEMENT – THE UPTOWN INC.,  
MAXION CONSTRUCTION MANAGEMENT INC.  
2453678 ONTARIO INC., DEEM MANAGEMENT SERVICES LIMITED,  
DONALD DAL BIANCO, EUGENE SIMNOS  
and INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.

Defendants

CERTIFICATE OF ACTION

I certify that an action has been commenced in the Superior Court of Justice under the *Construction Lien Act* between the above parties in respect of the premises described in Schedule "A" and Schedule "B" to this certificate, and relating to the claim(s) for lien bearing the following registration number: WR1102134.

DATE: April 12, 2018

  
REGISTRAR, SUPERIOR COURT OF JUSTICE  
GREFFIER, COUR SUPERIEURE DE JUSTICE

**Schedule A**

PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194.  
S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF  
WATERLOO

being all of PIN 22291-0628 (LT).

**Address of Premises:**

215 and 229 Lexington Road, Waterloo, Ontario

**Schedule B**

PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T  
556933, 562886, 694759; WATERLOO

being all of PIN 22291-0011 (LT).

**Address of Premises:**

209 Lexington Road, Waterloo, Ontario

DEEP FOUNDATIONS CONTRACTORS INC.

- and -

MAXION CONSTRUCTION MANAGEMENT -  
THE UPTOWN INC. et al

Court File No: ~~CV-18~~ C-447-18

ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN THE MATTER of the *Construction Lien Act*,  
R.S.O. 1990, c. C.30, as amended

Proceedings commenced at Kitchener

CERTIFICATE OF ACTION

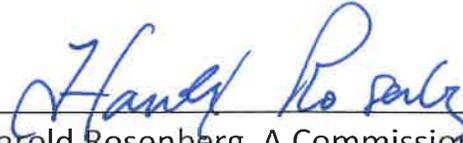
Battiston & Associates  
Barrister & Solicitor  
1013 Wilson Avenue  
Suite 202  
Toronto, Ontario  
M3K 1G1

Flavio J. Battiston  
LSUC No. 22965F  
Tel: 416-630-7151  
Fax: 416-630-7472  
Solicitors for the Plaintiff

This is

**Exhibit 14**

mentioned and referred to in  
the affidavit of **Michael Cianchetti**  
sworn before me this 18th day of December, 2019



---

Harold Rosenberg, A Commissioner, etc.

ONTARIO  
SUPERIOR COURT OF JUSTICE

IN THE MATTER of the *Construction Lien Act*,  
R.S.O. 1990, c. C.30, as amended

BETWEEN:

DEEP FOUNDATIONS CONTRACTORS INC.

Plaintiff

- and -

MAXION CONSTRUCTION MANAGEMENT – THE UPTOWN INC.,  
MAXION CONSTRUCTION MANAGEMENT INC.  
2453678 ONTARIO INC., DEEM MANAGEMENT SERVICES LIMITED,  
DONALD DAL BIANCO, EUGENE SIMNOS  
and INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

~~If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside of Canada and the United States of America, the period is sixty days.~~

~~Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.~~

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

~~TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.~~

Date April 12, 2018

Issued by   
Local Registrar  
85 Frederick Street  
Kitchener, Ontario  
N2H 0A7

To:

Maxion Construction Management – The Uptown Inc.  
610 Applewood Crescent, Suite 502,  
Vaughan, Ontario L4K 0E3

Maxion Construction Management Inc.  
610 Applewood Crescent, Suite 502,  
Vaughan, Ontario L4K 0E3

Deem Management Services Limited  
229 Lexington Road, Unit nF2,  
Waterloo, Ontario N2K 2E1

2453678 Ontario Inc.  
610 Applewood Crescent, Suite 502,  
Vaughan, Ontario L4K 0E3

Donald Dal Bianco  
87 Huron Street,  
Southampton, Ontario L9Y 1C7

Eugene Simnos  
254 Anita Court  
Waterloo, Ontario  
N2K 2R4

Institutional Mortgage Capital Canada Inc.  
TD Centre, TD North Tower,  
77 King Street West,  
P.O. Box 117, Suite 4120  
Toronto, Ontario M5K 1G8

## CLAIM

### 1. The Plaintiff claims:

- (a) Payment of the sum of \$918,432.38 by the Defendants or any one of them;
- (b) in the alternative, payment of the sum of \$918,432.38 by any of the Defendants on a joint and several basis for unjust enrichment and *quantum meruit*;
- (c) A declaration that the Plaintiff is entitled to a lien in the amount of \$918,432.38 upon all of the estate, title and interest of the Defendant Deem Management Services Limited (hereinafter referred to as "DMSL") in the property located in Waterloo which is more particularly described in Schedule "A" (herein referred to as the "Property A") as described in the Plaintiff's claim for lien;
- (d) That in default of payment of the said sum of \$918,432.38 plus interest and costs, all the estate and interest of the Defendant DMSL in Property A be sold and the proceeds applied toward payment of the Plaintiff's claim as aforesaid, pursuant to the provisions of the Construction Lien Act;
- (e) A declaration that the Plaintiff is entitled to a lien in the amount of \$918,432.38 upon all of the estate, title and interest of the Defendant 2453678 Ontario Inc. (hereinafter referred to as "2453678") in the property located in Waterloo which is more particularly described in Schedule "B" (herein referred to as the "Property B") as described in the Plaintiff's claim for lien;
- (f) That in default of payment of the said sum of \$918,432.38 plus interest and costs, all the estate and interest of the Defendant 2453678 in Property B be sold and the proceeds applied toward payment of the Plaintiff's claim as aforesaid, pursuant to the provisions of the Construction Lien Act;
- (g) full priority over the charges registered in favour of the Defendants Donald Dal Bianco, Eugene Simnos and Institutional Mortgage Capital Canada Inc. or, alternatively, priority over the said charges to the extent that any portion of any advances relating to any of the said charges exceeds the actual value of the lands and premises at the time the first construction lien arose, or, in the alternative, priority over the said charges to the extent of any unadvanced portions;
- (h) A declaration that the Plaintiff shall have a charge on any statutory holdbacks retained by any of the Defendants pursuant to the provisions of the *Construction*

*Lien Act* to the extent of the unpaid value of labour and materials supplied to Property A and to Property B;

- (i) Interest on the sum of \$918,432.38 at 2.0% per month or 24% per annum in accordance with the contract between the Plaintiff and the Defendants or, alternatively, in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
  - (j) For the purposes aforesaid, all proper enquiries proceed and directions be given and accounts taken;
  - (k) Costs of this action on a substantial indemnity basis; and,
  - (l) Such further and other relief as this Honourable Court may deem just.
2. The Plaintiff, Deep Foundations Contractors Inc. (hereinafter referred to as “DFCI”), is a corporation duly incorporated pursuant to the laws of the Province of Ontario, carrying on business from its head office located in the Town of Whitchurch-Stouffville, in the Province of Ontario.
  3. The Defendant Maxion Construction Management – The Uptown Inc. (herein referred to as “Maxion Uptown”) is a corporation duly incorporated pursuant to the laws of the Province of Ontario.
  4. The Defendant Maxion Construction Management Inc. (herein referred to as “Maxion”) is a corporation duly incorporated pursuant to the laws of the Province of Ontario.
  5. The Defendant Deem Management Services Limited (herein referred to as “DMSL”) is a corporation duly incorporated pursuant to the laws of the Province of Ontario. At all material times the DMSL was the registered owner of the property more particularly described in Schedule “A” attached hereto (hereinafter referred to as the “Property A”), which is the property to which the Claim for Lien hereinafter set forth attaches.
  6. The Defendant 2453678 Ontario Inc. (herein referred to as “2453678”) is a corporation duly incorporated pursuant to the laws of the Province of Ontario. At all material times the 2453678 was the registered owner of the property more particularly described in

Schedule "B" attached hereto (hereinafter referred to as the "Property B"), which is the property to which the Claim for Lien hereinafter set forth attaches.

7. The Defendant Donald Dal Bianco (herein referred to as "Dal Bianco") was at all material times the Chargor in Charge No. WR888817.
8. The Defendant Eugene Simnos (herein referred to as "Simnos") was at all material times the Chargor in Charge No. WR867624.
9. The Defendant Institutional Mortgage Capital Canada Inc. (herein referred to as "IMCCI") was at all material times the Chargor in Charge No. WR1030622 and Charge No. WR1030628.

The Project:

10. DFCI entered into a contract with the Defendant Maxion Uptown to supply and install lagged shoring, secant wall shoring and other related work (herein referred to as the "Contract") for the Defendant's "Uptown Waterloo" new residential condominium project located in Waterloo, Ontario (herein referred to as the "Project"). Alternatively, DFCI entered into a contract with the Defendant Maxion. Construction of the proposed new residential condominium building was to be located on Property A and Property B and referred to municipally as 209, 215 and 229 Lexington Road, Waterloo.
11. DFCI complied with its contractual obligations. Maxion Uptown breached its contractual obligations by failing to pay the Plaintiff in a timely manner as required by the Contract. Alternatively Maxion breached its contractual obligations by failing to pay the Plaintiff in a timely manner as required by the Contract.
12. DFCI states and the fact is that the Defendant Maxion Uptown and/or the Defendant Maxion are therefore jointly and severally indebted to it in the amount of \$918,432.38 inclusive of HST, plus interest thereon at the rate of 2.0% per month or 24% per annum from November 26, 2017.

- 13. The said Defendants refused to pay the Plaintiff the amount outstanding of \$918,432.38, despite repeated requests for payment.

Claim for Lien:

- 14. DFCI registered a Claim for Lien against the title to the Property on March 4, 2016 under the Construction Lien Act, as Instrument No. AT4160588, which is attached hereto as Schedule "C".

Claims against the Property:

- 15. DFCI states that it supplied services and materials to the Property A and to Property B at the request of the Defendant Maxion Uptown or, alternatively at the request of the Defendant Maxion. As a result of the work and services provide by DFCI, the value of Property A and Property B have been increased and the said Defendants have received financial benefits from the services at the expense and detriment of DFCI.
- 16. By reason of supplying the services aforesaid, DFCI is entitled to a lien on Property A and Property B for the sum of \$918,432.38, together with interest and costs of this action, pursuant to the provisions of the *Construction Lien Act*, R.S.O. 1990, c. C.30., as amended.

Charge on Holdbacks:

- 17. By reason of supplying labour and materials as aforesaid, DFCI is entitled to a charge upon the holdbacks required to be retained under Part IV of the *Act*, and any additional amount owed in relation to the Project.

Quantum Meruit Claims:

- 18. In the alternative, DFCI states that it supplied services and materials thereby improving the value of Property A and Property B at the request of and for the benefit of the Defendants and the said Defendants have been unjustly enriched thereby in the amount of \$918,432.38 inclusive of HST by reason of the supply of services by the Plaintiff. The Plaintiff therefore claims from the said Defendant the sum of \$918,432.38 inclusive of

HST on a *quantum meruit* basis for the reasonable value and the reasonable benefit to the Defendants of the supply of services and materials by DFCI.

Priority Claims against Chargees:

- 19. By Charge registered as Instrument No. WR888817 June 25, 2015 DMSL charged Property A in favour of the Defendant Dal Bianco. The Plaintiff alleges that the said charge was taken by DMSL with the intention to secure the financing of the improvements on Property A and the Plaintiff therefore claims that its lien has full priority over the said charge to the extent of any deficiency in the holdback required to be retained by the said Defendants. In the alternative, the Plaintiff claims that its lien has priority over the said charge to the extent that any advances exceeded the actual value of Property A at the time when the Plaintiff's lien arose. In the further alternative, the Plaintiff claims that its lien has priority over the said charge to the extent of any unadvanced portion thereof.
  
- 20. By Charge registered as Instrument No. WR1030622 on May 9, 2017 DMSL charged Property A in favour of the Defendant IMCCI. The Plaintiff alleges that the said charge was taken by DMSL with the intention to secure the financing of the improvements on Property A and the Plaintiff therefore claims that its lien has full priority over the said charge to the extent of any deficiency in the holdback required to be retained by the said Defendants. In the alternative, the Plaintiff claims that its lien has priority over the said charge to the extent that any advances exceeded the actual value of Property A at the time when the Plaintiff's lien arose. In the further alternative, the Plaintiff claims that its lien has priority over the said charge to the extent of any unadvanced portion thereof.
  
- 21. By Charge registered as Instrument No. WR1030628 on May 9, 2017 DMSL charged Property B in favour of the Defendant IMCCI. The Plaintiff alleges that the said charge was taken by DMSL with the intention to secure the financing of the improvements on Property B and the Plaintiff therefore claims that its lien has full priority over the said charge to the extent of any deficiency in the holdback required to be retained by the said Defendants. In the alternative, the Plaintiff claims that its lien has priority over the said charge to the extent that any advances exceeded the actual value of Property B at the time

when the Plaintiff's lien arose. In the further alternative, the Plaintiff claims that its lien has priority over the said charge to the extent of any unadvanced portion thereof.

22. By Charge registered as Instrument No. WR867624 on February 18, 2015 2453678 charged Property B in favour of the Defendant Simnos. The Plaintiff alleges that the said charge was taken by 2453678 with the intention to secure the financing of the improvements on Property B and the Plaintiff therefore claims that its lien has full priority over the said charge to the extent of any deficiency in the holdback required to be retained by the said Defendants. In the alternative, the Plaintiff claims that its lien has priority over the said charge to the extent that any advances exceeded the actual value of Property B at the time when the Plaintiff's lien arose. In the further alternative, the Plaintiff claims that its lien has priority over the said charge to the extent of any unadvanced portion thereof.

23. The Plaintiff proposes that this action be tried at the City of Waterloo.

Date of issue: APR 12 2018

**BATTISTON & ASSOCIATES**  
Barristers and Solicitors  
1013 Wilson Avenue, Suite 202  
Toronto, Ontario M3K 1G1  
Flavio Battiston LSUC 22965F  
Tel. (416) 630-7151  
Fax. (416) 630-7472  
Lawyers for the Plaintiff

**Schedule A**

PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194.  
S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF  
WATERLOO

being all of PIN 22291-0628 (LT).

**Address of Premises:**

215 and 229 Lexington Road, Waterloo, Ontario

**Schedule B**

PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T  
556933, 562886, 694759; WATERLOO

being all of PIN 22291-0011 (LT).

**Address of Premises:**

209 Lexington Road, Waterloo, Ontario

Schedule C

79

LRO # 58 Construction Lien

Received as WR1102134 on 2018 03 14 at 15:13

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 2

**Properties**

*PIN* 22291 - 0628 LT  
*Description* PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194. S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF WATERLOO  
*Address* WATERLOO

*PIN* 22291 - 0011 LT  
*Description* PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 556933, 562886, 694759; WATERLOO  
*Address* 209 LEXINGTON ROAD  
 WATERLOO

**Consideration**

*Consideration* \$ 918,432.38

**Claimant(s)**

*Name* DEEP FOUNDATIONS CONTRACTORS INC.  
*Address for Service* 145 Ram Forest Road  
 Stouffville, Ontario  
 L4A 2G8

I, Michael Cianchetti, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Statements**

Name and Address of Owner See schedule attached. Name and address of person to whom lien claimant supplied services or materials Maxion Construction Management Inc. - 610 Applewood Crescent, Suite 502, Vaughan, Ontario L4K 0E3 Time within which services or materials were supplied from 2017/07/11 to 2018/02/01 Short description of services or materials that have been supplied shoring and caissons Contract price or subcontract price \$2,101,800.00 inclusive of HST Amount claimed as owing in respect of services or materials that have been supplied \$918,432.38 inclusive of HST

The lien claimant claims a lien against the interest of every person identified as an owner of the premises described in said PIN to this lien

Schedule: See Schedules

**Signed By**

Flavio Battiston 202-1013 Wilson Avenue acting for Signed 2018 03 14  
 North York Applicant(s)  
 M3K 1G1

Tel 416-630-7151  
 Fax 416-630-7472

I have the authority to sign and register the document on behalf of the Applicant(s).

**Submitted By**

BATTISTON AND ASSOCIATES 202-1013 Wilson Avenue 2018 03 14  
 North York  
 M3K 1G1

Tel 416-630-7151  
 Fax 416-630-7472

**Fees/Taxes/Payment**

*Statutory Registration Fee* \$63.65

*Total Paid* \$63.65

## Name and Address of Owner:

Name of Owner: Deem Management Services Limited  
209 Lexington Road, Suite F2  
Waterloo, Ontario  
N2K 2E1

And

229 Lexington Road  
Waterloo, Ontario  
N2K 2E1

Name of Owner: 2453678 Ontario Inc.  
209 Lexington Road, Suite F2  
Waterloo, Ontario  
N2K 2E1

And

610 Applewood Crescent, Suite 502  
Vaughan, Ontario  
L4K 0E3

**DONALD DAL BIANCO -and- DEEM MANAGEMENT SERVICES LIMITED et al**

**Court File CV-18-598657-00CL**

---

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Proceeding Commenced at Toronto

---

**AFFIDAVIT OF MICHAEL CIANCHETTI**  
(Sworn on December 18, 2019)

---

**BATTISTON & ASSOCIATES**  
Barristers and Solicitors  
202 - 1013 Wilson Avenue  
Toronto, Ontario M3K 1G1

Harold Rosenberg (LSO #24219T)  
Tel: (416) 630-7151  
Fax: (416) 630-7472

Lawyers for Lien Claimant Deep  
Foundations Contractors Inc.

Tab K

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

BETWEEN:

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED**  
**and THE UPTOWN INC.**

Respondents

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*  
*And Section 101 of the Courts of Justice Act*

**AFFIDAVIT ROD ROWBOTHAM**  
(Sworn January 17, 2020)

**I, ROD ROWBOTHAM**, of the City of Vaughan, in the Province of Ontario,  
**MAKE OATH AND SAY AS FOLLOWS:**

1. I am the President of OneSpace Unlimited Inc. (“OneSpace”), and as such have knowledge of the matter hereinafter deposed to.
2. On or about about June 23, 2017, OneSpace entered into a contract for architectural services with Maxion Construction management – The Uptown Inc. (“Maxion”). The Contract was revised on July 7, and subsequently revised a second time on August 2, 2017. Attached hereto and marked as **Exhibit “A”** to this my Affidavit is a true copy of said contract.

3. The contract for architectural services referenced in paragraph 2, above, was to be performed at the Property, which is identified in the Construction Lien (see Exhibit "C" to this my Affidavit).
4. OneSpace sent the following Invoices, along with 'Billing Backup' for each:

<b>Invoice No.</b>	<b>Date</b>	<b>Amount</b>
15646	10/20/2017	\$8,292.79
15647	10/20/2017	\$9,787.50
15648	10/20/2017	\$981.97
15685	11/23/2017	\$4,577.37
15686	11/23/2017	\$1,146.95
15687	11/23/2017	\$10,764.66
15725	12/18/2017	\$5,262.41
15726	12/18/2017	\$1,638.50
15768	1/23/2018	\$4,144.84
15769	1/23/2018	\$11,689.85
15770	1/23/2018	\$3,723.92
15807	2/23/2018	\$6,569.26
<b>TOTAL</b>		<b>\$68,580.02</b>

Attached hereto and marked as **Exhibit "B"** to this my Affidavit are true copies of the unpaid invoices, with billing backup, that were sent by OneSpace with respect to their work performed at the Property.

5. The amount that is owed to OneSpace with respect to the services performed for the Property totals \$68,580.02.
6. The last services that were performed by OneSpace for the Property were on February 6, 2018. OneSpace registered its Construction Lien on March 19, 2018, as Instrument Number WR1102923 (“Construction Lien”). Attached hereto and marked as **Exhibit “C”** to this my Affidavit is a true copy of the registered Construction Lien.
7. Both the Statement of Claim and the Certificate of Action were issued on April 30, 2018. Attached hereto and marked as **Exhibit “D”** to this my Affidavit are true copies of the Statement of Claim and the Certificate of Action.
8. The Certificate of Action was registered on Title to the Property on May 2, 2018, as Instrument Number WR1110511. Attached hereto and marked as **Exhibit “E”** to this my Affidavit is a true copy of the registration of the Certificate of Action.
9. I swear this Affidavit for the purposes of proving the quantum and timeliness of the OneSpace Construction Lien and for no other or improper purpose.

**SWORN BEFORE ME** at )  
the City of Vaughan in the )  
Province of Ontario, )  
this 17<sup>th</sup> day of January, 2020 )  
 )

A Commissioner, etc.  
**F. Miceli**

  
\_\_\_\_\_

**ROD ROWBOTHAM**

*This is Exhibit "A" referred to in the  
affidavit of Rod Rowbotham , sworn  
before me this 17<sup>th</sup> day of January 2020.*



.....  
*A Commissioner, etc.*

**F. Miceli**

RECEIVED

AUG - 2, 2017



onespace unlimited inc.  
3700 Steeles Ave. W. Suite 305  
Vaughan ON, Canada, L4L 8K8  
Tel: 416-848-1245

---

onespaceunlimited.com

---

Architects & Interior Designers  
Since 1964

---

---

**MAXION  
CONSTRUCTION  
MANAGEMENT –  
THE UPTOWN INC.**

Professional Architectural Services for  
a new retirement development to be  
located at 215/299 Lexington Road,  
Waterloo

Date: June 23, 2017 (Revised July 7, 2017)

(Revised August 2, 2017)

Project No.: 11075-2017

A handwritten signature in black ink, located in the bottom right corner of the page.



**Ontario Association of Architects**

**Standard Form of Contract for Architect's Services**

**OAA 600-2013**

FOR

11075-2017 - The Uplown Retirement Facility  
215 Lexington Road, Waterloo, Ontario

A handwritten signature in black ink, consisting of a stylized, cursive letter 'P' with a horizontal line extending to the left from the base of the letter.

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---

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Construction Phase Services	GC6
Copyright and Use of Documents	GC7
Liability of the Architect	GC8
Suspension of Services	GC9
Termination of Services	GC10
Payments to the Architect	GC11
Miscellaneous Conditions	GC12
Other Terms of Contract*	GC13*
Signing Space	

\* List any documents attached to and forming part of this contract in GC13 Other Terms of Contract.

## AGREEMENT

A1 This contract made as of the 2 day of the month of August in the year 2017.

A2 between the *Client*:

Maxion Construction Management - The Uptown Inc.  
92 Saunders Drive, Unit 1  
Barrie, Ontario  
L4N 9A8

A3 and the *Architect*:

onespace unlimited inc.  
3700 Steeles Avenue West, Suite 305  
Vaughan, Ontario  
L4L 8K8

A4 for the following *Project*:

The Uptown Retirement Facility  
215 Lexington Road, Waterloo, Ontario

A5 The owner, if other than the *Client*, is: N/A

A6 The *Client's* budget for *Construction Cost* is: \$ 30,000,000.00

A7 The *Client's* anticipated dates for construction are as follows:

.1 Commencement of construction: Summer 2017 (Phase 1)

.2 *Substantial Performance of the Work*: Fall 2019 (Phase 1)

A8 The anticipated construction delivery type and anticipated construction contract between the owner and the contractor are:

.1 Delivery type: Design Build

.2 Construction contract: TBD

A9 The *Client* and the *Architect* may rely on the initial information contained in A6 to A8. In the event that this information changes materially, or is altered by conditions beyond the control of the *Architect*, the *Client* and *Architect* shall appropriately adjust the schedule, the *Architect's* services and the *Architect's* compensation.

A10 The *Architect* shall coordinate the services of the following *Consultants*:

.1 engaged by the *Architect*

None

.2 engaged by the *Client*

All required

A11 For the *Architect's* services the fee shall be computed as follows: (refer also to GC11)

Fee Summary: 1) Lump Sum: (Phases 1, 2, 3): N/A for this scope of work

2) Time Based (Phases 4, 5 & 6):

Phase 4: N/A for this scope of work

Phase 5: TBD (refer to Appendix C 'Fee Schedule' for further details)

Phase 6: \$8,500.00 / month + HST + Disbursements

Breakdown as per Appendix C 'Fee Schedule' attached.

Legend for Charts GC2 and GC3 (on pages 6 to 12):

Services Provided Column: Identified as Yes, No or N/A

Fee Reference Code Column:

LS = services included in Lump Sum Fee (Phases 1, 2, 3, & 5)

H = services included but billed hourly in Time Based Post Submission Planning Approvals/Processes (Phase 4)

M = services included in the monthly Time Based Contract Administration Fee Allowance (Phase 6)

Hourly Rates as follows:

Principal Architect	\$268.00 /hr	Intermediate Personnel	\$109.00 /hr
Associate	\$172.00 /hr	Junior Personnel	\$77.00 /hr
Senior Personnel	\$145.00 /hr	Administration	\$125.00 /hr

The *Architect* shall notify the *Client* in writing by email, letter or other form of written documentation that Fee Reference Code "H" shall be used for activities beyond the scope of work identified as Fee Reference Code "LS" as such activities occur during the course of this agreement. If the *Client* does not provide written instruction to Not proceed with the activity or activities within 24 hours of receipt of the *Architect's* notice, the activity or activities shall commence and be invoiced as per the hourly rates listed above.

The *Architect* acknowledges the right of *Maxion* throughout performance of basic services, to order changes in the *Architect's* work. The *Architect* shall not carry out any work which is extra to this agreement, without the prior written approval of *Maxion*. In the cases of all changes, the *Architect* shall provide timely quotations complete with a breakdown of all hours in sufficient detail to allow review by *Maxion*. Invoice "Approved by *Maxion*" with the monthly progress draws using the format provided by *Maxion*. Failure for *Architect* to receive written approval prior to starting extra work may result in costs being rejected.

A12 Where fees are based on a lump sum or percentage of the *Construction Cost* the compensation and invoicing for each phase of services shall be based on the following apportionment of the total fees:

Schematic design phase	( _____ %)
Design development phase	( _____ %)
Construction documents phase	( _____ %)
Bidding or negotiating phase	( _____ %)
Construction phase	( _____ %)
Total	( 0.00 %)

A13 An administrative charge of 15.00 % shall be added to the reimbursable expenses as noted in GC11.2.

A14 The rate for calculating automobile travel costs shall be \$ 0.52 per kilometre.

A15 The *Client* shall pay to the *Architect*, upon execution of this contract, a retaining fee in the amount of \$ 0.00. This retaining fee shall be credited against the *Architect's* last invoice and is the minimum payment that the *Client* must pay the *Architect* under this contract.

A16 The *Client* shall pay the *Architect* upon receipt of invoices on account of the *Architect's* fee and reimbursable expenses plus applicable taxes. Invoices shall be issued and submitted monthly unless otherwise agreed.

A17 An unpaid invoice shall bear interest, calculated monthly at the rate of 24.00 % per annum, commencing 60 days after the date that the *Architect* submits the invoice.



## DEFINITIONS

The following Definitions apply to this contract. References to the singular shall be considered to include the plural as the context requires.

**Architect** is the entity identified in Article A3 which is the holder of a Certificate of Practice issued by the OAA.

**Client** is the person or entity identified in Article A2.

**Construction Cost** is the total cost of the *Work* to the *Client* to construct all elements of the *Project* designed or specified by, or on behalf of, or as a result of, the coordination by the *Architect*, including construction contract price(s), cash allowances included in the construction contracts, building permit fees, changes during construction, contractors general conditions costs, overhead and profit, construction management fees or other fees for the coordination and procurement of construction services, and all applicable taxes, including the full amount of value-added taxes, whether recoverable or not. The *Construction Cost* does not include the compensation of the *Architect* and the *Consultants*, land cost, land development charges or other professional fees, which are the responsibility of the *Client*.

**Construction Documents** consist of drawings, specifications and other documents appropriate to the size and complexity of the *Project*, to describe the size and character of the *Project* including architectural and where applicable structural, mechanical, and electrical systems, materials and such other elements setting forth in detail the requirements for the construction, enlargement or alteration of the building or buildings and any related components comprising the *Project*.

**Consultant** is a person or an entity engaged by the *Client* or the *Architect* to provide services supplementary to those provided by the *Architect*.

**Consultant Coordination** consists of:

- managing the communications between *Consultants* and with the *Client*, and
- providing direction as necessary to give effect to any design decisions taken, and
- reviewing the product of the *Work* to assist in identifying conflicts and to monitor compliance with directions.

**Contingency** means an amount calculated as a percentage of the *Construction Cost* to cover unknowns or changing factors of cost and include: (1) escalation *Contingency* to cover price escalation from the time of an estimate to the time of bidding, (2) design *Contingency* for design development factors prior to construction and (3) construction *Contingency* to cover unforeseen changes during construction.

**Electronic Documents** are one of the formats in which *Instruments of Service* may be provided by the *Architect*. *Electronic Documents* refer to portable document files (PDF - non-editable) but do not include computer-aided design documents (e.g. CAD or BIM - editable files) unless otherwise agreed in writing.

**Estimate of Construction Cost** is a statement of the approximate total *Construction Cost* as defined, based on current area, volume or similar conceptual techniques and includes *Contingencies* as defined.

**General Review** means review during visits to the *Place of the Work* (and where applicable, at locations where building components are fabricated for use at the *Project* site) at intervals appropriate to the stage of the construction that the *Architect* in its professional discretion, considers necessary to become familiar with the progress and quality of the *Work* and to determine that the *Work* is in general conformity with the construction contract documents, and to report, in writing, to the *Client*, contractor and chief building official.

**Instruments of Service** are the paper or non-editable *Electronic Documents* which comprise the design, drawings, specifications and reports prepared by or on behalf of the *Architect* or *Consultant*, including but not limited to plans, sketches, drawings, graphic representations and specifications and materials which are prepared for the approval of the *Client* and the authorities having jurisdiction and for construction, but do not include software systems, databases, computer programs, or computer-aided design documents (e.g. CAD or BIM - editable files) unless otherwise agreed in writing.

**Place of the Work** is the designated site or location of the *Work* identified in the construction contract documents.

**Project** as described in this contract means the total enterprise or endeavour contemplated of which the *Work* may be the whole or a part.

**Substantial Performance of the Work** means substantial performance of the contract as defined under the Construction Lien Act. Where the *Place of the Work* is located outside of Ontario, *Substantial Performance of the Work* shall be as defined in the lien legislation applicable to the *Place of the Work*, or in the absence of such legislation it shall mean the date the *Work* is ready for the purpose intended.

**Toxic or Hazardous Substances or Materials** means any solid, liquid, gaseous, thermal or electromagnetic irritant or contaminant, and includes, without limitation, pollutants, moulds, asbestos, bio-contaminants, biohazards and nuclear, and hazardous and special wastes whether or not defined in any federal, provincial, territorial or municipal laws, statutes or regulations.

**Work** means the total construction and related services required by the construction contract documents.

## GENERAL CONDITIONS

### GC1 ARCHITECT'S RESPONSIBILITIES

- 1.1 The *Architect* shall provide professional services as identified in this contract and shall:
- .1 exercise such professional skill and care as would be provided by *Architects* practising in the same area in the same or similar locality under similar circumstances,
  - .2 perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the *Project*,
  - .3 identify a representative authorized to act on behalf of the *Architect* with respect to the *Project*,
  - .4 include the *Consultant Coordination* of all *Consultants* engaged by the *Architect* and those other *Consultants* engaged by the *Client* listed in Article A10.2,
  - .5 maintain records of reimbursable expenses, and for any services for which the fee is computed as a multiple of hourly rates. These records shall be maintained in accordance with generally acceptable accounting standards and made available to the *Client* for review upon request at mutually convenient times,
  - .6 utilize key personnel where so identified and request the *Client's* approval of any change, which approval shall not unreasonably be withheld,
  - .7 maintain the confidentiality of information so identified and provided by the *Client*, and
  - .8 except with the *Client's* knowledge and consent, neither engage in any activity, nor accept any employment, interest or contribution that would unreasonably compromise the *Architect's* professional judgment with respect to the *Project*.

### GC2 ARCHITECT'S SCOPE OF BASIC SERVICES

- 2.1 The *Architect's* basic services consist of those services performed by the *Architect*, the *Architect's* employees, and the *Architect's* *Consultants* set forth herein or otherwise mutually agreed in writing. They include the provision of basic structural, mechanical and electrical engineering services by professional engineers when these *Consultants* are engaged by the *Architect*.

(Indicate in the table below each basic service to be provided by the *Architect* and the manner of compensation as indicated in Fee Reference for each as identified in Article A11.

2.1	ITEM	Service Provided:	Fee Reference:	Comments
	<b>SCHEMATIC DESIGN PHASE</b>			
.1	Review Program - Review the <i>Client's</i> Program of Requirements and other information furnished by the <i>Client</i> and the characteristics of the site.	NO		
.2	Review Applicable Codes - Review applicable statutes, regulations, codes and by-laws and where necessary review the same with the authorities having jurisdiction.	NO		
.3	Prepare Initial Evaluation - Prepare an initial evaluation of the <i>Client's</i> Program of Requirements, schedule, budget for the <i>Construction Cost</i> , <i>Project</i> site and the proposed procurement or delivery method and other initial information provided by the <i>Client</i> each in terms of the other, to ascertain the requirements of the <i>Project</i> . The <i>Architect</i> shall notify the <i>Client</i> of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the <i>Project</i> .	NO		
.4	Review Initial Evaluation - Present and review with the <i>Client</i> the initial evaluation and discuss alternative approaches to design and construction of the <i>Project</i> . The <i>Architect</i> shall reach an understanding with the <i>Client</i> regarding the requirements of the <i>Project</i> .	NO		

2.1	ITEM	Service Provided:	Fee Reference:	Comments
.5	<b>Preliminary Concept Design</b> - Based on the <i>Project's</i> requirements agreed upon with the <i>Client</i> , the <i>Architect</i> shall prepare for the <i>Client's</i> approval a preliminary concept design illustrating the scale and relationship of the <i>Project</i> components.	NO		
.6	<b>Schematic Design Documents</b> - Based on the <i>Client's</i> approval of the preliminary concept design, mutually agreed upon Program of Requirements, schedule and budget for the <i>Construction Cost</i> , prepare for the <i>Client's</i> review and approval, schematic design documents to illustrate the scale and character of the <i>Project</i> and how the parts of the <i>Project</i> functionally relate to each other including as appropriate: <ul style="list-style-type: none"> <li>• Site Plan</li> <li>• Spatial Relationship diagrams</li> <li>• Floor Plans</li> <li>• Elevations</li> <li>• Building Sections</li> <li>• Outline Specifications</li> </ul>	NO		
.7	<b>Estimate of Construction Cost</b> - Prepare and submit to the <i>Client</i> an <i>Estimate of Construction Cost</i> based on current area or volume unit cost prepared in accordance with GC5.3.	NO		
.8	<b>Submit Schematic Design</b> - Submit the schematic design documents to the <i>Client</i> and request the <i>Client's</i> approval.	NO		
<b>DESIGN DEVELOPMENT PHASE</b>				
.9	<b>Design Development Documents</b> - Based on the <i>Client's</i> approved schematic design documents and agreed <i>Estimate of Construction Cost</i> , and any <i>Client's</i> authorization or adjustments in the <i>Project</i> requirements and the budget for the <i>Construction Cost</i> prepare for the <i>Client's</i> review and approval, design development documents, drawing and other documents to describe the size and character of the <i>Project</i> including as appropriate the architectural, structural, mechanical, and electrical systems, materials and such other elements: <ul style="list-style-type: none"> <li>• Site Plan</li> <li>• Floor Plans</li> <li>• Elevations</li> <li>• Building Sections</li> <li>• <i>Project</i> brief detailing area calculations, building systems and outline specifications</li> </ul>	NO		
.10	<b>Continue Review of Applicable Codes</b> - Continue to review applicable statutes, regulations codes and by-laws as the design of the <i>Project</i> is developed and where necessary review the same with the authorities having jurisdiction.	NO		
.11	<b>Update Estimate of Construction Cost</b> - Prepare and submit to the <i>Client</i> for approval an updated <i>Estimate of Construction Cost</i> .	NO		
.12	<b>Submit Design Development</b> - Submit the design development documents to the <i>Client</i> , advise the <i>Client</i> of any adjustments to the <i>Estimate of Construction Cost</i> and request the <i>Client's</i> approval.	NO		
<b>CONSTRUCTION DOCUMENTS PHASE</b>				
.13	<b>Drawings and Specifications</b> - Based on the <i>Client's</i> approved design development documents and agreed updated <i>Estimate of Construction Cost</i> , prepare for <i>Client's</i> review and approval, <i>Construction Documents</i> consisting of drawings and specifications setting forth in detail the requirements for the construction of the <i>Project</i> .	YES	H	

2.1	ITEM	Service Provided:	Fee Reference:	Comments
.14	<b>Review Applicable Codes</b> - Review statutes, regulations, codes and by-laws applicable to the design and, where necessary, review the same with the authorities having jurisdiction in order that the consents, approvals, licences and permits necessary for the <i>Project</i> may be obtained.	YES	H	
.15	<b>Bidding Information</b> - Obtain instructions from and advise the <i>Client</i> on the preparation of the bidding information, bidding forms, conditions of the construction contract and the form of construction contract between <i>Client</i> and contractor.	NO		
.16	<b>Update Estimate of Construction Cost</b> - Update the <i>Estimate of Construction Cost</i> .	NO		
.17	<b>Submit Construction Documents</b> - Submit the <i>Construction Documents</i> to the <i>Client</i> , advise the <i>Client</i> of any adjustments to the <i>Estimate of Construction Cost</i> , including adjustments indicated by changes in requirements and general market conditions; take any action required under GC 5.2 and request the <i>Client</i> 's approval.	YES	H	
<b>PERMITS AND APPROVALS</b>				
.18	<b>Building Permit Application</b> - Prepare documents for building permit application, for owner's signature as applicant and assist with submission of the application.	YES	H	
<b>BIDDING/NEGOTIATION PHASE</b>				
.19	<b>Bidding/Negotiation</b> - Following the <i>Client</i> 's approval of the <i>Construction Documents</i> and the latest agreed <i>Estimate of Construction Cost</i> ; assemble and provide bid documents to bidders, monitor and respond to enquiries regarding bid requirements, prepare and process addenda during bidding, arrange for receipt of bids, opening of bids, comparative review and report results for <i>Client</i> 's direction on award. Assist the <i>Client</i> with construction contract negotiations, prepare construction contracts and assemble construction contract documents for signature by the contracting parties.	NO		
<b>CONSTRUCTION PHASE</b>				
.20	<b>General Review</b> - Provide <i>General Review</i> services during construction; examine, evaluate and report upon representative samples of the <i>Work</i> ; keep the <i>Client</i> informed of the progress and quality of the <i>Work</i> ; report defects and deficiencies in the <i>Work</i> observed during the course of the site reviews; and report in writing to the <i>Client</i> , contractor and chief building official.	YES	M	
.21	<b>Site Meetings</b> - Attend site meetings with contractor, major sub-contractors and <i>Consultants</i> , where appropriate, to review the progress of the <i>Work</i> .	YES	M	
.22	<b>WSIB Certificates, Bonds and Insurance Policies</b> - Arrange to receive from the contractor, as required under the construction contract, WSIB certificates, bonds and insurance policies and deliver to <i>Client</i> for <i>Client</i> 's bond and insurance advisors to review.	NO		
.23	<b>Construction Schedule</b> - Receive construction schedule from contractor, review and forward to <i>Client</i> .	NO		
.24	<b>Schedule of Values</b> - Receive schedule of values from contractor, review and adjust, if required. Advise both <i>Client</i> and contractor that the agreed schedule of values will form the basis for factoring percentage of <i>Work</i> completed into certificates for payment.	NO		

2.1	ITEM	Service Provided:	Fee Reference:	Comments
.25	Payment Certification - When engaged to provide <i>General Review</i> , receive and assess contractor's applications for payment; determine the amounts owing to the contractor under the construction contract based on the <i>Architect's</i> observations and evaluation of the contractor's applications for payment having factored percentage of completeness against the contractor's schedule of values and issue certificates of payment to the <i>Client</i> in the value proportionate to the amount of the construction contract, of work performed and products delivered to the <i>Place of the Work</i> .	YES	M	
.26	Construction Contract Documentation Interpretation - On the written request of either the <i>Client</i> or the contractor, render written interpretations and findings within a reasonable time, consistent with the intent of and reasonably inferable from the construction contract documents, showing partiality to neither the <i>Client</i> nor the contractor, on claims, disputes and other matters in question between the <i>Client</i> and the contractor relating to the execution or performance of the <i>Work</i> or the interpretation of the construction contract documents.	YES	M	
.27	Shop Drawings and Submittals - Review and take other appropriate action with reasonable promptness upon such contractor's submittals as shop drawings, product data, and samples for conformance with the general design concept of the <i>Work</i> as provided in the construction contract documents.	YES	M	
.28	Supplemental Details and Instructions - Prepare and issue additional documents and supplemental instructions to the contractor, as required for clarification of the requirements of the contract documents, with reasonable promptness or in accordance with a schedule for such instructions agreed to by the <i>Architect</i> and the contractor.	YES	M	
.29	Requests for information (RFI's) - Receive requests for information (RFI's) from the contractor and process accordingly.	YES	M	
.30	Proposed Change Notices/Change Orders and Change Directives - Prepare proposed change notices, drawings, specifications and supporting data, evaluate contractor's proposals, prepare change orders and change directives for the <i>Client's</i> approval and signature in accordance with the construction contract documents.	NO		
.31	Inspection & Testing Services - Provide assistance in having inspection and testing companies perform services as required by the construction contract documents, receive and review their reports and report to <i>Client</i> .	NO		
.32	Substantial Performance and Completion - As payment certifier prepare and issue at the appropriate time, a certificate of <i>Substantial Performance of the Work</i> and a statement of construction contract deemed completion in accordance with the provisions of the <i>Construction Lien Act</i> .	YES	M	
.33	Contractor's Documentation at Completion - Receive from the contractor and forward to the <i>Client</i> for the <i>Client's</i> acceptance the written warranties and related documents as required under the construction contract.	NO		
.34	Takeover Procedure - Arrange for takeover of the <i>Project</i> by the <i>Client</i> , including demonstration of operating equipment, handover of operating and maintenance manuals and replacement parts as specified.	NO		
.35	Twelve Month Warranty Review - Prior to the end of the period of one year following the date of <i>Substantial Performance of the Work</i> , review any defects or deficiencies which have been reported or observed during that period, and notify the contractor in writing of those items requiring attention by the contractor to complete the <i>Work</i> in accordance with the construction contract between the owner and contractor.	NO		

**GC3 PROVISION OF ADDITIONAL SERVICES**

3.1 The Additional Services listed below are not included in the *Architect's* basic services. The *Architect* shall provide the Additional Services indicated in the table below and the *Client* shall compensate the *Architect* in the manner indicated by Fee Reference and Article A11.

