

COURT FILE NO. 2203 12557  
COURT COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE EDMONTON  
APPLICANT ROYAL BANK OF CANADA  
RESPONDENTS FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, MCIVOR DEVELOPMENTS LTD., 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP., 52 WELLNESS CENTRE INC., PARADISE MCIVOR DEVELOPMENTS LTD., MICHAEL DAVE MANAGEMENT LTD., FAISSAL MOUHAMAD and FETOUN AHMAD also known as FETOUN AHMED  
DOCUMENT **BENCH BRIEF OF THE JOVICA CREDITORS**



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**BENCH BRIEF**

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ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION  
OF PARTY  
FILING THIS  
DOCUMENT

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Counsel for the of the creditors, Jovica Property Management Ltd., Solar Star Holdings Inc., 1193770 Alberta Ltd., 1245233 Alberta Inc. and 1105550 Alberta Inc. (collectively The "**Jovica Creditors**")

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## **I. INTRODUCTION**

1. This is the brief of the creditors, Jovica Property Management Ltd., Solar Star Holdings Inc., 1193770 Alberta Ltd. ("**119**"), 1245233 Alberta Inc. and 1105550 Alberta Inc. (collectively the "**Jovica Creditors**") in response to MNP Ltd.'s (the "**Receiver**") application currently scheduled for October 23, 2023 for the Court to determine creditor priority issues.
2. The Jovica Creditors' brief is limited to the question of priority over the proceeds from the sale of land and a building located at 108, 5205 Power Centre Boulevard, Drayton Valley (legally described as Plan 0721291, Block 102, Lot 14) ("**DV Unit**"), which prior to the sale on February 17, 2023 was owned by 985842 Alberta Ltd. ("**985**").
3. The Jovica Creditors position is that:
  - a. At all material times, 119 was the first registered mortgage over the DV Unit;
  - b. 119 submitted its secured claim dated April 6, 2023 to the Receiver with respect to the DV Unit, which included an Affidavit of Jure Jovica sworn February 9, 2023 ("**119 Proof of Claim**")<sup>1</sup>. Specifically at paragraph 8 and Exhibit "C" of that Affidavit, 119 showed the advance of mortgage funds to 985 to substantiate a bona fide transaction and the basis for 119's first mortgage registered on title to the DV Unit. The Receiver has not indicated any issue with 119's mortgage security;
  - c. Mahmoud Mohamad ("**Mohamad**") does not have a valid trust claim over the sale proceeds of the DV Unit as:
    - i. The Receiver disallowed any secured claim of Mohamad by disallowance dated April 25, 2023 ("**Disallowance**")<sup>2</sup>;
    - ii. Mohamad did not file a dispute notice within 10 days of the Disallowance with respect to the DV Unit<sup>3</sup>;
    - iii. In any event, there is no evidence to establish a trust in favour of Mohamad over the sale proceeds of the DV Unit; and
  - d. No other party has priority over 119 with respect to the DV Unit sale proceeds.

## **II. FACTS**

4. The Jovica Creditors are creditors with respect to only two of the companies subject to these Receivership proceedings: Michael Dave Management Limited ("**MDML**") and 985.
5. The Royal Bank of Canada ("**RBC**") is the appointing creditor, though has no known, direct security interest in the assets of MDML. RBC has a general security agreement with

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<sup>1</sup> 119 Proof of Claim [**TAB A**].

<sup>2</sup> Disallowance of Mohamad's Proof of Claim dated April 25, 2023 [**TAB B**].

<sup>3</sup> Dispute Notice of Mohamad dated May 4, 2023 [**TAB C**].

respect to 985, though did not have mortgage security over what was the main asset of 985, the DV Unit.