*(Indicate in the table below Additional Services to be provided by the Architect and the manner of compensation as indicated in Fee Reference for each identified in Article A 11.*

3.1	ITEM	Service Provided:	Fee Reference:	Comments
<b>PRE-DESIGN SERVICES</b>				
.1	<b>Pre-Design Study</b> - Provide pre-design study or services such as: to assist with analyzing the reasonable probability of the <i>Client's</i> objectives for the <i>Project</i> being reached within the <i>Client's</i> budget and advise on measures to align the <i>Project</i> requirements with the budget, assess the suitability of the <i>Client's</i> site to accommodate the <i>Project</i> taking into account known site constraints, ability to support future additions, and potential impact of known proposed developments in the vicinity.	NO		
.2	<b>Multiple Sites</b> - Provide pre-design site evaluations, planning surveys, or comparative studies of a number of multiple prospective sites.	N/A		
.3	<b>Programming</b> - Provide analyses of the <i>Client's</i> needs and prepare a written Program of Requirements as described in GC4.1.	NO		
.4	<b>Verifying Drawings</b> - Review drawings furnished by the <i>Client</i> , visit site and take measurements to satisfy that drawings are reasonably accurate in their representation of the premises.	N/A		
.5	<b>Measured Drawings</b> - Confirm with the <i>Client</i> the purpose of the measured drawings and the accuracy required, make measurements, augment with photographs and field notes as appropriate and prepare drawings.	N/A		
.6	<b>Survey, Geotechnical or Hazardous Materials</b> - Assist the <i>Client</i> in the engagement of a <i>Consultant</i> to obtain survey, geotechnical or hazardous materials reports referred to in GC4.3	NO		
<b>GENERAL SERVICES, ALL APPLICABLE PHASES</b>				
.7	<b>Detailed Estimates of Construction Cost</b> - Provide detailed <i>Estimates of Construction Costs</i> .	NO		
.8	<b>Detailed Quantity Surveys, Inventories, Operating Costs</b> - Provide detailed quantity surveys, inventories of material and equipment, or analyses of owning and operating costs.	NO		
.9	<b>Future Facilities</b> - Provide services relating to future facilities, systems and equipment not included in the <i>Construction Cost</i> .	NO		
.10	<b>Provision of Interior Design Services</b> - Provide or engage the services of an interior designer to provide interior design services commensurate with other architectural services under this contract.	YES	H	
.11	<b>FF&amp;E</b> - Provide services for the selection and installation of furniture, fixtures and equipment (FF&E), including re-use of <i>Client's</i> inventoried FF&E.	YES	H	

3.1	ITEM	Service Provided:	Fee Reference:	Comments
.12	<b>Signage</b> - Provide services for design, selection, procurement and installation of graphics, signage and similar elements for interior or exterior application.	NO		
.13	<b>Tenant Related Services</b> - Provide tenant layout and design services or documents not otherwise included in fees.	NO		
.14	<b>Marketing</b> - Prepare promotional presentations or special marketing materials.	YES	H	Blacklines
.15	<b>Model/Rendering/Video</b> - Provide specifically commissioned physical model (maquette), architectural rendering, computer rendering or video, which become the property of the <i>Client</i> .	NO		
.16	<b>Photography</b> - Provide specially commissioned photography or photographic records of site, existing conditions, construction or other.	NO		
.17	<b>Language Translation</b> - Provide language translation services for <i>Construction Documents</i> or other documents.	N/A		
.18	<b>Value Engineering</b> - Provide services in connection with value engineering or analysis.	NO		

#### PERMITS AND APPROVALS

.19	<b>Special Approvals of Authorities</b> - Provide studies, prepare drawings and other documents, attend meetings or public hearings, arrange for engagement of specialist <i>Consultants</i> if required and assist <i>Client</i> in submission of application for:			
.1	<b>Zoning or Land Use Amendment:</b>	YES	H	
.2	<b>Committee of Adjustment or variance from by-laws:</b>	YES	H	
.3	<b>Site Plan Approval:</b>	YES	H	
.4	<b>Other Approvals: (list and describe)</b>			
		NO		

#### BIDDING/NEGOTIATION PHASE

.20	<b>Pre-qualification of Bidders</b> - Prepare parameters of pre-qualification process, advise participants of rating criteria, receive responses from interested parties, prepare analysis spreadsheet and report results to <i>Client</i> for <i>Client's</i> decision.	NO		
.21	<b>Multiple Bid Packages</b> - Provide services and prepare multiple bid document packages in connection with alternative, separate or sequential bidding or negotiation of trade contracts.	NO		
.22	<b>Issued for Construction Drawings</b> - Prepare Issued for Construction drawings incorporating relevant addenda or negotiated changes during bid/negotiation phase.	YES	H	

#### CONSTRUCTION PHASE

.23	<b>Additional On-Site Representation</b> - Provide extensive or full-time on-site review or representation.	NO		
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3.1	ITEM	Service Provided:	Fee Reference:	Comments
.24	<b>Multiple Contracts</b> - Provide additional construction contract administration services in connection with Construction Management, Fast track or Design Build delivery.	NO		
.25	<b>Multiple Phases</b> - Provide services in connection with multiple phased occupancies.	NO		
.26	<b>Client's Own Forces</b> - Coordinate work performed by the <i>Client's</i> own forces and coordinate the services required in connection with construction performed and equipment supplied by the <i>Client</i> .	NO		
.27	<b>Updated Drawings</b> - Prepare Updated Drawings incorporating supplemental instructions, change orders and other changes issued during construction.	YES	M	
.28	<b>Record Drawings</b> - Prepare Record Drawings incorporating changes in the <i>Work</i> made during construction based on as-built drawings (marked-up prints), drawings, and other data furnished by the contractor to the <i>Architect</i> ; the accuracy of the information supplied by the contractor shall not be the responsibility of the <i>Architect</i> .	YES	M	
.29	<b>Commissioning</b> - Provide services related to commissioning in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training operation or maintenance personnel for operation and maintenance and consultation during operation	NO		
3.2	Upon recognizing the need to perform the following unforeseen Additional Services the <i>Architect</i> shall notify the <i>Client</i> with reasonable promptness explaining the facts and circumstances. The <i>Architect</i> shall not proceed to provide the following services until the <i>Architect</i> receives the <i>Client's</i> written authorization. Compensation shall be at hourly rates identified in Article A11 unless mutually agreed otherwise. This shall include providing services, reviewing, evaluating, revising or providing additional drawings or specifications including proposed change notices, change orders, change directives or other documents which are:			
	.1 caused by instructions that are inconsistent with instructions or written approvals previously given by the <i>Client</i> , including revisions made necessary by adjustments in the <i>Client's</i> Program of Requirements or budget for <i>Construction Cost</i> ;			
	.2 required because of significant changes to the <i>Project</i> , including size, quality, complexity, the <i>Client's</i> schedule, or the method of bidding or negotiating and contracting for construction;			
	.3 caused by the enactment or revisions of statutes, regulations, codes or by-laws, subsequent to the preparation of such documents;			
	.4 caused by an interpretation by the authorities having jurisdiction which differs from the <i>Architect's</i> interpretation of statutes, regulations, codes and by-laws, which difference the <i>Architect</i> could not have reasonably anticipated;			
	.5 due to changes required as a result of the <i>Client's</i> failure to render decisions in a timely manner;			
	.6 in connection with evaluating substitutions proposed by the contractor and making subsequent revisions to the drawings, specifications and other documentation resulting from them;			
	.7 required to evaluate an extensive or unreasonable number or size of claims or requests for information (RFI's) submitted by the contractor or others in connection with the <i>Work</i> ;			
	.8 due to replacement of any of the <i>Work</i> damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such work;			

- .9 made necessary by the default of the contractor, by major defects or deficiencies in the *Work* of the contractor, by failure of performance by either the *Client* or the contractor under the construction contract;
- .10 requested by the *Client* in connection with any mediation, arbitration proceeding, or legal proceeding; or
- .11 made necessary by the extension of the anticipated dates for construction described in Article A7.

#### GC4 CLIENT'S RESPONSIBILITIES

- 4.1 The *Client* shall provide full information regarding the requirements for the *Project* including the *Client's Project* objectives, constraints and criteria and a written Program of Requirements including spatial and functional requirements and relationships, flexibility, expandability, special equipment, systems, and site requirements.
- 4.2 The *Client* shall initially establish and periodically update a budget for the *Construction Cost* of the *Project* which includes *Contingencies* for (1) escalation, (2) design and (3) unforeseen changes during construction. If the *Client* significantly increases or decreases the budget for the *Construction Cost* the *Client* shall notify the *Architect*. The *Client* and *Architect* shall thereafter agree to a corresponding change in the *Project's* size and quality.
- 4.3 The *Client* shall provide information, surveys, reports and services as set out below, the accuracy and completeness of which the *Architect* shall be entitled to rely upon and such contracts for the provision of information, surveys, reports and services, whether arranged by the *Client* or the *Architect*, shall be considered direct contracts with *Client* unless explicitly provided otherwise:
  - .1 surveys describing physical characteristics, legal limitations and utility locations for the *Project* site, and a written legal description of the site and adjoining properties as necessary showing the following survey and legal information, as applicable: grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights of way; restrictions; easements; encroachments; zoning; deed restrictions; boundaries and contours of the site; locations, dimensions and data pertaining to existing buildings, other improvements, and trees; and information concerning utility services, both public and private, above and below grade, including inverts and depths;
  - .2 subsurface investigation and reports which include but are not limited to test borings, test pits, determination of soil bearing values, percolation tests, a list of and evaluations of *Toxic or Hazardous Substances or Materials* present at the *Place of the Work*, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations; and
  - .3 air and water pollution tests, tests for *Toxic or Hazardous Substances or Materials*, structural, mechanical, chemical, and other laboratory and environmental tests, inspections, laboratory and field tests and reports as required by the *Architect*, the *Architect's Consultants*, the authorities having jurisdiction or the construction contract documents.
- 4.4 The *Client* shall:
  - .1 authorize in writing a person to act on the *Client's* behalf and define that person's scope of authority with respect to the *Project* when necessary. In the absence of such naming of an authorized representative, the signatory to this contract is deemed to be the representative;
  - .2 review documents submitted by the *Architect* and give the *Architect* timely decisions for the orderly progress of the *Architect's* services;
  - .3 sign applications for permits as the owner, or if the *Client* is not the owner arrange for the owner to sign, and pay for the building permit and all other permits and development costs;
  - .4 immediately notify the *Architect* in writing if the *Client* observes or otherwise becomes aware of any fault or defect in the *Project* or any nonconformity with the requirements of the construction contract;
  - .5 engage *Consultants* identified in Article A10.2 of this contract under terms and conditions of other contracts that are compatible with this contract;

- .6 ensure that all *Consultants* engaged by the *Client* under other contracts carry professional liability insurance coverage;
  - .7 provide any legal, accounting and insurance counselling services as may be necessary at any time for the *Project*, including such auditing services as the *Client* may require to verify the contractor's applications for payment or to ascertain how or for what purpose the contractor uses the monies paid by or on behalf of the *Client*; and
  - .8 provide reports and appropriate professional recommendations of specialist *Consultants* if required by the *Architect*.
- 4.5 The *Client* agrees that, should the construction contract include provision that any dispute between the *Client* and the contractor may be finally resolved by arbitration, the construction contract shall include provisions satisfactory to the *Architect* that:
- .1 require the *Client* and contractor to notify the *Architect* in writing of any arbitration and of any matters in dispute that affect the *Architect*;
  - .2 provide that, upon receipt of the notice in GC4.5.1 above, the *Architect* shall have the option to participate in the arbitration as a party;
  - .3 provide that, in the event that GC4.5.1 and GC 4.5.2 above are not complied with, the *Client* and contractor agree to not pursue any claim against the *Architect* arising from matters resolved by the arbitration.

**GCS BUDGET, ESTIMATES AND CONSTRUCTION COST**

- 5.1 The *Client*'s budget for the *Construction Cost* is provided initially and may be adjusted throughout the *Project* as required under GC 4.2. Initial evaluations of the *Client*'s budget for the *Construction Cost*, the preliminary *Estimate of Construction Cost* and updated *Estimates of Construction Cost* where prepared by the *Architect*, represent the *Architect*'s judgement as a design professional. It is recognized however that neither the *Architect* nor the *Client* has control over the cost of labour, materials or equipment, over the *Contractor*'s methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly the *Architect* cannot and does not warrant or represent that bids or negotiated prices will not vary from the *Client*'s budget for the *Construction Cost* or from any *Estimate of Construction Cost* or evaluation prepared or agreed to by the *Architect*.
- 5.2 If at any time the *Architect*'s *Estimate of Construction Cost* exceeds the *Client*'s budget for the *Construction Cost*, the *Architect* shall make appropriate recommendations to the *Client* to adjust the *Project*'s size, quality or budget for the *Construction Cost*, and the *Client* shall cooperate with the *Architect* in making such adjustments.
- 5.3 When engaged to provide *Estimates of Construction Cost*, the *Architect* shall be permitted to include *Contingencies* for (1) escalation (2) design and (3) unforeseen changes during construction. The *Architect*'s *Estimate of Construction Cost* shall be based on current area, volume or similar conceptual techniques. If the *Client* requests detailed cost estimating services, the *Architect* shall provide such services as an Additional Service.
- 5.4 If the bidding or negotiation phase has not commenced within three months after the *Architect* submits the *Construction Documents* to the *Client*, the agreed *Estimate of Construction Cost* shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the *Construction Documents* to the *Client* and the date on which bids or proposals are sought.
- 5.5 If the lowest compliant bid or lowest negotiated proposal exceeds the latest agreed *Estimate of Construction Cost* the *Client* shall provide:
- .1 written approval of an increase in the budget for the *Construction Cost*, or
  - .2 authorization for re-bidding or re-negotiating of the proposal, or
  - .3 co-operation with the *Architect* in revising the *Project* size or quality as necessary to reduce the *Construction Cost*, or
  - .4 termination of this contract in accordance with GC 10 if the *Project* is abandoned.
- 5.6 If the *Client* proceeds under GCS.5.3, and the extent to which the lowest compliant bid or lowest negotiated proposal exceeds the latest agreed *Estimate of Construction Cost* by more than 15% and is not due to extraordinary market conditions or other factors not reasonably foreseeable by or under the control of the

*Architect*, then the *Client* may require the *Architect* to modify the *Construction Documents* or provide other services necessary to reduce the *Construction Cost* to within 15% of the latest agreed *Estimate of Construction Cost* for no additional fee. Such modification of the *Construction Documents* to that extent shall be the limit of the *Architect's* responsibility under GC5.5.3, and having made such modifications, the *Architect* shall be entitled to compensation in accordance with this contract, for all other services performed, whether or not the construction phase is commenced.

- 5.7 Where the latest agreed *Estimates of Construction Cost* referred to in GC 5.6 is provided by a *Consultant* engaged by the *Client*, modifications to the *Construction Documents* described in GC 5.6 shall be an Additional Service.

#### GC6 CONSTRUCTION PHASE SERVICES

- 6.1 The extent of the duties, responsibilities and limitations of authority of the *Architect* as the *Client's* representative during construction shall be modified or extended only with the written consent of the *Client* and the *Architect*.

- 6.2 When engaged for services during the construction phase the *Architect* shall:

- .1 be a representative of the *Client*;
- .2 advise and consult with the *Client*;
- .3 have the authority to act on the *Client's* behalf to the extent provided in this contract, have access to the *Work* at all times wherever it is in preparation or progress;
- .4 forward all instructions from the *Client* to the contractor;
- .5 have the authority to reject *Work* which does not conform to the construction contract documents, and whenever, in the *Architect's* opinion, it is necessary or advisable for the implementation of the intent of the construction contract documents, have the authority to require special inspection or testing of *Work*, whether or not such *Work* has been fabricated, installed or completed; and
- .6 have the authority to order minor adjustments in the *Work* which are consistent with the intent of the construction contract documents, when these do not involve an adjustment in the construction contract price or an extension of the construction contract time.

- 6.3 When engaged to provide payment certification, the issuance of a certificate for payment shall constitute a representation by the *Architect* to the *Client*, based on the *Architect's General Review* and on review of the contractor's schedule of values and application for payment, that the *Work* has progressed to the value indicated; that to the best of the *Architect's* knowledge, information and belief, the *Work* observed during the course of *General Review* is in general conformity with the construction contract documents and that the contractor is entitled to payment in the amount certified. Such certification is subject to:

- .1 review and evaluation of the *Work* as it progresses for general conformity as provided in the services described in this contract;
- .2 the results of any subsequent tests required by or performed under the construction contract documents;
- .3 minor deviations from the construction contract documents being corrected prior to completion; and
- .4 any specific qualifications stated in the certificate for payment.

- 6.4 The issuance of the certificate for payment shall not be a representation that the *Architect* has made any examination to ascertain how and for what purpose the contractor has used the monies paid on account of the contract price, or that the contractor has discharged the obligations imposed on the contractor by law, or requirements of the Workplace Safety Insurance Board, or other applicable statute, non-compliance with which may render the *Client* personally liable for the contractor's default.

#### GC7 COPYRIGHT AND USE OF DOCUMENTS

- 7.1 Copyright for the *Architect's Instruments of Service* belongs to the *Architect*. The *Architect's Instruments of Service* shall remain the property of the *Architect* whether the *Project* for which they are made is executed or not, and whether or not the *Architect* has been paid for the services. Alteration of the *Architect's Instruments of Service* by the *Client* or any other person is prohibited without a written license from the *Architect*.

- 7.2 Submissions or distribution of the *Architect's Instruments of Service*, including all *Electronic Documents*, to meet official regulatory requirements or for other purposes in connection with the *Project* is not to be construed as publication in derogation of the *Architect's* reserved rights.
- 7.3 The *Client* may retain copies of the *Architect's Instruments of Service*, including non-editable *Electronic Documents*, for information and reference in connection with the *Client's* use and occupancy of the *Project*.
- 7.4 Copies of the *Architect's Instruments of Service* may be used only for the purposes intended and for a one-time use, on the same site, and for the same *Project*, by this *Client* only and may not be offered for sale or transfer without the express written consent of the *Architect*. The *Architect's Instruments of Service*, including non-editable *Electronic Documents*, may be used for renovations, additions or alterations to this *Project*, but shall not be used for renovations, additions or alterations to any other project without a written licence from the *Architect* permitting the use of the *Instruments of Service* for such additional purposes.
- 7.5 As a condition precedent to the use of the *Architect's Instruments of Service* for the *Project*, all fees and reimbursable expenses, including all fees and expenses of suspension or termination, due to the *Architect*, are required to be paid in full.

**GC8 LIABILITY OF THE ARCHITECT**

- 8.1 The *Architect* carries professional errors and omissions liability coverage, and the policy is available for inspection by the *Client* upon request.
- 8.2 The *Client* agrees that any and all claims, whether in contract or tort, which the *Client* has or hereafter may have against the *Architect* in any way arising out of or related to the *Architect's* duties and responsibilities pursuant to this contract, shall be limited to coverage and amount of professional liability insurance carried and available to the *Architect* for the payment of such claims at the time the claim is made. Prior to the date of execution of this contract, if the *Client* wishes to increase the amount of the coverage of such policy or to obtain other special insurance coverage, then the *Architect* shall cooperate with the *Client* to obtain such increased or special insurance at the *Client's* expense.
- 8.3 The *Architect* shall be entitled to rely upon software and product information published by manufacturers and shall not be held liable for relying on information or representation which it reasonably believes to be accurate.
- 8.4 The *Architect* shall not:
- .1 be required to make exhaustive or continuous on-site reviews;
  - .2 be responsible for acts or omissions of the contractor, subcontractors, suppliers or any other persons performing any of the *Work*, or for failure of any of them to carry out the *Work* in accordance with the construction contract documents;
  - .3 have control, charge, or supervision, or responsibility for construction means, methods, techniques, schedules, sequences or procedures, or, for safety precautions and programs required in connection with the *Work*,
  - .4 be responsible for any and all matters arising from *Toxic or Hazardous Substances or Materials*, and
  - .5 be liable for the result of any interpretation or finding rendered in good faith in accordance with the construction contract documents.
- 8.5 The *Client* acknowledges that either the *Architect* or the *Client* may engage *Consultants* on behalf of and for the benefit and convenience of the *Client*; and agrees that the *Architect* shall not be liable to the *Client*, in contract or in tort, for the acts, omissions or errors of *Consultants* engaged by the *Client* identified in Article A10.2 or the *Consultants* described in GC 4.3 engaged on behalf of the *Client*. Nothing in this clause shall derogate from the *Architect's* duty of *Consultant Coordination*
- 8.6 The *Client* shall not commence any claim or proceeding in contract, tort, breach of statutory duty or otherwise against any current or former employee, officer or director of the *Architect* arising out of negligent, wrongful or intentional acts, omissions or errors of such person pursuant to this contract.
- 8.7 The *Client* agrees that the *Architect* shall not be responsible in contract or in tort for any changes made by others to the *Architect's* design or the *Construction Documents*

**GC9 SUSPENSION OF SERVICES**

- 9.1 If the *Client* lacks the financial ability or authority to proceed, the *Client* may give seven (7) days written notice to the *Architect* that the *Client* elects to suspend the *Architect's* services.
- 9.2 If any invoice submitted by the *Architect* remains unpaid by the *Client* for forty-five (45) days or more from the date the invoice was submitted, then the *Architect* may give seven (7) days written notice to the *Client* that the *Architect* will suspend services.
- 9.3 The *Architect* may suspend services on the *Project*:
- .1 if within seven (7) days of delivery of the notice in GC9.2, the *Client* has not paid the *Architect's* invoice, or the *Architect* and the *Client* have not agreed in writing on terms for payment of the invoice, or
  - .2 if construction of the *Work* proceeds in the absence of a building permit and without the chief building official dispatching building officials to the site or, if the *Architect* becomes aware of an action taken by the *Client* which violates applicable building codes or regulations.
- 9.4 In either of the events of GC9.3 the *Client* shall not have any claim whatsoever against the *Architect* for any loss, cost, damage, or expense incurred or anticipated to be incurred by the *Client* as a result of the suspended services.
- 9.5 The rights of the *Architect* given by GC9.3 are in addition to and not in substitution for any other rights the *Architect* may have under this contract or otherwise for non-payment of the *Architect's* invoices by the *Client*.
- 9.6 In the event of a suspension of services, the *Architect* shall not be liable for delay or damage as a result of the suspension of services. Upon suspension, the *Architect* shall submit an invoice for all services performed to the effective suspension date, together with reimbursable expenses and applicable taxes then due. Before resuming services, the *Architect* shall be entitled to payment, within thirty (30) days of the date that the invoice for suspension of services is submitted, for all suspension expenses as defined in GC9.7 and for all expenses for recommencement of services. The *Architect's* fees for the remaining services and time schedules shall be adjusted accordingly.
- 9.7 Suspension expenses include expenses directly attributable to suspension of the *Project* for which the *Architect* is not otherwise compensated, including costs attributed to suspending the *Architect's* contractual and employee commitments.

**GC10 TERMINATION OF SERVICES**

- 10.1 This contract is terminated on the earliest of:
- .1 completion of the services
  - .2 termination in accordance with GC10.
  - .3 one year from the date of certification of *Substantial Performance of the Work*, or
  - .4 one year from the date of completion of the *Work*.
- 10.2 This contract may be terminated by either party upon not less than seven (7) days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.
- 10.3 This contract may be terminated by the *Client* upon at least seven (7) days written notice to the *Architect* in the event that the *Project* is abandoned.
- 10.4 If the *Project* is suspended or abandoned in whole or in part for more than a total of sixty (60) days, it shall be deemed to be abandoned and treated in accordance with Article GC10.2.
- 10.5 In the event of termination, the *Architect* shall be paid, within thirty (30) days of the date that an invoice is submitted, for all services performed to the effective termination date, together with reimbursable expenses and applicable taxes then due, and for all termination expenses as defined in GC10.6.
- 10.6 Termination expenses are in addition to compensation for the *Architect's* services and include expenses directly attributable to termination for which the *Architect* is not otherwise compensated, plus an amount for the *Architect's* anticipated profit calculated as 10% of the value of the services remaining to be performed by the *Architect* or such other amount as may be mutually agreed.

**GC11 PAYMENTS TO THE ARCHITECT**

- 11.1 An invoice submitted by the *Architect* under this contract is due and payable when submitted to the *Client*. Payments for the *Architect's* services shall be made on account for invoices as described in Article A11 of this contract and, where applicable, shall be in proportion to services performed within each phase of the service.
- 11.2 The *Client* shall pay the *Architect* for all reimbursable expenses plus an administrative charge as identified in Article A13 of this contract.
- 11.3 Reimbursable expenses include the following actual expenditures, supported by receipts or invoices, incurred by the *Architect*, and the *Architect's Consultants* in the interest of the *Project*:
- .1 transportation in connection with the *Project* for authorized travel, e.g. for transportation, lodging and meals;
  - .2 communication and shipping, e.g. for long distance telephone calls and facsimile messages, courier service, postage and electronic conveyances;
  - .3 reproduction of *Instruments of Service*, photographs, and other documents;
  - .4 web-based project management services, specifically requested by the *Client*;
  - .5 fees, levies, duties or taxes for permits, licences or approvals from authorities having jurisdiction;
  - .6 premiums for additional insurance coverage or limits, including that of professional liability insurance, requested by the *Client* in excess of that normally carried by the *Architect* and the *Architect's Consultants*; and
  - .7 other *Project* related expenses approved by the *Client* prior to expenditure.
- 11.4 No deductions shall be made by the *Client* from amounts payable to the *Architect* on account of penalty, liquidated damages, or other sums withheld from payments to contractors, or on account of the cost of changes in the *Work* other than those for which the *Architect* is proven to be legally responsible or has agreed to pay.
- 11.5 Variance from the *Client's* budget for the *Construction Cost* established under this contract shall not constitute grounds for the *Client* to withhold fees due to the *Architect*.
- 11.6 When a percentage-based fee is used as the method for determining the *Architect's* fee, the basis for calculating the applicable portion of the fee for each phase of the *Architect's* services shall be based on Article A12 of this contract.
- 11.7 When a percentage-based fee is used and any parts of the *Project* are deleted or otherwise not constructed the *Construction Cost* shall be the *Estimate of Construction Cost* as determined by the *Architect*, or as agreed by the *Architect* if a cost *Consultant* is engaged, at market rates at the anticipated time of construction.
- 11.8 If and to the extent that the contract time initially established in the construction contract is exceeded or extended through no fault of the *Architect*, fees for services required for such extended period of the construction contract administration shall be adjusted and computed as set forth in Article A11 of this contract or as otherwise mutually agreed with the *Client*.
- 11.9 The *Client* shall pay to the *Architect*, together with, and in addition to, any fees and reimbursable expenses, value added taxes that are, or become, payable as required by legislation.
- 11.10 If this contract requires the *Architect* to provide services both before and after the commencement of the *Work* and the *Client* is retaining holdback pursuant to the Construction Lien Act (Ontario) from payments to the *Architect*, then, for purposes of the Construction Lien Act (Ontario), this contract shall be deemed to be divided into two (2) contracts, with the terms and conditions of this contract applying with necessary modifications to both deemed contracts as follows, with:
- .1 a contract for the provision of the *Architect's* services up to and including the commencement of the *Work*; and
  - .2 a contract for the provision of the *Architect's* services after the commencement of the *Work*.

**GC12 MISCELLANEOUS CONDITIONS**

- 12.1 The addresses for official notice shall be as stated in Article A2 and A3. Notices in writing between the parties shall be considered to have been received by the addressee on the date of delivery if delivered to the individual, or to a member of the firm, or to an officer of the corporation for whom they are intended, by hand or by registered post; or if sent by regular post, to have been delivered five (5) working days from the date of mailing; or if sent by electronic conveyance during the transmission of which no indication of failure of receipt is communicated to the sender, deemed to have been received on the date of its transmission provided that if such day is not a working day or if it is received after the end of normal business hours on the date of its transmission at the place of receipt, then it shall be deemed to have been received at the opening of business at the place of receipt on the first working day next following the transmission thereof.
- 12.2 The *Architect* shall be entitled to sign the building by inscription, or otherwise, on a permanent, suitable and reasonably visible part of the building.
- 12.3 The *Architect* shall be entitled to include as part of the construction contract documents a provision to erect a sign identifying the *Architect* and the *Architect's Consultants* at the *Place of the Work*. In some instances the *Client* may also be represented on the sign. Graphics on the sign may also include a reproduction of a rendering of the *Project*.
- 12.4 If any provision of this contract is declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be severed from this contract and the other provisions shall remain in full force and effect.
- 12.5 This contract shall be governed by the law of the Province of Ontario.
- 12.6 The *Client* and the *Architect* respectively bind themselves, their partners, successors, assigns and legal representatives to the other party to this contract and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this contract. Except as otherwise provided herein, neither the *Client* nor the *Architect* shall assign, sublet, or transfer an interest in this contract without the written consent of the other. Consent to such assignment or transference shall not be unreasonably withheld.
- 12.7 This contract represents the entire and integrated contract between the *Client* and the *Architect* and supersedes all prior negotiations, representations, or contracts, either written or oral. This contract may be amended only in writing signed by both the *Client* and the *Architect*.



**GC13 OTHER TERMS OF CONTRACT:**

The *Client* and the *Architect* agree as set forth in the following other terms:

Refer to the following attachments as part of this Contract:

Appendix A - Our General Understanding

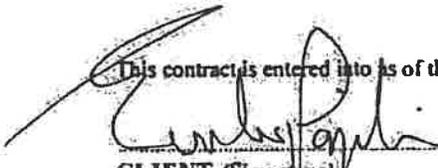
Appendix B - Deliverables

Appendix C - Fee Schedule

Appendix D - Terms & Conditions

Appendix E - Design-Build: OAA 600-2013

This contract is entered into as of the day and year first written above.

  
CLIENT (Signature)

  
ARCHITECT (Signature)

EMILIO ROMILIO - General Manager  
(Printed name and title)

Rod Rowbotham, President, Principal Architect  
(Printed name and title)

## APPENDIX A – OUR GENERAL UNDERSTANDING

Our professional fees have been calculated based the following project details and scope of work understood to be accurate at this time:

**Project Address:**

- The development shall be located at 215/299 Lexington Road in Waterloo, Ontario

**Project Goals:**

- As per the design previously completed by onespace unlimited Inc.
- Formal Building Permit Application: Revised application required

**Ontario Building Classification:**

- The project shall be classified as Part 3, Type C, B3

**General:**

- The Architectural services included in this proposal are for preparing revised Building Permit Documents, Construction Documents and Contract Administration services.
- Revisions as may be required for Interior Design services are not estimated in this proposal.
- Documents as required for construction tendering are not estimated in this proposal.
- The scope of work provided with this proposal shall consist of time-based services. Refer to Appendix C 'Fee Schedule' for complete details.
- The anticipated length of construction shall be confirmed at a later date.

Should any of these project details be incorrect, we will adjust our Professional Fee and Deliverables accordingly.



## APPENDIX B - DELIVERABLES

### Phase 1: Schematic Design

Completed under separate contract.

### Phase 2: Design Development

Completed under separate contract.

### Phase 3: Pre-submission Planning Approvals

Completed under separate contract.

### Phase 4: Post-submission Planning Approvals

Completed under separate contract.

### Phase 5: Construction Documentation

Co-ordinate documents to facilitate a revised Building Permit application (Building Permit Fees by Client), and assist with any questions or feedback.

Specific tasks:

- Generation of drawings/documents to be used for a formal revised Building Permit application with the Municipality. Drawings include:

**DWG # TITLE**

001	COVER PAGE
002	DRAWING LIST, STATISTICS AND O.B.C. MATRIX, CONTEXT PLAN
003	SITE PLAN
003a	COMPLETE PHASES
004	WALL TYPE SCHEDULE
005	FIRE SEPARATIONS
101	B2 LEVEL - OVERALL PLAN
102	B1 LEVEL - OVERALL PLAN
103	GROUND AND 2 <sup>ND</sup> FLOOR LEVEL - OVERALL PLAN
104	3 <sup>RD</sup> AND 4 <sup>TH</sup> FLOOR LEVEL - OVERALL PLAN
105	5 <sup>TH</sup> & 6 <sup>TH</sup> FLOOR LEVEL - OVERALL PLAN
106	MECHANICAL PENTHOUSE & ROOF PLAN - OVERALL PLAN
201/202	BASEMENT 2 <sup>ND</sup> LEVEL - ENLARGED PLAN
203/204	BASEMENT 1 <sup>ST</sup> LEVEL - ENLARGED PLAN
205/206	GROUND FLOOR LEVEL - ENLARGED PLAN
207/208	2 <sup>ND</sup> FLOOR LEVEL - ENLARGED PLANS
209/210	3 <sup>RD</sup> FLOOR LEVEL - ENLARGED PLANS
211/212	4 <sup>TH</sup> FLOOR LEVEL - ENLARGED PLANS
213/214	5 <sup>TH</sup> FLOOR LEVEL - ENLARGED PLANS
215/216	6 <sup>TH</sup> FLOOR LEVEL - ENLARGED PLANS
217	MECHANICAL PENTHOUSE LEVEL - ENLARGED PLAN
301	NORTH & WEST ELEVATION
302	SOUTH & EAST ELEVATION
401	BUILDING SECTION
402	BUILDING SECTION

403	BUILDING SECTION
501	WALL SECTIONS
502	WALL SECTIONS
503	WALL SECTIONS
504	WALL SECTIONS
701	TYPICAL DETAILS
702	TYPICAL DETAILS
703	PLAN DETAILS
704	SECTION DETAILS
801	STAIR PLANS
802	STAIR SECTIONS
901	B2, B1 & GROUND FLOOR WINDOW SCHEDULE
902	GROUND FLOOR WINDOW SCHEDULE
903	SECOND FLOOR WINDOW SCHEDULE
904	THIRD FLOOR WINDOW SCHEDULE
905	FOURTH FLOOR WINDOW SCHEDULE
906	FIFTH FLOOR WINDOW SCHEDULE
907	SIXTH FLOOR WINDOW SCHEDULE
908	B3, B2 & B1 SCREEN SCHEDULE

- Coordinate architectural drawings/documentation with other consultants as part of a formal revision to Building Permit application submitted by Client.
- Client meetings to coordinate application requirements and details with Client, other Consultants and Municipal staff

#### Phase 6: Contract Administration

Preparation of Contract Administrative Construction Documents as per the following tasks.

Specific tasks:

- Architectural Shop drawing and submittals review.
  - PRECAST STAIR
  - PASSENGER ELEVATOR
  - ROOF ANCHORS
  - TRANSFORMER
  - GENERATOR
  - FIRE STOPPING
  - COOLING TOWER OR CHILLER
  - AIR MAKE-UP UNIT
  - LIGHT FIXTURES (Exterior locations)
  - TRENCH DRAIN
  - SPRINKLERS
  - UNDER FLOOR ACOUSTIC TREATMENT
  - HARDWARE SCHEDULE
  - SELECTED MISCELLANEOUS METAL
  - WINDOW WALL SHOP DRAWINGS
  - COMMERCIAL WINDOWS, ENTRANCES
  - WINDOW SAMPLES (Finishes)

GARBAGE CHUTE  
WASTE COMPACTOR  
WOOD SUITE ENTRY DOORS  
GUARD RAILING & BALCONY DIVIDERS  
TRAFFIC TOPPING  
FINISH MASONRY CLADDING  
STONE FINISH CLADDING  
STRUCTURAL STEEL  
A/V BARRIER  
WATERPROOFING  
CAULKING AND SEALANTS  
ROOF MEMBRANE  
OVERHEAD DOORS  
DRAINS

- Provide supplemental details and instructions to the constructor during construction (Limit = 45)
- Respond to request for information documents (RFIs) received from the constructor (Limit = 45)
- Attend site meetings (twice per month)
- Provide substantial performance inspection for occupancy request from constructor
- Provide substantial performance certification for occupancy request from constructor
- Provide statement of deemed completion (occupancy letter) to constructor

NOTE: Revit and/or CAD files shall be provided to the General Contractor or Construction Manager to assist with the production of the Window Wall and Commercial Windows, Entrances Shop Drawings ONLY. onespace unlimited inc. shall provide PDF files (with instruction for insertion as background files) for all other similar requests as they occur during the duration of this contract.

### Deliverables NOT included in this Contract

- Application fees and deposits for permits and approvals.
- Execution and coordination of any partial permits that may be required.
- Sequential Tendering.
- Revision to drawings required by Client following prior approval.
- Plotting and Printing of contract drawings and specifications (to be paid directly by Client using client's printing account)
- Renderings
- Testing Investigation (ie Soil), if required.
- Topographical or legal surveys.
- Selection and coordination of other Consultants including payment of Fees. Consultants include but are not limited to the following: Structural Engineer, Mechanical/Electrical Engineer, Landscape Architect and Site Servicing and Grading Engineering.
- Project Management and/or Coordination of the project and/or the assigned consultant team.
- Site visits in excess of those listed above.
- Partial work done in the event of termination.
- All disbursements including but not limited to items such as the work of sub-consultants to onespace unlimited inc., long distance telephone and fax, cell phone use outside of local calling area and our normal business hours, courier services and mileage @ \$0.52 per km shall be subject to a 15% administration fee.
- H.S.T where applicable.

## APPENDIX C - FEE SCHEDULE

Based on our understanding, our professional fees have been calculated as follows:

- 1) LUMP SUM FEES: N/A for this Scope of Work
- 2) TIME BASED FEES (Identified as Fee Reference Codes "H" and "M" in Section A11)

Phase 4: Post-submission Planning Approvals/Processes  
Completed under separate contract.

### Phase 5: Construction Documents

Architectural and Interior Design services required for drawings/documents generated from the BIM model required for formal Building Permit application shall be billed hourly at the following rates:

Hourly Rates:

Principal Architect	\$268.00 /hr
Associate	\$172.00 /hr
Senior Personnel	\$145.00 /hr
Intermediate Personnel	\$109.00 /hr
Junior Personnel	\$ 77.00 /hr
Administration	\$125.00 /hr

**Sub Total: TBD (see below for estimated costs)**

### Phase 6: Contract Administration

\$8,500/month from onset of construction to Substantial Performance/Occupancy.

**Total: \$8,500.00 / MONTH + HST + Disbursements**

**Estimated Budget to Building Permit: \$ 54,777.00 + HST + Disbursements**

**Estimated Budget to Tender: \$ 30,000.00 + HST + Disbursements**

**Estimated Budget for Interior Design: \$ 18,000.00 + HST + Disbursements**

This fee shall remain valid and for acceptance by the Client for a period of thirty (30) days from the date of issue of this proposal.

## APPENDIX D – TERMS AND CONDITIONS

### General Terms and Conditions

Invoices for work performed on the project will be issued monthly unless otherwise agreed. Payment will be due 30 days from date of an invoice. All inquiries or questions concerning the invoice are to be directed to the Operations Manager, as listed above, within five (5) working days of receipt of the invoices. Should no contact be made regarding the invoice within the stipulated time frame, the invoice will be considered acceptable to the Client and duly payable in accordance with these terms.

Invoices submitted and unpaid after 60 days from the date of the invoice will cause the work to cease on the project after the Architect has given seven day's written notice to the Client that rendering of services will stop. If payment has not been received within 75 days from the date of the invoice a lien will be filed on the project, the Client being liable for all reasonable collection costs and legal fees.

Unpaid invoices will bear interest charges at a rate of 2% per month.

### Additional Work

For additional work as may be required our hourly rates will apply plus the cost of any disbursements involved. The Client will be notified in writing of the additional services required and reply back to onespace unlimited with confirmation to proceed. Invoices for these additional services shall be billed monthly.

Additional work shall include but not be limited to the following:

- Site visits, Supplemental Details / Instructions and RFI's in excess of quantities included.
- Additional drawings over and above those listed above.
- Revision to drawings required by Client following prior approval.
- Work beyond the scope of this proposal
- Work of other Specialty Consultants

## APPENDIX E – DESIGN-BUILD: OAA 600-2013

VERSION: 2.0

15 January 2015

- Summary

The Canadian Construction Documents Committee (CCDC) has published new contracts for design-build. CCDC 14 for the owner/design-builder and CCDC 15 as the services contract between an architect and a design-builder. This Practice Tip offers the OAA recommendation that OAA 600 be used, with a few modifications, as it is entirely suitable for use as the architect's services contract with a design-builder in lieu of using CCDC 15. As the architect's contract for services is used in conjunction with the design-builder's contract with the owner (CCDC 14), it is important to also review the Practice Tip PT.23.6 – *Design Build: CCDC 14 - 2013*.

- Background

Design-build is a form of project delivery where an owner contracts, under a single contract, with one entity (a design-builder) to provide and take contractual responsibility for both the design services and the construction.

The design-build method of project delivery has become more prevalent in recent years. The CCDC has published new standard contract forms for design-build: CCDC 14 – 2013, *Design-Build Stipulated Price Contract* and CCDC 15 – 2013, *Design Services Contract between Design-Builder and Consultant* which replace the earlier (2000) versions of the Standard Construction Documents 14 & 15.

The OAA supports the concept of industry standard contracts as produced by the CCDC and endorsed by RAIC / Architecture Canada but continues to believe that services contracts for architects should be under the purview of architectural associations and as such recommends the use of the OAA *Standard Form of Contract for Architect's Services* amended for use on design-build projects.

This Practice Tip provides appropriate modifications to OAA 600 – 2013 so that it can be used as the contract between the design-builder and the architect in lieu of using CCDC 15.

In all cases it is important that the architect's role and responsibilities as described in the construction contract for the project are consistent with the services and responsibilities in the client/architect contract. Architects should obtain a copy of the contract between the owner and the design-builder so that a review for consistency can be done.

### Modifications to OAA 600 for Design-Build

The text for suggested modifications to OAA 600 – 2013 for its use for design-build are provided in MS Word format in the Sample Template attachment to this PT, which can be used to create a Schedule '\_\_\_' which is identified as being "attached to and forming

part of the contract" in GC 13 Other Terms of Contract. Below are explanations of each of the items of modification.

Item 1: clarifies that the architect's client is a design-builder; that the design-builder will have a contract with the owner; that there is no contractual relationship between the architect and owner; and that the architect will receive a copy of the owner / design-builder contract.

The architect requires a copy of the owner /design-builder contract to verify the compatibility of the scope of services and other terms with the client (design-builder) / architect contract and for the purpose of being able to administer the contract during construction.

Item 2: highlights the responsibilities of the client (design-builder) by identifying the standard of care test which is currently utilized by the courts.

Item 3: allows identification of the client's (design-builder's) anticipated construction procurement method as this decision by the design-builder impacts the architect's services during both the construction documents phase and the construction phase. Some of the various options design-builders use are: competitive bid, negotiated contract, multiple prime contractors, and construction management or the design-builder's own forces. All of the above could require either the preparation of a single complete set of construction documents or multiple packages which greatly affects the architect's services required and appropriate fees.

Item 4: expands the requirement for the client (design-builder) to notify the architect of any fault or defect in the project including during the design and construction document phases. This reinforces the design-build concept which is a team effort to provide a finished project which meets the owner's requirements.

Item 5: GC 5.1 and GC 8.4.2 are amended to include that the architect is not responsible for acts or omissions of the client (design-builder) and the client's contractors.

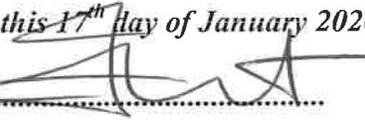
Item 6: GC 6.2.4 is deleted as it is not applicable in the design-build scenario.

Items 7 and 8: GC 7.3 is deleted and is effectively replaced by the change to GC 7.4 which is modified so that the use of the *Architect's Instruments of Service* extends to the owner.

Item 9: applies if the intention is that CAD files are to be provided to the client (design-builder) or the owner upon request (GC 7.6). Indemnification as a precedent for the use of the CAD drawing files by the client or owner is provided in new GCs 7.7 and 7.8.

Item 10: provides clarification for certification of payments and substantial performance. Refer also to commentary in PT.23.6.

*This is Exhibit "B" referred to in the  
affidavit of Rod Rowbotham , sworn  
before me this 17<sup>th</sup> day of January 2020.*



*A Commissioner, etc.*

**F. Miceli**



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**Invoice**

October 20, 2017  
 Project No: 11075-2017  
 Invoice No: 15646

Mr. Paul Michelin  
 Maxion Management Services  
 92 Saunders Road  
 Suite 100  
 Barrie, ON L4N 9A8

Project 11075-2017 The Uptown Project Restart  
For Professional Services for the period September 16, 2017 to October 20, 2017  
 Professional Personnel

	Hours	Rate	Amount	
Junior Architectural Technologist				
Longo, Luca	10.00	77.00	770.00	
Intermediate Architectural Technologist				
Molella, Rino	50.25	109.00	5,477.25	
Intermediate Interior Designer				
Lahn, Rachel	.50	109.00	54.50	
Senior Architectural Technologist				
Alali, Louie	2.50	145.00	362.50	
Calderon, Jim	.50	145.00	72.50	
Associate				
Iafrales, Don	3.50	172.00	602.00	
Totals	67.25		7,338.75	
<b>Total Labor</b>				<b>7,338.75</b>

<b>Taxes</b>				
H.S.T. R86036 0908	13.00 % of 7,338.75		954.04	
<b>Total Taxes</b>			<b>954.04</b>	<b>954.04</b>
	<b>Total this Invoice</b>			<b>\$8,292.79</b>

TERMS: DUE UPON RECEIPT – ACCOUNTS OVER 30 DAYS ARE SUBJECT TO A CHARGE OF 24% PER ANNUM.  
 PLEASE REMIT PAYMENT TO: ONESPACE UNLIMITED INC. AS PER OUR AGREEMENT: Payment for this invoice is due upon receipt. All inquiries or questions concerning the invoice are to be directed to the Partner in charge, or alternatively the Project Manager. Should no contact be made regarding this invoice within the next five (5) days, this invoice will be considered acceptable and duly payable. \*If this invoice remains unpaid sixty (60) days hence, all work will cease on the project after seven (7) days written notice. \*\*If this invoice remains unpaid seventy-five (75) days hence, a lien will be filed against the project. \*\*\*Unpaid Invoices will bear interest charges at a rate of twenty-four per cent (24%) per annum .

Project	11075-2017	The Uptown Project Restart	Invoice	15646
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# Billing Backup

October 23, 2017

onespace unlimited inc.

Invoice 15646 Dated 2017-10-20

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Project	11075-2017	The Uptown Project Restart
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## Professional Personnel

		Hours	Rate	Amount
Junior Architectural Technologist				
Longo, Luca	2017-09-28	2.50	77.00	192.50
	Locating caissons on architectural drawings as per structural and provided shop drawings			
Longo, Luca	2017-09-29	7.50	77.00	577.50
	Continue to generate code compliant drawings for Part 3 & 9 townhouse permit application			
Intermediate Architectural Technologist				
Molella, Rino	2017-09-18	3.00	109.00	327.00
	COORDINATING MECH AND UPDATING WINDOW SCHEDULE TO MEET NEW CODE REQUIREMENTS			
Molella, Rino	2017-09-18	4.50	109.00	490.50
	coordinate with site regarding caisson shop dwgs			
Molella, Rino	2017-09-19	5.00	109.00	545.00
	Site & struct coordination regarding caisson			
Molella, Rino	2017-09-19	2.50	109.00	272.50
	Update windows to meet new code requirement			
Molella, Rino	2017-09-21	4.00	109.00	436.00
	coordinate with site regarding location of caisson C1-C8			
Molella, Rino	2017-09-25	2.50	109.00	272.50
	Two meetings at Maxion - First with Nella & Maxion regarding the Kitchen layout & people count.			
Molella, Rino	2017-09-25	2.00	109.00	218.00
	Reviewed Shop dwgs for Caissons C9-C40 & C137-C161			
Molella, Rino	2017-09-26	3.00	109.00	327.00
	Reviewed Shop dwgs for Caissons C9-C40 & C137-C161			
Molella, Rino	2017-09-26	2.25	109.00	245.25
	Coordination with Mech.			
Molella, Rino	2017-09-29	2.00	109.00	218.00
	Coordination with structural regarding dimensions for caissons			
Molella, Rino	2017-09-29	2.00	109.00	218.00
	Dimension location for Caissons C137-C161			
Molella, Rino	2017-10-02	3.00	109.00	327.00
	Issue Caisson dimensions to EXP to review and then issue to site			
Molella, Rino	2017-10-02	2.50	109.00	272.50
	Pre-Construction kick off meeting with Team			
Molella, Rino	2017-10-16	1.50	109.00	163.50
	Review shop dwgs for caissons C41 to C67			
Molella, Rino	2017-10-18	6.00	109.00	654.00
	Uptown site meeting			
Molella, Rino	2017-10-19	2.00	109.00	218.00
	Issue shop dwg for caissons C41 to C67			
Molella, Rino	2017-10-20	2.50	109.00	272.50
	Response to RFI-015			
Intermediate Interior Designer				
Lahn, Rachel	2017-10-06	.25	109.00	27.25
	Meeting with plumbing rep regarding standards			
Lahn, Rachel	2017-10-19	.25	109.00	27.25
	Coordination of changes to interior plans			

Project	11075-2017	The Uptown Project Restart			Invoice	15646	
Senior Architectural Technologist							
Alati, Louie		2017-10-02	2.50	145.00	362.50		
		Contract Admin kick-off meeting with Maxlon and structural engineer.					
Calderon, Jim		2017-09-22	.50	145.00	72.50		
		responding to RM Inquiries of various tasks					
Associate							
lafrate, Don		2017-09-20	.50	172.00	86.00		
		Consultant coordination (ftp, misc)					
lafrate, Don		2017-09-20	.25	172.00	43.00		
		Respond to questions from site (Caossons)					
lafrate, Don		2017-09-25	.50	172.00	86.00		
		Team Coordination (CA)					
lafrate, Don		2017-09-26	.75	172.00	129.00		
		Team Coordination (CA)					
lafrate, Don		2017-09-29	.50	172.00	86.00		
		Update project status with RM					
lafrate, Don		2017-10-02	1.00	172.00	172.00		
		Review of contract administration procedures as required.					
		Totals	67.25		7,338.75		
		<b>Total Labor</b>				<b>7,338.75</b>	
				<b>Total this Project</b>		<b>\$7,338.75</b>	
				<b>Total this Report</b>		<b>\$7,338.75</b>	



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**Invoice**

October 20, 2017  
 Project No: 11075-2017EX1  
 Invoice No: 15647

Maxlon Management Services  
 92 Saunders Road  
 Suite 100  
 Barrie, ON L4N 9A8

Project 11075-2017EX1 Uptown-Addition of Suites  
For Professional Services for the period September 16, 2017 to October 23, 2017  
 Professional Personnel

	Hours	Rate	Amount	
Junior Architect/Intern Poletto, Elaina	.50	77.00	38.50	
Junior Architectural Technologist Longo, Luca	25.00	77.00	1,925.00	
Intermediate Architectural Technologist Molella, Rino	52.50	109.00	5,722.50	
Senior Architectural Technologist Alati, Louie	.50	145.00	72.50	
Associate Iafrate, Don	5.25	172.00	903.00	
<b>Totals</b>	<b>83.75</b>		<b>8,661.50</b>	
<b>Total Labor</b>				<b>8,661.50</b>

Taxes				
H.S.T. R66036 0908	13.00 % of 8,661.50	1,126.00		
<b>Total Taxes</b>		<b>1,126.00</b>		<b>1,126.00</b>
<b>Total this Invoice</b>				<b>\$9,787.50</b>

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Project 11075-2017EX1 Uptown-Addition of Suites Invoice 15647

# Billing Backup

October 23, 2017

onespace unlimited inc.

Invoice 15647 Dated 2017-10-20

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Project 11075-2017EX1 Uptown-Addition of Suites

## Professional Personnel

		Hours	Rate	Amount
Junior Architect/Intern				
Poleto, Elaina	2017-09-21	.50	77.00	38.50
	Creating PDF's and Prints			
Junior Architectural Technologist				
Longo, Luca	2017-09-27	6.50	77.00	500.50
	Client request to revise blackline key plans and corresponding suite layouts			
Longo, Luca	2017-10-11	5.50	77.00	423.50
	Update floor plans to reflect revised suite count & layouts			
Longo, Luca	2017-10-12	7.50	77.00	577.50
	Update floor plans to reflect revised suite count & layouts			
Longo, Luca	2017-10-13	5.50	77.00	423.50
	Update floor plans to reflect revised suite count & layouts			
Intermediate Architectural Technologist				
Molella, Rino	2017-09-21	2.00	109.00	218.00
	Meeting with Maxion regarding floor plan changes for new marketing plans			
Molella, Rino	2017-09-21	3.00	109.00	327.00
	Revise black line key plans as per meeting with Maxion			
Molella, Rino	2017-09-22	5.00	109.00	545.00
	Revise black line key plans as per meeting with Maxion			
Molella, Rino	2017-09-25	2.00	109.00	218.00
	Second regarding the suite key plan changes with Maxion			
Molella, Rino	2017-09-26	2.50	109.00	272.50
	Client request to change Blackline Key plans			
Molella, Rino	2017-09-27	3.50	109.00	381.50
	Client request to change Blackline Key plans and suite layouts			
Molella, Rino	2017-10-03	1.50	109.00	163.50
	Set up meeting, review & print all the drawings required for tomorrows suite count meeting.			
Molella, Rino	2017-10-04	2.00	109.00	218.00
	Meeting at Maxion to discuss suite count and the affects on structural			
Molella, Rino	2017-10-04	5.00	109.00	545.00
	Update key plans as per discussion within the meeting.			
Molella, Rino	2017-10-05	5.00	109.00	545.00
	Update key plans as per discussion within the meeting.			
Molella, Rino	2017-10-06	1.00	109.00	109.00
	complet key plans and issue to Maxion			
Molella, Rino	2017-10-10	3.50	109.00	381.50
	Supercede all existing CAD dwgs and coordinate new suite designs to floors 4 to 6 on the working drawings			
Molella, Rino	2017-10-12	6.50	109.00	708.50
	Coordinate new suite design to floors 4 to 6 on the working drawings			
Molella, Rino	2017-10-13	5.50	109.00	599.50
	Coordinate new suite design to floors 4 to 6 on the working drawings			
Molella, Rino	2017-10-19	2.50	109.00	272.50
	Review mark-up dwgs and discuss over the phone with Maxion			
Molella, Rino	2017-10-20	2.00	109.00	218.00
	Reviewing structural plans for the new suite layout			

Project	11075-2017EX1	Uptown-Addition of Suites		Invoice	15647
Senior Architectural Technologist					
Alall, Louie		2017-10-02	.50 145.00	72.50	
		Meeting with Don and Rino ahead to discuss meeting agenda with Maxion			
Associate					
lafrate, Don		2017-09-22	.50 172.00	86.00	
		Review of unit mix exercise for PM.			
lafrate, Don		2017-10-02	.75 172.00	129.00	
		Review of increased unit count requirements with team			
lafrate, Don		2017-10-03	.50 172.00	86.00	
		Review of increased unit count requirements with team.			
lafrate, Don		2017-10-04	3.00 172.00	516.00	
		Meeting at Maxion to review suite changes, Review of required suite changes with staff			
lafrate, Don		2017-10-05	.50 172.00	86.00	
		Review of suite changes with team.			
		Totals	83.75	8,661.50	
		Total Labor			8,661.50
				Total this Project	\$8,661.50
				Total this Report	\$8,661.50



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 onespaceunlimited.com

**Invoice**

October 20, 2017  
 Project No: 11075-2017EX2  
 Invoice No: 15648

Maxion Management Services  
 92 Saunders Road  
 Suite 100  
 Barrie, ON L4N 9A8

Project 11075-2017EX2 Uptown-DEEM instructed changes  
For Professional Services for the period September 16, 2017 to October 23, 2017  
**Professional Personnel**

	Hours	Rate	Amount	
Intermediate Architectural Technologist				
Mollella, Rino	6.00	109.00	654.00	
Associate				
Iafrate, Don	1.25	172.00	215.00	
Totals	7.25		869.00	
<b>Total Labor</b>				<b>869.00</b>
<b>Taxes</b>				
H.S.T. R86036 0908		13.00 % of 869.00	112.97	
<b>Total Taxes</b>			<b>112.97</b>	<b>112.97</b>
				<b>Total this Invoice</b>
				<b>\$981.97</b>

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Project	11075-2017EX2	Uptown-DEEM instructed changes	Invoice	15648
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# Billing Backup

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Invoice 15648 Dated 2017-10-20

October 23, 2017

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Project	11075-2017EX2	Uptown-DEEM instructed changes
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## Professional Personnel

		Hours	Rate	Amount	
Intermediate Architectural Technologist					
Molella, Rino	2017-10-18	6.00	109.00	654.00	
Site meeting with Deem Mangement & Maxion regarding new wish list					
Associate					
lafrale, Don	2017-10-19	1.25	172.00	215.00	
DEEM- Review of changes from DEEM staff.					
Totals		7.25		869.00	
Total Labor					869.00
				Total this Project	\$869.00
				Total this Report	\$869.00

**Invoice**

November 23, 2017  
 Project No: 11075-2017  
 Invoice No: 15685

Mr. Paul Michelin  
 Maxion Management Services  
 92 Saunders Road  
 Suite 100  
 Barrie, ON L4N 9A8

Project 11075-2017 The Uptown Project Restart  
For Professional Services for the period October 21, 2017 to November 17, 2017  
 Professional Personnel

	Hours	Rate	Amount	
Senior Architectural Technologist				
Molella, Rino	21.50	145.00	3,117.50	
Associate				
Iafrale, Don	4.75	172.00	817.00	
<b>Totals</b>	<b>26.25</b>		<b>3,934.50</b>	
<b>Total Labor</b>				<b>3,934.50</b>

**Reimbursable Expenses**

EMPLOYEE TRAVEL				
2017-11-03	Rino Molella	Site Meeting - Oct 18	97.70	
2017-11-03	Rino Molella	Site Meeting - Oct 25	3.40	
	<b>Total Reimbursables</b>	<b>1.15 times</b>	<b>101.10</b>	<b>116.27</b>

**Taxes**

H.S.T. R86036 0908	13.00 % of 4,050.77	526.60	
<b>Total Taxes</b>		<b>526.60</b>	<b>526.60</b>

**Total this Invoice \$4,577.37**

TERMS: DUE UPON RECEIPT – ACCOUNTS OVER 30 DAYS ARE SUBJECT TO A CHARGE OF 24% PER ANNUM.  
 PLEASE REMIT PAYMENT TO: ONESPACE UNLIMITED INC. AS PER OUR AGREEMENT: Payment for this invoice is due upon receipt. All inquiries or questions concerning the invoice are to be directed to the Partner in charge, or alternatively the Project Manager. Should no contact be made regarding this invoice within the next five (5) days, this invoice will be considered acceptable and duly payable. \*If this invoice remains unpaid sixty (60) days hence, all work will cease on the project after seven (7) days written notice. \*\*If this invoice remains unpaid seventy-five (75) days hence, a lien will be filed against the project. \*\*\*Unpaid invoices will bear interest charges at a rate of twenty-four per cent (24%) per annum.

Project	11075-2017	The Uptown Project Restart	Invoice	15685
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# Billing Backup

November 23, 2017

onespace unlimited inc.

Invoice 15685 Dated 2017-11-23

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Project	11075-2017	The Uptown Project Restart
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## Professional Personnel

		Hours	Rate	Amount	
Senior Architectural Technologist					
Molella, Rino	2017-10-23	3.00	145.00	435.00	
Molella, Rino	Shop dwg review				
Molella, Rino	2017-10-25	2.50	145.00	362.50	
Molella, Rino	Refer to specifications for RFI's 13S & 14S				
Molella, Rino	2017-10-25	3.00	145.00	435.00	
Molella, Rino	Crane Base shop Dwg Review and coordinate location w/ mech. Instruct Maxion to include Trace's for thier comments				
Molella, Rino	2017-10-26	1.50	145.00	217.50	
Molella, Rino	Responded to RFI's-013S & 014S				
Molella, Rino	2017-10-26	3.50	145.00	507.50	
Molella, Rino	Shop dwg review of Caisson submittal #14, 16 & 17				
Molella, Rino	2017-10-27	.50	145.00	72.50	
Molella, Rino	Shop Dwg Log				
Molella, Rino	2017-10-31	2.00	145.00	290.00	
Molella, Rino	Discuss & review caisson location with Maxion & EXP				
Molella, Rino	2017-11-14	4.00	145.00	580.00	
Molella, Rino	Caisson Dimensions for C41 to C67 & Shop dwg review				
Molella, Rino	2017-11-15	1.50	145.00	217.50	
Molella, Rino	Conference call for site meeting				
Associate					
lafrate, Don	2017-10-24	.75	172.00	129.00	
lafrate, Don	Code review with team				
lafrate, Don	2017-10-26	.50	172.00	86.00	
lafrate, Don	Review of CA procedures with team				
lafrate, Don	2017-10-27	.50	172.00	86.00	
lafrate, Don	Shop Drawing review				
lafrate, Don	2017-10-31	.50	172.00	86.00	
lafrate, Don	Review of drawing status with RM.				
lafrate, Don	2017-11-01	1.50	172.00	258.00	
lafrate, Don	Meeting with Maxion to review drawing status.				
lafrate, Don	Review drawing package with team				
lafrate, Don	Consultant coordination				
lafrate, Don	2017-11-16	1.00	172.00	172.00	
lafrate, Don	Meeting with Bruno to review drawing requirements moving forward				
	Totals	26.25		3,934.50	
	Total Labor				3,934.50
			Total this Project		\$4,050.77
			Total this Report		\$4,050.77



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**Invoice**

November 23, 2017  
 Project No: 11075-2017EX1  
 Invoice No: 15686

Maxion Management Services  
 92 Saunders Road  
 Suite 100  
 Barrie, ON L4N 9A8

Project 11075-2017EX1 Uptown-Addition of Suites  
For Professional Services for the period October 21, 2017 to November 17, 2017  
 Professional Personnel

	Hours	Rate	Amount	
Senior Architectural Technologist				
Molella, Rino	7.00	145.00	1,015.00	
Totals	7.00		1,015.00	
<b>Total Labor</b>				<b>1,015.00</b>
<b>Taxes</b>				
H.S.T. R86036 0908		13.00 % of 1,015.00	131.95	
<b>Total Taxes</b>			<b>131.95</b>	<b>131.95</b>
				<b>Total this Invoice</b>
				<b>\$1,146.95</b>

TERMS: DUE UPON RECEIPT – ACCOUNTS OVER 30 DAYS ARE SUBJECT TO A CHARGE OF 24% PER ANNUM.  
 PLEASE REMIT PAYMENT TO: ONESPACE UNLIMITED INC. AS PER OUR AGREEMENT: Payment for this invoice is due upon receipt. All inquiries or questions concerning the invoice are to be directed to the Partner in charge, or alternatively the Project Manager. Should no contact be made regarding this invoice within the next five (5) days, this invoice will be considered acceptable and duly payable. \*If this invoice remains unpaid sixty (60) days hence, all work will cease on the project after seven (7) days written notice. \*\*If this invoice remains unpaid seventy-five (75) days hence, a lien will be filed against the project. \*\*\*Unpaid Invoices will bear interest charges at a rate of twenty-four per cent (24%) per annum .

Project	11075-2017EX1	Uptown-Addition of Suites	Invoice	15686
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# Billing Backup

onespace unlimited inc.

Invoice 15686 Dated 2017-11-23

November 23, 2017

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Project	11075-2017EX1	Uptown-Addition of Suites
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**Professional Personnel**

		Hours	Rate	Amount	
Senior Architectural Technologist					
Molella, Rino	2017-11-09	3.00	145.00	435.00	
	Structural changes due to new suites added				
Molella, Rino	2017-11-10	3.00	145.00	435.00	
	Revised suites added due to structural changes				
Molella, Rino	2017-11-14	1.00	145.00	145.00	
	The revised suite design for the 6th floor				
	Totals	7.00		1,015.00	
	<b>Total Labor</b>				<b>1,015.00</b>
			<b>Total this Project</b>		<b>\$1,015.00</b>
			<b>Total this Report</b>		<b>\$1,015.00</b>



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**Invoice**

November 23, 2017  
 Project No: 11075-2017EX2  
 Invoice No: 15687

Maxion Management Services  
 92 Saunders Road  
 Suite 100  
 Barrie, ON L4N 9A8

Project 11075-2017EX2 Uptown-DEEM instructed changes  
For Professional Services for the period October 21, 2017 to November 17, 2017  
 Professional Personnel

	Hours	Rate	Amount	
Intermediate Interior Designer				
Lahn, Rachel	6.25	109.00	681.25	
Senior Architectural Technologist				
Molalla, Rino	61.00	145.00	8,845.00	
Totals	67.25		9,526.25	
<b>Total Labor</b>				<b>9,526.25</b>
<b>Taxes</b>				
H.S.T. R86036 0908		13.00 % of 9,526.25	1,238.41	
<b>Total Taxes</b>			<b>1,238.41</b>	<b>1,238.41</b>
			<b>Total this Invoice</b>	<b>\$10,764.66</b>

TERMS: DUE UPON RECEIPT -- ACCOUNTS OVER 30 DAYS ARE SUBJECT TO A CHARGE OF 24% PER ANNUM.  
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Project	11075-2017EX2	Uptown-DEEM instructed changes	Invoice	15687
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# Billing Backup

November 23, 2017

onespace unlimited inc.

Invoice 15687 Dated 2017-11-23

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Project	11075-2017EX2	Uptown-DEEM instructed changes
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## Professional Personnel

		Hours	Rate	Amount	
Intermediate Interior Designer					
Lahn, Rachel	2017-10-23	.75	109.00	81.75	
	Revising floor plans as per DEEM staff related changes				
Lahn, Rachel	2017-10-24	2.00	109.00	218.00	
	Revising floor plans as per DEEM staff related changes				
Lahn, Rachel	2017-10-25	3.00	109.00	327.00	
	Revising floor plans as per DEEM staff related changes, Client Coordination Meeting				
Lahn, Rachel	2017-10-26	.50	109.00	54.50	
	Revising floor plans as per DEEM staff related changes				
Senior Architectural Technologist					
Molella, Rino	2017-10-23	2.00	145.00	290.00	
	Re-design of areas mark-up by Deem Mangement				
Molella, Rino	2017-10-24	2.50	145.00	362.50	
	Re-design of areas mark-up by Deem Mangement w/ R.L.				
Molella, Rino	2017-10-25	2.50	145.00	362.50	
	Meeting at Maxlon w/ Deem regarding new changes				
Molella, Rino	2017-10-26	2.00	145.00	290.00	
	Issue DEEM changes to Code consultant & discuss				
Molella, Rino	2017-10-31	2.00	145.00	290.00	
	Discuss and issue an email of all the changes with the consultant				
Molella, Rino	2017-11-01	8.00	145.00	1,160.00	
	Changes as requested by the client (Deem) - B2 Level				
Molella, Rino	2017-11-02	8.00	145.00	1,160.00	
	Changes as requested by the client (Deem) - B1 & B2 Levels				
Molella, Rino	2017-11-03	5.50	145.00	797.50	
	Changes as requested by the client (Deem) - B1 & B2 Levels				
Molella, Rino	2017-11-06	6.00	145.00	870.00	
	Changes as requested by the client (Deem) - 1st Floor				
Molella, Rino	2017-11-07	6.50	145.00	942.50	
	Changes as requested by the client (Deem) - 1st Floor				
Molella, Rino	2017-11-08	3.50	145.00	507.50	
	Changes as requested by the client (Deem) - 1st Floor				
Molella, Rino	2017-11-09	3.75	145.00	543.75	
	Changes as requested by the client (Deem) - 2nd & 3rd Floors				
Molella, Rino	2017-11-10	3.25	145.00	471.25	
	Increase of Mech. shaft due to suite changes				
Molella, Rino	2017-11-14	2.00	145.00	290.00	
	Revise suites at 6th floor do to the new shaft size				
Molella, Rino	2017-11-15	2.50	145.00	362.50	
	Complete MPH & Roof and issue to all consultants				
Molella, Rino	2017-11-16	1.00	145.00	145.00	
	Meeting with Bruno from Maxion regarding Status of Arch Dwgs.				
	Totals	67.25		9,526.25	
	<b>Total Labor</b>				<b>9,526.25</b>
			<b>Total this Project</b>		<b>\$9,526.25</b>
			<b>Total this Report</b>		<b>\$9,526.25</b>



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**Invoice**

December 18, 2017  
 Project No: 11075-2017EX2  
 Invoice No: 15725

Maxion Management Services  
 92 Saunders Road  
 Suite 100  
 Barrie, ON L4N 9A8

Project 11075-2017EX2 Uptown-DEEM Instructed changes  
For Professional Services for the period November 18, 2017 to December 15, 2017  
 Professional Personnel

	Hours	Rate	Amount	
Junior Architect/Intern				
Poeto, Elaina	7.00	77.00	539.00	
Junior Architectural Technologist				
Longo, Luca	29.00	77.00	2,233.00	
Senior Architectural Technologist				
Molella, Rino	13.00	145.00	1,885.00	
Totals	49.00		4,657.00	
<b>Total Labor</b>				<b>4,657.00</b>
<b>Taxes</b>				
H.S.T. R86036 0908	13.00 % of 4,657.00		605.41	
<b>Total Taxes</b>			<b>605.41</b>	<b>605.41</b>
				<b>Total this Invoice</b>
				<b>\$5,262.41</b>

TERMS: DUE UPON RECEIPT – ACCOUNTS OVER 30 DAYS ARE SUBJECT TO A CHARGE OF 24% PER ANNUM.  
 PLEASE REMIT PAYMENT TO: ONESPACE UNLIMITED INC. AS PER OUR AGREEMENT: Payment for this invoice is due upon receipt. All inquiries or questions concerning the invoice are to be directed to the Partner in charge, or alternatively the Project Manager. Should no contact be made regarding this invoice within the next five (5) days, this invoice will be considered acceptable and duly payable. \*If this invoice remains unpaid sixty (60) days hence, all work will cease on the project after seven (7) days written notice. \*\*If this invoice remains unpaid seventy-five (75) days hence, a lien will be filed against the project. \*\*\*Unpaid invoices will bear interest charges at a rate of twenty-four per cent (24%) per annum.

Project	11075-2017EX2	Uptown-DEEM instructed changes	Invoice	15725
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# Billing Backup

December 18, 2017

onespace unlimited inc.

Invoice 15725 Dated 2017-12-18

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Project	11075-2017EX2	Uptown-DEEM instructed changes
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**Professional Personnel**

		Hours	Rate	Amount	
Junior Architect/Intern					
Poleto, Elaina	2017-12-11	3.00	77.00	231.00	
	Dimensioning and tagging all walls where revisions have been made on P1, 2nd, and 3rd floor.				
Poleto, Elaina	2017-12-12	4.00	77.00	308.00	
	Dimensioning and tagging all walls where revisions have been made on 4th and 6th floor.				
Junior Architectural Technologist					
Longo, Luca	2017-12-11	7.50	77.00	577.50	
	Revisions to B2 & Ground floor plans as per DEEM management changes				
Longo, Luca	2017-12-12	7.50	77.00	577.50	
	Revisions to Level 2 & Level 3 floor plans as per DEEM management changes				
Longo, Luca	2017-12-13	7.50	77.00	577.50	
	Revisions to Level 5 & Level 6 floor plans as per DEEM management changes				
Longo, Luca	2017-12-14	3.50	77.00	269.50	
	Revisions to Level 6 floor plans as per DEEM management changes				
Longo, Luca	2017-12-15	3.00	77.00	231.00	
	Review of B2, B1 & Ground floor plans based on earlier revisions				
Senior Architectural Technologist					
Molella, Rino	2017-12-01	1.00	145.00	145.00	
	Updating the Architectural dwgs as per changes (200 series dwgs)				
Molella, Rino	2017-12-11	2.00	145.00	290.00	
	Update & coordinate dwgs with latest changes				
Molella, Rino	2017-12-12	2.00	145.00	290.00	
	Update & coordinate dwgs with latest changes				
Molella, Rino	2017-12-13	2.50	145.00	362.50	
	Update & coordinate dwgs with latest changes				
Molella, Rino	2017-12-14	5.50	145.00	797.50	
	Coordinate plans with new updates				
	Totals	49.00		4,657.00	
	<b>Total Labor</b>				<b>4,657.00</b>
			<b>Total this Project</b>		<b>\$4,657.00</b>
			<b>Total this Report</b>		<b>\$4,657.00</b>



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**Invoice**

December 18, 2017  
 Project No: 11075-2017  
 Invoice No: 15726

Mr. Paul Michelin  
 Maxion Management Services  
 92 Saunders Road  
 Suite 100  
 Barrie, ON L4N 9A8

Project 11075-2017 The Uptown Project Restart  
For Professional Services for the period November 18, 2017 to December 15, 2017  
 Professional Personnel

	Hours	Rate	Amount	
Senior Architectural Technologist				
Molella, Rino	10.00	145.00	1,450.00	
Totals	10.00		1,450.00	
<b>Total Labor</b>				<b>1,450.00</b>
<b>Taxes</b>				
H.S.T. R86036 0908		13.00 % of 1,450.00	188.50	
<b>Total Taxes</b>			<b>188.50</b>	<b>188.50</b>
		<b>Total this Invoice</b>		<b>\$1,638.50</b>

TERMS: DUE UPON RECEIPT – ACCOUNTS OVER 30 DAYS ARE SUBJECT TO A CHARGE OF 24% PER ANNUM.  
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Project	11075-2017	The Uptown Project Restart	Invoice	15726
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# Billing Backup

onespace unlimited inc.

Invoice 15726 Dated 2017-12-18

December 18, 2017

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Project	11075-2017	The Uptown Project Restart
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**Professional Personnel**

		Hours	Rate	Amount	
Senior Architectural Technologist					
Molella, Rino	2017-11-23	1.00	145.00	145.00	
	RFI-22 - correspondence w/ site & consultant				
Molella, Rino	2017-11-24	2.00	145.00	290.00	
	Review comments from code consultant				
Molella, Rino	2017-11-29	1.50	145.00	217.50	
	Site mtg conference call				
Molella, Rino	2017-12-05	1.00	145.00	145.00	
	RFI-21				
Molella, Rino	2017-12-06	3.00	145.00	435.00	
	Issue RFI-020 & Shop Dwgs for Interior Walls				
Molella, Rino	2017-12-07	.50	145.00	72.50	
	Issue dwg schedule to client				
Molella, Rino	2017-12-13	1.00	145.00	145.00	
	Site mtg conference call				
	Totals	10.00		1,450.00	
	Total Labor				1,450.00
			<b>Total this Project</b>		<b>\$1,450.00</b>
			<b>Total this Report</b>		<b>\$1,450.00</b>



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**Invoice**

January 23, 2018  
 Project No: 11075-2017  
 Invoice No: 15768

Mr. Paul Michelin  
 Maxion Management Services  
 92 Saunders Road  
 Suite 100  
 Barrie, ON L4N 9A8

Project 11075-2017 The Uplown Project Restart  
For Professional Services for the period December 16, 2017 to January 20, 2018

**Professional Personnel**

	Hours	Rate	Amount	
Senior Architectural Technologist				
Molella, Rino	25.00	145.00	3,625.00	
Associate				
Iafrale, Don	.25	172.00	43.00	
<b>Totals</b>	<b>25.25</b>		<b>3,668.00</b>	
<b>Total Labor</b>				<b>3,668.00</b>

**Taxes**

H.S.T. R86036 0908	13.00 % of 3,668.00	476.84	
<b>Total Taxes</b>		<b>476.84</b>	<b>476.84</b>

**Total this Invoice                   \$4,144.84**

TERMS: DUE UPON RECEIPT – ACCOUNTS OVER 30 DAYS ARE SUBJECT TO A CHARGE OF 24% PER ANNUM.  
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Project	11075-2017	The Uptown Project Restart	Invoice	15768
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# Billing Backup

January 23, 2018

onespace unlimited Inc.

Invoice 15768 Dated 2018-01-23

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Project	11075-2017	The Uptown Project Restart
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## Professional Personnel

		Hours	Rate	Amount	
Senior Architectural Technologist					
Molella, Rino	2017-12-19	1.00	145.00	145.00	
	Phone conversation with site regarding status of IFC dwgs				
Molella, Rino	2017-12-20	1.00	145.00	145.00	
	Issue IFC plans; coordination set to consultants and client				
Molella, Rino	2017-12-21	1.00	145.00	145.00	
	Site coordination regarding foundation overlay. Instructed Maxlon to inform Struct consultant				
Molella, Rino	2017-12-27	2.50	145.00	362.50	
	Issue all approved Shop Dwgs for site records				
Molella, Rino	2017-12-28	2.00	145.00	290.00	
	General questions for the shop dwgs folder				
Molella, Rino	2017-12-29	2.50	145.00	362.50	
	Create folder on OUI FTP site for SHOP DWGS. Client coordination				
Molella, Rino	2018-01-02	2.50	145.00	362.50	
	Create folders on the OUI FTP site as per Maxion's request				
Molella, Rino	2018-01-04	1.00	145.00	145.00	
	Coordination with printing company				
Molella, Rino	2018-01-04	1.50	145.00	217.50	
	coordination of structural dwgs				
Molella, Rino	2018-01-05	2.50	145.00	362.50	
	Window schedule changes as per revised suites				
Molella, Rino	2018-01-05	.50	145.00	72.50	
	Coordination with printing company				
Molella, Rino	2018-01-09	1.00	145.00	145.00	
	Consultant Coordination				
Molella, Rino	2018-01-11	1.50	145.00	217.50	
	RFI log review				
Molella, Rino	2018-01-17	2.50	145.00	362.50	
	Site mtg conference call				
Molella, Rino	2018-01-18	2.00	145.00	290.00	
	Upload the CAD & PDF Issue for Permit Resubmission Part 3				
Associate					
Iafrate, Don	2017-12-20	.25	172.00	43.00	
	Team coordination				
	Totals	25.25		3,668.00	
	<b>Total Labor</b>				<b>3,668.00</b>
			<b>Total this Project</b>		<b>\$3,668.00</b>
			<b>Total this Report</b>		<b>\$3,668.00</b>



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**Invoice**

January 23, 2018  
 Project No: 11075-2017EX1  
 Invoice No: 15769

Maxion Management Services  
 92 Saunders Road  
 Suite 100  
 Barrie, ON L4N 9A8

Project 11075-2017EX1 Uptown-Addition of Suites  
For Professional Services for the period December 16, 2017 to January 20, 2018

**Professional Personnel**

	Hours	Rate	Amount	
Junior Architect/Intern				
Poleto, Elaina	3.00	77.00	231.00	
Junior Architectural Technologist				
Costanza, Joseph	12.50	77.00	962.50	
Longo, Luca	52.00	77.00	4,004.00	
Senior Architectural Technologist				
Molella, Rino	35.50	145.00	5,147.50	
<b>Totals</b>	103.00		10,345.00	
<b>Total Labor</b>				<b>10,345.00</b>

**Taxes**

H.S.T. R86036 0908	13.00 % of 10,345.00	1,344.85		
<b>Total Taxes</b>		<b>1,344.85</b>	<b>1,344.85</b>	
	<b>Total this Invoice</b>			<b>\$11,689.85</b>

TERMS: DUE UPON RECEIPT – ACCOUNTS OVER 30 DAYS ARE SUBJECT TO A CHARGE OF 24% PER ANNUM.  
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Project 11075-2017EX1 Uptown-Addition of Suites Invoice 15769

# Billing Backup

January 23, 2018

onespace unlimited inc.

Invoice 15769 Dated 2018-01-23

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Project 11075-2017EX1 Uptown-Addition of Suites

## Professional Personnel

		Hours	Rate	Amount
Junior Architect/Intern				
Poleto, Elaina	2018-01-09	3.00	77.00	231.00
	Window Schedule 3rd-6th Floor			
Junior Architectural Technologist				
Costanza, Joseph	2017-12-20	5.50	77.00	423.50
	- Revisions to elevations as per suite revisions (5.50)			
Costanza, Joseph	2017-12-21	7.00	77.00	539.00
	- Revisions to elevations as per suite revisions (7.0)			
Longo, Luca	2017-12-18	7.50	77.00	577.50
	Revisions to B3 to Level 3 floor plans as per DEEM management request			
Longo, Luca	2017-12-19	7.50	77.00	577.50
	Revisions & coordination of building envelope changes to B3 to Level 3 floor plans, as a result of suite additions			
Longo, Luca	2017-12-20	5.00	77.00	385.00
	Revisions & coordination of building envelope changes to Level 4 floor plans, as a result of suite additions			
Longo, Luca	2017-12-21	6.50	77.00	500.50
	Coordination of building envelope on Level 4-6 floor plans, as a result of suite additions			
Longo, Luca	2017-12-22	3.50	77.00	269.50
	Coordination of building elevations with revised floor plans			
Longo, Luca	2017-12-27	3.50	77.00	269.50
	Coordination of elevations to reflect revised floor plans			
Longo, Luca	2018-01-02	3.00	77.00	231.00
	Revisions to door schedule to reflect changes in floor plans			
Longo, Luca	2018-01-03	4.50	77.00	346.50
	Revisions to door schedule to reflect changes in floor plans			
Longo, Luca	2018-01-04	5.50	77.00	423.50
	Revisions to door schedule & building sections to reflect changes in floor plans			
Longo, Luca	2018-01-05	5.50	77.00	423.50
	Revisions to window schedule to reflect changes in floor plans			
Senior Architectural Technologist				
Molella, Rino	2017-12-18	.50	145.00	72.50
	Coordinating dwgs Ground to 6th floor as per Suite changes			
Molella, Rino	2017-12-20	1.00	145.00	145.00
	Coordination of elevations and floor plans as per suite changes			
Molella, Rino	2017-12-21	2.00	145.00	290.00
	Coordination of elevations and floor plans as per suite changes			
Molella, Rino	2017-12-27	3.00	145.00	435.00
	Update Elevations			
Molella, Rino	2017-12-28	2.50	145.00	362.50
	Update Elevations			
Molella, Rino	2017-12-29	4.00	145.00	580.00
	Update Elevations & door schedule revised due to suite changes			
Molella, Rino	2018-01-02	1.50	145.00	217.50
	Door schedule revised due to Suite changes			
Molella, Rino	2018-01-04	2.00	145.00	290.00
	Door schedule revised due to Suite changes			

Project	11075-2017EX1	Uptown-Addition of Suites			Invoice	15769
Molella, Rino		2018-01-09	3.00	145.00	435.00	
	Window Schedule					
Molella, Rino		2018-01-10	3.50	145.00	507.50	
	Window Schedule & screens					
Molella, Rino		2018-01-11	1.00	145.00	145.00	
	Permit Resubmission Part 3					
Molella, Rino		2018-01-12	1.50	145.00	217.50	
	Permit Resubmission Part 3					
Molella, Rino		2018-01-15	3.00	145.00	435.00	
	Window Schedule & screens					
Molella, Rino		2018-01-17	1.00	145.00	145.00	
	Coordinating new dwgs to be sent out to code consultant					
Molella, Rino		2018-01-18	3.00	145.00	435.00	
	Window Schedule & screens					
Molella, Rino		2018-01-19	3.00	145.00	435.00	
	Coordinate w/ all consultants for Permit Resubmission Part 3					
	Totals		103.00		10,345.00	
	<b>Total Labor</b>					<b>10,345.00</b>
				<b>Total this Project</b>		<b>\$10,345.00</b>
				<b>Total this Report</b>		<b>\$10,345.00</b>



onespace unlimited inc.  
 3700 Steeles Ave W. Suite 305  
 Vaughan ON, Canada, L4L 8K8  
 t 416 848 1245 f 416 848 1246  
 onespaceunlimited.com

**Invoice**

January 23, 2018  
 Project No: 11075-2017EX2  
 Invoice No: 15770

Maxion Management Services  
 92 Saunders Road  
 Suite 100  
 Barrie, ON L4N 9A8

Project 11075-2017EX2 Uplown-DEEM instructed changes  
For Professional Services for the period December 16, 2017 to January 20, 2018  
 Professional Personnel

	Hours	Rate	Amount	
Junior Architect/Intern Poletto, Elaine	2.50	77.00	192.50	
Junior Architectural Technologist Longo, Luca	29.00	77.00	2,233.00	
Senior Architectural Technologist Molella, Rino	6.00	145.00	870.00	
<b>Totals</b>	<b>37.50</b>		<b>3,295.50</b>	
<b>Total Labor</b>				<b>3,295.50</b>

**Taxes**

H.S.T. R86036 0908	13.00 % of 3,295.50	428.42		
<b>Total Taxes</b>		<b>428.42</b>		<b>428.42</b>
	<b>Total this Invoice</b>			<b>\$3,723.92</b>

TERMS: DUE UPON RECEIPT – ACCOUNTS OVER 30 DAYS ARE SUBJECT TO A CHARGE OF 24% PER ANNUM.  
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Project	11075-2017EX2	Uptown-DEEM instructed changes	Invoice	15770
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# Billing Backup

onespace unlimited inc.

Invoice 15770 Dated 2018-01-23

January 23, 2018

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Project	11075-2017EX2	Uptown-DEEM instructed changes
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**Professional Personnel**

		Hours	Rate	Amount	
Junior Architect/Intern					
Poleto, Elaina	2017-12-18	2.50	77.00	192.50	
	Revising 200 drawings based on suite changes				
Junior Architectural Technologist					
Longo, Luca	2018-01-08	2.50	77.00	192.50	
	Revisions to window schedule to reflect changes on floor plans and elevations				
Longo, Luca	2018-01-09	7.50	77.00	577.50	
	Revisions to window schedule to reflect changes on floor plans and elevations				
Longo, Luca	2018-01-10	7.50	77.00	577.50	
	Revisions to window schedule to reflect changes on floor plans and elevations				
Longo, Luca	2018-01-11	7.50	77.00	577.50	
	Revisions to window schedule to reflect changes on floor plans and elevations				
Longo, Luca	2018-01-12	4.00	77.00	308.00	
	Final revisions to window schedule and assembly of permit resubmission package				
Senior Architectural Technologist					
Molella, Rino	2017-12-18	.50	145.00	72.50	
	Coordinating dwgs B2 to Ground Floor Level as per Deem changes				
Molella, Rino	2017-12-28	1.00	145.00	145.00	
	Door schedule revised do to Deem changes				
Molella, Rino	2017-12-29	1.50	145.00	217.50	
	Door schedule revised do to Deem changes				
Molella, Rino	2018-01-02	1.50	145.00	217.50	
	Door schedule revised do to Deem changes				
Molella, Rino	2018-01-03	1.50	145.00	217.50	
	Door schedule revised do to Deem changes				
	Totals	37.50		3,295.50	
	<b>Total Labor</b>				<b>3,295.50</b>
			<b>Total this Project</b>		<b>\$3,295.50</b>
			<b>Total this Report</b>		<b>\$3,295.50</b>

**Invoice**

February 23, 2018  
 Project No: 11075-2017  
 Invoice No: 15807

Mr. Paul Michelin  
 Maxion Management Services  
 92 Saunders Road  
 Suite 100  
 Barrie, ON L4N 9A8

Project 11075-2017 The Uptown Project Restart  
For Professional Services for the period February 1, 2018 to February 28, 2018  
 Professional Personnel

	Hours	Rate	Amount	
Senior Architectural Technologist				
Molella, Rino	39.50	145.00	5,727.50	
Associate				
Iafate, Don	.50	172.00	86.00	
<b>Totals</b>	<b>40.00</b>		<b>5,813.50</b>	
<b>Total Labor</b>				<b>5,813.50</b>

**Taxes**

H.S.T. R86036 0908	13.00 % of 5,813.50	755.76		
<b>Total Taxes</b>		<b>755.76</b>	<b>755.76</b>	
	<b>Total this Invoice</b>			<b>\$6,569.26</b>

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Project	11075-2017	The Uptown Project Restart	Invoice	15807
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# Billing Backup

February 23, 2018

onespace unlimited Inc.

Invoice 15807 Dated 2018-02-23

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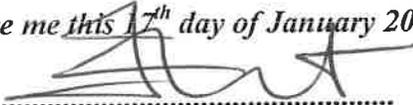
Project	11075-2017	The Uptown Project Restart
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## Professional Personnel

			Hours	Rate	Amount
Senior Architectural Technologist					
Molella, Rino	2018-01-22	Caisson shop dwg review	1.00	145.00	145.00
Molella, Rino	2018-01-23	Caisson shop dwg review	1.50	145.00	217.50
Molella, Rino	2018-01-24	Caissons C41 - C67, Check location of C50 after conference call with Maxlon & EXP	2.50	145.00	362.50
Molella, Rino	2018-01-26	Caisson review with structural updated dwgs	2.50	145.00	362.50
Molella, Rino	2018-01-26	Caisson shop dwg review - C41-C67 & C68-C111	2.00	145.00	290.00
Molella, Rino	2018-01-26	Code consultant review of elevations	1.00	145.00	145.00
Molella, Rino	2018-01-29	Caisson C68-C111 shop dwg	2.50	145.00	362.50
Molella, Rino	2018-01-30	Caisson C68-C111 shop dwg	1.00	145.00	145.00
Molella, Rino	2018-01-30	Hardware for interior of the suites	1.00	145.00	145.00
Molella, Rino	2018-01-30	Updating SPA stats as per the suite changes	2.50	145.00	362.50
Molella, Rino	2018-01-31	IFC dwgs	1.00	145.00	145.00
Molella, Rino	2018-01-31	Updating SPA stats as per the suite changes	2.50	145.00	362.50
Molella, Rino	2018-02-01	IFC dwgs	2.50	145.00	362.50
Molella, Rino	2018-02-01	RFI-18S response	1.50	145.00	217.50
Molella, Rino	2018-02-01	Shop dwg review of Caisons C68 to C111	2.00	145.00	290.00
Molella, Rino	2018-02-01	Site mtg conference call	2.00	145.00	290.00
Molella, Rino	2018-02-02	IFC dwgs	2.00	145.00	290.00
Molella, Rino	2018-02-02	Shop dwg review of Caisons R8, R9 & R10	2.00	145.00	290.00
Molella, Rino	2018-02-05	Caisson Dimension for C68 to C111	3.50	145.00	507.50
Molella, Rino	2018-02-06	Caisson Dimension for C68 to C111	1.00	145.00	145.00
Molella, Rino	2018-02-08	Review shop dwgs	2.00	145.00	290.00
Associate					
lafrate, Don	2018-02-01	Review of project requirements with team.	.50	172.00	86.00
		Totals	40.00		5,813.50
		<b>Total Labor</b>			<b>5,813.50</b>

Project	11075-2017	The Uptown Project Restart	Invoice	15807
			<b>Total this Project</b>	<b>\$5,813.50</b>
			<b>Total this Report</b>	<b>\$5,813.50</b>

*This is Exhibit "C" referred to in the  
affidavit of Rod Rowbotham , sworn  
before me this 17<sup>th</sup> day of January 2020.*

A handwritten signature in black ink, appearing to read 'F. Miceli', is written over a horizontal dotted line.

*A Commissioner, etc.*

**F. Miceli**

**Properties**

PIN 22291 - 0628 LT

Description PT, BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 &amp; PT. 3 ON 58R-2194, S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF WATERLOO

Address 215 LEXINGTON ROAD  
WATERLOO

PIN 22291 - 0011 LT

Description PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 556933, 562886, 694759; WATERLOO

Address 209 LEXINGTON ROAD  
WATERLOO**Consideration**

Consideration \$ 68,580.02

**Claimant(s)**

Name ONESPACE UNLIMITED INC.

Address for Service 3700 Steeles Avenue West  
Suite 305  
Woodbridge, Ontario  
L4L 8K8

I am the lien claimant and the facts stated in the claim for lien are true.

I, Rod Rowbotham, President, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Statements**

Name and Address of Owner See Schedule Name and address of person to whom lien claimant supplied services or materials Maxion Construction Management Inc.-610 Applewood Cres., Suite 502, Vaughan, Ontario, L4K 0E3 Time within which services or materials were supplied from 2017/06/23 to 2018/02/06 Short description of services or materials that have been supplied Architectural Services Contract price or subcontract price \$116,138.01 Amount claimed as owing in respect of services or materials that have been supplied \$68,580.02

The lien claimant claims a lien against the interest of every person identified as an owner of the premises described in said PIN to this lien

Schedule: See Schedules

**Signed By**

Maria Morra

600-3700 Steeles Ave. W.  
Woodbridge  
L4L 8K8acting for  
Applicant(s)

Signed

2018 03 19

Tel 905-856-3700

Fax 905-856-1213

I have the authority to sign and register the document on behalf of the Applicant(s).

**Submitted By**FRANK A. SOPPELSA PROFESSIONAL  
CORPORATION600-3700 Steeles Ave. W.  
Woodbridge  
L4L 8K8

2018 03 19

Tel 905-856-3700

Fax 905-856-1213

The applicant(s) hereby applies to the Land Registrar.

**Fees/Taxes/Payment**

Statutory Registration Fee	\$63.65
Total Paid	\$63.65

**File Number**

Claimant Client File Number : 42724

Name and Address of Owner:

Name of Owner: Deem Management Services Limited  
209 Lexington Road, Suite F2  
Waterloo, Ontario  
N2K 2E1

And

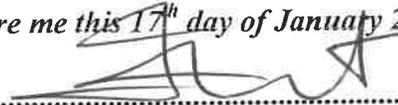
229 Lexington Road  
Waterloo, Ontario  
N2K 2E1

Name of Owner: 2453678 Ontario Inc.  
209 Lexington Road, Suite F2  
Waterloo, Ontario  
N2K 2E1

And

610 Applewood Crescent, Suite 502  
Vaughan, Ontario  
L4K 0E3

*This is Exhibit "D" referred to in the  
affidavit of Rod Rowbotham , sworn  
before me this 17<sup>th</sup> day of January 2020.*



.....  
*A Commissioner, etc.*

**F. Miceli**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

In the Matter of the  
Construction Lien Act, 1990, Chapter 30

BETWEEN:

**ONESPACE UNLIMITED INC.**

Plaintiff(s)

- and -

**2453678 ONTARIO INC., DEEM MANAGEMENT SERVICES  
LIMITED, MAXION CONSTRUCTION MANAGEMENT INC., INSTITUTIONAL  
MORTGAGE CAPITAL CANADA INC. and DONALD DAL BIANCO**

Defendant(s)

**STATEMENT OF CLAIM**

TO THE DEFENDANT(S):

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff(s). The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario Lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff(s) lawyer(s) or, where the Plaintiff(s) do(es) not have a lawyer, serve it on the Plaintiff(s), and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local Legal Aid office.