6. This Receivership had the following main assets, all of which have been sold:
  - a. Two dental clinics; and
  - b. Three pieces of real estate, including the DV Unit.<sup>4</sup>
7. A claims procedure has been instituted<sup>5</sup> to address limited priority claims, though the procedure has not resulted in a final determination as to the priority to all assets within the Receivership. On June 13, 2023, after advising that it was unable to make final determinations on priority and distribution, the Receiver proceeded with an Advice and Direction Application to resolve matters related to the secured claims and distributions from the various estates. This Court granted an order which, *inter alia*, set certain deadlines for the creditors to question other creditors on proofs of claim filed in the action, with a further application scheduled for October 23, 2023 for the Court to determine any priority issues.
8. The sale of the DV Unit was completed on February 17, 2023.<sup>7</sup> The net sale proceeds from the DV Unit were \$465,100<sup>8</sup> and those proceeds stand in place and stead of the land and have yet to be distributed by the Receiver.
9. Prior to the sale of the DV Unit, title to the DV Unit showed the following encumbrances related to this priority dispute:
  - a. Mohamad's Certificate of Lis Pendens #202 164 797;
  - b. 119's Mortgage #222 066 418; and
  - c. Mohamad's Certificate of Lis Pendens #222 223 931.<sup>9</sup>
10. 119, as first registered mortgage to the DV Unit prior to its sale, claims first priority to the DV Unit sale proceeds. At paragraph 8 and Exhibit "C" of the Affidavit of Jure Jovica (within the 119 Proof of Claim), 119 showed the advance of mortgage funds to 985 to substantiate the basis for 119's first mortgage registered on title to the DV Unit.
11. Mohamad submitted a proof of claim dated April 8, 2023 to the Receiver ("**Mohamad POC**")<sup>10</sup>, wherein Mohamad, *inter alia*, claimed a secured claim of \$11,259,539 against, *inter alia*, 985. The Mohamad POC attached an Affidavit of Mohamad sworn April 5, 2023 ("**Affidavit**"). On April 25, 2023, the Receiver issued the Disallowance to Mohamad wherein the Receiver disallowed any secured claim of Mohamad. Mohamad submitted a Dispute Notice on May 4, 2023, with the Dispute Notice limited to "sale proceeds of any of the Personal Property of the Debtors".

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<sup>4</sup> Receiver's Ninth Report, para 7.

<sup>5</sup> Claim Procedure Order granted February 14, 2023 [TAB D].

<sup>7</sup> Receiver's Seventh Report, para 6.

<sup>8</sup> *Ibid* at para 33.

<sup>9</sup> Land title certificate of DV Unit dated December 8, 2022 [TAB E].

<sup>10</sup> Mohamad Proof of Claim dated April 8, 2023 [TAB F].



### III. **ISSUES**

12. With respect to the DV Unit sale proceeds, the Jovica Creditors submit that the following are the issues for this Honourable Court to consider:
- a. Does 119 have a valid secured claim related to the sale proceeds of the DV Unit;
  - b. Did Mohamad file the Dispute Notice of the Disallowance, related to the DV Unit, within the applicable time period; and
  - c. In any event, has Mohamad established a claim for constructive trust over the DV Unit sale proceeds.

### IV. **ARGUMENT**

#### **A. 119's Claim and the Disallowance of Mohamad's Claim**

##### ***i. 119's Claim***

13. 119 submitted the 119 Proof of Claim to the Receiver which included the following information:
- a. 119 loaned 985 the sum of \$800,000. The \$800,000 (net of fees) was advanced to 119;
  - b. As security for the loan, 985 granted 119 a first mortgage on the DV Unit;
  - c. 119 was the first registered mortgage on the DV Unit; and
  - d. The amount owed by 985 to 119 as of December 8, 2022 was \$816,080<sup>13</sup>, well in excess of the amount of the DV Unit sale proceeds.
14. The Receiver has not advised of any issue with 119's mortgage security.
15. 119 submits that it has proved its valid, first charge mortgage over the DV Unit. The sale proceeds from the DV Unit stand in place and stead of the DV Unit. 119 is therefore the creditor with first priority to the entirety of the DV Unit sale proceeds.

##### ***ii. Disallowance of Mohamad's Claim***

16. Mohamad submitted the Mohamad POC dated April 8, 2023 with the Receiver, wherein Mohamad, *inter alia*, claimed a secured claim of \$11,259,539 against, *inter alia*, 985.