Statement of Claim - Page 1A

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: April 30, 2018

Issued by

  
Local Registrar

Address of Court Office:  
85 Frederick Street  
Kitchener, Ontario  
N2H 0A7

TO: **2453678 ONTARIO INC.**  
610 Applewood Crescent, Suite 502  
Vaughan, Ontario  
L4K 0E3

**DEEM MANAGEMENT SERVICES LIMITED**  
121 Oak Park Drive  
Waterloo, Ontario  
N2K 0B3

**MAXION CONSTRUCTION MANAGEMENT INC.**  
610 Applewood Crescent, Suite 502  
Vaughan, Ontario  
L4K 0E3

**INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.**  
TD Centre, TD North Tower  
77 King Street West  
P.O. Box 117, Suite 4120  
Toronto, ON  
M5K 1G8

**DONALD DAL BIANCO**  
87 Huron Street  
Saugeen Shores, Ontario  
N0H 2L0

CLAIM:

1. THE PLAINTIFF CLAIMS:
  - (a) Payment of the sum of \$68,580.02;
  - (b) Payment of interest pursuant to the provisions of the Courts of Justice Act;
  - (c) Payment of its costs of this action on a solicitor and client basis, together with any goods and services tax which may be payable on any amount pursuant to the Excise Tax Act, R.S.C. 1985, as amended;
  - (d) That in default of payment of the said sum of \$68,580.02 and interest and costs by the Defendants, that all the estate and interest of said Defendants may be sold and the proceeds applied in and towards payment of the Plaintiff's claim, costs and interest pursuant to the Construction Lien Act, R.S.O. 1990, chapter 30;
  - (e) For all purposes aforesaid and for all other purposes, that all proper directions be given, enquiries made and accounts taken;
  - (f) Such further and other relief as the nature of this case may require.

2. The Plaintiff is a corporation incorporated under the laws of the Province of Ontario and carries on business in the Province of Ontario.

3. The Defendants, 2453678 Ontario Inc. and Deem Management Services Limited are the registered owners of the lands and premises upon which the Plaintiff has filed its Construction Lien.

4. The Defendant, Maxion Construction Management Inc. is the corporation to which the Plaintiff supplied its services and/or materials.

5. The Defendants, Institutional Mortgage Capital Canada Inc. and Donald Dal Bianco, are mortgagees of the lands and premises upon which the Plaintiff has filed its Construction Lien.

6. The Plaintiff entered into a written contract with the Defendant, Maxion Construction Management Inc., on or about the 2<sup>nd</sup> day of August, 2017, whereby the Plaintiff agreed to supply architectural services on a project known as 215 Lexington Road, Waterloo, Ontario and 209 Lexington Road, Waterloo, Ontario, the price being \$116,138.01 inclusive of HST and extras. The said invoices have been sent or delivered to the Defendants, Maxion Construction Management Inc. The total money owing by the Defendants to the Plaintiff is \$68,580.02, plus interest and costs.

7. In the alternative, the Plaintiff claims from the Defendants the sum of \$68,580.02 for material and labour supplied to the lands and premises described in the Construction Lien set forth herein on the basis of quantum meruit.

8. By reason of performing said work as hereinbefore set, the Plaintiff became

and is entitled to a lien upon the estate or interest of the Defendants in the lands and premises more particularly described in the Construction Lien hereinafter set forth in the amount of \$68,580.02, together with interest and costs pursuant to the provisions of the Construction Lien Act.

9. The Plaintiff states that on or about the 19th day of March, 2018, it caused to be registered in the Registry Office for the Land Titles Division of Waterloo as Instrument No. WR1102923 a Construction Lien which is attached hereto as Schedule "A".

10. The Plaintiff states that the Defendant mortgagees have failed to retain the proper holdback required under the Construction Lien Act. The Plaintiff claims priority over the mortgagee Defendants to the extent that they have failed to maintain the proper holdbacks under the Construction Lien Act.

11. The Plaintiff further states that it has priority over the Defendant mortgagees as the Defendant mortgagees have over-advanced under their said mortgages in relation to the value of the work done on the said project. The said mortgages are prior mortgages under Sections 78 and 80, Subsection 3 of the Construction Lien Act and the claim of the Plaintiff has priority over all of the mortgages registered against the title to this property.

The Plaintiff proposes that this action be tried at Waterloo.

April , 2018

**Frank Soppelsa Prof. Corp.**  
3700 Steeles Ave. W  
Suite 600  
Vaughan, Ontario  
L4L 8K8

**Frank Miceli**  
Law Society No. 59230E  
(905) 856-3700 (tel)  
(905) 856-1213 (fax)

Lawyer for the Plaintiff

---

BETWEEN:

ONESPACE UNLIMITED INC.

Plaintiff

-and-

2453678 ONTARIO INC. et al.

Defendants

Court File No.

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
IN THE MATTER OF THE  
*CONSTRUCTION LIEN ACT, 1990*

Proceeding commenced at WATERLOO

**STATEMENT OF CLAIM**

**Frank A. Soppelsa**  
**Professional Corporation**  
3700 Steeles Ave. W.  
Suite 600  
Woodbridge, Ontario  
L4L 8K8

**Frank Miceli**  
**LSUC# 59230E**  
(905) 856-3700 (tel)  
(905) 856-1213 (fax)

Lawyer for the Plaintiff

Construction Lien Act, 1990

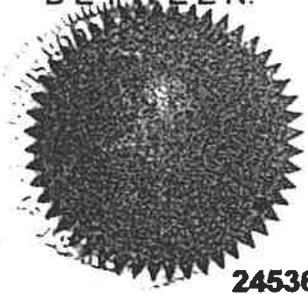
**CERTIFICATE OF ACTION**

Under Section 36 of the Act

Court File No. ~~CV-18-00000S29-000~~

**SUPERIOR COURT OF JUSTICE**

BETWEEN:



**ONSPACE UNLIMITED INC.**

Plaintiff(s)

- and -

**2453678 ONTARIO INC., DEEM MANAGEMENT SERVICES  
LIMITED, MAXION CONSTRUCTION MANAGEMENT INC., INSTITUTIONAL  
MORTGAGE CAPITAL CANADA INC. and DONALD DAL BIANCO**

Defendant(s)

**CERTIFICATE OF ACTION**

I certify that an action has been commenced in the Superior Court of Justice under the *Construction Lien Act, 1990* between the above parties in respect of the premises described in Schedule A to this certificate, and relating to the claim(s) for lien bearing the following registration numbers:

WR1102923

Date: April 30, 2018

  
.....  
(registrar or local registrar)

**Construction Lien Act, 1990**

**SCHEDULE A**

**Description of Premises:**

(The description of the premises must be the same as in the statement of claim, and must be sufficient for registration under the *Land Titles Act* or *Registry Act*, as the case may be).

**PIN: 22291-0628 LT - PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194, S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF WATERLOO**

**215 LEXINGTON ROAD, WATERLOO**

**PIN: 22291-0011 LT - PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 556933, 582886, 694759; WATERLOO**

**209 LEXINGTON ROAD, WATERLOO**

BETWEEN:

ONESPACE UNLIMITED INC.

Plaintiff

2453678 ONTARIO INC. et al

Defendants



Court File No. ~~18-~~ CV-18-0000529-0000

ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN THE MATTER OF THE  
CONSTRUCTION LIEN ACT, 1990

Proceeding commenced at ~~WATERLOO~~ KITCHENER

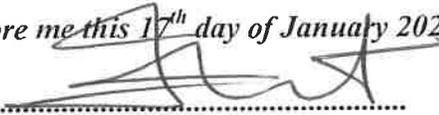
CERTIFICATE OF ACTION

Frank A. Soppelsa  
Professional Corporation  
3700 Steeles Ave. W.  
Suite 600  
Woodbridge, Ontario  
L4L 8K8

Frank Miceli  
LSUC# 59230E  
(905) 856-3700 (tel)  
(905) 856-1213 (fax)

Lawyer for the Plaintiff

*This is Exhibit "E" referred to in the  
affidavit of Rod Rowbotham , sworn  
before me this 17<sup>th</sup> day of January 2020.*

A handwritten signature in black ink, appearing to read 'F. Miceli', is written over a horizontal dotted line.

*A Commissioner, etc.*

**F. Miceli**

**Properties**

PIN 22291 - 0628 LT  
 Description PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194. S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF WATERLOO  
 Address 215 LEXINGTON ROAD  
 WATERLOO

PIN 22291 - 0011 LT  
 Description PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 556933, 562886, 694759; WATERLOO  
 Address 209 LEXINGTON ROAD  
 WATERLOO

**Party From(s)**

Name ONESPACE UNLIMITED INC.  
 Address for Service 3700 Steeles Avenue West  
 Suite  
 305  
 Woodbridge, Ontario  
 L4L 8K8

I, Rod Rowbotham, President, have the authority to bind the corporation.  
 This document is not authorized under Power of Attorney by this party.

**Statements**

This document relates to registration number(s)WR1102923  
 Schedule: See Schedules

**Signed By**

Maria Morra 600-3700 Steeles Ave. W. acting for Signed 2018 05 02  
 Woodbridge Party From(s)  
 L4L 8K8

Tel 905-856-3700

Fax 905-856-1213

I have the authority to sign and register the document on behalf of the Party From(s).

**Submitted By**

FRANK A. SOPPELSA PROFESSIONAL 600-3700 Steeles Ave. W. 2018 05 02  
 CORPORATION Woodbridge  
 L4L 8K8

Tel 905-856-3700

Fax 905-856-1213

**Fees/Taxes/Payment**

Statutory Registration Fee \$63.65  
 Total Paid \$63.65

**File Number**

Party From Client File Number 42724

Construction Lien Act, 1990

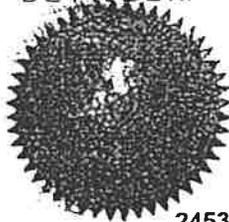
**CERTIFICATE OF ACTION**

Under Section 36 of the Act

Court File No. CV-18-0000539-00

**SUPERIOR COURT OF JUSTICE**

BETWEEN:



**ONSPACE UNLIMITED INC.**

Plaintiff(s)

- and -

**2453678 ONTARIO INC., DEEM MANAGEMENT SERVICES  
LIMITED, MAXION CONSTRUCTION MANAGEMENT INC., INSTITUTIONAL  
MORTGAGE CAPITAL CANADA INC. and DONALD DAL BIANCO**

Defendant(s)

**CERTIFICATE OF ACTION**

I certify that an action has been commenced in the Superior Court of Justice under the *Construction Lien Act, 1990* between the above parties in respect of the premises described in Schedule A to this certificate, and relating to the claim(s) for lien bearing the following registration numbers:

WR1102923

Date: April 30, 2018

  
.....  
(registrar or local registrar)

**Construction Lien Act, 1990**

**SCHEDULE A**

**Description of Premises:**

(The description of the premises must be the same as in the statement of claim, and must be sufficient for registration under the *Land Titles Act* or *Registry Act*, as the case may be).

**PIN: 22291-0628 LT - PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194, S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853468; CITY OF WATERLOO**

**215 LEXINGTON ROAD, WATERLOO**

**PIN: 22291-0011 LT - PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 556933, 582886, 694759; WATERLOO**

**209 LEXINGTON ROAD, WATERLOO**

BETWEEN:

ONESPACE UNLIMITED INC.

Plaintiff

-and-

2453678 ONTARIO INC. et al.

Defendants

Court File No. ~~18-0000539-0000~~

CV-18-0000539-0000

ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN THE MATTER OF THE  
CONSTRUCTION LIEN ACT, 1990

Proceeding commenced at ~~WATERLOO~~  
KITCHENER

CERTIFICATE OF ACTION

Frank A. Soppelsa  
Professional Corporation  
3700 Steeles Ave. W.  
Suite 600  
Woodbridge, Ontario  
L4L 8K8

Frank Miceli  
LSUC# 59230E  
(905) 856-3700 (tel)  
(905) 856-1213 (fax)

Lawyer for the Plaintiff

**DONALD DAL BIANCO**

Applicant

**-and- DEEM MANAGEMENT SERVICES LIMITED et al.**

Respondents

Court File No.: CV-18-598657-00CL

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

Proceeding Commenced at Toronto

**AFFIDAVIT OF ROD ROWBOTHAM  
(Sworn January 17, 2020)**

**FRANK SOPPELSA  
PROFESSIONAL CORPORATION**  
4040 Steeles Avenue W.  
Unit 2  
Woodbridge, Ontario  
L4L 4Y5  
Frank Miceli (59230E)  
Tel: (905) 856-3700  
Fax: (905) 856-1213  
Lawyers for Lien Claimant, OneSpace  
Unlimited Inc.

Tab L

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

BETWEEN:

**DONALD DAL BIANCO**

Applicant

-and-

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondents

**AFFIDAVIT OF ROGER KIESWETTER**  
**(Sworn December 19, 2019)**

I, **ROGER KIESWETTER**, of the City of Waterloo, in the Regional Municipality of Waterloo, make oath and say:

1. I am the President of Kieswetter Excavating Inc. (“Kieswetter”) and as such have knowledge of the matters to which I hereinafter depose.
2. On or about May 11, 2017 Kieswetter began supplying goods and services to Maxion Construction Management – The Uptown Inc. (referred to herein as “Maxion”), at the Property, which is identified in the Construction Lien (see Exhibit “D” to this my Affidavit”) for the benefit of the Owners of the Property, as identified in the Statement of Claim (see Exhibit “E” to this my Affidavit).

3. As work progressed Kieswetter sent Progress Bills/Invoices to Maxion as follows:

<b>Invoice #</b>	<b>Date</b>	<b>Amount</b>
17236	May 24, 2017	\$25,425.00
17265	June 23, 2017	\$81,197.99
17297	July 24, 2017	\$106,113.78
17336R1	August 25, 2017	\$94,992.39
17351	September 25, 2017	\$91,367.28
17377	October 25, 2017	\$80,139.60
17408	November 24, 2017	\$37,874.93
17450	December 15, 2017	\$277,488.35
17500	December 15, 2017	\$23,602.50
17501	January 16, 2018	\$727,301.01
17521	January 25, 2018	\$94,581.00
17522	January 31, 2018	\$235,239.08
17523	January 31, 2018	\$75,955.47
17545	February 15, 2018	\$31,703.22
17557	February 28, 2018	\$9,834.39
17558	February 28, 2018	\$105,948.29
<b>Total</b>		<b>\$2,098,764.28</b>

Attached to this my Affidavit and marked as Exhibit "A" are true copies of all the Progress Bills/Invoices that were sent by Kieswetter in respect of the work it did at the Property.

4. Kieswetter received some payments in respect of the aforementioned invoices, as follows:

<b>In respect of Invoice #</b>	<b>Date of Payment</b>	<b>Amount</b>
17236	August 3, 2017	\$ 25,425.00
17265	September 27, 2017	\$ 81,197.99
17297	November 7, 2017	\$ 106,113.78
17336R1	December 14, 2017	\$ 94,992.39
<b>Total</b>		<b>\$ 307,729.16</b>

Attached to this my Affidavit and marked as Exhibit "B" is a true listing of Kieswetter's Customer Aged Details for the Property showing the Progress Reports/Invoices sent to Maxion and payments received.

5. The amount that is owed to Kieswetter in respect of the work it did at the Property totals \$1,791,035.12.
6. The lien also includes \$36,373.57 that is owed to Waterloo Demolition Inc., a company related to Kieswetter. Attached to this my Affidavit and marked as Exhibit "C" is a true copy of Waterloo Demolition Inc.'s invoice dated September 25, 2017.
7. The last services that were performed by Kieswetter at the Property was on February 2, 2018. Attached to this my Affidavit and marked as Exhibit "D" are true copies of the Time Sheets for employees of Kieswetter on February 1, 2018 and February 2, 2018.
8. Kieswetter registered its Construction Lien on March 7, 2018, being Instrument No. WR1100946 (referred to herein as the "Construction Lien"). Attached to this my Affidavit and marked as Exhibit "E" is a true copy of the Construction Lien.
9. The Statement of Claim was issued on April 12, 2018. Attached to this my Affidavit and marked as Exhibit "F" is a true copy of Statement of Claim.
10. The Certificate of Action was issued on April 12, 2018. Attached to this my Affidavit and marked as Exhibit "G" is a true copy of the Certificate of Action.
11. The Certificate of Action was registered on title to the Property on April 16, 2018 as Instrument No. WR1107271. Attached to this my Affidavit and marked as Exhibit "H" is a true copy of Instrument No. WR1107271.

12. Attached to this my Affidavit and marked as Exhibit "I" is a true copy of the Parcel Register for the Property showing the registrations of the Construction Lien and Certificate of Action.

13. I make this Affidavit for the purposes of proving the quantum and timeliness of the Kieswetter Construction Lien and for no other purpose.

SWORN before me at the )  
City of Waterloo, in the )  
Regional Municipality of )  
Waterloo, this 19 day of )  
December, 2019 )

  
\_\_\_\_\_  
**ROGER KIESWETTER**

  
A COMMISSIONER, ETC.

**EDWARD L. D'AGOSTINO**

This is Exhibit "A" referred to in the  
Affidavit of Roger Kieswetter  
Sworn before me at the City of  
Waterloo, in the Province of Ontario  
this 19 day of December, 2019

A handwritten signature in black ink, consisting of several overlapping loops and a long, sweeping tail that extends to the right.

---

A Commissioner, etc.

**EDWARD L. D'AGOSTINO**

# Progress Bill

**From:** KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

**To:** MAXION CONSTRUCTION MANAGEMENT  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

**Contract:** 17015. THE UPTOWN  
HST #885087619

**Invoice:** 17236  
**Date:** 06/24/17

**Application #:** 1

**Customer Reference:** SUBCONTRACT# 14000001-00000001

**Invoice Due Date:** 06/23/17

**Payment Terms:** Net 30 days

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.000000	0.00	25,000.00	76.92%	0.00	0.000	25,000.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
Total for BASE CONTRACT								25,000.00	2.38%	0.00		25,000.00

**Total Billed To Date:** 25,000.00  
**Total Tax To Date:** 2,925.00  
**Less Retainage:** 2,500.00  
**Less Previous Applications:** 0.00  
**Total Due This Invoice:** 25,425.00

# Progress Bill

**From:** KIESWETTER EXCAVATING INC.  
 3135 BOOMER LINE  
 ST. CLEMENTS, ON N0B 2M0

**Invoice:** 17265  
**Date:** 06/23/17  
**Application #:** 2

**To:** MAXION CONSTRUCTION MANAGEMENT  
 610 APPLEWOOD CRESCENT, SUITE 502  
 VAUGHAN, ON L4K 0E3

**Customer Reference:** SUBCONTRACT# 14000001-00000001  
**Invoice Due Date:** 07/23/17  
**Payment Terms:** Net 30 days

**Contract:** 17015, THE UPTOWN  
 HST #885087619

Item	Description	Contract Amount	Contract Quantity	UM	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.00000	0.00	25,000.00	76.92%	25,000.00	0.000	0.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.00000	0.00	0.00	0.00%	0.00	0.000	0.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.00000	0.00	0.00	0.00%	0.00	0.000	0.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.00000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.00000	0.00	0.00	0.00%	0.00	0.000	0.00
Total for BASE CONTRACT		1,052,000.00					0.00	25,000.00	2.38%	25,000.00		0.00
6	CONTAMINATED SOIL REMOVAL	79,840.70	0.000	LS	0.000	0.00000	0.00	79,840.70	100.00%	0.00	0.000	79,840.70
Total for CHANGE ORDERS		79,840.70					0.00	79,840.70	100.00%	0.00		79,840.70

<b>Total Billed To Date:</b>	104,840.70
<b>Total Tax To Date:</b>	12,286.36
<b>Less Retainage:</b>	10,484.07
<b>Less Previous Applications:</b>	25,425.00
<b>Total Due This Invoice:</b>	81,197.99

# Progress Bill

**From:** KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

Invoice: 17297  
Date: 07/25/17  
Application #: 3

**To:** MAXION CONSTRUCTION MANAGEMENT  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

Customer Reference: SUBCONTRACT# 14000001-00000001  
Invoice Due Date: 08/24/17  
Payment Terms: Net 30 days

**Contract:** 17015. THE UPTOWN  
HST #885087619

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.000000	0.00	25,000.00	76.92%	25,000.00	0.000	0.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.000000	0.00	7,400.00	1.83%	0.00	0.000	7,400.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.000000	0.00	96,940.00	20.67%	0.00	0.000	96,940.00
Total for BASE CONTRACT		1,052,000.00					0.00	129,340.00	12.29%	25,000.00		104,340.00
6	CONTAMINATED SOIL REMOVAL	79,840.70	0.000	LS	0.000	0.000000	0.00	79,840.70	100.00%	79,840.70	0.000	0.00
Total for CHANGE ORDERS		79,840.70					0.00	79,840.70	100.00%	79,840.70		0.00

Total Billed To Date: 209,180.70  
Total Tax To Date: 24,474.14

Less Retainage: 20,918.07  
Less Previous Applications: 106,622.99  
Total Due This Invoice: 106,113.78

# Progress Bill

From: KIESWETTER EXCAVATING INC.  
 3135 BOOMER LINE  
 ST. CLEMENTS, ON N0B 2M0

Invoice: 17336  
 Date: 08/25/17  
 Application #: 4

To: MAXION CONSTRUCTION MANAGEMENT  
 - THE UPTOWN INC.  
 610 APPLEWOOD CRESCENT, SUITE 502  
 VAUGHAN, ON L4K 0E3

Customer Reference: SUBCONTRACT# 14000001-00000001  
 Invoice Due Date: 09/24/17  
 Payment Terms: Net 30 days

Contract: 17015, THE UPTOWN  
 HST #885087619

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.00000	0.00	29,250.00	90.00%	25,000.00	0.000	4,250.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.00000	0.00	7,400.00	1.83%	7,400.00	0.000	0.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.00000	0.00	0.00	0.00%	0.00	0.000	0.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.00000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.00000	0.00	96,940.00	20.67%	96,940.00	0.000	0.00
Total for BASE CONTRACT		1,052,000.00					0.00	133,590.00	12.70%	129,340.00		4,250.00
6	CONTAMINATED SOIL REMOVAL	79,840.70	0.000	LS	0.000	0.00000	0.00	79,840.70	100.00%	79,840.70	0.000	0.00
7	SHORING PLATFORMS	122,887.00	0.000	LS	0.000	0.00000	0.00	89,154.52	72.55%	0.00	0.000	89,154.52
Total for CHANGE ORDERS		202,727.70					0.00	168,995.22	83.36%	79,840.70		89,154.52

Total Billed To Date:	302,585.22
Total Tax To Date:	35,402.46
Less Retainage:	30,258.52
Less Previous Applications:	212,736.77
<b>Total Due This Invoice:</b>	<b>94,992.39</b>

# Progress Bill

**From:** KIESWETTER EXCAVATING INC.  
 3135 BOOMER LINE  
 ST. CLEMENTS, ON N0B 2M0

**Invoice:** 17351  
**Date:** 09/25/17  
**Application #:** 5

**To:** MAXION CONSTRUCTION MANAGEMENT  
 - THE UPTOWN INC.  
 610 APPLEWOOD CRESCENT, SUITE 502  
 VAUGHAN, ON L4K 0E3

**Customer Reference:** SUBCONTRACT# 14000001-00000001  
**Invoice Due Date:** 10/25/17  
**Payment Terms:** Net 30 days

**Contract:** 17015, THE UPTOWN  
 HST #885087619

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.000000	0.00	31,000.00	95.38%	29,250.00	0.000	1,750.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.000000	0.00	95,490.00	23.64%	7,400.00	0.000	88,090.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.000000	0.00	96,940.00	20.67%	96,940.00	0.000	0.00
Total for BASE CONTRACT		1,052,000.00					0.00	223,430.00	21.24%	133,590.00		89,840.00
6	CONTAMINATED SOIL REMOVAL	79,840.70	0.000	LS	0.000	0.000000	0.00	79,840.70	100.00%	79,840.70	0.000	0.00
7	SHORING PLATFORMS	122,887.00	0.000	LS	0.000	0.000000	0.00	89,154.52	72.55%	89,154.52	0.000	0.00
Total for CHANGE ORDERS		202,727.70					0.00	168,995.22	83.36%	168,995.22		0.00

**Total Billed To Date:** 392,425.22  
**Total Tax To Date:** 45,913.74  
**Less Retainage:** 39,242.52  
**Less Previous Applications:** 307,729.16  
**Total Due This Invoice:** 91,367.28

# Progress Bill

**From:** KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

**To:** MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

**Contract:** 17015, THE UPTOWN

HST #885087619

**Invoice:** 17377  
**Date:** 10/25/17

**Application #:** 6  
**Customer Reference:** SUBCONTRACT# 14000001-00000001

**Invoice Due Date:** 11/24/17  
**Payment Terms:** Net 30 days

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.000000	0.00	31,000.00	95.38%	31,000.00	0.000	0.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.000000	0.00	136,490.00	33.79%	95,490.00	0.000	41,000.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.000000	0.00	12,800.00	10.44%	0.00	0.000	12,800.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.000000	0.00	96,940.00	20.67%	96,940.00	0.000	0.00
Total for BASE CONTRACT		1,052,000.00					0.00	277,230.00	26.35%	223,430.00	0.000	53,800.00
6	CONTAMINATED SOIL REMOVAL	79,840.70	0.000	LS	0.000	0.000000	0.00	79,840.70	100.00%	79,840.70	0.000	0.00
7	SHORING PLATFORMS	122,887.00	0.000	LS	0.000	0.000000	0.00	114,154.52	92.89%	89,154.52	0.000	25,000.00
8	SEPT 14/19 LANDFILL BIN & OCT 2-4 CONCRETE REMOVAL	3,439.35	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
Total for CHANGE ORDERS		206,167.05					0.00	193,995.22	94.10%	168,995.22	0.000	25,000.00

**Total Billed To Date:** 471,225.22  
**Total Tax To Date:** 55,133.34  
**Less Retainage:** 47,122.52  
**Less Previous Applications:** 399,096.44  
**Total Due This Invoice:** 80,139.60

# Progress Bill

**From:** KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

**To:** MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

**Contract:** 17015, THE UPTOWN  
HST #885087619

**Invoice:** 17408  
**Date:** 11/24/17

**Application #:** 7

**Customer Reference:** SUBCONTRACT# 14000001-00000001

**Invoice Due Date:** 12/24/17

**Payment Terms:** Net 30 days

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.000000	0.00	31,000.00	95.38%	31,000.00	0.000	0.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.000000	0.00	161,560.00	40.00%	136,490.00	0.000	25,070.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.000000	0.00	12,800.00	10.44%	12,800.00	0.000	0.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.000000	0.00	96,940.00	20.67%	96,940.00	0.000	0.00
Total for BASE CONTRACT		1,052,000.00					0.00	302,300.00	28.74%	277,230.00		25,070.00
6	CONTAMINATED SOIL REMOVAL SCO#1	79,840.70	0.000	LS	0.000	0.000000	0.00	79,840.70	100.00%	79,840.70	0.000	0.00
7	SHORING PLATFORMS SCO#2	122,887.00	0.000	LS	0.000	0.000000	0.00	122,887.00	100.00%	114,154.52	0.000	8,732.48
8	SEPT 14/19 LANDFILL BIN & OCT 2-4 CONCRETE REMOVAL SCO#3	3,439.35	0.000	LS	0.000	0.000000	0.00	3,439.35	100.00%	0.00	0.000	3,439.35
Total for CHANGE ORDERS		206,167.05					0.00	206,167.05	100.00%	193,995.22		12,171.83

**Total Billed To Date:** 508,467.05  
**Total Tax To Date:** 59,490.63  
**Less Retainage:** 50,846.71  
**Less Previous Applications:** 479,236.04  
**Total Due This Invoice:** 37,874.93

# Progress Bill

**From:** KIESWETTER EXCAVATING INC.  
 3135 BOOMER LINE  
 ST. CLEMENTS, ON N0B 2M0

**Invoice:** 17450  
**Date:** 12/15/17

**To:** MAXION CONSTRUCTION MANAGEMENT  
 - THE UPTOWN INC.  
 610 APPLEWOOD CRESCENT, SUITE 502  
 VAUGHAN, ON L4K 0E3

**Customer Reference:** SUBCONTRACT# 14000001-00000001

**Invoice Due Date:** 01/14/18

**Payment Terms:** Net 30 days

**Contract:** 17015. THE UPTOWN

HST #885087619

Item	Description	Contract Amount	Contract Quantity	UM	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.00000	0.00	31,000.00	95.36%	31,000.00	0.000	0.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.00000	0.00	195,940.00	48.51%	161,560.00	0.000	34,380.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.00000	0.00	12,800.00	10.44%	12,800.00	0.000	0.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.00000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.00000	0.00	96,940.00	20.67%	96,940.00	0.000	0.00
Total for BASE CONTRACT		1,052,000.00					0.00	336,680.00	32.00%	302,300.00		34,380.00
6	CONTAMINATED SOIL REMOVAL SC0#1	79,840.70	0.000	LS	0.000	0.00000	0.00	79,840.70	100.00%	79,840.70	0.000	0.00
7	SHORING PLATFORMS SC0#2	122,887.00	0.000	LS	0.000	0.00000	0.00	122,887.00	100.00%	122,887.00	0.000	0.00
8	SEPT 14/19 LANDFILL BIN & OCT 24 CONCRETE REMOVAL SC0#3	3,439.35	0.000	LS	0.000	0.00000	0.00	3,439.35	100.00%	3,439.35	0.000	0.00
9	SHORING PLATFORM NOV 3-13 SC0#2	15,762.82	0.000	LS	0.000	0.00000	0.00	15,762.82	100.00%	0.00	0.000	15,762.82
10	CONTAMINATED SOIL OCT 11-DEC 14 SC0#4	208,871.66	0.000	LS	0.000	0.00000	0.00	208,871.66	100.00%	0.00	0.000	208,871.66
11	PAD FOR REVISED SHORING PLATFORM NOV 13-14 SC0#5	13,835.42	0.000	LS	0.000	0.00000	0.00	13,835.42	100.00%	0.00	0.000	13,835.42
Total for CHANGE ORDERS		444,636.95					0.00	444,636.95	100.00%	206,167.05		238,469.90
Total Billed To Date:												781,316.95

**Progress Bill**

**From:** KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

**To:** MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

**Contract:** 17015, THE UPTOWN  
HST #885087619

**Invoice:** 17450  
**Date:** 12/15/17  
**Application #:** 8

**Customer Reference:** SUBCONTRACT# 14000001-00000001  
**Invoice Due Date:** 01/14/18  
**Payment Terms:** Net 30 days

**Total Tax To Date:** 91,414.07  
**Less Retainage:** 78,131.70  
**Less Previous Applications:** 517,110.97  
**Total Due This Invoice:** 277,488.35

**KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0**

**INVOICE**

To : MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

Invoice #: 17500  
Date: 12/15/17  
Application #: 9  
Customer Reference: SUBCONTRACT# 14000001-00000001  
Invoice Due Date: 01/14/18  
Payment Terms: Net 30 days

Contract : 17015. THE UPTOWN

CONTAMINATED SOIL HOLDBACK RELEASE OCT 11-DEC 14, 2017  
HST #885087619

Contract Item	Contract Amount	% Complete	Total To Date
1 SITE CLEARING	32,500.00	95.38%	31,000.00
2 EARTHWORKS	403,900.00	48.51%	195,940.00
3 EXCAVATION	122,600.00	10.44%	12,800.00
4 BUILDING BACKFILL	24,000.00	0.00%	0.00
5 SITE SERVICES	469,000.00	20.67%	96,940.00
6 CONTAMINATED SOIL REMOVAL	79,840.70	100.00%	79,840.70
SCO#1			
7 SHORING PLATFORMS	122,887.00	100.00%	122,887.00
SCO#2			
8 SEPT 14/19 LANDFILL BIN & OCT 2-4 CONCRETE REMOVAL	3,439.35	100.00%	3,439.35
SCO#3			
9 SHORING PLATFORM NOV 3-13	15,762.82	100.00%	15,762.82
SCO#2			
10 CONTAMINATED SOIL OCT 11-DEC 14	208,871.66	100.00%	208,871.66
SCO#4			
11 PAD FOR REVISED SHORING PLATFORM NOV 13-14	13,835.42	100.00%	13,835.42
SCO#5			
	<u>1,496,636.95</u>		<u>781,316.95</u>
Total To Date :			781,316.95
Plus Sales Tax :			94,129.40
Less Retainage :			57,244.53
Less Previous Applications :			794,599.32
Total Due This Invoice :			<b>23,602.50</b>

# Progress Bill

From: KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

Invoice: 17501  
Date: 01/16/18

To: MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

Application #: 10  
Customer Reference: SUBCONTRACT# 14000001-00000001

Contract: 17015, THE UPTOWN  
HST #885087619

Invoice Due Date: 02/15/18  
Payment Terms: Net 30 days

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.00000	0.00	31,000.00	95.38%	31,000.00	0.000	0.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.00000	0.00	195,940.00	48.51%	195,940.00	0.000	0.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.00000	0.00	12,800.00	10.44%	12,800.00	0.000	0.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.00000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.00000	0.00	96,940.00	20.67%	96,940.00	0.000	0.00
Total for BASE CONTRACT		1,052,000.00					0.00	336,680.00	32.00%	336,680.00		0.00
6	CONTAMINATED SOIL REMOVAL	79,840.70	0.000	LS	0.000	0.00000	0.00	79,840.70	100.00%	79,840.70	0.000	0.00
SCO#1												
7	SHORING PLATFORMS	122,887.00	0.000	LS	0.000	0.00000	0.00	122,887.00	100.00%	122,887.00	0.000	0.00
SCO#2												
8	SEPT 14/19 LANDFILL BIN & OCT 2-4 CONCRETE REMOVAL	3,439.35	0.000	LS	0.000	0.00000	0.00	3,439.35	100.00%	3,439.35	0.000	0.00
SCO#3												
9	SHORING PLATFORM NOV 3-13	15,762.82	0.000	LS	0.000	0.00000	0.00	15,762.82	100.00%	15,762.82	0.000	0.00
SCO#2												
10	CONTAMINATED SOIL OCT 11-DEC 14	208,871.66	0.000	LS	0.000	0.00000	0.00	208,871.66	100.00%	208,871.66	0.000	0.00
SCO#4												
11	PAD FOR REVISED SHORING PLATFORM NOV 13-14	13,835.42	0.000	LS	0.000	0.00000	0.00	13,835.42	100.00%	13,835.42	0.000	0.00
SCO#5												
12	CONTAMINATED SOIL DEC 12-JAN 15	643,629.21	0.000	LS	0.000	0.00000	0.00	643,629.21	100.00%	643,629.21	0.000	643,629.21
SCO#4												
Total for CHANGE ORDERS		1,088,266.16					0.00	1,088,266.16	100.00%	444,636.95		643,629.21

Progress Bill

From: KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

Invoice: 17501

Date: 01/16/18

Application #: 10

To: MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

Customer Reference: SUBCONTRACT# 14000001-00000001

Invoice Due Date: 02/15/18

Payment Terms: Net 30 days

Contract: 17015, THE UPTOWN  
HST #885087619

Total Billed To Date: 1,424,946.16  
Total Tax To Date: 177,801.20

Less Retainage: 57,244.53  
Less Previous Applications: 818,201.82  
Total Due This Invoice: 727,301.01

# Progress Bill

**From:** KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

**Invoice:** 17521  
**Date:** 01/25/18  
**Application #:** 11

**To:** MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

**Customer Reference:** SUBCONTRACT# 14000001-00000001  
**Invoice Due Date:** 02/24/18  
**Payment Terms:** Net 30 days

**Contract:** 17015, THE UPTOWN  
HST #885087619

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.00000	0.00	31,000.00	95.38%	31,000.00	0.000	0.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.00000	0.00	274,940.00	68.07%	195,940.00	0.000	79,000.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.00000	0.00	26,800.00	21.86%	12,800.00	0.000	14,000.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.00000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.00000	0.00	96,940.00	20.67%	96,940.00	0.000	0.00
Total for BASE CONTRACT		1,052,000.00					0.00	429,680.00	40.84%	336,680.00		93,000.00
6	CONTAMINATED SOIL REMOVAL	79,840.70	0.000	LS	0.000	0.00000	0.00	79,840.70	100.00%	79,840.70	0.000	0.00
SCO#1												
7	SHORING PLATFORMS	122,887.00	0.000	LS	0.000	0.00000	0.00	122,887.00	100.00%	122,887.00	0.000	0.00
SCO#2												
8	SEPT 14/19 LANDFILL BIN & OCT 24 CONCRETE REMOVAL	3,439.35	0.000	LS	0.000	0.00000	0.00	3,439.35	100.00%	3,439.35	0.000	0.00
SCO#3												
9	SHORING PLATFORM NOV 3-13	15,762.82	0.000	LS	0.000	0.00000	0.00	15,762.82	100.00%	15,762.82	0.000	0.00
SCO#2												
10	CONTAMINATED SOIL OCT 11-DEC 14	208,871.66	0.000	LS	0.000	0.00000	0.00	208,871.66	100.00%	208,871.66	0.000	0.00
SCO#4												
11	PAD FOR REVISED SHORING PLATFORM NOV 13-14	13,835.42	0.000	LS	0.000	0.00000	0.00	13,835.42	100.00%	13,835.42	0.000	0.00
SCO#5												
12	CONTAMINATED SOIL DEC 12-JAN 15	643,629.21	0.000	LS	0.000	0.00000	0.00	643,629.21	100.00%	643,629.21	0.000	0.00
SCO#4												
Total for CHANGE ORDERS		1,088,266.16					0.00	1,088,266.16	100.00%	1,088,266.16		0.00

Progress Bill

From: KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

Invoice: 17521

Date: 01/25/18

Application #: 11

To: MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

Customer Reference: SUBCONTRACT# 14000001-00000001

Invoice Due Date: 02/24/18

Payment Terms: Net 30 days

Contract: 17015 THE UPTOWN  
HST #885087619

Total Billed To Date: 1,517,946.16  
Total Tax To Date: 188,682.20

Less Retainage: 66,544.53  
Less Previous Applications: 1,545,502.83  
Total Due This Invoice: 94,581.00

# Progress Bill

From: KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

Invoice: 17522  
Date: 01/31/18

To: MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

Application #: 12  
Customer Reference: SUBCONTRACT# 14000001-00000001  
Invoice Due Date: 03/02/18  
Payment Terms: Net 30 days

Contract: 17015, THE UPTOWN  
HST #885087619

Item	Description	Contract Amount	Contract Quantity	U/M	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.00000	0.00	31,000.00	95.38%	31,000.00	0.000	0.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.00000	0.00	274,940.00	68.07%	274,940.00	0.000	0.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.00000	0.00	26,800.00	21.86%	26,800.00	0.000	0.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.00000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.00000	0.00	96,940.00	20.67%	96,940.00	0.000	0.00
Total for BASE CONTRACT		1,052,000.00					0.00	429,680.00	40.84%	429,680.00		0.00
6	CONTAMINATED SOIL REMOVAL SCO#1	79,840.70	0.000	LS	0.000	0.00000	0.00	79,840.70	100.00%	79,840.70	0.000	0.00
7	SHORING PLATFORMS SCO#2	122,887.00	0.000	LS	0.000	0.00000	0.00	122,887.00	100.00%	122,887.00	0.000	0.00
8	SEPT 14/19 LANDFILL BIN & OCT 2-4 CONCRETE REMOVAL SCO#3	3,439.35	0.000	LS	0.000	0.00000	0.00	3,439.35	100.00%	3,439.35	0.000	0.00
9	SHORING PLATFORM NOV 3-13 SCO#2	15,762.82	0.000	LS	0.000	0.00000	0.00	15,762.82	100.00%	15,762.82	0.000	0.00
10	CONTAMINATED SOIL OCT 11-DEC 14 SCO#4	208,871.66	0.000	LS	0.000	0.00000	0.00	208,871.66	100.00%	208,871.66	0.000	0.00
11	PAD FOR REVISED SHORING PLATFORM NOV 13-14 SCO#5	13,835.42	0.000	LS	0.000	0.00000	0.00	13,835.42	100.00%	13,835.42	0.000	0.00
12	CONTAMINATED SOIL DEC 12-JAN 15 SCO#4	643,629.21	0.000	LS	0.000	0.00000	0.00	643,629.21	100.00%	643,629.21	0.000	0.00
13	CONTAMINATED SOIL JAN 17-31 SCO#4	67,217.23	0.000	LS	0.000	0.00000	0.00	67,217.23	100.00%	0.00	0.000	67,217.23

# Progress Bill

**From:** KIESWETTER EXCAVATING INC.  
 3135 BOOMER LINE  
 ST. CLEMENTS, ON NDB 2M0

**Invoice:** 17522  
**Date:** 01/31/18  
**Application #:** 12

**To:** MAXION CONSTRUCTION MANAGEMENT  
 - THE UPTOWN INC.  
 610 APPLEWOOD CRESCENT, SUITE 502  
 VAUGHAN, ON L4K 0E3

**Customer Reference:** SUBCONTRACT# 14000001-0000001  
**Invoice Due Date:** 03/02/18  
**Payment Terms:** Net 30 days

**Contract:** 17015 THE UPTOWN  
 HST #885087619

Item	Description	Contract Amount	Contract Quantity U/M	Quantity JTD	Unit Price	Materials On-Site	Total Completed And Stored To Date	%	Amount Previous	Quantity This Period	Amount This Period
<b>Total for CHANGE ORDERS</b>		<b>1,155,483.39</b>				<b>0.00</b>	<b>1,155,483.39</b>	<b>100.00%</b>	<b>1,088,266.16</b>		<b>67,217.23</b>

Total Billed To Date:	1,585,163.39
Total Tax To Date:	197,420.44
Less Retainage:	66,544.53
Less Previous Applications:	1,640,083.83
<b>Total Due This Invoice:</b>	<b>75,955.47</b>

**Progress Bill**

From: KIESMETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

Invoice: 17523  
Date: 01/31/18  
Application #: 13  
Customer Reference: SUBCONTRACT# 14000001-00000001

To: MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

Invoice Due Date: 03/02/18  
Payment Terms: Net 30 days

Contract: 17015, THE UPTOWN  
HST #885087619

Item	Description	Contract Amount	Contract Quantity	Unit	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.000000	0.00	31,000.00	95.38%	31,000.00	0.000	0.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.000000	0.00	274,940.00	68.07%	274,940.00	0.000	0.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.000000	0.00	26,800.00	21.86%	26,800.00	0.000	0.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.000000	0.00	96,940.00	20.67%	96,940.00	0.000	0.00
Total for BASE CONTRACT		1,052,000.00					0.00	429,680.00	40.84%	429,680.00	0.000	0.00
6	CONTAMINATED SOIL REMOVAL	79,840.70	0.000	LS	0.000	0.000000	0.00	79,840.70	100.00%	79,840.70	0.000	0.00
SCOM#1												
7	SHORING PLATFORMS	122,887.00	0.000	LS	0.000	0.000000	0.00	122,887.00	100.00%	122,887.00	0.000	0.00
SCOM#2												
8	SEPT 14/19 LANDFILL BIN & OCT 2-4 CONCRETE REMOVAL	3,439.35	0.000	LS	0.000	0.000000	0.00	3,439.35	100.00%	3,439.35	0.000	0.00
SCOM#3												
9	SHORING PLATFORM NOV 3-13	15,762.82	0.000	LS	0.000	0.000000	0.00	15,762.82	100.00%	15,762.82	0.000	0.00
SCOM#2												
10	CONTAMINATED SOIL OCT 11-DEC 14	208,871.66	0.000	LS	0.000	0.000000	0.00	208,871.66	100.00%	208,871.66	0.000	0.00
SCOM#4												
11	PAD FOR REVISED SHORING PLATFORM NOV 13-14	13,835.42	0.000	LS	0.000	0.000000	0.00	13,835.42	100.00%	13,835.42	0.000	0.00
SCOM#5												
12	CONTAMINATED SOIL DEC 12-JAN 15	643,629.21	0.000	LS	0.000	0.000000	0.00	643,629.21	100.00%	643,629.21	0.000	0.00
SCOM#4												
13	CONTAMINATED SOIL JAN 17-31	67,217.23	0.000	LS	0.000	0.000000	0.00	67,217.23	100.00%	67,217.23	0.000	0.00
SCOM#4												

**Progress Bill**

**From:** KIESWETTER EXCAVATING INC.  
 3135 BOOMER LINE  
 ST. CLEMENTS, ON N0B 2M0

**To:** MAXION CONSTRUCTION MANAGEMENT  
 - THE UPTOWN INC.  
 610 APPLEWOOD CRESCENT, SUITE 502  
 VAUGHAN, ON L4K 0E3

**Contract:** 17015. THE UPTOWN  
 HST #885087619

**Invoice:** 17523  
**Date:** 01/31/18  
**Application #:** 13  
**Customer Reference:** SUBCONTRACT# 14000001-09000001  
**Invoice Due Date:** 03/02/18  
**Payment Terms:** Net 30 days

Item	Description	Contract Amount	Contract Quantity	Unit	Quantity JTD	Unit Price	Materials On-Site	Total Completed And Stored To Date	%	Amount Previous	Quantity This Period	Amount This Period
14	CAISSON PLATFORM DEC 12-JAN 31 SCOW6	207,182.59	0.000	LS	0.000	0.000000	0.00	207,182.59	100.00%	0.00	0.000	207,182.59
15	PROJECT ACCESS ROAD DEC 8-JAN 30 SCOW7	17,961.13	0.000	LS	0.000	0.000000	0.00	17,961.13	100.00%	0.00	0.000	17,961.13
16	DEWATERING FRENCH DRAIN DEC 4-18 SCOW8	6,163.15	0.000	LS	0.000	0.000000	0.00	6,163.15	100.00%	0.00	0.000	6,163.15
<b>Total for CHANGE ORDERS</b>		<b>1,386,790.26</b>					<b>0.00</b>	<b>1,386,790.26</b>	<b>100.00%</b>	<b>1,155,483.39</b>		<b>231,306.87</b>

**Total Billed To Date:** 1,816,470.26  
**Total Tax To Date:** 224,483.34  
**Less Retainage:** 89,675.22  
**Less Previous Applications:** 1,716,039.30  
**Total Due This Invoice:** 235,239.08

# Progress Bill

**From:** KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

**Invoice:** 17545  
**Date:** 02/15/18  
**Application #:** 14  
**Customer Reference:** SUBCONTRACT# 14000001-00000001

**To:** MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

**Invoice Due Date:** 03/17/18  
**Payment Terms:** Net 30 days

**Contract:** 17015. THE UPTOWN  
HST #885087619

Item	Description	Contract Amount	Contract Quantity	Unit	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.00000	0.00	31,000.00	95.38%	31,000.00	0.000	0.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.00000	0.00	274,940.00	68.07%	274,940.00	0.000	0.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.00000	0.00	26,800.00	21.86%	26,800.00	0.000	0.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.00000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.00000	0.00	96,940.00	20.67%	96,940.00	0.000	0.00
Total for BASE CONTRACT		1,052,000.00					0.00	429,680.00	40.84%	429,680.00		0.00
6	CONTAMINATED SOIL REMOVAL	79,840.70	0.000	LS	0.000	0.00000	0.00	79,840.70	100.00%	79,840.70	0.000	0.00
SC0#1												
7	SHORING PLATFORMS	122,887.00	0.000	LS	0.000	0.00000	0.00	122,887.00	100.00%	122,887.00	0.000	0.00
SC0#2												
8	SEPT 14/19 LANDFILL BIN & OCT 2-4 CONCRETE REMOVAL	3,439.35	0.000	LS	0.000	0.00000	0.00	3,439.35	100.00%	3,439.35	0.000	0.00
SC0#3												
9	SHORING PLATFORM NOV 3-13	15,762.82	0.000	LS	0.000	0.00000	0.00	15,762.82	100.00%	15,762.82	0.000	0.00
SC0#2												
10	CONTAMINATED SOIL OCT 11-DEC 14	208,871.66	0.000	LS	0.000	0.00000	0.00	208,871.66	100.00%	208,871.66	0.000	0.00
SC0#4												
11	PAD FOR REVISED SHORING PLATFORM NOV 13-14	13,835.42	0.000	LS	0.000	0.00000	0.00	13,835.42	100.00%	13,835.42	0.000	0.00
SC0#5												
12	CONTAMINATED SOIL DEC 12-JAN 15	643,629.21	0.000	LS	0.000	0.00000	0.00	643,629.21	100.00%	643,629.21	0.000	0.00
SC0#4												
13	CONTAMINATED SOIL JAN 17-31	67,217.23	0.000	LS	0.000	0.00000	0.00	67,217.23	100.00%	67,217.23	0.000	0.00
SC0#4												

# Progress Bill

**From:** KIESWETTER EXCAVATING INC.  
 3135 BOOMER LINE  
 ST. CLEMENTS, ON N0B 2M0

**Invoice:** 17545  
**Date:** 02/15/18

**To:** MAXION CONSTRUCTION MANAGEMENT  
 - THE UPTOWN INC.  
 610 APPLEWOOD CRESCENT, SUITE 502  
 VAUGHAN, ON L4K 0E3

**Application #:** 14  
**Customer Reference:** SUBCONTRACT# 14000001-00000001  
**Invoice Due Date:** 03/17/18  
**Payment Terms:** Net 30 days

**Contract:** 17015. THE UPTOWN  
**HST #** 885087619

Item	Description	Contract Amount	Contract Quantity	Unit	Quantity JTD	Unit Price	Material On-Site	Total Completed And Stored To Date	%	Amount Previous	Quantity This Period	Amount This Period
14	CAISSON PLATFORM DEC 12-JAN 31 SCOM#6	207,182.59	0.000	LS	0.000	0.000000	0.00	207,182.59	100.00%	207,182.59	0.000	0.00
15	PROJECT ACCESS ROAD DEC 8-JAN 30 SCOM#7	17,951.13	0.000	LS	0.000	0.000000	0.00	17,951.13	100.00%	17,951.13	0.000	0.00
16	DEWATERING FRENCH DRAIN DEC 4-18 SCOM#8	6,163.15	0.000	LS	0.000	0.000000	0.00	6,163.15	100.00%	6,163.15	0.000	0.00
17	CAISSON PLATFORM FEB 1-2 SCOM#6	31,173.28	0.000	LS	0.000	0.000000	0.00	31,173.28	100.00%	0.00	0.000	31,173.28
<b>Total for CHANGE ORDERS</b>		<b>1,417,963.54</b>					<b>0.00</b>	<b>1,417,963.54</b>	<b>100.00%</b>	<b>1,386,790.26</b>		<b>31,173.28</b>

**Total Billed To Date:** 1,847,643.54  
**Total Tax To Date:** 228,130.61  
**Less Retainage:** 92,792.55  
**Less Previous Applications:** 1,951,278.38  
**Total Due This Invoice:** 31,703.22

# Progress Bill

From: KIESWETTER EXCAVATING INC.  
 3135 BOOMER LINE  
 ST. CLEMENTS, ON N0B 2M0

Invoice: 17557  
 Date: 02/28/18  
 Application #: 15

To: MAXION CONSTRUCTION MANAGEMENT  
 - THE UPTOWN INC.  
 610 APPLEWOOD CRESCENT, SUITE 502  
 VAUGHAN, ON L4K 0E3

Customer Reference: SUBCONTRACT# 14000001-00000001  
 Invoice Due Date: 03/30/18  
 Payment Terms: Net 30 days

Contract: 17015, THE UPTOWN  
 HST #885087619

Item	Description	Contract Amount	Contract Quantity	UM	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period
								Completed And Stored To Date	%			
1	SITE CLEARING	32,500.00	0.000	LS	0.000	0.000000	0.00	31,000.00	95.38%	31,000.00	0.000	0.00
2	EARTHWORKS	403,900.00	0.000	LS	0.000	0.000000	0.00	274,940.00	68.07%	274,940.00	0.000	0.00
3	EXCAVATION	122,600.00	0.000	LS	0.000	0.000000	0.00	26,800.00	21.85%	26,800.00	0.000	0.00
4	BUILDING BACKFILL	24,000.00	0.000	LS	0.000	0.000000	0.00	0.00	0.00%	0.00	0.000	0.00
5	SITE SERVICES	469,000.00	0.000	LS	0.000	0.000000	0.00	96,940.00	20.67%	96,940.00	0.000	0.00
Total for BASE CONTRACT		1,052,000.00					0.00	429,680.00	40.84%	429,680.00		0.00
6	CONTAMINATED SOIL REMOVAL	79,840.70	0.000	LS	0.000	0.000000	0.00	79,840.70	100.00%	79,840.70	0.000	0.00
SCO#1												
7	SHORING PLATFORMS	122,887.00	0.000	LS	0.000	0.000000	0.00	122,887.00	100.00%	122,887.00	0.000	0.00
SCO#2												
8	SEPT 14/19 LANDFILL BIN & OCT 2-4 CONCRETE REMOVAL	3,439.35	0.000	LS	0.000	0.000000	0.00	3,439.35	100.00%	3,439.35	0.000	0.00
SCO#3												
9	SHORING PLATFORM NOV 3-13	15,762.82	0.000	LS	0.000	0.000000	0.00	15,762.82	100.00%	15,762.82	0.000	0.00
SCO#2												
10	CONTAMINATED SOIL OCT 11-OCT 14	208,871.66	0.000	LS	0.000	0.000000	0.00	208,871.66	100.00%	208,871.66	0.000	0.00
SCO#4												
11	PAD FOR REVISED SHORING PLATFORM NOV 13-14	13,835.42	0.000	LS	0.000	0.000000	0.00	13,835.42	100.00%	13,835.42	0.000	0.00
SCO#5												
12	CONTAMINATED SOIL DEC 12-JAN 15	643,629.21	0.000	LS	0.000	0.000000	0.00	643,629.21	100.00%	643,629.21	0.000	0.00
SCO#4												
13	CONTAMINATED SOIL JAN 17-31	67,217.23	0.000	LS	0.000	0.000000	0.00	67,217.23	100.00%	67,217.23	0.000	0.00
SCO#4												

**Progress Bill**

From: KIESWETTER EXCAVATING INC.

3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0

Invoice: 17557

Date: 02/28/18

Application #: 15

To: MAXION CONSTRUCTION MANAGEMENT

- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3

Customer Reference: SUBCONTRACT# 14000001-00000001

Invoice Due Date: 03/30/18

Payment Terms: Net 30 days

Contract: 17015. THE UPTOWN

HST #885087619

Item	Description	Contract Amount	Contract Quantity	UM	Quantity JTD	Unit Price	Materials On-Site	Total		Amount Previous	Quantity This Period	Amount This Period	
								Completed And Stored To Date	%				
14	CAISSON PLATFORM DEC 12-JAN 31 SCO#6	207,182.59	0.000	LS	0.000	0.00000	0.00	207,182.59	100.00%	207,182.59	0.000	0.00	
15	PROJECT ACCESS ROAD DEC 0-JAN 30 SCO#7	17,961.13	0.000	LS	0.000	0.00000	0.00	17,961.13	100.00%	17,961.13	0.000	0.00	
16	DEWATERING FRENCH DRAIN DEC 4-18 SCO#8	6,163.15	0.000	LS	0.000	0.00000	0.00	6,163.15	100.00%	6,163.15	0.000	0.00	
17	CAISSON PLATFORM FEB 1-2 SCO#6	31,173.28	0.000	LS	0.000	0.00000	0.00	31,173.28	100.00%	31,173.28	0.000	0.00	
18	ADDITIONAL EXCAVATION FOR SHORING SIDE SLOPES	9,670.00	0.000	LS	0.000	0.00000	0.00	9,670.00	100.00%	0.00	0.000	9,670.00	
Total for CHANGE ORDERS								0.00	1,427,633.54	100.00%	1,417,963.54		9,670.00

Total Billed To Date: 1,857,313.54  
Total Tax To Date: 229,262.00

Less Retainage: 91,739.55  
Less Previous Applications: 1,982,981.60  
Total Due This Invoice: 9,834.39

**KIESWETTER EXCAVATING INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0**

**INVOICE**

To : **MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
810 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3**

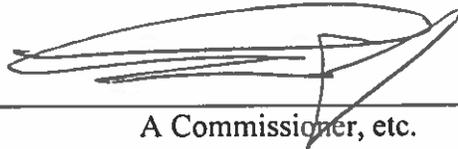
Invoice #: **17558**  
Date: **02/28/18**  
Application #: **16**  
Customer Reference: **SUBCONTRACT# 14000001-00000001**  
Invoice Due Date: **03/30/18**  
Payment Terms: **Net 30 days**

Contract : **17015. THE UPTOWN**

*REQUEST FOR RELEASE OF HOLDBACK  
HST #885087619*

Contract Item	Contract Amount	% Complete	Total To Date
1 SITE CLEARING	32,500.00	95.38%	31,000.00
2 EARTHWORKS	403,900.00	68.07%	274,940.00
3 EXCAVATION	122,600.00	21.86%	26,800.00
4 BUILDING BACKFILL	24,000.00	0.00%	0.00
5 SITE SERVICES	469,000.00	20.67%	96,940.00
6 CONTAMINATED SOIL REMOVAL	79,840.70	100.00%	79,840.70
SCO#1 7 SHORING PLATFORMS	122,887.00	100.00%	122,887.00
SCO#2 8 SEPT 14/19 LANDFILL BIN & OCT 2-4 CONCRETE REMOVAL	3,439.35	100.00%	3,439.35
SCO#3 9 SHORING PLATFORM NOV 3-13	15,762.82	100.00%	15,762.82
SCO#2 10 CONTAMINATED SOIL OCT 11-DEC 14	208,871.66	100.00%	208,871.66
SCO#4 11 PAD FOR REVISED SHORING PLATFORM NOV 13-14	13,835.42	100.00%	13,835.42
SCO#5 12 CONTAMINATED SOIL DEC 12-JAN 15	643,629.21	100.00%	643,629.21
SCO#4 13 CONTAMINATED SOIL JAN 17-31	67,217.23	100.00%	67,217.23
SCO#4 14 CAISSON PLATFORM DEC 12-JAN 31	207,182.59	100.00%	207,182.59
SCO#6 15 PROJECT ACCESS ROAD DEC 8-JAN 30	17,961.13	100.00%	17,961.13
SCO#7 16 DEWATERING FRENCH DRAIN DEC 4-18	6,163.15	100.00%	6,163.15
SCO#8 17 CAISSON PLATFORM FEB 1-2	31,173.28	100.00%	31,173.28
SCO#6 18 ADDITIONAL EXCAVATION FOR SHORING SIDE SLOPES	9,670.00	100.00%	9,670.00
	<b>2,479,633.54</b>		<b>1,857,313.54</b>
<b>Total To Date :</b>			<b>1,857,313.54</b>
<b>Plus Sales Tax :</b>			<b>241,450.73</b>
<b>Less Retainage :</b>			<b>0.00</b>
<b>Less Previous Applications :</b>			<b>1,992,815.99</b>
<b>Total Due This Invoice :</b>			<b>105,948.28</b>

This is Exhibit "B" referred to in the  
Affidavit of Roger Kieswetter  
Sworn before me at the City of  
Waterloo, in the Province of Ontario  
this 19 day of December, 2019



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A Commissioner, etc.

**EDWARD L. D'AGOSTINO**

**KIESWETTER EXCAVATING INC.**

Customer Aged Detail As at 12/13/2019

Source	Date	Transactio...	Total	Current	31 to 60	61 to 90	91+
<b>MAXION CONSTRUCTION MANAGEMENT</b>							
17236	05/24/2017	Bill	25,425.00	-	-	-	25,425.00
2	08/03/2017	Payment	-25,425.00	-	-	-	-25,425.00
17265	06/23/2017	Bill	81,197.99	-	-	-	81,197.99
6	09/27/2017	Payment	-81,197.99	-	-	-	-81,197.99
17297	07/25/2017	Bill	106,113.78	-	-	-	106,113.78
14	11/07/2017	Payment	-106,113.78	-	-	-	-106,113.78
17336R1	08/25/2017	Bill	94,992.39	-	-	-	94,992.39
21	12/14/2017	Payment	-94,992.39	-	-	-	-94,992.39
17351	09/25/2017	Bill	91,367.28	-	-	-	91,367.28
17377	10/25/2017	Bill	80,139.60	-	-	-	80,139.60
17408	11/24/2017	Bill	37,874.93	-	-	-	37,874.93
17450	12/15/2017	Bill	277,488.35	-	-	-	277,488.35
17500	12/15/2017	Bill	23,602.50	-	-	-	23,602.50
17501	01/16/2018	Bill	727,301.01	-	-	-	727,301.01
17521	01/25/2018	Bill	94,581.00	-	-	-	94,581.00
17523	01/25/2018	Bill	235,239.08	-	-	-	235,239.08
17522	01/31/2018	Bill	75,955.47	-	-	-	75,955.47
17545	02/15/2018	Bill	31,703.22	-	-	-	31,703.22
17557	02/28/2018	Bill	9,834.39	-	-	-	9,834.39
17558	02/28/2018	Bill	105,948.29	-	-	-	105,948.29

This is Exhibit "C" referred to in the  
Affidavit of Roger Kieswetter  
Sworn before me at the City of  
Waterloo, in the Province of Ontario  
this 19 day of December, 2019



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A Commissioner, etc.

**EDWARD L. D'AGOSTINO**

**WATERLOO DEMOLITION INC.  
3135 BOOMER LINE  
ST. CLEMENTS, ON N0B 2M0**

**INVOICE**

**To: MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
610 APPLEWOOD CRESCENT, SUITE 502  
VAUGHAN, ON L4K 0E3**

**Invoice #: 5141  
Date: 09/25/17  
Application #: 4**

**Invoice Due Date: 10/25/17  
Payment Terms: Net 30 days**

**Contract : 17007. THE UPTOWN - PH. 1 PINEHAVEN RETIREMENT RESIDENCE D**

*REQUEST FOR RELEASE OF HOLDBACK  
HST# 873710164*

Contract Item	Contract Amount	% Complete	Total To Date
1 ABATEMENT	142,000.00	100.00%	142,000.00
2 DEMOLITION	156,000.00	100.00%	156,000.00
3 DEMOLITION OF WALK-IN FREEZERS AT REAR OF PLAZA	8,900.00	100.00%	8,900.00
4 ADDITIONAL ASBESTOS ABATEMENT	14,990.00	100.00%	14,990.00
	<hr/> 321,890.00		<hr/> 321,890.00
			<b>Total To Date : 321,890.00</b>
			<b>Plus Sales Tax : 41,845.70</b>
			<b>Less Retainage : 0.00</b>
			<b>Less Previous Applications : 327,362.13</b>
			<b>Total Due This Invoice : 36,373.57</b>

This is Exhibit "D" referred to in the  
Affidavit of Roger Kieswetter  
Sworn before me at the City of  
Waterloo, in the Province of Ontario  
this 19 day of December, 2019

A handwritten signature in black ink, appearing to read "Edward L. D'Agostino", written over a horizontal line.

A Commissioner, etc.

**EDWARD L. D'AGOSTINO**

















This is Exhibit "E" referred to in the  
Affidavit of Roger Kieswetter  
Sworn before me at the City of  
Waterloo, in the Province of Ontario  
this 19 day of December, 2019



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A Commissioner, etc.

**EDWARD L. D'AGOSTINO**

**Properties**

**PIN** 22291 - 0011 LT  
**Description** PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 556933, 562886, 694759; WATERLOO  
**Address** 209 LEXINGTON ROAD  
 WATERLOO

**PIN** 22291 - 0628 LT  
**Description** PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194. S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF WATERLOO  
**Address** WATERLOO

**Consideration**

**Consideration** \$1,827,408.68

**Claimant(s)**

**Name** KIESWETTER EXCAVATING INC.  
**Address for Service** 3135 Boomer Line,  
 St. Clements,  
 Ontario  
 N0B 2M0

I am the lien claimant and the facts stated in the claim for lien are true.  
 I, Roger Kieswetter, President, have the authority to bind the corporation.  
 This document is not authorized under Power of Attorney by this party.

**Statements**

The lien claimant claims a lien against the interest of every person identified as an owner of the premises described in said PIN to this lien  
 Schedule: See Schedules

**Signed By**

Damir Selimovic 675 Riverbend Drive acting for Signed 2018 03 07  
 Kitchener Applicant(s)  
 N2K 3S3

**Tel** 519-571-8800  
**Fax** 519-742-1841

I have the authority to sign and register the document on behalf of the Applicant(s).

**Submitted By**

MCCARTER GRESBAN BEYNON WEIR 675 Riverbend Drive 2018 03 07  
 PROFESSIONAL CORPORATION Kitchener  
 N2K 3S3

**Tel** 519-571-8800  
**Fax** 519-742-1841

**Fees/Taxes/Payment**

**Statutory Registration Fee** \$63.65  
**Total Paid** \$63.65

**File Number**

**Claimant Client File Number :** 31613 PG/LN/DS

**FORM 8  
CLAIM FOR LIEN UNDER SECTION 34 OF THE ACT**

*Construction Lien Act, R.S.O. 1990, c. C.30, as amended.*

Name of lien claimant: KIESWETTER EXCAVATING INC.  
Address for service: 3135 Boomer Line  
St. Clements, Ontario  
N0B 2M0

Name of owner 1: DEEM MANAGEMENT SERVICES LIMITED  
Address of owner 1: 209 Lexington Road, Suite F2  
Waterloo, Ontario  
N2K 2E1

-and-

229 Lexington Road  
Waterloo, Ontario  
N2K 2E1

Name of owner 2: 2453678 ONTARIO INC.  
Address of owner 2: 209 Lexington Road, Suite F2  
Waterloo, Ontario  
N2K 2E1

-and-

610 Applewood Crescent, Suite 502  
Vaughan, Ontario  
L4K 0E3

Names of person to whom lien claimant supplied services or materials:  
MAXION CONSTRUCTION MANAGEMENT –  
THE UPTOWN INC.  
Address: 215 Lexington Road  
Waterloo, Ontario  
N2K 2E1

-and-

610 Applewood Crescent, Unit 502  
Vaughan, Ontario  
L4K 0E3

Time within which services or materials were supplied:  
from the 11th day of May, 2017 (*date supply commenced*),  
to the 2nd day of February, 2018 (*date of most recent supply*).

Short description of services or materials that have been supplied:  
Site clearing, earthworks, excavation, building backfill, site/underground services and  
demolition

Contract price (or subcontract price): \$2,462,499.97 (incl. HST)

Amount claimed as owing in respect of  
services or materials that have been supplied: \$1,827,408.68 (incl. HST)

(Use A where the lien attaches to the premises; use B where the lien does not attach to the premises.)

A. The lien claimant claims a lien against the interest of every person identified above as an owner of the premises described in Schedule A to this claim for lien.

~~B. The lien claimant (if lien claimant is personal representative or assignee this must be stated) claims a charge against the holdbacks required to be retained under the Act and any additional amount owed by a payer to the contractor or to any subcontractor whose contract was in whole or in part performed by the services or materials that have been supplied by the lien claimant in relation to the premises at: (insert address or other identification of the location of the premises)~~

DATED this 7<sup>th</sup> day of March, 2018.

KIESWETTER EXCAVATING INC.

Per: 

Name: Roger Kieswetter

Title: President

I have authority to bind the corporation.

## SCHEDULE A

To the Claim for Lien of Kieswetter Excavating Inc.

### Description of Premises:

1. PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194. S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469, CITY OF WATERLOO,

being all of PIN 22291-0628 (LT).

2. PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 556933, 562886, 694759; WATERLOO,

being all of PIN 22291-0011 (LT).

### Address of Premises:

1. 215 and 229 Lexington Road, Waterloo, Ontario
2. 209 Lexington Road, Waterloo, Ontario

**AFFIDAVIT OF VERIFICATION OF LIEN CLAIM**

**I, ROGER KIESWETTER**, of the City of Kitchener, in the Regional Municipality of Waterloo, and Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the President of Kieswetter Excavating Inc. and as such, have knowledge of the matters hereinafter deposed to.
2. Kieswetter Excavating Inc. is the lien claimant named in the attached claim for lien.
3. I have informed myself of the facts stated in the claim for lien, and I believe those facts to be true.

SWORN before me at the City of )  
Kitchener, in the Regional Municipality )  
of Waterloo, this 7<sup>th</sup> day of March, )  
2018. )

*Danir Selinovic*  
A Commissioner, etc. )

  
\_\_\_\_\_  
Roger Kieswetter

This is Exhibit "F" referred to in the  
Affidavit of Roger Kieswetter  
Sworn before me at the City of  
Waterloo, in the Province of Ontario  
this 19 day of December, 2019



---

A Commissioner, etc.

**EDWARD L. D'AGOSTINO**

Court File No.: C-445-18

ONTARIO  
SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE *Construction Lien Act*, R.S.O. 1990, c.C.30

BETWEEN:

KIESWETTER EXCAVATING INC.

Plaintiff

- and -



MAXION CONSTRUCTIONMANAGEMENT – THE UPTOWN INC.,  
DEEM MANAGEMENT SERVICES LIMITED,  
2453678 ONTARIO INC.,  
INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.  
and DONALD DAL BIANCO

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff.

The claim made against you is set out in the following pages.

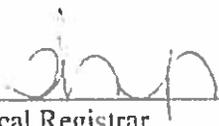
IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the

plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

**IF YOU FAIL TO DEFEND THE PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.** If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local Legal Aid office.

Date: April 12 2018

Issued by

  
Local Registrar

Address of 85 Frederick Street

Court House: Kitchener, ON N2H 0A7

TO : MAXION CONSTRUCTION MANAGEMENT  
- THE UPTOWN INC.  
215 Lexington Road  
Waterloo, ON N2K 2E1

AND TO: DEEM MANAGEMENT SERVICES LIMITED  
209 Lexington Road, Suite F2  
Waterloo, ON N2K 2E1

AND TO: 2453678 ONTARIO INC.  
209 Lexington Road, Suite F2  
Waterloo, ON N2K 2E1

AND TO: INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.  
77 King Street West, Suite 4120  
Toronto, ON M5K 1G8

AND TO: DONALD DAL BIANCO  
87 Huron Street South  
Saugeen Shores (Southampton), ON N0H 1L0

## CLAIM

1. The Plaintiff, Kieswetter Excavating Inc. (hereinafter referred to as "KEI" or the "Plaintiff"), claims:
  - (a) a Declaration that the Plaintiff is entitled to a lien against all of the estate, title and interest of any of the Defendants in the lands and premises (the "Premises") against which the Claim for Lien (the "Lien") hereinafter set forth in the attached Appendix "A" was registered on March 7, 2018 as Instrument No. WR1100946;
  - (b) a Declaration that the Plaintiff's Lien attaches to any security posted in respect of same;
  - (c) payment of the sum of \$1,827,408.68 by the Defendants, or any of them, pursuant to the Contract and/or the provisions of the *Construction Lien Act*, R.S.O. 1990, c.C.30, as amended (the "Act");
  - (d) payment of pre-judgment and post-judgment interest on the sum of \$1,827,408.68 in accordance with the contractual rate of interest or alternatively, pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended;
  - (e) payment of the Plaintiff's costs of this action on a substantial indemnity basis together with all assessable disbursements and applicable taxes;
  - (f) that, in default of payment of the said sum of \$1,827,408.68, plus interest and costs, an Order that the estate and interest of any of the Defendants in the Premises to which the Lien attaches, and which are the subject matter of this action, be sold and the proceeds applied towards payment of the Plaintiff's claim aforesaid, pursuant to the provisions of the Act;
  - (g) in the alternative, payment of the said sum of \$1,827,408.68, plus interest and costs, from the proceeds of any security posted to vacate the Lien;

**Institutional Mortgage on the Corporation Lands**

- (h) a Declaration that the Lien has full priority over the mortgage of the Defendant, Institutional Mortgage Capital Canada Inc. ("Institutional") which was registered against title to the lands known municipally as 209 Lexington Road, Waterloo, being PIN 22291 0011LT (the "Corporation Lands"), in the Land Registry Office for the Land Titles Division of Waterloo (No. 58) (referred to herein as the "LRO"), on May 9, 2017 as Instrument No. WR1030628 ("Institutional Mortgage 0011");
- (i) in the alternative, a Declaration that the Lien has full priority over Institutional Mortgage 0011, to the extent of any unadvanced portions thereof, pursuant to the Act;
- (j) in the further alternative, a Declaration that the Lien has full priority over Institutional Mortgage 0011, to the extent that any portion of Institutional Mortgage 0011 advanced by Institutional exceeded or exceeds the actual value of the Corporation Lands at the time the first lien arose;
- (k) in the further alternative, a Declaration that the Lien has full priority over Institutional Mortgage 0011 to the extent that there are deficiencies in the holdbacks required to be retained pursuant to the provisions of the Act;

**Institution Mortgage on the Deem Lands**

- (l) a Declaration that the Lien has full priority over the mortgage of Institutional which was registered against title to the lands in Waterloo, Ontario identified as PIN 22291 0628LT (the "Deem Lands"), in the LRO, on May 9, 2017 as Instrument No. WR1030622 ("Institutional Mortgage 0628");
- (m) in the alternative, a Declaration that the Lien has full priority over Institutional Mortgage 0628, to the extent of any unadvanced portions thereof, pursuant to the Act;

- (n) in the further alternative, a Declaration that the Lien has full priority over Institutional Mortgage 0628, to the extent that any portion of Institutional Mortgage 0628 advanced by Institutional exceeded or exceeds the actual value of the Deem Lands at the time the first lien arose;
- (o) in the further alternative, a Declaration that the Lien has full priority over Institutional Mortgage 0628 to the extent that there are deficiencies in the holdbacks required to be retained pursuant to the provisions of the Act;

#### **Dal Bianco Mortgages on Deem Lands**

- (p) a Declaration that the Lien has full priority over the following mortgages of the Defendant, Donald Dal Bianco ("Dal Bianco") which were registered against title to the Deem Lands in the LRO:
  - i. on June 25, 2015, which mortgage was postponed to Institutional Mortgage 0628, which Postponement was registered in the LRO on May 9, 2017, as Instrument No. WR888817 (the "First Dal Bianco Mortgage"),
  - ii. on February 23, 2018, as Instrument No. WR1099051 (the "Second Dal Bianco Mortgage");
- (q) in the alternative, a Declaration that the Lien has full priority over the First Dal Bianco Mortgage and the Second Dal Bianco Mortgage (together the "Dal Bianco Mortgages") to the extent of any unadvanced portions thereof, pursuant to the Act;
- (r) in the further alternative, a Declaration that the Lien has full priority over the Dal Bianco Mortgages, to the extent that any portion of the Dal Bianco Mortgages advanced exceeded or exceeds the actual value of the Deem Lands at the time the first lien arose;

- (s) in the further alternative, a Declaration that the Lien has full priority over the Dal Bianco Mortgages to the extent that there are deficiencies in the holdbacks required to be retained pursuant to the provisions of the Act;

#### **Mortgages on Premises**

- (t) a Declaration that the Lien has full priority over Institutional Mortgage 0011, Institutional Mortgage 0628 and the Dal Bianco Mortgages;
- (u) in the alternative, a Declaration that the Lien has full priority over Institutional Mortgage 0011, Institutional Mortgage 0628 and the Dal Bianco Mortgages, to the extent of any unadvanced portions thereof, pursuant to the Act;
- (v) in the further alternative, a Declaration that the Lien has full priority over Institutional Mortgage 0011, Institutional Mortgage 0628 and the Dal Bianco Mortgages, to the extent that any portion of the said mortgages advanced by Institutional and/or Dal Bianco exceeded or exceeds the actual value of the Premises at the time the first lien arose;
- (w) in the further alternative, a Declaration that the Lien has full priority over Institutional Mortgage 0011, Institutional Mortgage 0628 and the Dal Bianco Mortgages, to the extent that there are deficiencies in the holdbacks required to be retained pursuant to the provisions of the Act;
- (x) for all purposes and for all other purposes pursuant to the Act, that accounts be taken and direction be given under the supervision and direction of this Honourable Court; and
- (y) such further and other relief and Declarations as the nature of this case may require and as to this Honourable Court may seem just.

2. The Plaintiff, KEI, is a corporation incorporated pursuant to the laws of the Province of Ontario, having its head office in the Regional Municipality of Waterloo. KEI carries on business as a contractor providing goods, services, labour and materials, including site clearing, earthworks, excavation, building backfill, site/underground services and demolition in the Regional Municipality of Waterloo, and elsewhere in Ontario.
3. The Defendant Maxion Construction Management – The Uptown Inc. (referred to herein as “Maxion”) is a corporation incorporated pursuant to the laws of the Province of Ontario, having its head office in Waterloo, Ontario. At all material times, Maxion was the General Contractor retained by Deem and 245Co to construct a multi-phased seniors’ residence at the Premises.
4. The Defendant, Deem Management Services Limited (referred to herein as “Deem”) is a corporation incorporated pursuant to the laws of the Province of Ontario, having its head office in Waterloo, Ontario. Deem is the registered Owner of the Deem Lands.
5. The Defendant, 2453678 Ontario Inc. (“245Co”) is a corporation incorporated pursuant to the laws of the Province of Ontario, having its head office in Waterloo, Ontario. 245Co is the registered Owner of the Corporation Lands.
6. The Defendant, Institutional, is a corporation incorporated pursuant to the laws of the Province of Ontario, having its head office in Toronto, Ontario. Institutional is a “mortgagee” with respect to the Premises within the meaning of Section 1 of the Act.
7. The Defendant, Dal Bianco resides in Saugeen Shores, Ontario and is a “mortgagee” with respect to the Deem Lands within the meaning of Section 1 of the Act.

8. On or before May 11, 2017, KEI entered into a Contract with Maxion (hereinbefore and hereinafter referred to as the "Contract"), inter alia, to supply site clearing, earthworks, excavation, building backfill, site/underground services and demolition services at the Premises (hereinafter referred to as the "Goods/Services"). Pursuant to the Contract, KEI did supply the Goods/Services to Maxion and invoiced Maxion for the work it performed.

9. KEI states that the Goods/Services it supplied to Maxion for and at the Premises were furnished in a good and workmanlike manner, with the privity and consent of Maxion and the Owners, Deem and 245Co and accordingly, all of the estate and interest of Deem and 245Co in the Premises was/is subject to the Plaintiff's Lien.

10. The Plaintiff last supplied Goods/Services to Maxion at the Premises was on February 2, 2018.

11. Pursuant to the Contract KEI supplied Goods/Services to Maxion for the benefit of Deem and 245Co, in an amount totalling \$2,462,499.97, inclusive of HST. To date, Maxion has neglected or refused to pay KEI, the sum of \$1,827,408.68, which amount is presently due and owing to KEI, by one or more or all of the Defendants pursuant to the Contract and/or the provisions of the Act.

12. By reason of supplying the Goods/Services at the Premises, KEI was/is entitled to a lien upon the estate or interest of the Owners of the Corporation Lands and the Deem Lands, in the sum of \$1,827,408.68, together with interest and costs of the action, pursuant to the provisions of the Act.

13. KEI states that Goods/Services it supplied and provided under the Contract were for the benefit of Deem and 245Co, being improvements at the Premises, supplied from May 11, 2017 until February 2, 2018.

14. On March 7, 2018, KEI did, pursuant to the Act, cause to be registered in the LRO, a Lien against title to the Premises, being Instrument No. WR1100946, which Lien was verified by the Affidavit of Roger Kieswetter, President of KEI and was sworn before a Commissioner for taking Affidavits, etc., in the Province of Ontario as required by the said Act.

15. The Corporation Lands were at all material times owned by 245Co and are the same lands and premises in respect of which KEI supplied its labour and materials at the request of, on behalf of, with the consent of and for the direct benefit of one or more or all of the Defendants and accordingly, one or more or all of the Defendants are or were Owners within the meaning of Section 1(1) of the Act.

16. The Deem Lands were at all material times owned by Deem and are the same lands and premises in respect of which KEI supplied its labour and/or materials at the request of, on behalf of, with the consent of and for the direct benefit of one or more or all of the Defendants and accordingly, one or more or all of the Defendants are or were Owners within the meaning of Section 1(1) of the Act.

17. The Plaintiff states that Institutional is a mortgagee of the Corporation Lands by virtue of Institutional Mortgage 0011 in the amount of \$8,255,000.00 registered in the LRO on May 9, 2017, as Instrument No. WR1030628.

18. The Plaintiff states that Institutional Mortgage 0011 was given and taken by 245Co with the intention to secure financing the improvements herein and the Plaintiff therefore claims that its Lien has full priority over Institutional Mortgage 0011.

19. In addition or alternatively, the Plaintiff claims that its Lien has full priority over the Institutional Mortgage 0011 hereinbefore referred to, to the extent of any deficiencies and holdbacks required to be retained by the Owners, pursuant to the provisions of the Act.

20. In addition or in the further alternative, the Plaintiff states that its Lien has priority over Institutional Mortgage 0011 to the extent that any portion of Institutional Mortgage 0011 advanced, exceeded the actual value of the Corporation Lands at the time when the first lien arose.

21. In addition or in the further alternative, the Plaintiff states that its Lien has priority over the Institutional Mortgage 0011 to the extent of any unadvanced portion thereof.

22. The Plaintiff states that Institutional has knowledge of all advances made pursuant to Institutional Mortgage 0011.

23. The Plaintiff states that Institutional is a mortgagee of the Deem Lands by virtue of Institutional Mortgage 0628 in the amount of \$8,255,000.00 registered in the LRO on May 9, 2017, as Instrument No. WR1030622.

24. The Plaintiff states that Institutional Mortgage 0628 was given and taken by 245Co with the intention to secure financing the improvements herein and the Plaintiff therefore claims that its Lien has full priority over Institutional Mortgage 0628.

25. In addition or alternatively, the Plaintiff claims that its Lien has full priority over the Institutional Mortgage 0628 hereinbefore referred to, to the extent of any deficiencies and holdbacks required to be retained by the Owners, pursuant to the provisions of the Act.
26. In addition or in the further alternative, the Plaintiff states that its Lien has priority over Institutional Mortgage 0628 to the extent that any portion of Institutional Mortgage 0628 advanced, exceeded the actual value of the Deem Lands at the time when the first lien arose.
27. In addition or in the further alternative, the Plaintiff states that its Lien has priority over the Institutional Mortgage 0628 to the extent of any unadvanced portion thereof.
28. The Plaintiff states that Institutional has knowledge of all advances made pursuant to Institutional Mortgage 0628.
29. The Plaintiff states that Dal Bianco became a mortgagee of the Deem Lands by virtue of the First Dal Bianco Mortgage in the amount of \$4,517,511.00 registered in the LRO on June 25, 2015 as Instrument No. WR888817. The Plaintiff states that the First Dal Bianco Mortgage was given and taken by Deen Management, with the intention to secure the financing of the improvements herein, and the Plaintiff states that the Lien has full priority over the First Dal Bianco Mortgage.
30. The Plaintiff states that Dal Bianco became a mortgagee of the Deem Lands by virtue of the Second Dal Bianco Mortgage in the amount of \$7,978,753.00 registered in the LRO on February 23, 2018, as Instrument No. WR1099051. The Plaintiff states that the Second Dal Bianco Mortgage was given and taken by Deen Management, with the intention to secure the financing of

the improvements herein, and the Plaintiff states that the Lien has full priority over the Second Dal Bianco Mortgage.

31. In addition or alternatively, the Plaintiff claims that its Lien has full priority over the Dal Bianco Mortgages hereinbefore referred to, to the extent of any deficiencies and holdbacks required to be retained by the Owners, pursuant to the provisions of the Act.

32. In addition or in the further alternative, the Plaintiff states that its Lien has priority over the Dal Bianco Mortgages to the extent that any portion of the Dal Bianco Mortgages advanced exceeded the actual value of the Premises at the time when the first lien arose.

33. In addition and in the further alternative, the Plaintiff states that its Lien has priority over the Dal Bianco Mortgages to the extent of any unadvanced portion thereof.

34. The Plaintiff states that Dal Bianco has knowledge of all advances made pursuant to the Dal Bianco Mortgages.

35. In addition or in the further alternative, KEI states that its Lien has priority over Institutional Mortgage 0011, Institutional Mortgage 0628 and the Dal Bianco Mortgages to the extent that the total of all money advanced in respect of said mortgage exceeded the actual value of the Premises at the time when the first lien arose.

36. In addition, or in the further alternative, the Plaintiff states that its Lien has priority over Institutional Mortgage 0011, Institutional Mortgage 0628 and the Dal Bianco Mortgages to the extent that any portion of the said Mortgages advanced exceeded the actual value of the Premises at the time when the first lien arose.

37. In addition, or in the further alternative, the Plaintiff states that its Lien has priority over Institutional Mortgage 0011, Institutional Mortgage 0628 and the Dal Bianco Mortgages to the extent of any unadvanced portions thereof.

38. The Plaintiff states that Institutional and Dal Bianco have knowledge of all advances made pursuant to their respective Mortgages.

39. KEI states that, by reason of the furnishing of Goods/Services to the Premises, it enhanced the value of the Premises and that the Defendants have received the benefit of same and have been unjustly enriched in the amount of \$1,827,408.68, at the expense of and to the detriment of the Plaintiff. The Plaintiff pleads and relies upon the doctrine of unjust enrichment.

40. Alternatively, the Plaintiff states that it is entitled to payment of its claim from one or more or all of the Defendants, on a quantum meruit basis.

41. The Plaintiff further states that in the event that its above-referenced Lien is vacated from title to the Premises and/or the Deem Lands and/or the Corporation Lands, by posting/depositing of security or money with the Accountant of the Ontario Superior Court of Justice, then the Plaintiff's claim is entitled to be paid from the proceeds of the said security, should it be found that the posting of the security resulted in the Plaintiff's Lien ceasing to attach to and/or bind to the Premises and/or the Deem Lands and/or the Corporation Lands.

APR 12 2018

**OLDFIELD, GREAVES, D'AGOSTINO  
& SCRIVEN**  
172 King Street South  
Waterloo, ON N2J 1P8  
**Edward L. D'Agostino, LSUC #A032631H**  
(519) 576-7200 Fax: 576-0131  
Lawyers for the Plaintiff

## APPENDIX 'A' – CONSTRUCTION LIEN

FORM 8  
CLAIM FOR LIEN UNDER SECTION 34 OF THE ACT

*Construction Lien Act, R.S.O. 1990, c. C.30, as amended.*

Name of lien claimant: KIESWETTER EXCAVATING INC.  
Address for service: 3135 Boomer Line  
St. Clements, Ontario  
N0B 2M0  
Name of owner 1: DEEM MANAGEMENT SERVICES LIMITED  
Address of owner 1: 209 Lexington Road, Suite F2  
Waterloo, Ontario  
N2K 2E1

-and-

229 Lexington Road  
Waterloo, Ontario  
N2K 2E1

Name of owner 2: 2453678 ONTARIO INC.  
Address of owner 2: 209 Lexington Road, Suite F2  
Waterloo, Ontario  
N2K 2E1

-and-

610 Applewood Crescent, Suite 502  
Vaughan, Ontario  
L4K 0E3

Names of person to whom lien claimant supplied services or materials

MAXION CONSTRUCTION MANAGEMENT -  
THE UPTOWN INC.

Address: 215 Lexington Road  
Waterloo, Ontario  
N2K 2E1

-and-

610 Applewood Crescent, Unit 502  
Vaughan, Ontario  
L4K 0E3

Time within which services or materials were supplied:

from the 11th day of May, 2017 (*date supply commenced*),  
to the 2nd day of February, 2018 (*date of most recent supply*).

Short description of services or materials that have been supplied:

Site clearing, earthworks, excavation, building backfill, site/underground services and  
demolition

Contract price (or subcontract price): \$2,462,499.97 (incl. HST)

Amount claimed as owing in respect of  
services or materials that have been supplied: \$1,827,408.68 (incl. HST)

(Use A where the lien attaches to the premises; use B where the lien does not attach to the premises.)

A. The lien claimant claims a lien against the interest of every person identified above as an owner of the premises described in Schedule A to this claim for lien.

~~B. The lien claimant (if lien claimant is personal representative or assignee this must be stated) claims a charge against the holdbacks required to be retained under the Act and any additional amount owed by a payer to the contractor or to any subcontractor whose contract was in whole or in part performed by the services or materials that have been supplied by the lien claimant in relation to the premises at (insert address or other identification of the location of the premises)~~

DATED this 7<sup>th</sup> day of March, 2018.

KIESWETTER EXCAVATING INC.

Per: 

Name: Roger Kieswetter

Title: President

I have authority to bind the corporation.

**SCHEDULE A**

To the Claim for Lien of Kieswetter Excavating Inc.

**Description of Premises:**

1. PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194.  
S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF  
WATERLOO,  
  
being all of PIN 22291-0628 (LT).
2. PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T  
556933, 562886, 694759; WATERLOO,  
  
being all of PIN 22291-0011 (LT).

**Address of Premises:**

1. 215 and 229 Lexington Road, Waterloo, Ontario
2. 209 Lexington Road, Waterloo, Ontario

AFFIDAVIT OF VERIFICATION OF LIEN CLAIM

I, ROGER KIESWETTER, of the City of Kitchener, in the Regional Municipality of Waterloo, and Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am the President of Kieswetter Excavating Inc. and as such, have knowledge of the matters hereinafter deposed to.
2. Kieswetter Excavating Inc. is the lien claimant named in the attached claim for lien.
3. I have informed myself of the facts stated in the claim for lien, and I believe these facts to be true.

SWORN before me at the City of )  
Kitchener, in the Regional Municipality )  
of Waterloo, this 17<sup>th</sup> day of March, )  
2018. )

*Danir Delinovic*  
A Commissioner, etc. )

  
\_\_\_\_\_  
Roger Kieswetter

KIESWETTER EXCAVATING -and- DEEM MANAGEMENT SERVICES et al Court File No.: C-445-18

ONTARIO  
SUPERIOR COURT OF JUSTICE  
Proceeding commenced at KITCHENER

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STATEMENT OF CLAIM

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OLDFIELD, GREAVES, D'AGOSTINO &  
SCRIVEN  
172 King Street South  
Waterloo, ON N2J 1P8  
Edward L. D'Agostino, cdagosino@wallaw.com  
LSUC # A032631H  
Ph: (519) 576-7200  
Fax: (519) 576-0131  
Lawyers for the Plaintiff

TO: THE DEFENDANTS

This is Exhibit "G" referred to in the  
Affidavit of Roger Kieswetter  
Sworn before me at the City of  
Waterloo, in the Province of Ontario  
this 19 day of December, 2019



---

A Commissioner, etc.

**EDWARD L. D'AGOSTINO**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF THE *Construction Lien Act*, R.S.O. 1990, c.C.30

BETWEEN:

**KIESWETTER EXCAVATING INC.**

Plaintiff

- and -



**MAXION CONSTRUCTION MANAGEMENT – THE UPTOWN INC.,  
DEEM MANAGEMENT SERVICES LIMITED,  
2453678 ONTARIO INC.,  
INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.  
and DONALD DAL BIANCO**

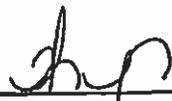
Defendants

**CERTIFICATE OF ACTION**

**I CERTIFY** that an action has been commenced in the Superior Court of Justice at Guelph, Ontario under the CONSTRUCTION LIEN ACT, R.S.O. 1990, Chapter 30, between the above parties in respect of the premises described in Schedule “A” to this Certificate and relating to the Claim for Lien bearing the following registration number: WR1100946 registered in the Land Registry Office for the Land Titles Division of Waterloo (No. 58).

DATE: April 12, 2018

Address of Court House:



Local Registrar  
85 Frederick Street  
Kitchener, ON N2H 0A7

## **SCHEDULE 'A'**

**Legal Description of Premises:** PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322; S/T 556933, 562886, 694759; WATERLOO

being all of PIN: 22291-0011 (LT)

**Municipal Address:** 209 Lexington Road  
Waterloo, Ontario

**Registered Owner:** 2453678 Ontario Inc.

**Legal Description of Premises:** PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194. S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF WATERLOO

being all of PIN: 22291-0628 (LT)

**Municipal Address:** Waterloo, Ontario

**Registered Owner:** Deem Management Services Limited

**KIESWETTER EXCAVATING**

**-and-**

**DEEM MANAGEMENT SERVICES et al**

Court File No.:

---

ONTARIO  
SUPERIOR COURT OF JUSTICE  
Proceeding commenced at KITCHENER

---

**CERTIFICATE OF ACTION**

---

**OLDFIELD, GREAVES, DAGOSTINO &  
SCRIVEN**

172 King Street South

Waterloo, ON N2J 1P8

Edward L. D'Agostino, edagostino@vatalaw.com

LSUC # A032631H

Ph: (519) 576-7200

Fax: (519) 576-0131

Lawyers for the Plaintiff

**TO: THE DEFENDANTS**

This is Exhibit "H" referred to in the  
Affidavit of Roger Kieswetter  
Sworn before me at the City of  
Waterloo, in the Province of Ontario  
this 19 day of December, 2019



---

A Commissioner, etc.

**EDWARD L. D'AGOSTINO**

**Properties**

**PIN** 22291 - 0011 LT  
**Description** PT LT 7 GERMAN COMPANY TRACT CITY OF WATERLOO AS IN 822322, S/T 556933, 562886, 894759; WATERLOO  
**Address** 209 LEXINGTON ROAD  
 WATERLOO

**PIN** 22291 - 0628 LT  
**Description** PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-8774 & PT 3 ON 58R-2194, S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469, CITY OF WATERLOO  
**Address** WATERLOO

**Party From(s)**

**Name** KIESWETTER EXCAVATING INC.  
**Address for Service** 3135 Boomer Line, St. Clements, On.  
 NOB 2M0

I, Roger Kieswetter, President, have the authority to bind the corporation.  
 This document is not authorized under Power of Attorney by this party

**Statements**

This document relates to registration number(s)WR1100946  
 Schedule See Schedules

**Signed By**

Edward Louis D'Agostino	172 King St. South Waterloo N2J 1P8	acting for Party From(s)	First Signed	2018 04 18
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Tel 519-576-7200

Fax 519-576-0131

Edward Louis D'Agostino	172 King St. South Waterloo N2J 1P8	acting for Party From(s)	Last Signed	2018 04 18
-------------------------	---	-----------------------------	----------------	------------

Tel 519-576-7200

Fax 519-576-0131

I have the authority to sign and register the document on behalf of the Party From(s)

**Submitted By**

OLDFIELD, GREAVES, D'AGOSTINO	172 King St. South Waterloo N2J 1P8	2018 04 18
-------------------------------	---	------------

Tel 519-576-7200

Fax 519-576-0131

**Fees/Taxes/Payment**

<b>Statutory Registration Fee</b>	\$63.65
<b>Total Paid</b>	\$63.65

**File Number**

Party From Client File Number 39345

This is Exhibit "I" referred to in the  
Affidavit of Roger Kieswetter  
Sworn before me at the City of  
Waterloo, in the Province of Ontario  
this 19 day of December, 2019



---

A Commissioner, etc.

**EDWARD L. D'AGOSTINO**



Ontario ServiceOntario

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND  
REGISTRY  
OFFICE #58

22291-0628 (L7)

PAGE 1 OF 5  
PREPARED FOR alyss#01  
ON 2018/08/13 AT 14:05:08

PROPERTY DESCRIPTION: PT. BLOCK A PLAN 1313, BEING PTS. 1, 4, 5 ON 58R-6774 & PT. 3 ON 58R-2194. S/T EASEMENT IN GROSS OVER PT. 1 ON 58R-17857, AS IN WR853469; CITY OF WATERLOO

PROPERTY REMARKS: PLANNING ACT CONSENT AS IN 454112. PLANNING ACT CONSENT AS IN 315407. PLANNING ACT CONSENT AS IN 278395.  
ESTATE/QUALIFIER: RECENTLY:  
FEE SIMPLE DIVISION FROM 22291-0625  
LT CONVERSION QUALIFIED  
OWNERS' NAMES: CAPACITY SHARE  
DEEM MANAGEMENT SERVICES LIMITED RONA

PLAN CREATION DATE:  
2015/02/20

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHRD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2015/02/20 **						
**SUBJECT,	ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO					
**	SUBSECTION 4(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES					
**	AND EASEMENTS OR FOREFETURE TO THE CROWN.					
**	THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF					
**	IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY					
**	CONVENTION.					
**	ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.					
**DATE OF CONVERSION TO	LAND TITLES: 2002/10/21 **					
429196	1970/06/05	AGREEMENT			THE CORPORATION OF THE CITY OF WATERLOO	C
58R2194	1979/01/04	PLAN REFERENCE			THE CORPORATION OF THE CITY OF WATERLOO	C
620622	1979/02/08	AGREEMENT			THE CORP'N. OF THE CITY OF WATERLOO	C
620623	1979/02/09	AGREEMENT			DEEM MANAGEMENT SERVICES LIMITED	C
620634	1979/02/08	TRANSFER			THE REGIONAL MUNICIPALITY OF WATERLOO	C
952613	1985/07/22	AGREEMENT			THE CORPORATION OF THE CITY OF WATERLOO	C
956866	1986/09/18	AGREEMENT			THE CORPORATION OF THE CITY OF WATERLOO	C
58R674	1989/07/07	PLAN REFERENCE			LEXINGTON HOLDINGS LIMITED	C
100070E	1989/07/19	CERTIFICATE TITLE				C

NOTE: ADJOINING PROPERTIES SHOULD BE INTERVIEWED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES. IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THE CORRECT PAGE.



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LAND REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER  
 LAND REGISTRY OFFICE #58  
 22291-0628 (LT)  
 \* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

PAGE 2 OF 5  
 PREPARED FOR alyssa01  
 ON 2018/08/13 AT 14:05:08

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CRND
MR157723	2005/09/21	CHARGE		*** DELETED AGAINST THIS PROPERTY *** DEEM MANAGEMENT SERVICES LIMITED	MONTROSE MORTGAGE CORPORATION LTD.	
MR157724	2005/09/21	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** DEEM MANAGEMENT SERVICES LIMITED	MONTROSE MORTGAGE CORPORATION LTD.	
MR276832	2007/02/03	CAU AGR PUR & SALE		*** DELETED AGAINST THIS PROPERTY *** LEXINGTON HOLDINGS LIMITED	2126826 ONTARIO INC.	
REMARKS: EXPIRES 60 DAYS FROM 2007/02/12 (DELETED 2015/03/16)						
MR278215	2007/02/16	TRANSFER	\$1,050,000	LEXINGTON HOLDINGS LIMITED	2126826 ONTARIO INC.	C
REMARKS: PLANNING ACT STATEMENTS						
MR440869	2009/01/22	CHARGE		*** DELETED AGAINST THIS PROPERTY *** 2126826 ONTARIO INC.	DAL BIANCO, DON	
MR440870	2009/01/22	NO ASSGN RENT GEN		*** DELETED AGAINST THIS PROPERTY *** 2126826 ONTARIO INC.	DAL BIANCO, DON	
REMARKS: MR440869						
MR592614	2011/01/18	NOTICE		*** DELETED AGAINST THIS PROPERTY *** DEEM MANAGEMENT SERVICES LIMITED	MONTROSE MORTGAGE CORPORATION LTD.	
REMARKS: MR157723						
MR597847	2011/02/17	APL CH NAME OWNER		2126826 ONTARIO INC.	DEEM MANAGEMENT SERVICES LIMITED	C
MR677725	2013/03/22	APL CONSOLIDATE		DEEM MANAGEMENT SERVICES LIMITED	DEEM MANAGEMENT SERVICES LIMITED	C
58817857	2013/06/28	PLAN REFERENCE				C
MR853469	2014/11/27	TRANSFER EASEMENT	\$2	DEEM MANAGEMENT SERVICES LIMITED	WATERLOO NORTH HYDRO INC.	C
MR853683	2014/11/27	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** MONTROSE MORTGAGE CORPORATION LTD.	WATERLOO NORTH HYDRO INC.	
REMARKS: MR157723 TO MR853469						
MR853664	2014/11/27	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** DAL BIANCO, DON	WATERLOO NORTH HYDRO INC.	
REMARKS: MR440869 TO MR853469						
MR875231	2015/04/10	NOTICE		THE CORPORATION OF THE CITY OF WATERLOO	DEEM MANAGEMENT SERVICES LIMITED	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES. ALWAYS WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND  
REGISTRY  
OFFICE #58

22291-0628 (LT)

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

PAGE 3 OF 5  
PREPARED FOR a1y5sa01  
ON 2018/08/13 AT 14:05:08

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHRD
WR875232	2015/04/10	POSTPONEMENT		... COMPLETELY DELETED ... MONTROSE MORTGAGE CORPORATION LTD.	THE CORPORATION OF THE CITY OF WATERLOO	
	REMARKS: WR157723 TO WR875231					
WR875233	2015/04/10	POSTPONEMENT		... COMPLETELY DELETED ... DAL BIANCO, DONALD	THE CORPORATION OF THE CITY OF WATERLOO	
	REMARKS: WR440869 TO WR875231					
WR888817	2015/06/25	CHARGE	\$4,517,511	DEEM MANAGEMENT SERVICES LIMITED	DAL BIANCO, DONALD	C
WR888818	2015/06/25	NO ASSIGN RENT GEN		DEEM MANAGEMENT SERVICES LIMITED	DAL BIANCO, DONALD	C
	REMARKS: WR888817.					
WR888819	2015/06/25	POSTPONEMENT		... COMPLETELY DELETED ... DAL BIANCO, DON	DAL BIANCO, DONALD	
	REMARKS: WR440869 TO WR888817					
WR888820	2015/06/25	POSTPONEMENT		... COMPLETELY DELETED ... DAL BIANCO, DON	DAL BIANCO, DONALD	
	REMARKS: WR440870 TO WR888818					
WR888821	2015/06/25	DISCH OF CHARGE		... COMPLETELY DELETED ... DAL BIANCO, DON	DAL BIANCO, DONALD	
	REMARKS: WR440869.					
WR888822	2015/06/25	DISCH OF CHARGE		... COMPLETELY DELETED ... MONTROSE MORTGAGE CORPORATION LTD.		
	REMARKS: WR157723.					
WR931210	2016/01/18	CHARGE		... COMPLETELY DELETED ... DEEM MANAGEMENT SERVICES LIMITED	VECTOR FINANCIAL SERVICES LIMITED	
WR931211	2016/01/18	NO ASSIGN RENT GEN		... COMPLETELY DELETED ... DEEM MANAGEMENT SERVICES LIMITED	VECTOR FINANCIAL SERVICES LIMITED	
	REMARKS: WR931210					
WR932527	2016/01/23	POSTPONEMENT		... COMPLETELY DELETED ... DAL BIANCO, DONALD	VECTOR FINANCIAL SERVICES LIMITED	
	REMARKS: WR888817 TO WR931210					
WR1030186	2017/01/30	NOTICE	\$2	DEEM MANAGEMENT SERVICES LIMITED	DAL BIANCO, DONALD	C
	REMARKS: WR888817					

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND REGISTER OFFICE #58

22291-0628 (LT)

PAGE 4 OF 5  
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ON 2018/08/13 AT 14:05:08

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CRD
WR1030548	2017/05/09	NOTICE OF LEASE		DEEM MANAGEMENT SERVICES LIMITED	SCHLEGEL VILLAGES INC.	C
WR1030622	2017/05/09	CHARGE	\$8,255,000	DEEM MANAGEMENT SERVICES LIMITED	INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.	C
WR1030648	2017/05/09	POSTEQUEMENT		DAL BIANCO, DONALD	INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.	C
		REMARKS: WR989417 TO WR1030622		*** COMPLETELY DELETED *** VECTOR FINANCIAL SERVICES LIMITED		
WR1030974	2017/05/10	DISCH OF CHARGE		*** COMPLETELY DELETED ***		
		REMARKS: WR931210.		DEEM MANAGEMENT SERVICES LIMITED	DAL BIANCO, DONALD	C
WR1099051	2018/02/23	CHARGE	\$7,978,753	DEEM MANAGEMENT SERVICES LIMITED		C
WR1100946	2018/03/07	CONSTRUCTION LIEN	\$1,827,409	KIESMETTER EXCAVATING INC.		C
WR1101611	2018/03/12	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** CRH CANADA GROUP INC.		
WR1102134	2018/03/14	CONSTRUCTION LIEN	\$918,432	DEEP FOUNDATIONS CONTRACTORS INC.		C
WR1102417	2018/03/15	APL DEL CONST LIEN		*** COMPLETELY DELETED *** CRH CANADA GROUP INC.		
		REMARKS: WR1101611.				
WR1102923	2018/03/19	CONSTRUCTION LIEN	\$68,580	ONESPACE UNLIMITED INC.		C
WR1104680	2018/03/29	CONSTRUCTION LIEN	\$4,522,591	MAXION MANAGEMENT SERVICES INC.		C
WR1106904	2018/04/12	CONSTRUCTION LIEN	\$336,654	EXP SERVICES INC.		C
WR1107271	2018/04/16	CERTIFICATE		KIESMETTER EXCAVATING INC.		C
		REMARKS: WR1101611.				
WR1107360	2018/04/18	CERTIFICATE		DEEP FOUNDATIONS CONTRACTORS INC.		C
		REMARKS: WR1101611.				
WR1110511	2018/06/02	CERTIFICATE		ONESPACE UNLIMITED INC.		C
		REMARKS: WR1101611.				
WR1118147	2018/06/14	AFL COURT ORDER		OUTRAGE SUPERIOR COURT OF JUSTICE	CRONE SOBERMAN INC.	C
WR1120829	2018/06/25	CERTIFICATE		MAXION MANAGEMENT SERVICES INC.		C
		REMARKS: WR1124680				

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES. IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY. PLEASE ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL.



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LAND  
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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER  
22291-0628 (LTI)

PAGE 5 OF 5  
PREPARED FOR alyssa01  
ON 2018/08/13 AT 14:05:00

• CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT • SUBJECT TO RESERVATIONS IN CROWN GRANT •

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CARD
MR1125115	2015/07/13	CONSTRUCTION LIEN	\$560,283	MAXIM MANAGEMENT SERVICES INC.		C

NOTICE: ALL LISTING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH RESERVATION OPTION REPRESENTED FOR THIS PROPERTY. UNDERSTAND THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

**DONALD DAL BIANCO**

**-and- DEEM MANAGEMENT SERVICES**

Court File No.: CV-18-598657-00CL

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Proceeding Commenced at Toronto

**AFFIDAVIT OF ROGER KIESWETTER**  
(sworn December 19, 2019)

OLDFIELD, GREAVES, D'AGOSTINO, SCRIVEN  
PROFESSIONAL CORPORATION  
172 King Street South  
Waterloo, ON N2J 1P8  
**Edward L. D'Agostino**, edagostino@watlaw.com  
LSUC # A032631H  
Ph: (519) 576-7200  
Fax: (519) 576-0131  
Lawyers for Kieswetter Excavating Inc.

Tab M

**Receiver's Subtrade Lien Timeliness Analysis**

Subtrade Lien Claimant	Claimed last day of work	Date of registration of lien	Number of days for registration of lien ( <b>maximum 45</b> )		Date of action in support of lien	Number of days for an action ( <b>maximum 90</b> )	
			Since claimed last date	Since Jan. 24, 2018		Since claimed last date	Since Jan. 24, 2018
Kieswetter Excavating Inc.	Feb. 2, 2018	March 7, 2018	34	43	April 12, 2018	69	78
OneSpace Unlimited Inc.	Feb. 6, 2018	March 19, 2018	41	54	May 2, 2018	85	98
Deep Foundations Contractors Inc., now GFL Infrastructure Group Inc.	Feb. 1, 2018	March 14, 2018	41	49	April 12, 2018	70	78
EXP Services Inc.	March 28, 2018	April 12, 2018	15	78	May 24, 2018	42	105

Notes:

1. The Jan. 24, 2018 date is the date on which Rob Dal Bianco emailed Paul Michelin to instruct stoppage of work. See Exhibit "Z" to the Affidavit of Rob Dal Bianco sworn July 31, 2019. The correspondence between Maxion and the subtrades that has been provided to the Receiver does not indicate that instructions to stop work were given to the subtrades.
2. The timing requirements for registering a lien and for an action to support the lien (perfecting it) are conjunctive. In other words, both deadlines need to be met. Therefore, if the date of last work of Deep Foundations was in fact Jan. 24, then its lien is out of time because it was registered on March 14 (>45 days) even though the lawsuit was in time (<90 days).

Tab N

**Receiver's review of the lien claim of KieswetterExcavating Inc. (affidavit of Roger Kieswetter sworn Dec. 19, 2019)**

1. The timecards for the lien claimant's workers have been provided and, if true, demonstrate that the last date of work claimed by the lien claimant is accurate.
2. The amounts claimed match to the invoices attached to the affidavit. See the attached spreadsheet for a reconciliation.
3. The affidavit contains records of the payments received by the lien claimant.
4. It is unclear if there was any documentation regarding the agreement or contract between this subtrade and Maxion Construction Management – The Uptown Inc., or whether the provision of services and materials was on a verbal basis. If the former, it has not been provided. If the latter, the affidavit does not set out what that agreement was and only attached invoices.
5. Some of the invoices are to "Maxion Management Services Inc." and others are to "Maxion Construction Management – The Uptown Inc." as shown on the attached spreadsheet. It is unclear whether this was a clerical oversight or a substantive difference.
6. The claim for lien was against the property in question owned by Deem Management Services Limited, but was also against adjacent property owned by 2453678 Ontario Inc. The lien claimant should account for whatever recovery has been made against the other lien property, or account for why no recovery has been made if so.

7. The lien claim includes \$36,373.57 owing to Waterloo Demolition Inc., which the affidavit says is related to the lien claimant (para. 6). That company's lien cannot fall within the lien by Kieswetter. Unless there is other documentation that may apply, that company's lien appears to be out of time and unenforceable and the claim of the lien claimant should be reduced by that amount.

**Deep Management Services Inc. File**

**Kieswetter Excavating Inc.**

		<u>Checked to Affidavit</u>
<b>Amount of lien:</b>	\$1,791,035.12	x
	\$36,373.88	x
	\$ 1,827,409	x

<b>Construction Lien:</b>		<u>Checked to Lien:</u>
Amount claimed owing	\$ 1,827,409	x
Date	March 7, 2018	x
Received as:	WR1100946	x

**Invoices (per Mr. Roger Kieswetter's affidavit, sworn December 19, 2019, Exhibit A and C):**

<u>Invoice No.</u>	<u>Date (m/d/y)</u>	<u>Made out to</u>	<u>Made out to</u>	<u>From</u>	<u>Amount / (Payment)</u>	<u>Checked to Progress Bill</u>	<u>Checked to Invoice</u>
		Maxion Construction Management - the Uptown Inc.	Maxion Construction Management	Kieswetter Excavating Inc.			
17236	5/24/17		x	x	25,425.00	x	
17265	6/23/17		x	x	81,197.99	x	
17297	7/25/17		x	x	106,113.78	x	
17336	8/25/17	x		x	94,992.39	x	
	8/3/17				(25,425.00)		
	9/27/17				(81,197.99)		
	11/7/17				(106,113.78)		
	12/14/17				(94,992.39)		
17351	9/25/17	x		x	91,367.28	x	
17377	10/25/17	x		x	80,139.60	x	
17408	11/24/17	x		x	37,874.93	x	
17450	12/15/17	x		x	277,488.35	x	
17500	12/15/17	x		x	23,602.50	x	x
17501	1/16/18	x		x	727,301.01	x	
17251	1/25/18	x		x	94,581.00	x	
17523	1/31/18	x		x	235,239.08	x	
17522	1/31/18	x		x	75,955.47	x	
17545	2/15/18	x		x	31,703.22	x	
17557	2/28/18	x		x	9,834.39	x	
17658	2/28/18	x		x	105,948.29		x
					1,791,035.12		
				Waterloo Demolition Inc. (company related to Kieswetter per Affidavit)			
5141	9/25/17	x		x	36,373.57		x
					36,373.57		
					1,827,408.69		

**What is outstanding:**

- 1) Have not received the agreement or contract with Maxion Construction Management - The Uptown Inc.
- 2) Although we have received the time cards, we have not received time cards tied to the invoices or the progress bills.
- 3) We have received summarized invoices; however, we have not received detailed breakdowns of the invoices.

**Receiver's review of the lien claim of OneSpace Unlimited Inc. (affidavit of Rod Rowbotham sworn Jan. 17, 2020)**

1. The only evidence of the date that work was last done that has been provided is the docket references in the invoices. If they are true, they demonstrate that the last date of work claimed by the lien claimant is accurate.
2. The amounts claimed match to the invoices attached to the affidavit. See the attached spreadsheet for a reconciliation.
3. There may be clerical errors on two of the invoices attached, because they state that they bill for services after the date of the invoice but there are no entries on the invoices after their date. See the attached spreadsheet for details.
4. It is unclear whether anything was paid for the services rendered at any time, or if the total amount claimed is everything that had been billed. If amounts were paid, details have not been provided and would be relevant for project accounting purposes.
5. The agreement provided by the lien claimant is dated August 2, 2017 and is with "Maxion Construction Management- The Uptown Inc.", but some invoices are to "Maxion Management Services Inc." and others are to "Maxion Construction Management – The Uptown Inc." as shown on the attached spreadsheet. It is unclear whether this was a clerical oversight or a substantive difference.
6. The claim for lien was against the property in question owned by Deem Management Services Limited, but was also against adjacent property owned by 2453678 Ontario Inc.

The lien claimant should account for whatever recovery has been made against the other liened property, or account for why no recovery has been made if so.

**Deep Management Services Inc. File**

**Onespace Unlimited Inc.**

		<u>Checked to Affidavit</u>
<b>Amount of lien</b>	\$68,580.00	x

<b>Construction Lien:</b>		<u>Checked to Lien:</u>
Amount claimed owing	\$ 68,580	x
Date	March 19, 2018	x
Registered as:	WR1102923	x

<b>Contract:</b>		<u>Checked to Contract</u>
Date	June 23, 2017 (revised July 7, 2017, and revised Aug. 2, 2017)	x
To	Maxion Construction Management - the Uptown Inc.	x

**Invoices (per Mr. Rod Rowbotham's affidavit, sworn January 17, 2020, Exhibit B):**

Invoice No.	Date (m/d/y)	Amount	Made out to	From	Description	Checked to Aged AR (Billing Client Name: Maxion Management Services)	Checked to Invoice	Checked to Billing backup (invoice details)	Note:
		\$	Maxion Management Services	Onespace Unlimited Inc.					
15646	10/20/17	8,292.79	x	x	for professional services for the period Sept. 16, 2017 to October 20, 2017	x	x	x	
15647	10/20/17	9,787.50	x	x	for professional services for the period Sept. 16, 2017 to October 23, 2017	x	x	x	We do not know why the invoice date is prior to the ending date of the professional services rendered. This is likely an error, as there do not appear to be any entries after Oct. 20, 2017.
15648	10/20/17	981.97	x	x	for professional services for the period Sept. 16, 2017 to October 23, 2017	x	x	x	We do not know why the invoice date is prior to the ending date of the professional services rendered. This is likely an error, as there do not appear to be any entries after Oct. 20, 2017.
15685	11/23/17	4,577.37	x	x	for professional services for the period Oct. 21, 2017 to Nov. 17, 2017	x	x	x	
15686	11/23/17	1,146.95	x	x	for professional services for the period Oct. 21, 2017 to Nov. 17, 2017	x	x	x	
15687	11/23/17	10,764.66	x	x	for professional services for the period Oct. 21, 2017 to Nov. 17, 2017	x	x	x	

15725	12/18/17	5,262.41	x	x	for professional services for the period Nov. 18, 2017 to Dec. 15, 2017	x	x	x
15726	12/18/17	1,638.50	x	x	for professional services for the period Nov. 18, 2017 to Dec. 15, 2017	x	x	x
15768	1/23/18	4,144.84	x	x	for professional services for the period Dec. 16, 2017 to Jan. 20, 2018	x	x	x
15769	1/23/18	11,689.85	x	x	for professional services for the period Dec. 16, 2017 to Jan. 20, 2018	x	x	x
15770	1/23/18	3,723.92	x	x	for professional services for the period Dec. 16, 2017 to Jan. 20, 2018	x	x	x
15807	2/23/18	6,569.26	x	x	for professional services for the period Feb. 1, 2018 to Feb. 28, 2018	x	x	x
		<u>68,580.02</u>						

**What is outstanding:**

- 1) Were there any amounts paid for the services rendered? If so, we would require backup documentation.
- 2) Is there any other proof of the last date or work claimed, other than the docket references in the invoices?
- 3) We have received the billing breakdowns (including a breakdown of the hours, and rates paid); however, we have not received any time cards.

**Receiver's review of the lien claim of Deep Foundations Contractors Inc., now GFL  
Infrastructure Group Inc. (affidavit of Michael Cianchetti sworn Dec. 18, 2019)**

1. A summary of the timecards for the commencement of work has been provided. A daily log has been provided as evidence for the last date worked, but timecards by the workers noted in the log have not. If the time log is true, it demonstrates that the last date of work claimed by the lien claimant is accurate.
2. The amounts claimed match to the invoices attached to the affidavit. See the attached spreadsheet for a reconciliation.
3. The affidavit attaches a statement of account showing payments of the first two invoices rendered and partial payment of the third, with no payments being made thereafter.
4. The lien claimant advises that there is no formal contract. There was instead a tender for a total price of \$1,860,000, which the lien claimant says was accepted by Maxion Construction Management Inc. . The email dated May 31, 2017 that the lien claimant's letter dated June 1, 2017 refers to as the acceptance of that tender has not been provided.
5. Some of the invoices are to "Maxion Management Services Inc." and others are to "Maxion Construction Management – The Uptown Inc." as shown on the attached spreadsheet. It is unclear whether this was a clerical oversight or a substantive difference.
6. The affidavit states in paragraph 7 that there was an increase in the price for the lien claimant's tender to \$2,110,000 based on revisions to contract drawings. Those drawings have not been provided. There is some corroboration of a price increase in Exhibit 8 to

the affidavit, which is a subsequent change order issued by Maxion Construction Management – The Uptown Inc. dated January 2, 2018, and which refers to the “original contract price” as being \$2,110,000.

7. Many of the invoices are illegible (see for example pages 15-16, 25, 27, and 29 to Exhibit 5 of the affidavit).
8. Included in the lien claim is a claim for delay of \$150,000. Exhibit 7 to the affidavit is the letter from the lien claimant dated December 12, 2017 to “The Maxion Group” asserting the delay claim, but the attachments to that letter are not included. Further review of the delay claim will require provision of those documents.
9. The contractual or common law basis for a delay claim is not clear. If the lien claimant is correct that there is no contract and there is instead only an accepted tender, then the terms of that tender provide in section 4 as follows:

If the Client is the owner or the agent of the owner of the project, then the General Conditions of the current version of the CCDC 2 Stipulated Price Contract shall apply to the tender and to the Agreement between the Tenderer and the Client (“the Agreement”). If the Client is not the owner, or the agent of the owner of the project, then the Subcontract Conditions of the current version of the CCA 1 Stipulated Price Subcontract shall apply. The OAFS General Conditions shall take priority over the CCDC 2 General Conditions and the CCA 1 Subcontract Conditions.

10. Depending on whether the lien claimant was dealing with a Maxion entity that is considered an “owner” for purposes of the *Construction Act*, different provisions may apply. Those provisions should be provided and reviewed when the backup for the delay claim has been provided.
  
11. The claim for lien was against the property in question owned by Deem Management Services Limited, but was also against adjacent property owned by 2453678 Ontario Inc. The lien claimant should account for whatever recovery has been made against the other lien property, or account for why no recovery has been made if so.

**Deep Management Services Inc. File**

**Deep Foundations Contractors Inc.**

		<u>Checked to Affidavit</u>
<b><u>Amount of lien:</u></b>	\$918,432.00	x

		<u>Checked to Lien:</u>
Amount claimed owing	\$ 918,432	x
Date	March 14, 2018	x
Registered as:	WR1102134	x

**Invoices (per Mr. Michael Cianchetti's affidavit, sworn December 18, 2019, Exhibit 5):**

<u>Invoice No.</u>	<u>Date (m/d/y)</u>	<u>Made out to</u>	<u>Made out to</u>	<u>From</u>	<u>Total Invoice Amt.</u>	<u>Paid</u>	<u>Amount balance due</u>	<u>Checked to Statement of Account dated March 14, 2018</u>	<u>Checked to Progress Bills</u>
		Maxion Construction Management Inc.	Maxion Construction Management - The Uptown Inc.	Deep Foundation Contractors Inc.					
19312	7/25/17	x		x	50,850.00	50,850.00	-	x	x
19426	8/23/17	x		x	76,275.00	76,275.00	-	x	x
19619	9/25/17		x		414,427.50	400,000.00	14,427.50	x	x
19700	10/26/17	x			297,472.50		297,472.50	x	x
19791	11/23/17	x		x	53,322.87		53,322.87	x	x
19901	12/19/17		x	x	63,308.25		63,308.25	x	x
20024	1/24/18		x	x	167,245.65		167,245.65	x	x
20100	2/2/18		x	x	72,331.87		72,331.87	x	x
20222	2/01/18		x	x	105,768.00		105,768.00	x	x
Holdback invoice 1759	2/2/18		x	x	144,555.74		144,555.74	x	x
					<u>1,445,557.38</u>	<u>527,125.00</u>	<u>918,432.38</u>		

**What is outstanding:**

- 1) Part of Exhibit 5 is illegible (for instance some of the invoices and invoice breakdowns, pages 24 to 42). Also, there are some time card entities; however, they are also illegible. We require legible copies.
- 2) We have not received Maxion's email dated May 31, 2017 (where says that it accepted Deep's tender, as noted in Deep's letter dated June 1, 2017 in Exhibit 2).
- 3) We require documentation to substantiate the claimed increase in the contract price to \$2.11 million (see para. 7 of the Affidavit). We note that in Exhibit 8 of this Affidavit, there is a "Subcontract Change Order", dated Jan. 2, 2018, signed by Deep (from Maxion), which states that the original contract amount was \$2.11 million.
- 4) Require enclosures related to the delay claim of \$150,000 (see Exhibit 7 of the Affidavit).

**Receiver's review of the lien claim of EXP Services Inc. (affidavit of Gordon Ho sworn Dec.**

**23/19)**

1. The only evidence of the date that work was last done that has been provided is the docket references in the invoices. If they are true, they demonstrate that the last date of work claimed by the lien claimant is accurate.
2. The amounts claimed match to the invoices attached to the affidavit. See the attached spreadsheet for a reconciliation.
3. The affidavit attaches fee agreements, purchase orders and accepted proposals in support of the claim that it had “agreements with Maxion to provide engineering services.”
4. Some of the invoices are to “Maxion Management Services Inc.” and others are to “Maxion Construction Management – The Uptown Inc.” as shown on the attached spreadsheet. It is unclear whether this was a clerical oversight or a substantive difference.
5. It is unclear whether anything paid for the services rendered at any time, or if the total amount claimed is everything that had been billed. If amounts were paid, details have not been provided and would be relevant for project accounting purposes.
6. The affidavit refers in paragraph 17 to difficulties for this lien claimant in getting paid as early as December 17, 2015 and suggests that work was going to be placed on hold pending payment. The invoices claimed date from September 22, 2016 onwards, so the Receiver assumes that amounts owing prior to December 17, 2015 were paid.

7. The statement of account dated March 26, 2018 and attached as exhibit “M” to the affidavit shows invoices outstanding for as much as 550 days by that point. It is unclear why overdue amounts were permitted to be outstanding so long given the affidavit’s references to earlier difficulties in payment and cessation of work unless paid.
  
8. The claim for lien was against the property in question owned by Deem Management Services Limited, but was also against adjacent property owned by 2453678 Ontario Inc. The lien claimant should account for whatever recovery has been made against the other lien property, or account for why no recovery has been made if so.

**Deep Management Services Inc. File**

**exp Services Inc.**

		<u>Checked to Affidavit</u>
<b><u>Amount of lien</u></b>	\$ 336,654	x

<b><u>Construction Lien:</u></b>		<u>Checked to Lien:</u>
Amount claimed owing	\$ 336,654	x
Date	April 12, 2018	x
Received as:	WR1106904	x

**Invoices (per Mr. Gordon Ho's Affidavit sworn Dec. 23, 2019, Appendix M):**

<u>Invoice No.</u>	<u>Date</u>	<u>Made out to:</u>	<u>Made out to</u>	<u>From</u>	<u>Amount</u>	<u>Description</u>	<u>Checked to Invoice</u>	<u>Checked to "Statement" O/S Invoices</u>
		Maxion Management Services Inc.	Maxion Construction Management - The Uptown Inc.	exp Services Inc.	\$			
337000	9/22/16	x		x	2,293.90	Progress invoice for period ending Aug. 31, 2016	x	
341662	10/20/16	x		x	1,146.95	Progress invoice for period ending Sept. 30, 2016	x	
395534	9/19/17		x	x	8,124.70	Progress invoice for period ending Aug. 25, 2017	x	x (dated March 26, 2018)
397216	9/27/17	x		x	21,121.17	Progress invoice for period ending Aug. 31, 2017	x	
402730	10/27/17	x		x	33,451.39	Progress invoice for period ending Sept. 30, 2017	x	

408450	11/24/17	x	x	16,538.37	Progress invoice for period ending Oct. 31, 2017	x	
408454	11/24/17	x	x	149.16	Progress invoice for period ending Oct. 31, 2017	x	
408788	11/27/17	x	x	43,889.20	Professional services for period ending Oct. 27, 2017	x	x (dated March 26, 2018)
413328	12/19/17	x	x	11,998.58	Progress invoice for period ending Nov. 30, 2017	x	
413562	12/19/17	x	x	65,438.15	Professional services for period ending Nov. 24, 2017	x	x (dated March 26, 2018)
417554	1/25/18	x	x	10,204.24	Progress invoice for period ending Dec. 31, 2017	x	
418611	1/25/18	x	x	32,409.18	Professional services for period ending Dec. 29, 2017	x	x (dated March 26, 2018)
425379	8/8/2018	x	x	28,356.36	Progress invoice for period ending Feb. 28, 2018	x	
428190	3/23/18	x	x	61,532.77	Professional services for period ending Feb. 23, 2018	x	x (dated March 26, 2018)
				<u>336,654.12</u>			

**What is outstanding:**

- 1) Were there any amounts paid for the services rendered? If so, we would require backup documentation.
- 2) Was there any other proof of the last day of work (March 28, 2018), other than the docket entries on the invoices?
- 3) Why did they continue work on the project after Dec. 17, 2015, to put further work on hold due to payment issues? It seems that they were not paid before.
- 4) We have not received time cards, nor detailed breakdowns of the invoices.

Tab O

**In the Matter of the Receivership of Deem Management Services Limited  
Interim Statement of Receipts and Disbursements  
For the Period May 31, 2018 to February 28, 2021**

Court #: 35-124488

Estate #: 35-124488

**Sale of 229 Lexington Road**

Gross Purchase Price	\$	19,960,039.14	
Rent Collected	\$	60,000.00	
Advances from Secured Creditor (Receiver Certificate) Note 1	\$	189,277.30	
HST Refund	\$	118,186.18	
Interest Collected from Term Deposit Note 2	\$	152,493.50	
<b>Total Receipts</b>			<b>\$ 20,479,996.12</b>

Less:

		First Mortgage	\$ (8,299,346.58)
		Second Mortgage & Receiver Certificates	\$ (4,944,692.24)
			\$ (13,244,038.82)

*Net Proceeds* \$ 7,235,957.30

Less: Professional Disbursements

		Cushman & Wakefield	\$ (293,658.75)
		Blaney's	\$ (350,613.76)
		GSNH	\$ (379,249.88)
		Crowe Soberman Inc.	\$ (268,166.00)
		HST on Crowe Soberman Fees	\$ (34,861.58) \$ (1,326,549.97)

Less: Disbursements paid by the Receiver

Monthly Mortgage Payments (Dal Bianco)	\$	(248,794.80)	
Monthly Mortgage Payments (IMC)	\$	-	
Filing Fees	\$	(140.00)	
Wiring Charges	\$	(35.00)	
Receiver General	\$	(180,724.31)	
Software Charge	\$	(310.75)	
Bailiff Charges	\$	(7,107.70) \$ (437,112.56)	\$ (15,007,701.35)

**Total** **\$ 5,472,294.77**

Balance in GL **\$ 5,472,294.77**

**E&OE**

Note 1 : represents two monthly payments for June and July, 2018, the third payment for August was sent directly to IMC.

Note 2 : most recent interest earned from Term Deposit has not been allocated as the maturity date was March 17, 2021

and information from the bank has not yet been received as of the date of the report

Tab P

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and  
THE UPTOWN INC.**

Respondent

**AFFIDAVIT OF HANS RIZARRI  
SWORN APRIL 8, 2021**

I, **Hans Rizarri**, of the City of Toronto, in the Province of Ontario, **AFFIRM** and **STATE THE FOLLOWING TO BE TRUE:**

1. I am a Licensed Insolvency Trustee with the firm of Crowe Soberman Inc. ("**Crowe**"), the Court Appointed Receiver of Deem Management Services Limited ("Deem"), and The Uptown Inc. ("Uptown"), (collectively referred to as the "Companies"), and as such have personal knowledge of the matters deposed to herein.
2. On May 31, 2018 Crowe was appointed Receiver (the "Receiver") without security of all of the assets, undertakings and properties of the Companies pursuant to an Order made by the Honourable Justice Wilton-Siegel of the Ontario Superior Court of Justice.

3. This affidavit is made in support of a motion to be made by the Receiver that seeks, *inter alia*, approval of the fees and disbursements of Crowe in its capacity as Receiver in respect of services provided in connection with these proceedings.
4. Crowe's detailed statement(s) of account which form the period February 1, 2019 through March 31, 2021, disclose in detail (i) the names, hourly rates and time expended by each person who rendered services, and (ii) description of services rendered for the relevant time period. A chart that summarizes the Receiver's fees and detailed time sheets are attached as Exhibit "1" to this Affidavit.
5. I have been actively involved in this matter. I have reviewed the Crowe detailed statement of account and I consider the time expended and the fees charged to be reasonable in light of the services performed and the prevailing market rates for such services.

Affirmed before me at the City of Toronto  
in the Province of Ontario, on this 8th day of  
April, 2021



Commissioner for Taking Affidavits, etc.

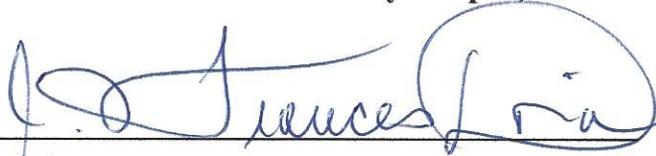


HANS RIZZARRI

Alfonsina Frances Doria, a Commissioner, etc.,  
Province of Ontario, for Crowe Soberman Inc.,  
and its affiliates.  
Expires May 4, 2021.

**This is Exhibit "1" referred to  
in the Affidavit of Hans Rizarri**

**Sworn before me this 8th day of April, 2021**



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**A Commissioner for Taking Oaths, in and for**

**The Province of Ontario**

Alfonsina Frances Doria, a Commissioner, etc.,  
Province of Ontario, for Crowe Soberman Inc.,  
and its affiliates.  
Expires May 4, 2021.

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

Client ID: 1020677

Name: Deem Management Services Inc.

Contract: 1020677

Contract Name: Deem Management Services Inc.

**Project: 029444 Deem Management Services Inc.**

<b>Date</b>	<b>Workcode</b>	<b>Description</b>	<b>Type</b>	<b>Empl ID</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
2/26/2019	5713	Receivership	Hour	HMR	0.80	600.00	480.00
Review of motion material, status of hearing, responses waiting Eric Gionet, receipts and disb; planning							
2/27/2019	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.50	600.00	300.00
Court hearing follow up with B.Bissell							
2/27/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.15	350.00	52.50
Emails w counsel on next steps,							
2/28/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.35	350.00	122.50
Motion record and website, materials from responding creditor							
3/1/2019	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	1.10	600.00	660.00
Eric Gionet lawyer for Maxion request of additional info, query; dis with GH, call with B.Bissell on same, scheduling required with court, planning							
3/1/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.40	350.00	140.00
Conference calls with counsel, various emails on next steps w follow up questions for Maxion counsel,							
3/4/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.20	350.00	70.00
Website updates re- motion records							
3/15/2019	5720	CRA / Audit / Filings	Hour	GRH	0.50	350.00	175.00
HST returns for the uptown							
3/26/2019	5710	Banking - File Specific	Hour	FX	0.20	225.00	45.00
Review banking to date with Hans							

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

3/26/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.25	350.00	87.50
Emails from counsel on response to service list, provide approval on same							
3/29/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.25	350.00	87.50
Initial review of Deem claim							
4/1/2019	5713	Receivership	Hour	HMR	0.60	600.00	360.00
Corresp from lien claimants, relief sought x receiver by E.Gionet for Maxium, position of receiver thereof							
4/1/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.20	350.00	70.00
Various emails w counsel on next steps,							
4/10/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.40	350.00	140.00
Numerous emails w counsel, corporate search, emails w counsel							
4/10/2019	5713	Receivership	Hour	HMR	0.30	600.00	180.00
Corresp with B.Bissell, corresp bw legal counsel, status review							
4/12/2019	5704	Review	Hour	HMR	0.60	600.00	360.00
Maximum claims, director actions re Paul Michelin, position of proposal trustee thereof, dis with legal counsel							
4/16/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.15	350.00	52.50
Emails w counsel on scheduling							
4/16/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.10	350.00	35.00
Emails from counsel on scheduling							
4/22/2019	5710	Banking - File Specific	Hour	FX	0.20	225.00	45.00
Review banking to date with Hans							
4/23/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.20	350.00	70.00
Various emails re court attendance							
4/24/2019	5713	Receivership	Hour	HMR	1.20	600.00	720.00

4/6/2021 11:52 AM

**Billing Worksheet Report****From: 2/1/2019 To: 3/31/2021**

Report from B.Bissell re court attendance, scheduling of receiver's motion, responses, examination thereof, discharge of personal bankruptcy of Michelin, documents and information to date receiver, review, planning, receiver's position

4/24/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.50	350.00	175.00
Various emails w counsel on result of hearing, planning next steps, strategy, timing on reports							
4/25/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.40	350.00	140.00
Various emails with lien claimants on timelines for perfection							
4/25/2019	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.60	600.00	360.00
Exp Services Inc. project detail report in support of lien claim, review prvs lien claim							
4/25/2019	5708	Asset Realization	Hour	HMR	0.80	600.00	480.00
Buyer request of letter for City of Waterloo, corresp B.Bissell, General Conveyance document on sale, dis with buyer rep on same, review of receiver's position							
4/26/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.40	350.00	140.00
Emails from purchaser on request to send information to city of waterloo, continued emails from lien claimants							
5/1/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.75	350.00	262.50
Review of correspondence and confirm price allocation from purchaser, review of email from counsel, memo, and corresponding email							
5/6/2019	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.70	600.00	420.00
Buyer request of rep letter to city, review with B.Bissell and response							
5/7/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.40	350.00	140.00
Emails re books and records request, emails and reievw of draft correspondence from purchaser							
5/10/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.10	350.00	35.00
File updates							
5/13/2019	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.80	600.00	480.00
Representation letter requested by purchaser for City of Waterloo, review with B.Bissell on same							
5/17/2019	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.50	600.00	300.00

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

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Rep letter to purchaser; lien claimants Kieswetter Excavating review of info submitted							
5/27/2019	5710	Banking - File Specific	Hour	FX	0.25	225.00	56.25
Process term deposit renewal and posting of interest							
5/27/2019	5710	Banking - File Specific	Hour	FX	0.20	225.00	45.00
Review banking to date with Hans							
5/28/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.30	350.00	105.00
Emails on status of books and records							
5/29/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.40	350.00	140.00
Review of kiesweeter lien materials							
5/30/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.65	350.00	227.50
Correspondence to purchaser, emails w counsel, review of Maxxion lien documents							
5/30/2019	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	600.00	180.00
Purchaser confirmation letter with City							
5/31/2019	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	1.20	600.00	720.00
Review motion material from Maxion, review of previous corresp and lien timelines information previously provided, planning							
6/3/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	2.00	350.00	700.00
Review of motion record, affidavit, exhibits, paul michelin/maxion, emails from accountant on request.send materials on same							
6/5/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.40	350.00	140.00
Various emails with counsel on materials and concerns on same							
6/6/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.45	350.00	157.50
Various emails w counsel on amended affidavit and timing							
6/12/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.15	350.00	52.50
Emails re books and records w counsel, Maxion provided,							
6/13/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.10	350.00	35.00

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

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Emails on request for additional scheduling and responding							
6/14/2019	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.60	600.00	360.00
Corresp from B.Bissell, responses from accountant rep Dal Bianco re affidavit from Michelin, position of receiver thereof request in affidavit format; review of affidavit							
6/14/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.20	350.00	70.00
Review with Hans re- Affidavit from Micheline							
6/17/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.75	350.00	262.50
Review of response to michelin affidavit, various emails w counsel							
6/17/2019	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	600.00	180.00
Corresp between legal counsel, planning with B.Bissell							
6/19/2019	5704	Review	Hour	HMR	0.80	600.00	480.00
Review corresp Brad Philips lawyer for Rob Dal B; review of Pilutti corresp in response to Michelin affidavit, receiver's position review, planning							
6/19/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.20	350.00	70.00
Emails w counsel on next steps re affidavits							
6/21/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	1.00	350.00	350.00
Various emails with counsel on court attendance, additional materials, scheduling dates, review of Pilutti							
6/24/2019	5713	Receivership	Hour	HMR	0.80	600.00	480.00
Review of corresp from B.Bissell re post court hearing scheduling, corresp bw legal counsel, dis with B.Bissell reporting as receiver, timing thereof; planning							
6/28/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.40	350.00	140.00
Review of new timeline and endorsements, follow up emails between counsel							
6/28/2019	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.60	600.00	360.00
McEwan endorsement revised schedule to Oct 24; E.Gionet corresp re Blaneys legal accounts request for review, corresp thereof B.Bissell							
7/2/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.20	350.00	70.00
Various emails w counsel on docket request							

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

7/16/2019	5710	Banking - File Specific	Hour	FX	0.20	225.00	45.00
Review banking to date with Hans							
7/18/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.25	350.00	87.50
Review, planning, scheduling							
7/19/2019	5720	CRA / Audit / Filings	Hour	GRH	0.40	350.00	140.00
Prepare and File HST returns							
7/22/2019	5720	CRA / Audit / Filings	Hour	GRH	0.75	350.00	262.50
Continue to prepare and file HST returns							
7/31/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.30	350.00	105.00
Various emails w counsel on materials recently served							
8/2/2019	5710	Banking - File Specific	Hour	FX	0.20	225.00	45.00
Review banking to date with Hans							
8/2/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	1.00	350.00	350.00
Review of motion record							
8/14/2019	5713	Receivership	Hour	HMR	1.70	600.00	1,020.00
Review of updated affidavits from parties; dis with legal counsel as to receiver's position; planning							
8/16/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.20	350.00	70.00
Various emails w counsel on meeting							
8/20/2019	5710	Banking - File Specific	Hour	FX	0.25	225.00	56.25
Process term deposit and renewal							
8/20/2019	5710	Banking - File Specific	Hour	FX	0.20	225.00	45.00
Review banking to date with Hans							
8/20/2019	5720	CRA / Audit / Filings	Hour	GRH	0.40	350.00	140.00
Outstanding HST returns							
8/29/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	2.75	350.00	962.50

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

Meeting with counsel, prep for same,travel								
8/29/2019	5713	Receivership	Hour	HMR	3.20	600.00	1,920.00	
Meeting with legal counsel review of proceedings to date, materials filed to date various lien claimaints, position of creditors thereof, examinations Sept, court hearing Oct, timing concerns need for creditor group to follow court schedule, planning								
9/20/2019	5713	Receivership	Hour	HMR	0.80	600.00	480.00	
Timeliness and quantum of registered liens: corresp from Eric Gionet on behalf of lien claimants, response thereof, position of receiver, planning								
9/25/2019	5710	Banking - File Specific	Hour	FX	0.25	225.00	56.25	
Review banking to date with Hans								
10/2/2019	5713	Receivership	Hour	HMR	0.80	600.00	480.00	
Corresp from lien claimants counsel; corresp w B.Bissell on same, review with GH, receiver's position re scheduled court hearing, planning								
10/2/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.35	350.00	122.50	
Various emails w counsel on next steps, review GL								
10/3/2019	5713	Receivership	Hour	HMR	1.30	600.00	780.00	
Review with legal counsel receiver's position, report to court re Oct 24 court hearing, alternatives, review of several corresp from lien claimants to date, no examinations took place although scheduled								
10/4/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.10	350.00	35.00	
Various on next steps								
10/7/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	1.25	350.00	437.50	
Continue review of file re- next steps								
10/7/2019	5704	Review	Hour	HMR	1.70	600.00	1,020.00	
Review w B.Bissell re corresp from legal counsel, receiver's position thereof, reporting to the court considerations, need for steps before Oct 24.19 court hearing consider 9:30, mediation or schedule examinations; review of material from parties								
10/9/2019	5713	Receivership	Hour	HMR	4.50	600.00	2,700.00	
Review of motion materials between parties. Review of Affidavits filed to date. Analysis of various positions of parties. Meeting with B Bissel. Detailed discussions of Receiver's position.								

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

Date	Case No.	Description	Unit	Code	Hours	Rate	Amount
10/9/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	2.75	350.00	962.50
		review of affidavits, memo, accounting records, prep for meeting, meeting w counsel on next steps re hearing and materials					
10/10/2019	5711	Reports	Hour	GRH	1.50	350.00	525.00
		Prepare report of Receiver					
10/10/2019	5711	Reports	Hour	HMR	1.80	600.00	1,080.00
		Report of receiver with GH, structure, contents for Oct 24 court hearing; strategy and planning					
10/11/2019	5711	Reports	Hour	HMR	2.60	600.00	1,560.00
		Report of receiver draft with GH; position of receiver considering various position of lien claimants, Maxion motion and 3rd mortgagee re Oct 24 hearing					
10/15/2019	5702	Admin work file - General (description mandatory)	Hour	GRH	0.40	350.00	140.00
		various emails w counsel on status of report					
10/15/2019	5711	Reports	Hour	HMR	2.30	600.00	1,380.00
		Report to court with B.Bissell, GH; corresp from E.Gionet thereof, planning to court hearing					
10/16/2019	5711	Reports	Hour	HMR	2.10	600.00	1,260.00
		Corresp between legal counsel, Blaneys corresp re 9:30 scheduling request as no examinations done and material to prepare, position of receiver thereof; report to court with B. Bissell continued					
10/17/2019	5711	Reports	Hour	HMR	1.80	600.00	1,080.00
		Report of receiver, dis with Brendan Bissell report of receiver, status of factum; correspondence between legal counsel 930 hearing, Oct 24 hearing request by D.Ullmann for adjournment, planning thereof					
10/18/2019	5713	Receivership	Hour	HMR	1.30	600.00	780.00
		Extension request D.Ullmann, opposed by various parties, prep to attend 930, dis with B.Bissell, rescheduled to Nov; review of report, positions of various parties					
10/24/2019	5711	Reports	Hour	HMR	2.60	600.00	1,560.00
		Short dis with B.Bissell, receiver's report draft, factum of receiver review					
10/25/2019	5711	Reports	Hour	HMR	0.30	600.00	180.00
		Report of receiver review, corresp with B.Bissell					

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

Date	Case No.	Description	Unit	Code	Rate	Amount	Balance
10/29/2019	5711	Reports	Hour	HMR	0.80	600.00	480.00
Correspondence and call to B.Bissell re continuing matters, report changes and planning service thereof							
10/29/2019	5710	Banking - File Specific	Hour	FX	0.25	225.00	56.25
Review banking to date with Hans							
10/31/2019	5711	Reports	Hour	HMR	1.60	600.00	960.00
Review of factum, book of authorities; position of receiver re lien claimants, mortgagee							
11/11/2019	5713	Receivership	Hour	HMR	0.30	610.00	183.00
Review, planning for court hearing with GH							
11/15/2019	5704	Review	Hour	HMR	1.20	610.00	732.00
Corresp from B.Bissell re Maxion documents provided, analysis thereof; corresp from parties on same							
11/18/2019	5704	Review	Hour	HMR	1.20	610.00	732.00
Corresp from B.Bissell; receipt and review of factum from D.Ullmann, planning re court hearing							
11/19/2019	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Process term deposit and renewal							
11/21/2019	5713	Receivership	Hour	HMR	1.00	610.00	610.00
Monitor of court attendance; dis with GH; correspondence with B.Bissell							
11/22/2019	5713	Receivership	Hour	HMR	0.60	610.00	366.00
Review of court order, dis with B.Bissell court order, fees, timing next milestone Jan, Feb, Mar; receiver's position thereof; review of same with GH, planning							
11/28/2019	5714	Div I Proposal	Hour	HMR	0.30	610.00	183.00
Review of legal fees; dis with GH re next steps							
11/29/2019	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Review banking to date with Hans							
12/5/2019	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
process and prepare cheques re- legal disbursements							
12/17/2019	5704	Review	Hour	HMR	0.40	610.00	244.00

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

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Dis with B.Bissell re summons for examination required to various parties as no progress on their own, need to organize the various parties re early 2020 court hearings; review parties position to date,							
1/10/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	610.00	183.00
Corresp from B.Bissell re examination, corresp between legal counsel, non progress continued							
1/13/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Review banking to date with Hans							
1/15/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	610.00	183.00
Corresp bw legal counsel re attempts for examination, request 9:30 in advance of Jan 29 court hearing							
1/17/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Process term deposit and renewal							
1/17/2020	5713	Receivership	Hour	HMR	0.50	610.00	305.00
Corresp from various legal counsel re 9:30 request of receiver, continued delays and non progress							
1/20/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	1.20	610.00	732.00
D.Ullmann re section 78 issue hearing request, corresp from various legal counsel; 9:30 hearing tomorrow prep with GH, review matters to date, corresp B.Bissell, position of receiver thereof							
1/21/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.20	610.00	122.00
9:30 court attendance corresp B.Bissell, planning for Jan 29 hearing							
1/22/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Review banking to date with Hans							
1/28/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	1.80	610.00	1,098.00
Corresp re case conf tomorrow; dis with B.Bissell on same; briefing note review, receiver supp report and factum review in prep for case conference							
1/29/2020	5713	Receivership	Hour	HMR	2.20	610.00	1,342.00
Prep for and attend case conference before Justice Hainey; post dis with B.Bissell, legal counsel							
2/11/2020	5713	Receivership	Hour	HMR	0.40	610.00	244.00
Corresp B.Bissell, continuing matters incl s.78(3) arguments, some banking							
2/26/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.20	610.00	122.00

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

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Short dis with D.Ullmann							
2/27/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.60	610.00	366.00
Agreed stmt of facts re s.78 from parties, corresp from B.Bissell on same							
3/3/2020	5713	Receivership	Hour	HMR	0.60	610.00	366.00
Responding Factum of Donald Dal Bianco for the hearing scheduled for March 6, 2020; corresp between legal counsel on same							
3/4/2020	5711	Reports	Hour	HMR	1.20	610.00	732.00
Review of receiver's factum and brief of authorities; Maxiom factum review, corresp between legal counsel thereof; position of receiver thereof							
3/5/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Review banking to date with Hans							
3/5/2020	5713	Receivership	Hour	HMR	0.80	610.00	488.00
Responding Brief of Authorities of Dal Bianco for March 6 hearing; short dis with legal counsel thereof							
3/6/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.60	610.00	366.00
Hearing before Justice Gilmore re s78 arguments; review of court material, monitor, reporting from B.Bissell thereof							
3/11/2020	5713	Receivership	Hour	HMR	0.20	610.00	122.00
Short discussion with D.Ullmann							
3/12/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.60	610.00	366.00
Report by B.Bissell re s78 motion options available to trustee re appeal to be filed, short review of material filed, some research on same							
3/19/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.60	610.00	366.00
Receipt and review of Notice of Appeal filed by Dal Bianco							
3/23/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.20	610.00	122.00
Corresp lawyer re notice of appeal							
3/31/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.20	610.00	122.00
Appeal corresp receipt and review							

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

Date	File No	Description	Unit	Rate	Hours	Amount	Balance
4/13/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Review banking to date with Hans							
4/16/2020	5704	Review	Hour	HMR	0.60	610.00	366.00
B.Bissell re affidavits of lien claimants o/s for a year, requesting a response, to review w follow up							
4/20/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Process term deposit renewal and posting interest							
4/21/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	1.70	610.00	1,037.00
Receipt and review of Appeal Book and Compendium, Factum, Brief of Authorities re Appellant Don Dal Bianco							
4/23/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.60	610.00	366.00
Corresp E.Gionet re appeal by Dal Bianco and issues thereof; corresp B.Bissell on same, review of receiver's position							
4/27/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.40	610.00	244.00
Corresp J.Armel follow up on receiver's position of trades, affidavit review, corresp between legal counsel thereof, prep for conf call with B.Bissell review applicable affidavits							
4/28/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Review banking to date with Hans							
5/12/2020	5720	CRA / Audit / Filings	Hour	GRH	0.30	360.00	108.00
HST deemed trust demand, emails and call with CRA agent							
5/14/2020	5702	Admin work file - General (description mandatory)	Hour	GRH	0.35	360.00	126.00
Call with counsel, review of emails							
5/15/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	1.80	610.00	1,098.00
Prepare call review of affidavits of subtrade liens, stmt of facts review, call with B.Bissell on same, planning, response to Jeff Armel as to timing, planning re further detailed review per trade amounts and further considerations; corresp to subtrades lawyer							
5/15/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.50	610.00	305.00
Appeal route corresp from B.Bissell							

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

5/15/2020	5710	Banking - File Specific	Hour	HMR	0.20	610.00	122.00
Draft Statement of Receipts and Disbursements and bank balance							
5/31/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	1.60	610.00	976.00
Lien claimants review of info and status, request for comment; staff planning							
6/1/2020	5704	Review	Hour	JIP	0.75	385.00	288.75
Review file / letter from May 2018, prep for and discuss the file with Hans							
6/1/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.80	610.00	488.00
Lien claimants review in detail w Julie Z. for further analysis in prep for additional info request to parties							
6/2/2020	5713	Receivership	Hour	JIP	0.75	385.00	288.75
Review file, and emails; discuss with hans							
6/2/2020	5720	CRA / Audit / Filings	Hour	HMR	0.30	610.00	183.00
CRA claim review							
6/2/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.40	610.00	244.00
Lien claimants analysis review, planning; legal counsel corresp re appeal route and issues thereof							
6/4/2020	5713	Receivership	Hour	JIP	4.00	385.00	1,540.00
Review memos, file / documents and compile back-up schedules of claim liens							
6/4/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.70	610.00	427.00
Lien claimant review w Julie Z, set up and analysis thereof							
6/4/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.60	610.00	366.00
Corresp from legal counsel re appeal route to take, analysis by legal counsel							
6/5/2020	5713	Receivership	Hour	JIP	6.25	385.00	2,406.25
Call with Hans, work on schedule re: liens, check back up, email to Hans							
6/5/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	1.20	610.00	732.00
Liens claimants review w staff, corresp B.Bissell on same							
6/10/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	2.20	610.00	1,342.00

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

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Review of all lien claimants analysis; detailed dis w B.Bissell and Julie Z on same, strategy and planning							
6/10/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	610.00	183.00
Legal counsel corresp re draft order							
6/10/2020	5713	Receivership	Hour	JIP	1.50	385.00	577.50
Prep for, and call with Brendan and Hans, review informatoin received from Brendan							
6/11/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Review banking to date with Hans							
6/11/2020	5713	Receivership	Hour	JIP	0.75	385.00	288.75
Review info - from brendan							
6/11/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.20	610.00	122.00
Appeal route and appeal documents corresp from legal counsel							
6/12/2020	5713	Receivership	Hour	JIP	0.50	385.00	192.50
Review info, update schedules							
6/15/2020	5713	Receivership	Hour	JIP	2.00	385.00	770.00
review info, update schedules, double check invoices - exp, emails to / from hans, comments on Brendan's email and information sent re: Maxion							
6/15/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	1.30	610.00	793.00
Lien claimants contd review, Maxion information stmt of accounts provided to date and applicable agreements							
6/17/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Process term deposit and term deposit renewal							
6/19/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.60	610.00	366.00
Review of analysis re Maxion claim, corrresp B.Bissell							
6/29/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	610.00	183.00
Lien claimants info o/s, review next steps in process, corresp legal counsel							
7/8/2020	5713	Receivership	Hour	JIP	0.50	385.00	192.50

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

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Read through emails, and Gilmore motion							
7/10/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	1.30	610.00	793.00
B.Bissel re motion material of receiver, Justice Gilmore order draft							
7/13/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	610.00	183.00
B.Bissell corresp re H.Rosenberg comments re draft order							
7/16/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.70	610.00	427.00
Receiver's motion for advice and directions issued							
7/20/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	610.00	183.00
B.Bissell corresp re receiver's motion							
7/20/2020	5720	CRA / Audit / Filings	Hour	HMR	0.30	610.00	183.00
CRA HST amount o/s to be paid, initial review for validity							
7/21/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.40	610.00	244.00
Receiver motion, service list inquiry by counsel, review w staff receiver motion							
7/24/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	610.00	183.00
Deems delayed claim of 140k review and follow up							
7/27/2020	5713	Receivership	Hour	JIP	0.50	385.00	192.50
Review info / emails, prep for call with Hans							
7/27/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	610.00	183.00
Short review re Court of appeal hearing tomorrow,							
7/28/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Review banking to date with Hans							
7/28/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.60	610.00	366.00
B.Bissell re court hearing results directions court of appeal, planning							
7/29/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.70	610.00	427.00
B.Bissell re lien claimants process, data, info and questions compiled to date by staff							

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

7/29/2020	5710	Banking - File Specific	Hour	HMR	0.30	610.00	183.00
Bank rec, interim rec disb with FX							
7/29/2020	5702	Admin work file - General (description mandatory)	Hour	FX	0.35	240.00	84.00
Review WIP re- receiver fees to date							
7/31/2020	5704	Review	Hour	HMR	0.50	610.00	305.00
Meeting w B.Bissell re court proceedings status to date, receiver approvals planning							
7/31/2020	5720	CRA / Audit / Filings	Hour	HMR	0.20	610.00	122.00
Review statements, applicable considering transactions pre receivership							
8/12/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Review banking to date with Hans							
8/19/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Process term deposit and renewal							
8/31/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	610.00	183.00
Review of material re upcoming court hearing							
9/2/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Review banking to date with Hans							
9/3/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.20	610.00	122.00
Court of appeal hearing monitor							
9/16/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.20	610.00	122.00
B.Bissell corresp re court of appeal decision							
9/25/2020	5720	CRA / Audit / Filings	Hour	HMR	0.60	610.00	366.00
CRA reassessment for May 2018 period ending done in January 2020 unclear, review and follow up w CRA, corresp to legal counsel							
10/6/2020	5704	Review	Hour	HMR	0.50	610.00	305.00
Review status of litigation bw parties, role or receiver, audit of lien claimaints, consider mediation w B.Bissell							

4/6/2021 11:52 AM

## Billing Worksheet Report

From: 2/1/2019 To: 3/31/2021

10/8/2020	5704	Review	Hour	HMR	0.50	610.00	305.00
B.Bissell re status meeting review agenda post court of appeal decision							
10/13/2020	5704	Review	Hour	HMR	1.80	610.00	1,098.00
B.Bissell re status discussion of all matters, next steps of receiver incl directions to court re lien claimants support, s.78 proceedings, priority and waterfall of claims and variables thereof, protracted litigation over several years, most recent court order							
10/22/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Process term deposit and renewal							
10/23/2020	5710	Banking - File Specific	Hour	FX	0.25	240.00	60.00
Review banking to date with Hans							
10/27/2020	5704	Review	Hour	HMR	0.80	610.00	488.00
B.Bissell re lien claims supporting documentation, review to date and further info required, to be requested; corresp to parties thereof							
11/2/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.20	620.00	124.00
Mediation discussions with legal counsel							
11/5/2020	5710	Banking - File Specific	Hour	FX	0.25	245.00	61.25
Review banking to date with Hans							
11/9/2020	5704	Review	Hour	HMR	0.80	620.00	496.00
Motion record to quash the appeal Eric Gionet for respondent, receipt and review; trustee position thereof							
11/9/2020	5704	Review	Hour	HMR	0.40	620.00	248.00
Review of analysis of each lien claimant to date, follow up and planning							
11/18/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	620.00	186.00
Mediation Jan v. court hearing Feb corresp between legal counsel, corresp B.Bissell receiver's position							
11/18/2020	5704	Review	Hour	HMR	0.60	620.00	372.00
Lien claimants detailed analysis, addition info to be requested, meeting with staff in prep for report thereof							
11/18/2020	5713	Receivership	Hour	JIP	1.00	390.00	390.00
Call with Hans, prep for call, review prior correspondence							

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

11/27/2020	5713	Receivership	Hour	HMR	0.20	620.00	124.00
Receiver's motion corresp							
12/1/2020	5713	Receivership	Hour	JIP	2.25	390.00	877.50
Review info / production letter, emails and call with Hans							
12/3/2020	5704	Review	Hour	HMR	0.60	620.00	372.00
Lien claimants supporting materials review w JR							
12/16/2020	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	620.00	186.00
Quash motion factum served by parties							
12/17/2020	5710	Banking - File Specific	Hour	FX	0.25	245.00	61.25
Review banking to date with Hans							
1/8/2021	5704	Review	Hour	HMR	0.30	620.00	186.00
Dis w B.Bissell re litigation re appeal quash, D.Ullmann hearing, possible next steps							
1/11/2021	5711	Reports	Hour	HMR	0.70	620.00	434.00
Dis B.Bissell re mediation and motion to quash appeal; review of mediation brief requirements							
1/12/2021	5711	Reports	Hour	HMR	0.60	620.00	372.00
Review w DP receiver's Feb 9th motion planning, report; review of receiver's position, planning re mediation hearings, appeal quash							
1/13/2021	5710	Banking - File Specific	Hour	FX	0.25	245.00	61.25
Review banking to date with Hans							
1/15/2021	5704	Review	Hour	HMR	0.30	620.00	186.00
Receipt and review of respnding factum of D. Dal Bianco re Feb 8.21 hearing date							
1/15/2021	5711	Reports	Hour	HMR	0.40	620.00	248.00
Planning re receiver report for mediation and court hearing							
1/19/2021	5710	Banking - File Specific	Hour	FX	0.25	245.00	61.25
Process term deposit and renewal							
1/20/2021	5711	Reports	Hour	DPR	1.50	265.00	397.50

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

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familiarizing myself with the file prior to drafting fourth report of the receiver							
1/21/2021	5711	Reports	Hour	HMR	0.60	620.00	372.00
DP re receiver's report, planning thereof; Court of Appeal hearing notice							
1/21/2021	5711	Reports	Hour	DPR	2.50	265.00	662.50
Review of file in preparation for draft report							
1/26/2021	5711	Reports	Hour	HMR	0.40	620.00	248.00
Receiver report w DP							
1/26/2021	5711	Reports	Hour	DPR	2.50	265.00	662.50
Drafting Receivers 4th report and SRD							
1/27/2021	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.20	620.00	124.00
Corresp legal counsel re responding factum to quash motion							
1/27/2021	5711	Reports	Hour	HMR	0.80	620.00	496.00
Draft Fourth Report of Receiver w DP							
1/27/2021	5713	Receivership	Hour	DPR	2.00	265.00	530.00
Drafting Receivers 4th report and preparing INTERIM SRDs							
1/29/2021	5705	Creditor/Debtor Inquiries/Assistance	Hour	HMR	0.30	620.00	186.00
B.Pilutti request of estate accounting, review w staff							
2/4/2021	5711	Reports	Hour	HMR	0.20	620.00	124.00
Status w B.Bissell							
2/9/2021	5713	Receivership	Hour	HMR	0.80	620.00	496.00
B.Bissell re today's court hearing, case conference, receiver's report incl further lien claimants review/audit of supporting documents, planning thereof							
2/10/2021	5710	Banking - File Specific	Hour	FX	0.25	245.00	61.25
Review banking to date with Hans							
2/11/2021	5704	Review	Hour	HMR	0.20	620.00	124.00

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

Request by lawyer re responding factum of receiver to the main appeal							
2/19/2021	5711	Reports	Hour	HMR	1.20	620.00	744.00
Draft receiver's report, status review of all matters, lien claimants support, approval of accounts							
2/23/2021	5711	Reports	Hour	HMR	2.60	620.00	1,612.00
4th report draft, stmt of receipts and disb draft; B.Bissell corresp							
2/23/2021	5713	Receivership	Hour	FX	0.35	245.00	85.75
Review and prepare 2020 general ledger report to the corp accountant, as requested							
2/24/2021	5710	Banking - File Specific	Hour	FX	0.25	245.00	61.25
Review banking to date with Hans							
2/25/2021	5704	Review	Hour	HMR	1.30	620.00	806.00
Notice of Action: Maxion et al. v. Uptown, Dal Biancos, Blaneys and partners, Amended statement of claim receipt and review; corresp btw legal counsel as to next steps re appeal and reference to Master, consider receiver's position thereof							
2/25/2021	5711	Reports	Hour	HMR	2.30	620.00	1,426.00
Dis w B.Bissell, Receiver's report draft, review of all matters since last report of receiver in March/Oct 2019							
3/2/2021	5704	Review	Hour	HMR	0.40	620.00	248.00
Factum of receiver							
3/10/2021	5711	Reports	Hour	HMR	4.60	620.00	2,852.00
Receiver's report, review of recent updates, analysis on lien claimants, draft of report							
3/16/2021	5711	Reports	Hour	HMR	1.20	620.00	744.00
Fourth report of receiver updates and amendments; lien claimants analysis report, review of various court proceedings for report							
3/17/2021	5704	Review	Hour	HMR	0.20	620.00	124.00
Short dis w David Ullmann							
<b>Project: 029444</b>					<b>176.50</b>	<b>89,809.75</b>	

4/6/2021 11:52 AM

**Billing Worksheet Report**

**From: 2/1/2019 To: 3/31/2021**

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<b>Empl ID</b>	<b>Emp Name</b>	<b>Hours</b>	<b>Amount</b>
DPR	Daniel Posner, Analyst, CPA, CA, CBV	8.50	2,252.50
FX	Fei Xue, Estate Administrator, Account	8.90	2,112.25
GRH	Graeme Hamilton, LIT, CIRP	25.95	9,089.00
HMR	Hans Rizarri, CA, CPA, LIT, CIRP	112.40	68,351.00
JIP	Julie Zylberlicht, CPA, Ca, CBV, CFF	20.75	8,005.00
<b>Total for client: 1020677</b>		<b>176.50</b>	<b>89,809.75</b>



Crowe Soberman Inc.  
Licensed Insolvency Trustee  
2 St. Clair Avenue East, Suite 1100, Toronto ON M4T 2T5  
T 416.964.7633 F 416.964.6454 www.crowesoberman.com  
Member Crowe Horwath International

Deem Management Services Inc.  
229 Lexington Road, Unit nF2  
Waterloo, ON, N2K 2E1

## Invoice

Number	10105621
Date	12/12/2019
Invoice account	1020677
HST Number	R104902077

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Receiver fee	15,000.00
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<b>Subtotal:</b>	<b>15,000.00</b>
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<b>GST/HST:</b>	<b>1,950.00</b>
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<b>BALANCE DUE:</b>	<b><u>16,950.00</u></b>
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Crowe Soberman Inc  
Licensed Insolvency Trustee  
2 St. Clair Avenue East, Suite 1100 Toronto, ON M4T 2T5  
T 416.964.7633 F 416.964.6454 www.crowesoberman.com  
Member Crowe Global

Deem Management Services Inc.  
229 Lexington Road, Unit nF2  
Waterloo, ON, N2K 2E1

## Invoice

Number	10109014
Date	4/1/2020
Invoice Account	1020677
HST Number	R104902077

Receiver fee

<b>Professional Fees:</b>	7,499.00
<b>GST/HST:</b>	974.87
<b>Balance Due:</b>	<u>8,473.87</u>

### Payment Options:

#### Wire Transfer:

Company Name: Crowe Soberman LLP  
Bank Name: TD Canada Trust  
Bank Address: 2 St. Clair Ave. East Toronto ON M4T 2V4  
Bank Code: 004 Transit #: 19682  
Account # (Canadian Dollars): 06170324018  
Account # (US Dollars): 06177316148  
Swift Code: TDOMCATTOR

#### Online Banking:

Add payee: Crowe Soberman LLP  
Account number: Your invoice account –

#### Cheque:

Please make cheques payable to:  
Crowe Soberman LLP  
Attention: Finance Department  
2 St. Clair Ave. East, Suite 1100  
Toronto ON M4T 2T5



Crowe Soberman Inc  
Licensed Insolvency Trustee  
2 St. Clair Avenue East, Suite 1100 Toronto, ON M4T 2T5  
T 416.964.7633 F 416.964.6454 www.crowesoberman.com  
Member Crowe Global

Deem Management Services Inc.  
229 Lexington Road, Unit nF2  
Waterloo, ON, N2K 2E1

# Invoice

Number 10114784  
Date 7/29/2020  
Invoice Account 1020677  
HST Number R104902077

Re: Receiver fees 30,000.00

**Professional Fees:** 30,000.00  
**GST/HST:** 3,900.00  
**Balance Due:** 33,900.00

## Payment Options:

### Wire Transfer:

Company Name: Crowe Soberman LLP  
Bank Name: TD Canada Trust  
Bank Address: 2 St. Clair Ave. East Toronto ON M4T 2V4  
Bank Code: 004 Transit #: 19682  
Account # (Canadian Dollars): 06170324018  
Account # (US Dollars): 06177316148  
Swift Code: TDOMCATTTOR

### Online Banking:

Add payee: Crowe Soberman LLP  
Account number: Your invoice account –

### Cheque:

Please make cheques payable to:  
Crowe Soberman LLP  
Attention: Finance Department  
2 St. Clair Ave. East, Suite 1100  
Toronto ON M4T 2T5



Crowe Soberman | Canada

Crowe Soberman Inc.  
Licensed Insolvency Trustee  
2 St. Clair Avenue East, Suite 1100 Toronto, ON M4T 2T5  
T 416.964.7633 F 416.964.6454 www.crowesoberman.com  
Member Crowe Global

Deem Management Services Inc.  
229 Lexington Road Unit nF2  
Waterloo, ON N2K 2E1

## Invoice

Invoice Number 10120758  
Date 4/8/2021  
Account Number 1020677  
HST Number R104902077

Receiver fee 37,310.75

**Professional Fees: 37,310.75**  
**GST/HST: 4,850.40**  
**Balance Due: 42,161.15**

### Payment Options:

**Wire Transfer:**

Company Name: Crowe Soberman LLP  
Bank Name: TD Canada Trust  
Bank Address: 2 St. Clair Ave. East Toronto ON M4T 2V4  
Bank Code: 004 Transit #: 19682  
Account # (Canadian Dollars): 06170324018  
Account # (US Dollars): 06177316148  
Swift Code: TDOMCATTTOR

**Online Banking:**

Add payee: Crowe Soberman LLP

**Cheque:**

Please make cheques payable to:  
Crowe Soberman LLP

**Payment by credit card:**

Please visit our website and select the secure credit card payment button "Pay by Credit Card"

[www.crowe.com/ca/crowesoberman](http://www.crowe.com/ca/crowesoberman)

Tab Q

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

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondents

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**AFFIDAVIT OF R. BRENDAN BISSELL  
(sworn April 9, 2021)**

---

I, R. Brendan Bissell, of the City of Toronto, hereby MAKE OATH AND SAY:

1. I am a barrister and solicitor qualified to practice in the Province of Ontario and am counsel to the law firm of Goldman Sloan Nash & Haber LLP (“**GSNH**”) and therefore have knowledge of the matters in this affidavit. Where this affidavit is based on information and belief, I have stated the source of that information and believe it to be true.
2. GSNH are lawyers of record for Crowe Soberman Inc. in its capacity as the Court appointed receiver (the “**Receiver**”) of the property known municipally as 215 and 219 Lexington Road, Waterloo, Ontario N2K 2E1 (the “**Real Property**”), the assets and undertakings of Deem Management Services Limited related to the Real Property, and the property, assets and undertakings of The Uptown Inc.

3. Attached as **Exhibit “A”** to this affidavit are copies of the invoices rendered by GSNH to the Receiver for fees and disbursements incurred by GSNH in this proceeding for the period from February 1, 2019 to March 31, 2021.

4. Attached as **Exhibit “B”** to this Affidavit is a schedule summarizing each entry in Exhibit “A”, the total billable hours charged and the total fees charged.

5. The accounts attached at Exhibit “A” are comprised of hours docketed by the following timekeepers at GSNH with the corresponding hourly rates:

Michael Rotsztain	\$595.00
R. Brendan Bissell	\$550.00
Robert Drake	\$425.00
Paul Hancock	\$425.00
Joel Turgeon (2021)	\$325.00
Joel Turgeon (2019 and 2020)	\$285.00
Katie Parent	\$250.00
May May Co	\$120.00
Deborah O’Reilly	\$200.00
Gina Racanelli	\$200.00
Jessica Mah	\$150.00

6. The average hourly rate charged for the invoices set out in Exhibit “A” is \$465.04.

7. To the best of my knowledge the rates charged by GSNH throughout the course of this proceeding are comparable to the rates charged by other law firms in the Toronto market for the provision of similar services.

8. The hourly billing rates outlined above are comparable to the hourly rates charged by GSNH for services rendered in relation to similar proceedings.

9. I make this affidavit in support of a motion by the Receiver for, among other things, approval of the fees and disbursements of GSNH as its counsel for the period from February 1, 2019 to March 31, 2021.

SWORN BEFORE ME via Zoom at the City of Toronto, in the Province of Ontario, this 9<sup>th</sup> day of April, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*

*Joel Turgeon*

Commissioner for taking affidavits  
(present at Toronto at the time of swearing)



R. Brendan Bissell  
(present at Toronto at the time of swearing)

This is **Exhibit “A”** to the  
Affidavit of R. Brendan  
Bissell, sworn before me this  
9th day of April, 2021, via Zoom, in  
accordance with O. Reg. 431/20,  
*Administering Oath or Declaration  
Remotely*

Joel Turgeon

A Commissioner, etc.



Suite 1600  
480 University Avenue  
Toronto, Ontario  
M5G1V2

Telephone: (416) 597-9922  
Facsimile: (416) 597-3370

**Crowe Soberman Inc.**  
2 St. Clair Ave East  
Toronto, ON M4T 2T5  
Canada

Billing Lawyer Brendan Bissell  
Invoice No. 174128  
HST # 12233 6290 RT0001  
Invoice Date May 2, 2019

**Attention: Mr. Hans Rizarri**

**Client ID: 100597 Matter ID: 0001**

**RE: Deem Management Services Limited, Maxion Construction  
Management - The Uptown Inc., Maxion Construction  
Management Inc., 2453678 Ontario Inc., Donald Dal Bianco,  
Eugene Simnos and Institutional Mortgage Capital Canada Inc.**

**FOR PROFESSIONAL SERVICES RENDERED through April 30, 2019**

<b>Date</b>	<b>Professional</b>	<b>Hours</b>	<b>Narrative</b>	<b>Amount</b>
02/04/19	BB	3.70	Further work on draft report. Review of further security granted to Dal Bianco and resulting possible marshalling issues. Review of corporate issues relating to Deem Management.;	2,035.00
02/06/19	BB	4.60	Further review of documents sent from counsel for D. Dal Bianco. Revisions to and finalized draft Report. Emails with G. Hamilton re: same.;	2,530.00
02/07/19	BB	0.70	Review of email from D. Ullmann re: answers to further questions. Revisions to draft Third Report. Emails with H. Rizarri re: issues for review in same and suggested revisions.;	385.00
02/07/19	KP	0.50	Revising fee affidavit to include most recent invoice; circulating to B. Bissell;	125.00
02/08/19	BB	3.30	Revisions to draft report. Finalized the fee affidavit. Emails with H. Rizarri re: the HST notice of assessment. Conference with K. Parent re: preparation of notice of motion and motion record. Review of draft independent security opinion and	1,815.00



**ACCOUNTS ARE DUE WHEN RENDERED**

Pursuant to the Solicitor's Act interest at a rate of 3.00% per annum will be charged on amounts due, calculated commencing one month after the date of delivery of this account. Any disbursements recorded after preparation of this account will be billed at a later date.

Date	Professional	Hours	Narrative	Amount
			conference with R. Ikeda re: same. Revisions to report and conference with M. Rotsztain re: same. Emails with H. Rizarri re: approval of Third Report. Assembled motion record and email to the Service List re; same and re: scheduling issues.;	
02/08/19	MBR	0.80	Reviewing and providing comments on draft Receiver's Report;	476.00
02/08/19	KP	3.60	Finalizing and circulating fee affidavit; drafting and revising notice of motion; reviewing draft report and assembling all appendices; revising report table of contents; preparing motion record; reporting to B. Bissell;	900.00
02/13/19	BB	0.60	Emails from and to E. Gionet re: involvement of the receiver. Emails with H. Rizarri and G. Hamilton re: response on detailed points.;	330.00
02/14/19	BB	0.40	Emails with E. Gionet and H. Rosenberg re: issues on the motion.;	220.00
02/15/19	BB	2.30	Review of file, including payout discussions and accounting information for responses to detailed questions asked by E. Gionet. Emails with G. Hamilton re: same. Preparation of draft response and email to H. Rizarri and G. Hamilton re: same. Telephone call with D. Ullmann re: issues raised by lien claimants on involvement of the receiver in the third mortgage validity motion.;	1,265.00
02/16/19	BB	0.30	Emails with G. Hamilton re: changes to the accounting. Revisions to email to E. Gionet re: accounting and payout questions.;	165.00
03/01/19	BB	0.60	Review of email from E. Gionet. Email to D. Ullmann re: privilege issues on law firm bills. Teleconference with H. Rizarri and G. Hamilton re: response to E. Gionet and scheduling issues.;	330.00
03/26/19	BB	0.40	Draft email to E. Gionet and email to H. Rizarri and G. Hamilton re: same.;	220.00
03/29/19	BB	0.40	Discussion with D. Ullmann re: procedural and other issues in connection with lien claims and steps to proceed with the third mortgage validity motion.;	220.00
04/01/19	BB	0.10	Emails with parties re: chambers appointment date.;	55.00
04/03/19	BB	0.20	Emails with H. Rosenberg and E. Gionet re: timing of chambers appointment.;	110.00
04/09/19	BB	0.10	Emails with B. Salsberg re: scheduling of the chambers appointment.;	55.00
04/10/19	BB	0.40	Further emails with counsel re: setting the chambers appointment. Emails with H. Rizarri re:	220.00

Date	Professional	Hours	Narrative	Amount
			issue and possible impact of bankruptcy of P. Michelin.;	
04/17/19	BB	0.20	Emails with the service list re: appointment on April 24. Preparation of request form.;	110.00
04/24/19	BB	3.10	Preparation for and attendance at court for chambers scheduling appointment. Several meetings and discussions at court re: procedural issues for the motion on the third mortgage. Attendance before Justice McEwen for directions on procedural issues. Further meeting with counsel to set a timetable. Email to counsel re: same. Report to H. Rizarri and G. Hamilton re: same. Email to E. Gionet re: alleged attempt to alter financial statements. Email to E. Gionet and D. Ullmann re: available documents re: bankruptcy of P. Michelin. Further emails with H. Rizarri re: possible impact of same.;	1,705.00
04/25/19	BB	0.50	Email from H. Rizarri re: inquiry from P. Sun about proof of purchase of the development fees. Review of closing records re: same and reply email to H. Rizarri.;	275.00
04/30/19	BB	0.40	Lengthy email from E. Gionet re: basis for challenging the third mortgage, allegations of altering financial statements, and review of the Blaneys accounts. Reply email re: same.	220.00

**Sub-Total Fees:** 13,766.00

**HST on Fees:** 1,789.58

**DISBURSEMENTS**

Laser Copies 436.75

**Sub-Total Disbursements:** 436.75

Disbursements marked with \* indicate exempt

**HST on Disbursements:** 56.78

**TOTAL LEGAL FEES AND DISBURSEMENTS (includes \$1,846.36 HST):** \$ **16,049.11**

THIS IS OUR ACCOUNT HEREIN

GOLDMAN SLOAN NASH & HABER LLP

Per: Brendan Bissell

E. & O. E.



Suite 1600  
480 University Avenue  
Toronto, Ontario  
M5G1V2

Telephone: (416) 597-9922  
Facsimile: (416) 597-3370

## Remittance Advice

Crowe Soberman Inc.  
2 St. Clair Ave East  
Toronto, ON M4T 2T5  
Canada

Attention: Mr. Hans Rizarri

Invoice No. 174128  
Invoice Date: May 2, 2019

Client ID: 100597  
Matter ID: 0001  
Billing Attorney: BB

Current Billing:	16,049.11
Previous Balance:	20,553.69
<b>Total Amount:</b>	<b>36,602.80</b>
Amount Remitted:	\$ _____



Suite 1600  
480 University Avenue  
Toronto, Ontario  
M5G1V2

Telephone: (416) 597-9922  
Facsimile: (416) 597-3370

**Crowe Soberman Inc.**  
2 St. Clair Ave East  
Toronto, ON M4T 2T5  
Canada

Billing Lawyer: Brendan Bissell  
Invoice No.: 175709  
HST #: 12233 6290 RT0001  
Invoice Date: August 2, 2019

Attention: Mr. Hans Rizarri

Client ID: 100597 Matter ID: 0001

**RE: Deem Management Services Limited, Maxion Construction Management - The Uptown Inc., Maxion Construction Management Inc., 2453678 Ontario Inc., Donald Dal Bianco, Eugene Simnos and Institutional Mortgage Capital Canada Inc.**

**FOR PROFESSIONAL SERVICES RENDERED through June 26, 2019**

Date	Professional	Hours	Narrative	Amount
05/01/19	BB	1.60	Review of emails from E. Gionet re: details of further intended argument by Maxion and memo from Deem's former accountant re: changes to the 2016 financial statements. Email to H. Rizarri and G. Hamilton re: same. Email to E. Gionet re: details of the accountant's memorandum. Review of draft letter from Far East to send to the municipality. Email to H. Rizarri re: concerns about same;	880.00
05/02/19	BB	0.70	Review of prior reports and appendices with respect to corporate documents and shareholdings of Deem and The Uptown. Email to D. Ullmann and B. Phillips requesting financial, tax and corporate documents;	385.00
05/06/19	BB	0.60	Telephone call with H. Rizarri re: request from Far East for letter to City of Waterloo, and revisions to same. Email to H. Rizarri and G. Hamilton re: same. Email to D. Ullmann re: request for the Blaneys' accounts;	330.00



**ACCOUNTS ARE DUE WHEN RENDERED**

Pursuant to the Solicitor's Act interest at a rate of 3.00% per annum will be charged on amounts due, calculated commencing one month after the date of delivery of this account. Any disbursements recorded after preparation of this account will be billed at a later date.

<b>Date</b>	<b>Professional</b>	<b>Hours</b>	<b>Narrative</b>	<b>Amount</b>
05/07/19	BB	0.30	Review of further draft letter from Far East. Review of closing documentation re: same and email to H. Rizarri with concerns about same;	165.00
05/16/19	KP	0.30	Reviewing supporting documents received to date from lien claimants regarding timeliness of lien; preparing table of same;	75.00
05/23/19	BB	0.50	Telephone call with B. Salsberg re: issues in the July 17 motion. Email to D. Ullmann re: redacted Blaneys invoices for the second mortgage. Email to D. Ullmann and B. Phillips re: information requested about Deem Management and The Uptown;	275.00
05/27/19	BB	0.60	Review of emails and proof of timeliness of liens provided by E. Gionet for Maxion. Reply email to him re: Blaneys accounts paid under the second mortgage. Email report to H. Rizarri and G. Hamilton re: the second Maxion lien;	330.00
05/28/19	BB	0.50	Telephone call with D. Ullmann re: provision of redacted accounts, timing for responding and reply motion materials, and timing of response on request for information about corporate and financial records;	275.00
05/31/19	BB	1.40	Review of motion materials from B. Salsberg. Email to him re: service. Emails with H. Rizarri and G. Hamilton re: impact of same;	770.00
06/05/19	BB	0.50	Emails with E. Gionet re: response to information requested and issues for the July 17 motion;	275.00
06/06/19	BB	0.30	Emails with H. Rosenberg re: materials served by Maxion. Emails with D. Ullmann re: meeting;	165.00
06/07/19	BB	2.30	Meeting with D. Ullmann and J. Wolfe re: information and documentation requested by the Receiver and issues on the motion returnable on July 17;	1,265.00
06/11/19	BB	0.30	Emails from B. Phillips re: location of corporate minute book for Deem. Email to E. Gionet and B. Salsberg re: same;	165.00
06/13/19	BB	0.70	Telephone call with B. Phillips re: responding materials from Deem and required change to the timetable. Emails to him re: same. Telephone call with B. Salsberg re: issues in the third mortgage motion and possible evidentiary issues. Voicemails from and to D. Ullmann re: possible change to the order of the timetable;	385.00
06/18/19	MBR	0.30	Reviewing with B. Bissell various options regarding party's request for release of another party's communication;	178.50
06/19/19	BB	0.20	Emails with D. Ullmann re: requested disclosure of	110.00

Date	Professional	Hours	Narrative	Amount
			email from B. Pilutti;	
06/20/19	BB	1.10	Emails with B. Salsberg and E. Gionet re: materials sent to the receiver. Telephone call with D. Ullmann re: same and re: suggested changes to the schedule involving supplementary reports of the receiver and issues with same;	605.00
06/21/19	BB	2.30	Attendance at chambers appointment re: scheduling and objections to evidence. Meeting with counsel re: same. Emails to the service list re: the endorsement and the proposed schedule. Preparation of revised draft schedule. Telephone call with H. Rizarri and G. Hamilton re: same;	1,265.00
06/26/19	BB	2.30	Attendance at further chambers hearing and meeting with counsel for the parties thereafter. Emails with E. Gionet re: the Blaneys' accounts and telephone call with and email to D. Ullmann re: same. Review of Blaneys accounts and amounts paid. Email from R. Meecham re: proposed evidence and reply email re: same.	1,265.00

**Sub-Total Fees:** 9,163.50

**HST on Fees:** 1,191.26

**TOTAL LEGAL FEES AND DISBURSEMENTS (includes \$1,191.26 HST):** \$ **10,354.76**

THIS IS OUR ACCOUNT HEREIN

GOLDMAN SLOAN NASH & HABER LLP



Per: Brendan Bissell

E. & O. E.



Suite 1600  
480 University Avenue  
Toronto, Ontario  
M5G1V2

Telephone: (416) 597-9922  
Facsimile: (416) 597-3370

## Remittance Advice

Crowe Soberman Inc.  
2 St. Clair Ave East  
Toronto, ON M4T 2T5  
Canada

Attention: Mr. Hans Rizarri

Invoice No. 175709  
Invoice Date: August 2, 2019

Client ID: 100597  
Matter ID: 0001  
Billing Attorney: BB

Current Billing:	10,354.76
Previous Balance:	36,602.80
<b>Total Amount:</b>	<b>46,957.56</b>
Amount Remitted:	\$ _____



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**Crowe Soberman Inc.**  
2 St. Clair Ave East  
Toronto, ON M4T 2T5  
Canada

Billing Lawyer **Brendan Bissell**  
Invoice No. 177645  
HST # 12233 6290 RT0001  
Invoice Date November 28, 2019

Attention: Mr. Hans Rizarri

Client ID: 100597 Matter ID: 0001

**RE: Deem Management Services Limited, Maxion Construction  
Management - The Uptown Inc., Maxion Construction  
Management Inc., 2453678 Ontario Inc., Donald Dal Bianco,  
Eugene Simnos and Institutional Mortgage Capital Canada Inc.**

**FOR PROFESSIONAL SERVICES RENDERED through November 21, 2019**

Date	Professional	Hours	Narrative	Amount
08/12/19	BB	0.60	Brief review of affidavits of R. Meechum and B. Pilutti. Emails to J. Wolfe re: service of same.;	330.00
08/29/19	BB	1.80	Meeting with H. Rizarri and G. Hamilton re: status of the motion for directions on the third mortgage. Meeting with them and J. Wolf and D. Ullmann re: same, next steps and limits of the Receiver's involvement in disputes between the parties and in any possible settlement or mediative process.;	990.00
09/10/19	BB	1.10	Review of new affidavit from P. Michelin. Email to B. Salsberg re: service issues.;	605.00
09/20/19	BB	0.20	Email from E. Gionet re: agreement among lien claimants on liens, and to the service list re: next steps in reviewing liens.;	110.00
10/07/19	BB	1.10	Emails with H. Rizarri and G. Hamilton re: issues related to the court hearing on Oct. 24. Telephone call with D. Ullmann re: same. Telephone call with B. Salsberg re: same. Telephone call with H. Rizarri and G. Hamilton re: need for detailed review	605.00



**ACCOUNTS ARE DUE WHEN RENDERED**

Pursuant to the Solicitor's Act interest at a rate of 3.00% per annum will be charged on amounts due, calculated commencing one month after the date of delivery of this account. Any disbursements recorded after preparation of this account will be billed at a later date.

Date	Professional	Hours	Narrative	Amount
			of the affidavits filed for possible factual controversies that the court may face on Oct. 24. Email to E. Gionet re: same.;	
10/09/19	RJD	1.60	Researching case law regarding registered owners granting mortgages and validity of same;	680.00
10/09/19	BB	3.70	Detailed review of all affidavits filed for possible factual controversies that would impact the ability to argue the motion on Oct. 24. Memorandum to H. Rizarri and G. Hamilton re: same. Meeting with H. Rizarri and G. Hamilton re: issues and strategy for supplementary report and factum for hearing on Oct. 24.;	2,035.00
10/15/19	BB	4.20	Review of draft report. Revisions to report and consideration of issues likely to arise on the third mortgage motion. Discussion with J. Turgeon re: issues for research re: reviewable transactions. Outline of factum.;	2,310.00
10/16/19	JT	6.80	Legal research into section 2 of the Fraudulent Conveyances Act and section 4 of the Assignments and Preferences Act re: burden of proof appurtenant to transactions being void under each; draft part of factum on same; report to B. Bissell; ancillary tasks.;	1,938.00
10/16/19	BB	3.10	Revisions to draft report and email to and telephone call with H. Rizarri and G. Hamilton re: same. Emails with opposing counsel re: scheduling issues.;	1,705.00
10/17/19	JT	0.50	Further legal research into section 2 of the Fraudulent Conveyances Act and section 4 of the Assignments and Preferences Act re: burden of proof appurtenant to transactions being void under each; further draft part of factum on same; report to B. Bissel; ancillary tasks.;	142.50
10/17/19	BB	5.20	Emails with counsel for the other parties re: timetable issues. Further revisions to draft supplementary report. Worked on factum. Review of research from J. Turgeon. Further revisions to factum. Email to H. Rizarri and G. Hamilton re: same.;	2,860.00
10/17/19	KP	0.30	Correspondence regarding Factum and Supplemental Report; correspondence regarding scheduling of 9:30 attendance;	75.00
10/18/19	BB	1.90	Attendance at 9:30 scheduling appointment and discussions with other counsel re: issues.;	1,045.00
10/29/19	JT	4.30	Review and finalize Supplementary Motion Record of the Receiver, including the Receiver's Supplementary Report; review and finalize factum in support of said supplementary motion; prepare brief of authorities accompanying said factum;	1,225.50

Date	Professional	Hours	Narrative	Amount
			prepare the Supplementary Motion Record and attendant Factum bundles for service and filing with the Court; report to B. Bissell.;	
10/29/19	BB	0.60	Conference with J. Turgeon re: finalizing the supplementary report, factum and brief of authorities. Revisions to same. Email to H. Rizarri and G. Hamilton re: addition to the supplementary report.;	330.00
10/30/19	JT	0.50	Finalize supplementary motion record, supplementary report of the receiver, and factum bundles for service and filing with the court.;	142.50
10/30/19	BB	0.60	Finalized factum. Email to E. Gionet re: timetable for further materials to get to Nov. 21. Telephone call with H. Rizarri and G. Hamilton re: next steps after Nov. 21 hearing.;	330.00
10/30/19	KP	0.20	Service supplemental report; factum and brief of authorities on service list; reporting to B. Bissell;	50.00
11/01/19	KP	0.10	Preparing and swearing affidavit of service regarding service of supplemental report, factum and brief of authorities;	25.00
11/14/19	BB	0.60	Review of email and attached corporate records of The Uptown from B. Salsberg. Emails with him re: same. Email to the Service List enclosing same.;	330.00
11/14/19	KP	0.60	Preparing copies of Supplementary Motion Record, Factum and Brief of Authorities for filing with Court; correspondence with B. Bissell regarding same;	150.00
11/15/19	BB	0.40	Email to the Service List re: timing of filing of materials. Telephone call with D. Ullmann re: same.;	220.00
11/15/19	KP	1.30	Attendance at Court to file Supplementary Motion Record; Factum and Brief of Authorities; preparing USB for filing; reporting to B. Bissell;	325.00
11/18/19	BB	0.20	Telephone call with B. Salsberg re: possible trial of an issue concerns, and re: timing of service of Maxion's factum.;	110.00
11/19/19	BB	0.30	Email from J. Warren re: price allocation issues at closing. Review of file re: same and reply email to J. Warren.;	165.00
11/19/19	BB	0.20	Conference with K. Parent re: materials to be brought before the judge and preparation of a draft order for report and fee approval. Telephone call with B. Salsberg re: acceptance of service of materials.;	110.00
11/19/19	KP	0.70	Attendance at Court to review Court file to ensure all materials for November 21 hearing were pulled for sitting judge; reporting to B. Bissell;	175.00

Date	Professional	Hours	Narrative	Amount
11/19/19	KP	0.50	Preparing draft administrative order for November 21 hearing; revising and finalizing same;	125.00
11/20/19	JT	0.40	Briefly review the Receiver's third report in preparation for the hearing of November 21.;	114.00
11/20/19	BB	3.60	Review of facta and authorities of Dal Bianco and Maxion. Preparation of outline of issues for argument. Emails with E. Gionet re: Maxion questions/objections to the Dal Bianco fee claim under the second mortgage.;	1,980.00
11/20/19	KP	0.20	Receipt of compendium; arranging for printing of same for tomorrow's hearing; reporting to B. Bissell;	50.00
11/21/19	JT	2.10	Attend Court re: receiver's motion for directions; attendant tasks and preparation of documents.;	598.50
11/21/19	BB	3.80	Preparation for and attendance at planned all day motion on directions regarding the Third Mortgage. Meetings and discussions at court re: new procedures for trial of an issue and related matters. Emails to the Service List re: endorsements granted.	2,090.00

**Sub-Total Fees:** 24,076.00

**HST on Fees:** 3,129.88

### DISBURSEMENTS

	Photocopies	0.25
	Laser Copies	521.50
11/26/2019	Pending Filing Fee for Motion Record *	320.00

**Sub-Total Disbursements:** 841.75

Disbursements marked with \* indicate exempt

**HST on Disbursements:** 67.83

**TOTAL LEGAL FEES AND DISBURSEMENTS (includes \$3,197.71 HST):** \$ 28,115.46

**THIS IS OUR ACCOUNT HEREIN**

**GOLDMAN SLOAN NASH & HABER LLP**

Per: Brendan Bissell

E. & O. E.



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M5G1V2

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2 St. Clair Ave East  
Toronto, ON M4T 2T5  
Canada

Billing Lawyer **Brendan Bissell**  
Invoice No. **182734**  
HST # **12233 6290 RT0001**  
Invoice Date **November 5, 2020**

Attention: **Mr. Hans Rizarri**

Client ID: **100597** Matter ID: **0001**

**RE: Deem Management Services Limited, Maxion Construction  
Management - The Uptown Inc., Maxion Construction  
Management Inc., 2453678 Ontario Inc., Donald Dal Bianco,  
Eugene Simnos and Institutional Mortgage Capital Canada Inc.**

**FOR PROFESSIONAL SERVICES RENDERED through November 2, 2020**

<b>Date</b>	<b>Professional</b>	<b>Hours</b>	<b>Narrative</b>	<b>Amount</b>
11/28/19	BB	0.40	Email to other counsel re: cross-examinations. Emails with E. Gionet re: collecting affidavits from the lien claimants. Telephone call with and email to H. Rizarri re: fee approval and advance issues.;	220.00
12/05/19	BB	0.30	Emails with H. Rizarri re: lack of action on cross-examinations required by the court endorsement and steps to move things forward.;	165.00
12/06/19	BB	0.20	Emails from E. Gionet and to counsel re: cross-examinations.;	110.00
12/08/19	BB	0.20	Emails with H. Rizarri re: enforcing cross-examinations.;	110.00
12/19/19	BB	0.60	Emails with D. Ullmann re: witness availability. Telephone call and emails with B. Phillips re: same. Telephone call with B. Salsberg re: same.;	330.00
01/06/20	BB	0.50	Review of emails from D. Ullmann re: witness availability and from E. Gionet, H. Rosenberg, E. D'Agostino and J. Armel re: subtrade lien claims.	275.00



**ACCOUNTS ARE DUE WHEN RENDERED**

Pursuant to the Solicitor's Act interest at a rate of 3.00% per annum will be charged on amounts due, calculated commencing one month after the date of delivery of this account. Any disbursements recorded after preparation of this account will be billed at a later date.

Date	Professional	Hours	Narrative	Amount
			Conference with J. Turgeon re: issues to move forward.;	
01/07/20	BB	1.40	Meeting with H. Rizarri re: status of organizing examinations and option to report to the court if there are difficulties. Email to B. Salsberg re: position on examinations. Emails to B. Phillips and D. Ullmann re: witness availability.;	770.00
01/09/20	BB	0.60	Telephone calls with B. Salsberg re: timing and procedural issues for cross-examinations. Follow-up emails to B. Phillips and D. Ullmann re: witness availability.;	330.00
01/10/20	BB	0.50	Telephone call with D. Ullmann re: timing of cross-examinations and procedural issues. Emails with D. Ullmann re: position of D. Dal Bianco on sub trade claims.;	275.00
01/13/20	BB	0.40	Emails with B. Phillips re: lack of availability of R. Dal Bianco.;	220.00
01/14/20	BB	0.50	Telephone call with B. Salsberg re: status of attempting to arrange examinations and seeking court direction re: same.;	275.00
01/15/20	KP	0.10	Correspondence with Commercial List regarding scheduling of 9:30 appointment to discuss scheduling issues;	25.00
01/16/20	BB	0.80	Emails with D. Ullmann re: witness availability. Conference with K. Parent re: court availability. Email to opposing counsel re: timing issues and need for a 9:30 appointment.;	440.00
01/17/20	KP	0.30	Preparing 9:30 appointment request form; correspondence regarding same; submitting to commercial list for scheduling;	75.00
01/17/20	BB	0.50	Emails with the opposing counsel re: 9:30 hearing on Jan. 21.;	275.00
01/20/20	BB	0.70	Review of email from D. Ullmann to E. Gionet re: possible hearing on the s. 78 issues. Email to H. Rizarri and G. Hamilton re: same.;	385.00
01/21/20	BB	2.10	Attendance at 9:30 appointment re: lack of compliance with the court ordered timetable. Meeting thereafter with counsel for the parties.;	1,155.00
01/28/20	BB	2.40	Preparation of briefing note for the January 29 case conference. Telephone call with H. Rizarri re: issues likely to come up in the conference. Emails with H. Rosenberg re: lien issues. Emails with D. Ullmann re: question on the briefing note.;	1,320.00
01/29/20	JT	1.70	Review receiver's briefing notes in preparation for case conference re: timeline of material steps in course of litigation; attend said case conference.;	484.50

Date	Professional	Hours	Narrative	Amount
01/29/20	BB	2.60	Preparation for and attendance at case conference. Meeting thereafter with opposing counsel. Telephone call with H. Rizarri re: result of the hearing and next steps.;	1,430.00
01/31/20	JT	0.30	Instructions from B. Bissell re: legal research into s. 78 of the Construction Act and possible legal avenues to resolve litigation on priority between the Del Bianco mortgage and the lien claimants' liens.;	85.50
02/04/20	BB	0.20	Email to E. Gionet re: Third Report.;	110.00
02/10/20	JT	4.70	Legal research into s. 78 of the Construction Act, including legislative history, jurisprudential interpretation, and doctrinal treatment; draft "Issues and the Law" portion of Receiver's factum for the upcoming hearing on the s. 78 priority issue; report to B. Bissell.;	1,339.50
02/11/20	JT	7.40	Further legal research into s. 78 of the Construction Act, including legislative history, jurisprudential interpretation, and doctrinal treatment; further draft "Issues and the Law" portion of Receiver's factum for the upcoming hearing on the s. 78 priority issue; report to B. Bissell.;	2,109.00
02/11/20	BB	1.10	Review of emails between E. Gionet and D. Ullmann re: draft agreed statement of fact. Review of draft and email to H. Rizarri and G. Hamilton re: same.;	605.00
02/12/20	JT	6.20	Further legal research into s. 78 of the Construction Act, including legislative history, jurisprudential interpretation, and doctrinal treatment; further draft "Issues and the Law" portion of Receiver's factum for the upcoming hearing on the s. 78 priority issue; report to B. Bissell.;	1,767.00
02/13/20	JT	3.60	Further legal research into s. 78 of the Construction Act, including legislative history, jurisprudential interpretation, and doctrinal treatment; further draft "Issues and the Law" portion of Receiver's factum for the upcoming hearing on the s. 78 priority issue; report to B. Bissell.;	1,026.00
02/14/20	BB	0.30	Further revisions to draft agreed statement of fact. Email to E. Gionet re: same.;	165.00
02/21/20	JT	0.30	Review draft agreed statement of facts and B. Bissell's comments on same.;	85.50
02/21/20	BB	1.40	Teleconference re: proposed agreed statement of fact. Review of possible issues for hearing and impact on same.;	770.00

<b>Date</b>	<b>Professional</b>	<b>Hours</b>	<b>Narrative</b>	<b>Amount</b>
02/25/20	BB	0.40	Review of proposed changes to the agreed statement of fact from E. Gionet. Email to him re: same and re: signatures required.;	220.00
02/26/20	JT	2.10	Draft remaining sections of factum, including factual background; review agreed statement of fact; report to B. Bissell.;	598.50
02/26/20	BB	0.80	Review of revised draft agreed statement of fact and emails with E. Gionet approving same. Report to H. Rizarri and G. Hamilton re: same. Email to E. Gionet re: documents requested. Conference with J. Turgeon re: preparation of factum.;	440.00
02/28/20	JT	1.10	Review Maxion's factum and the authorities cited therein; adjust the Receiver's factum in response to certain arguments raised; report to B. Bissell.;	313.50
03/01/20	BB	0.20	Emails with E. Gionet re: filing of materials at the Commercial List office.;	110.00
03/02/20	BB	4.30	Review of Maxion factum on Construction Act s. 78 issues. Brief review of the case law. Review of draft factum and analysis of issues for revision and addition.;	2,365.00
03/03/20	JT	2.40	Working session with B. Bissell re: receiver's factum and attendant matters for upcoming hearing on the s. 78 priority issue; prepare receiver's brief of authorities; analyse the factum of D. Dal Bianco and the authorities cited therein; further draft factum of the receiver following comments by B. Bissell.;	684.00
03/03/20	BB	7.20	Revisions to draft factum and review of authorities cited. Review and analysis of the responding factum of Dal Bianco and further revisions to factum to eliminate duplicative matters. Conference with J. Turgeon re: finalizing the factum and the brief of authorities.;	3,960.00
03/04/20	JT	2.20	Finalize the receiver's factum and brief of authorities in connection with the s. 78 priority issue hearing; serve same on service list; oversee filing of same with the courthouse; working session with B. Bissell on said upcoming hearing and implications on the future course of the estate's administration.;	627.00
03/04/20	BB	4.10	Finalized the factum of the receiver. Review of and finalized the brief of authorities of the receiver. Review of reply factum from Maxion and analysis of same and cases referred to. Emails with E. Gionet re: filing arrangements. Telephone call with D. Ullmann re: court hearing on the motion. Attendance at the court intake office to deal with problems filing the Brief of Authorities and the Maxion Reply Factum and Authorities and emails with E. Gionet re: same. Email to J. Nicoara re:	2,255.00

Date	Professional	Hours	Narrative	Amount
			materials for the judge.;	
03/05/20	BB	3.40	Preparation for hearing on March 6.;	1,870.00
03/06/20	JT	5.90	Prepare for court hearing on the s. 78 priority issue, including working sessions with B. Bissell and the printing of certain reference material; attend said court hearing and take notes during same; debrief with B. Bissell re: assessment of hearing and upcoming material steps in course of administration.;	1,681.50
03/06/20	BB	6.70	Preparation and attendance on half day motion for Construction Act s. 78 priorities. Report thereafter to H. Rizarri and G. Hamilton.;	3,685.00
03/10/20	BB	0.70	Review of reasons for decision. Report to H. Rizarri and G. Hamilton re: same.;	385.00
03/12/20	JT	0.40	Take cognizance of the decision of Gilmore J.; email from B. Bissell re: same.;	114.00
03/19/20	JT	0.40	Peruse letter, notice of appeal and certificate respecting evidence received from counsel for D. Dal Bianco; report to B. Bissell.;	114.00
03/23/20	JT	0.20	Review emails to and from counsel for subtrades and counsel for D. Dal Bianco re: notice of appeal and attendant matters.;	57.00
03/26/20	JT	0.20	Review emails to and from counsels for subtrades re: determination of validity and quantum of subtrade claims.;	57.00
03/31/20	JT	0.20	Email from E. Gionet re: appeal route and certificate of evidence; receive Maxion's responding certificate.;	57.00
04/03/20	BB	0.60	Email from H. Rosenberg and telephone call with D. Ullmann re: previously planned cross-examinations and date for trial of an issue, and options for other steps, including review of subtrade liens.;	330.00
04/21/20	JT	0.20	Review emails to and from B. Bissell and counsels re: appeal route, evidence on appeal, certain claims, and attendant matters.;	57.00
04/22/20	KP	0.10	Instructions from B. Bissell regarding the subtrade lien claims and supporting affidavits;	25.00
04/23/20	KP	0.50	Reviewing affidavits in support of subtrades lien claims; forwarding same to B. Bissell; Hans Rizzari and Graeme Hamilton;	125.00
04/23/20	BB	0.50	Emails among counsel re: appeal procedures. Emails with H. Rizarri re: sam and re: review of subtrade lien claims. Emails with J. Armel re: subtrade lien claims.;	275.00

Date	Professional	Hours	Narrative	Amount
04/28/20	JT	0.40	Study the Appellant's factum and other appeal documents served.;	114.00
05/08/20	BB	6.10	Detailed review of affidavits from OneSpace, EXP, Deep Foundations and Kieswetter Excavating re: timeliness and quantum of subtrade lien claims. Email to H. Rizarri and G. Hamilton re: same.;	3,355.00
05/14/20	BB	4.60	Emails to D. Ullmann and B. Phillips re: position of their clients on lien issues. Teleconference with H. Rizarri and G. Hamilton re: lien issues and matters for further review. Preparation of memorandum to H. Rizarri and G. Hamilton re: issues identified to date. Lengthy email to subtrades re: request for documents and information relating to the liens. Emails with H. Rosenberg re: issues with the content of the appeal books in the Dal Bianco appeal.;	2,530.00
05/15/20	BB	0.30	Emails with H. Rizarri and G. Hamilton re: HST return and amounts owing.;	165.00
05/20/20	JT	0.20	Peruse emails to and from counsels and documents referenced re: subtrade claims and proper appeal route.;	57.00
05/20/20	BB	0.50	Telephone call with J. Armel re: issues related to the possible instruction to subtrades to stop work, and re: liens on the adjacent property.;	275.00
05/21/20	JT	0.40	Emails to B. Bissell and K. Parent re: motion for directions on appeal; review rules for and locate precedent of same.;	114.00
05/22/20	JT	2.10	Draft notice of motion for directions on appeal re: proper appeal route; attendant review of file.;	598.50
06/04/20	BB	2.10	Telephone call with D. Ullmann re: appeal issues including proper venue, leave requirements, and content of appeal books. Review of case law re: venue and leave issues. Email to H. Rosenberg on appeal route and other procedural issues. Review of case law on appeal routes. Further email to H. Rosenberg re: same.;	1,155.00
06/05/20	BB	0.40	Telephone call with H. Rizarri re: review of lien claims by the Receiver. Emails with counsel for the trades and for Dal Bianco re: teleconference on appeal issues.;	220.00
06/08/20	BB	1.10	Preparation for and attendance at conference call with the parties re: appeal procedure and re: lien claims over the adjacent property.;	605.00
06/10/20	JT	3.50	Research into appeal jurisdiction under the Bankruptcy and Insolvency Act and the Construction Act; draft factum in support of motion to the court of appeal for directions as to the proper	997.50

Date	Professional	Hours	Narrative	Amount
			appeal route; call with B. Bissell re: notice of motion for directions and changes required to same; attendant tasks.;	
06/10/20	BB	3.10	Detailed review of analysis by J. Zilberlicht of lien claims and comments on same. Teleconference with H. Rizarri and J. Zilberlicht re: lien review and further issues to examine. Review of draft Notice of Motion for directions to the Court of Appeal and email to and telephone call with J. Turgeon re: same. Telephone call with the Court of Appeal re: timing of motions to a single judge.;	1,705.00
06/11/20	JT	2.90	Further research into appeal jurisdiction under the Bankruptcy and Insolvency Act and the Construction Act; further draft factum in support of motion to the court of appeal for directions as to the proper appeal route; email to B. Bissell re: same.;	826.50
06/12/20	PLH	2.30	Legal research regarding timing of lien period for subtrades where general contract is terminated; Draft memo; E-mail B. Bissell;	977.50
06/12/20	BB	1.20	Review of memo from P. Hancock re: timeliness issues in subtrade liens and brief review of cases cited.;	660.00
06/15/20	BB	0.30	Emails with D. Ullmann re: subtrade affidavits and possible issues that Dal Bianco or Deem may raise.;	165.00
06/29/20	BB	0.80	Emails with H. Rosenberg and J. Armel re: subtrade lien issues, Maxion lien issues, and the possible trial of an issue and relationship to the appeal.;	460.00
06/30/20	BB	2.80	Lengthy teleconference with J. Armel, H. Rosenberg, E. Gionet and D. Ullmann re: procedural issues involving the liens, the appeal and the possible trial of an issue. Further telephone calls with B. Salsberg re: same. Attendance at Zoom video hearing with Justice Hainey re: trial of an issue timing. Emails with H. Rosenberg re: next steps.;	1,540.00
07/01/20	BB	0.40	Revisions to draft Notice of Motion for directions re: appeal routes.;	220.00
07/02/20	BB	0.20	Emails with H. Rosenberg re: decision of Justice Hainey on June 30 re: no scheduled trial time.;	110.00
07/08/20	BB	1.80	Telephone call with D. Ullmann and J. Wolf re: lien issues. Review of comments on draft notice for directions regarding appeal route and revisions to materials.;	990.00
07/10/20	BB	4.20	Revisions to draft notice of motion. Revisions to draft Order. Email to the parties re: same. Review	2,310.00

Date	Professional	Hours	Narrative of draft factum. Brief further research re: appeal routes and issues for determining same.;	Amount
07/11/20	JT	3.40	Further draft factum in support of motion for directions on jurisdiction and venue following comments by B. Bissell; memo to B. Bissell re: authorities cited, updated research results, and related matters.;	969.00
07/11/20	BB	0.50	Email to J. Turgeon re: issues for revision in draft factum.;	275.00
07/12/20	BB	3.10	Revisions to revised draft factum and emails with J. Turgeon re: items to finalize.;	1,705.00
07/12/20	JT	0.90	Summary perusal and suggestions on B. Bissell's comments re: draft factum; format and bundle the factum of the receiver, including internal references, hyperlinks, and references to other materials filed; report to B. Bissell.;	256.50
07/13/20	BB	0.30	Emails with H. Rosenberg re: form of order for the s. 78 decision.;	165.00
07/14/20	BB	0.60	Emails from E. Gionet, J. Arnel and H. Rosenberg on draft order. Revisions to same and email to them re: same. Further edits to draft factum to the Court of Appeal on motion for directions.;	330.00
07/15/20	JT	1.40	Format and build motion record for the receiver's motion for directions on jurisdiction and venue, including internal references, hyperlinks, schedules, and court of appeal-compliant formatting; report to B. Bissell for finalization.;	399.00
07/16/20	JT	0.30	Update service list and serve motion record and factum of the receiver for advice and directions on appeal jurisdiction and venue; report to B. Bissell.;	85.50
07/16/20	BB	0.40	Emails with H. Rosenberg re: details of advances made by D. Dal Bianco under the third mortgage and where that is reflected in the record.;	220.00
07/17/20	JT	0.20	Draft, bundle and swear affidavit of service.;	57.00
07/20/20	JT	0.40	Electronically file motion record for the receiver's motion for directions; communicate with court of appeal re: payment of filing fees; emails to service list re: confirmation of motion hearing date and time, and motion number.;	114.00
07/21/20	KP	0.30	Updating and circulating service list; reporting to B Bissell and J. Turgeon;	75.00
07/21/20	BB	0.30	Emails with E. Gionet and H. Rosenberg re: confirmation of the motion and timing for the filing of materials.;	165.00
07/22/20	BB	2.30	Review of responding factums of D. Dal. Bianco	1,265.00

Date	Professional	Hours	Narrative and of the lien claimants and analysis of same.;	Amount
07/23/20	JT	0.40	Peruse the lien claimants' factum.;	114.00
07/24/20	KP	0.20	Updating and circulating service list;	50.00
07/27/20	JT	0.80	Communicate with Court of Appeal re: coordinates for Zoom hearing; review authorities referred to by the court of appeal re: single judge vs panel jurisdiction to hear the receiver's motion; report to B. Bissell re: same; emails to and from service list re: same, and attendant matters concerning the hearing on the receiver's motion.;	228.00
07/27/20	BB	3.60	Receipt of email from the Court re: question about jurisdiction from Jamal JA. Research re: same and preparation of notes on submissions. Emails with other parties and teleconference with them re: options.;	1,980.00
07/28/20	JT	1.30	Prepare for hearing on receiver's motion for directions; attend hearing in part; report to B. Bissell.;	370.50
07/28/20	BB	2.70	Emails with E. Gionet re: jurisdictional issue raised by Jamal JA. Teleconference with the parties re: same. Attendance at Zoom court hearing before Jamal JA to speak to an adjournment. Report thereafter to H. Rizarri.;	1,485.00
08/05/20	BB	0.40	Telephone call with H. Rizarri re: next steps in lien review issues. Email from the Court of Appeal re: timing and filing issues for the motion to be heard on Sept. 3. Emails with H. Rosenberg re: same.;	220.00
08/06/20	BB	0.30	Email to the Court of Appeal re: materials for the hearing on Sept. 3 and allocation of time.;	165.00
08/12/20	JT	0.30	Draft counsel slip of all counsel involved on motion for directions.;	85.50
08/13/20	JT	0.20	Communicate with Court of Appeal re: cumulative counsel slip in respect of upcoming hearing on the receiver's motion.;	57.00
08/24/20	BB	1.10	Preparation for motion hearing. Letter to the Court of Appeal re: allocation of time.;	605.00
08/26/20	BB	0.20	Telephone call with D. Ullmann and B. Jones re; issued and entered order for perfecting the appeal and email to them re: same.;	110.00
09/02/20	JT	2.90	Receive and peruse amended appeal book and certificate of perfection from appellant's counsel; review facta filed and authorities cited therein in preparation for hearing; short memo to B. Bissell re: overview of and paths to distinguish, if required during hearing, such authorities; attendant tasks;	826.50

Date	Professional	Hours	Narrative	Amount
09/03/20	JT	1.50	Further documentary review in preparation for hearing on receiver's motion for proper appeal route and forum; attend said hearing; report to B. Bissell;	427.50
09/03/20	BB	2.20	Preparation for and attendance at Zoom Court of Appeal hearing on motion for directions on appeal route.;	1,210.00
09/18/20	JT	0.20	Read judgment of Court of Appeal re: proper appeal route; report to B. Bissell.;	57.00
09/18/20	BB	0.60	Review and analysis of the Court of Appeal's decision on appeal routes.;	330.00
09/21/20	BB	0.30	Emails from and to E. Gionet re: possible motion to quash and alternative options.;	165.00
09/22/20	BB	1.40	Emails with H. Rosenberg re: applicability of motion to a single judge of the court of appeal on leave to appeal issues and directions. Emails with D. Ullmann re: call to discuss leave to appeal issues. Telephone call with him re: same and re: outstanding lien issues for the estate. Email to H. Rosenberg re: further word from D. Ullmann.;	770.00
09/24/20	BB	0.60	Telephone call with D. Ullmann re: possible mediation, issues with same and whether the receiver could support it.;	330.00
10/01/20	BB	0.30	Email from D. Ullmann re: possible mediation and issues for same. Email and voicemail to H. Rizarri re: same.;	165.00
10/06/20	JT	0.30	Review emails among counsel re: mediation, quash of appeal, and attendant matters;	85.50
10/06/20	BB	1.10	Email to D. Ullmann re: possible issues in priority distributions. Email to H. Rizarri re: same. Review of outstanding issues in the estate and email to counsel re: same and re: mediation suggested by D. Ullmann and possible terms of same.;	605.00
10/07/20	BB	0.20	Emails with H. Rosenberg re: timing for the Receiver's review of subtrade lien claims.;	110.00
10/13/20	BB	1.80	Zoom meeting with D. Ullmann, J. Wolf and H. Rizarri re: issues outstanding in the determination of lien claimant entitlements and the Receiver's views on same and on options. Email and telephone call thereafter with H. Rizarri.;	990.00
10/27/20	BB	0.50	Emails from and to J. Armel re: reference on construction issues. Emails with D. Ullmann re: same and re: possibility of mediation and issues with same. Email from H. Rosenberg re: construction issues.;	275.00
10/29/20	BB	0.80	Telephone call with J. Armel re: subtrade lien	440.00

Date	Professional	Hours	Narrative	Amount
			issues, reference of lien issues, and possible mediation.;	
10/31/20	BB	0.10	Email to D. Ullmann re: issue coming out of the conversation with J. Armel.;	55.00
11/01/20	BB	0.40	Telephone call with H. Rizarri re: further work on subtrade lien review and ultimate report, possible mediation, and lien reference issues.;	220.00
11/02/20	BB	0.60	Emails with J. Armel re: settlement proposal. Emails and telephone call with D. Ullmann re: same and re: bona fides of negotiation intent by the subtrades.	330.00
<b>Sub-Total Fees:</b>				76,230.00
<b>HST on Fees:</b>				9,909.90

**DISBURSEMENTS**

	Photocopies	95.75
	Laser Copies	331.00
	Telephone Charges	31.05
07/21/2020	Filing Motion Record & Affidavit of Service *	320.00
<b>Sub-Total Disbursements:</b>		777.80
Disbursements marked with * indicate exempt		
<b>HST on Disbursements:</b>		59.52

**TOTAL LEGAL FEES AND DISBURSEMENTS (includes \$9,969.42 HST):**                   **\$ 86,977.22**

**THIS IS OUR ACCOUNT HEREIN**

**GOLDMAN SLOAN NASH & HABER LLP**

Per: Brendan Bissell

E. & O. E.



Suite 1600  
480 University Avenue  
Toronto, Ontario  
M5G1V2

Telephone: (416) 597-9922  
Facsimile: (416) 597-3370

## Remittance Advice

Crowe Soberman Inc.  
2 St. Clair Ave East  
Toronto, ON M4T 2T5  
Canada

Attention: Mr. Hans Rizarri

Invoice No. 182734  
Invoice Date: November 5, 2020

Client ID: 100597  
Matter ID: 0001  
Billing Attorney: BB

Current Billing:	86,977.22
Previous Balance:	25,916.55
<b>Total Amount:</b>	<b>112,893.77</b>
Amount Remitted:	\$ _____



Suite 1600  
480 University Avenue  
Toronto, Ontario  
M5G1V2

Telephone: (416) 597-9922  
Facsimile: (416) 597-3370

**Crowe Soberman Inc.**  
2 St. Clair Ave East  
Toronto, ON M4T 2T5  
Canada

Billing Lawyer **Brendan Bissell**  
Invoice No. **184994**  
HST # **12233 6290 RT0001**  
Invoice Date **April 6, 2021**

Attention: **Mr. Hans Rizarri**

Client ID: **100597** Matter ID: **0001**

**RE: Deem Management Services Limited, Maxion Construction  
Management - The Uptown Inc., Maxion Construction  
Management Inc., 2453678 Ontario Inc., Donald Dal Bianco,  
Eugene Simnos and Institutional Mortgage Capital Canada Inc.**

**FOR PROFESSIONAL SERVICES RENDERED through March 22, 2021**

<b>Date</b>	<b>Professional</b>	<b>Hours</b>	<b>Narrative</b>	<b>Amount</b>
11/12/20	BB	0.60	Review of motion by Maxion to quash the Dal Bianco appeal. Email to D. Ullmann re: proposed mediation. Email to E. Gionet re: error in the motion.;	330.00
11/13/20	BB	1.10	Emails with the Court re: available court time. Email to counsel re: same and re: issues on the motion. Lengthy telephone call with J. Armel re: possible mediation and terms of same. Emails with J. Armel and H. Rosenberg re: same.;	605.00
11/15/20	BB	0.10	Email to E. D'Agostino and E. Gionet re: February 9, 2021 motion date.;	55.00
11/17/20	BB	0.40	Telephone call with D. Ullmann re: possible mediation arrangements, position of the Receiver on same, and appeal issues.;	220.00
11/20/20	BB	0.80	Telephone call with J. Armel re: facts and issues in the construction law aspects of the file.;	440.00
11/24/20	BB	0.40	Telephone call with D. Ullmann re: possible	220.00



**ACCOUNTS ARE DUE WHEN RENDERED**

Pursuant to the Solicitor's Act interest at a rate of 3.00% per annum will be charged on amounts due, calculated commencing one month after the date of delivery of this account. Any disbursements recorded after preparation of this account will be billed at a later date.

Date	Professional	Hours	Narrative	Amount
			mediation options with and without Maxion.;	
11/26/20	BB	0.20	Emails with E. D'Agostino re: without prejudice discussions.;	110.00
12/01/20	BB	0.60	Review of emails with D. Ullmann and counsel for lien claimants re: possible mediation. Email to and call with H. Rizarri re: same. Emails with the subtrade lien claimant lawyers re: same.;	330.00
01/08/21	BB	0.20	Review of emails from D. Ullmann and H. Rosenberg re: tentative mediation arrangements.;	110.00
01/09/21	BB	0.30	Review of letter from D. Ullmann to the Court of Appeal re: arguing the motion to quash at the hearing of the appeal. Emails with E. Gionet re: hearing on motion to quash beforehand.;	165.00
01/11/21	BB	0.20	Review of several emails re: rescheduling the motion to quash.;	110.00
01/12/21	BB	0.30	Telephone call with D. Ullmann re: proposed mediation and possible review by the Receiver for same. Emails with D. Ullmann and E. Gionet re: timing of the hearing for the motion to quash.;	165.00
01/15/21	BB	1.30	Review of motion materials and factum of Maxion on the motion to quash. Review of responding factum of Dal Bianco. Analysis of whether anything further needs to be brought to the Court's attention.;	715.00
01/20/21	BB	0.30	Emails with J. Turgeon re: preparation of motion materials.;	165.00
01/25/21	JT	1.40	Review Appellant's factum; emails among parties re: same; review B. Bissell's memo re: upcoming receiver's motion for approval of fees and activities, reference under Construction Act, and advice and directions; write draft order re: same;	455.00
01/27/21	BB	0.60	Telephone call with D. Ullmann re: missing information necessary for analyzing the funds that went to Maxion and related issues that may be required for mediation, and options to potentially address same.;	330.00
01/28/21	BB	0.20	Review of letter from D. Ullmann to the Court of Appeal re: resolution of the motion to quash and a new motion for leave to appeal.;	110.00
01/29/21	BB	0.40	Emails with D. Ullmann re; planned motion and re: review being done by the Receiver of subtrade lien claims. Email to the parties re: subtrade lien claim review and limits of same.;	220.00
02/01/21	JT	1.60	Draft motion materials including draft order and notice of motion re: upcoming receiver's motion for approval of fees and activities and reference to	520.00

Date	Professional	Hours	Narrative	Amount
			construction master; attendant documentary review; report to B. Bissell;	
02/04/21	JT	0.20	Emails among counsel re: upcoming hearing and possible consent to relief sought;	65.00
02/04/21	BB	1.20	Review of emails from the parties re: the Feb. 9 hearing. Email to H. Rosenberg re: same. Telephone call with H. Rizarri re: same. Review of draft judgment of reference and emails with J. Turgeon re: revisions to same.;	660.00
02/05/21	JT	0.40	Further draft motion materials including draft order and notice of motion re: upcoming receiver's motion for approval of fees and activities and reference to construction master following comments from B. Bissell; report to B. Bissell;	130.00
02/06/21	BB	0.60	Revisions to draft judgment of reference. Email to the parties re: same.;	330.00
02/07/21	BB	0.30	Emails with H. Rosenberg re: comments on the draft judgment of reference.;	165.00
02/08/21	JT	0.20	Multiple emails among counsels re: upcoming hearing and consent to order;	65.00
02/08/21	BB	1.60	Emails with D. Ullmann and lien counsel re: terms of reference. Teleconference with them re: same. Preparation of revised draft order re: same.;	880.00
02/09/21	BB	3.20	Preparation for hearing. Several emails and calls with counsel re: terms of possible order for reference. Telephone call and emails with D. Ullmann re: objections by Dal Bianco re: same. Preparation of briefing note for Justice Gilmore. Telephone call with H. Rizarri re: timing of further report. Attendance at hearing. Email to the Service List thereafter.;	1,760.00
02/10/21	BB	0.30	Review of draft orders and suggested revisions among counsel. Email re: priority issue references.;	165.00
02/11/21	JT	0.40	Wokrng session with B. Bissell re: receiver's factum on appeal; multiple emails re: appeal and outstanding matters on reference to construction master;	130.00
02/11/21	BB	4.80	Review of issues for appeal by Dal Bianco on March 5, 2021 and conference with J. Turgeon re: same. Further review of appellant's factum. Preparation of draft responding factum on factual issues and email to J. Turgeon re: legal submissions.;	2,640.00
02/11/21	BB	2.30	Review and analysis of the lien claim of Kieswetter, including further review of documents provided and forensic review by the Receiver. Preparation of	1,265.00

Date	Professional	Hours	Narrative	Amount
			draft report on this claim including possible defects in same.;	
02/12/21	JT	4.10	Draft factum of the receiver on appeal; attendant legal research into issues raised, and attendant file and documentary review;	1,332.50
02/15/21	JT	4.50	Further draft factum of the receiver on appeal; further attendant legal research into issues raised, and attendant file and documentary review;	1,462.50
02/16/21	JT	0.80	Further draft factum of the receiver on appeal; further attendant legal research into issues raised, and attendant file and documentary review; working session with B. Bissell re same;	260.00
02/16/21	BB	1.70	Review and analysis of the claim for lien of OneSpace and documents submitted. Review of the forensic analysis by the Receiver. Preparation of draft report on the claim for lien.;	935.00
02/17/21	BB	0.60	Conference with J. Turgeon re: issues for review in draft Court of Appeal factum.;	330.00
02/18/21	JT	0.30	Working session with B. Bissell re: strategy for rest of file including appeal and attendant matters;	97.50
02/19/21	BB	0.60	Telephone call with H. Rizarri re: preparation of Fourth Report. Review of comments from other parties and revisions to draft judgment of reference. Email re: same.;	330.00
02/21/21	BB	0.20	Emails with H. Rosenberg re: draft order.;	110.00
02/22/21	BB	1.10	Review of draft responding factum.;	605.00
02/23/21	BB	0.40	Telephone call with D. Ullmann re: claim against Blaney's and other issues with the proposed reference order.;	220.00
02/24/21	JT	0.40	Review lawsuit documents against D. Bianco and his lawyers; working session with B. Bissell re: same;	130.00
02/24/21	BB	5.70	Emails with counsel re: possible delay due to new claim against Blaney's. Review of claim. Revisions to draft factum on appeal. Emails with E. Gionet re: timing of responding facta.;	3,135.00
02/24/21	BB	2.70	Review of the claim for lien and documents submitted by Deep Foundations and analysis of issues. Further review of delay claim and evidentiary and legal issues for same. Review of the Receiver's forensic review of the claim. Preparation of draft report on this subtrade lien and issues with same for further review.;	1,485.00
02/25/21	JT	1.20	Review B. Bissell's comments on draft factum; memo to B. Bissell re: same; finalize factum;	390.00

Date	Professional	Hours	Narrative	Amount
			oversee service and filing of factum; attendant tasks;	
02/25/21	BB	1.50	Telephone call with D. Ullmann re: issues in continued representation until advice from the insurer. Emails with counsel for the subtrade lien claimants re: demands to press ahead with the lien reference. Telephone call with J. Armel re: same. Emails with the Court of Appeal re: filing of materials.;	825.00
03/01/21	JT	0.20	Emails among counsel re court of appeal hearing date and related matters;	65.00
03/01/21	BB	0.70	Emails among counsel re: the order directing the reference, a hearing on same, and impact of the new lawsuit against Blaneys on same. Lengthy email re: same.;	385.00
03/01/21	BB	1.90	Review of the claim for lien and documents provided by EXP Services and analysis of same, including review of agreements and correspondence said t form the basis for the engagement. Review of the forensic review by the Receiver. Preparation of draft report on the lien claim.;	1,045.00
03/02/21	JT	0.20	Finalize and oversee filing of factum;	65.00
03/10/21	BB	1.10	Review of draft fourth report. Analysis of further issues to address.;	605.00
03/12/21	BB	0.40	Emails with E. Gionet and H. Rosenberg re; filing in the new Maxion lawsuit. Email to D. Ullmann re: same and re: representation of Dal Bianco by Blaneys in the receivership.;	220.00
03/22/21	BB	1.20	Revisions to the background section of the draft Fourth Report.	660.00

**Sub-Total Fees:** 28,322.50

**HST on Fees:** 3,681.93

**TOTAL LEGAL FEES AND DISBURSEMENTS (includes \$3,681.93 HST):** \$ **32,004.43**

THIS IS OUR ACCOUNT HEREIN

GOLDMAN SLOAN NASH & HABER LLP

Per: Brendan Bissell

E. & O. E.



Suite 1600  
480 University Avenue  
Toronto, Ontario  
M5G1V2

Telephone: (416) 597-9922  
Facsimile: (416) 597-3370

**Remittance Advice**

Crowe Soberman Inc.  
2 St. Clair Ave East  
Toronto, ON M4T 2T5  
Canada

Attention: Mr. Hans Rizarri

Invoice No. 184994  
Invoice Date: April 6, 2021

Client ID: 100597  
Matter ID: 0001  
Billing Attorney: BB

Current Billing: 32,004.43  
Previous Balance: 112,893.77  
**Total Amount: 144,898.20**  
Amount Remitted: \$ \_\_\_\_\_

This is **Exhibit “B”** to the  
Affidavit of R. Brendan  
Bissell, sworn before me this

9th day of April, 2021, via Zoom, in  
accordance with O. Reg. 431/20,  
*Administering Oath or Declaration  
Remotely*

*Joel Turgeon*

---

A Commissioner, etc.

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

**DONALD DAL BIANCO**

Applicant

- and -

**DEEM MANAGEMENT SERVICES LIMITED and THE UPTOWN INC.**

Respondents

**Summary of Accounts of Goldman Sloan Nash & Haber LLP  
(From April 27, 2018 to January 31, 2019)**

<b>Invoice No.</b>	<b>Date</b>	<b>Period Ending</b>	<b>Hours</b>	<b>Fees</b>	<b>Disbursements</b>	<b>HST</b>	<b>Total</b>
174128	May 2, 2019	April 30, 2019	27.2	\$13,766.00	\$436.75	\$1,846.36	\$16,049.11
175709	August 2, 2019	June 26, 2019	16.9	\$9,163.50	\$0	\$1,191.26	\$10,354.76
177645	November 28, 2019	November 21, 2019	53.3	\$24,076.00	\$841.75	\$3,197.71	\$28,115.46
182734	November 5, 2020	November 2, 2020	170.5	\$76,230.00	\$777.80	\$9,969.42	\$86,977.22
184994	April 6, 2021	March 31, 2021	58.0	\$28,322.50	\$0	\$3,681.93	\$32,004.43

**DONALD DAL BIANCO**

and

**DEEM MANAGEMENT SERVICES LIMITED and THE  
UPTOWN INC.**

Applicant

Respondents

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
**Proceeding commenced TORONTO**

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**AFFIDAVIT OF R. BRENDAN BISSELL**  
**(sworn April 9, 2021)**

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**GOLDMAN SLOAN NASH & HABER LLP**  
480 University Avenue, Suite 1600  
Toronto ON M5G 1V2  
Fax: 416-597-3370

**R. Brendan Bissell (LSUC No. 40354V)**  
Tel: 416-597-6489  
Email: [bissell@gsnh.com](mailto:bissell@gsnh.com)

Lawyers for the Receiver, Crowe Soberman Inc.