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<sup>13</sup> Affidavit of Jure Jovica, paras 5 – 11 [119 Proof of Claim, **TAB A**].

17. On April 25, 2023, the Receiver issued the Disallowance to Mohamad and disallowed any secured claim of Mohamad. The Disallowance provided, *inter alia*, the following:

*Secured Claim. Based on the information provided, the only security you may hold is in relation to Certificates of Lis Pendens registered against certain real properties previously owned by 985842 and MDML (the "Real Properties") and/or a constructive trust over personal property of FMPC and/or DDC (the "Personal Property"). No agreements have been provided that would suggest that you have a contractual security interest in any real property or personal property of the Companies.*

*The Affidavit provided in support of your claim suggests that you are asserting a constructive trust over the proceeds of sale of the Real Properties and the Personal Property. At this time, no determination as to the validity of your claim has been made by the Court in the proceedings commenced by you. Accordingly, your claim appears to be unliquidated and contingent. In addition, your claim appears to rely on contentious facts that are not proven and may require discovery of documents, questionings and/or viva voce evidence. Accordingly, the Receiver is of the view that your claim is too remote or speculative to constitute a provable claim.*

If you intend to dispute this Notice of Revision or Disallowance (the "Disallowance Notice"), you must within 10 days from the date of this Disallowance Notice, deliver to the Receiver, a Dispute Notice (in the form enclosed) either by prepaid registered mail, personal delivery, courier to MNP Ltd., 1500, 640 – 5<sup>th</sup> Avenue SW, Calgary, AB T2P 3G4 or via email to [Temitope.Muraina@mnp.ca](mailto:Temitope.Muraina@mnp.ca) to the attention of Temitope Muraina.

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**IF YOU FAIL TO FILE YOUR DISPUTE NOTICE WITHIN TEN (10) DAYS OR THE DATE ON THIS DISALLOWANCE NOTICE, THE VALUE OF YOUR CLAIM WILL BE DEEMED TO BE ACCEPTED AS FINAL AND BINDING AS SET OUT IN THIS DISALLOWANCE NOTICE.**

18. Mohamad submitted a Dispute Notice on May 4, 2023, though the Dispute Notice was limited to "sale proceeds of any of the Personal Property of the Debtors" as seen from the following excerpt from the Dispute Notice:

2. I dispute the amount stated in the Notice of Revision or Disallowance for the following reasons and attach all applicable documents:

Pursuant to the Actions that I have filed in Court of King's Bench and referenced in my April 5, 2023, Affidavit, I have claimed a constructive trust to the proceeds from the sale of any of the Personal Property of the Defendants which includes MDML and 985842. As such, I disagree with the position that I hold a constructive trust over only FMPC and DDC and verily believe that it applies to MDML and 985842 as well. On September 8, 2022, Faissal Mouhamad provided a sworn affidavit in Action 2203-12557 where he admits, in Paragraph 20, mortgaging property, in which I have an interest in, to one or more financial institutions, and the funds were used to

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purchase dental equipment for one or more of the Debtors. I believe this makes my claim not speculative.

I verily believe that I should have the opportunity to seek a constructive trust during Action No. 2203-12557 when and if the sale proceeds of any of the Personal Property of the Debtors is to be distributed, pursuant to my Actions.

19. The DV Unit is real property, not personal property. The Receiver disallowed the entirety of Mohamad's secured claim. Mohamad filed a Dispute Notice related to "a constructive trust to the proceeds from the sale of any of the Personal Property of the Defendants" or "the sale proceeds of any of the Personal Property of the Debtors".
20. Paragraphs 15 and 16 of Appendix "A" of the Claims Procedure Order granted February 14, 2023 provides that any person who fails to dispute a disallowance within 10 days shall be forever barred from challenging the classification and quantum of its claim set forth in the disallowance.<sup>17</sup>
21. As the Dispute Notice does not dispute the Disallowance as related to any proceeds from real property, including the DV Unit, and as the time for filing any dispute notice has passed, Mohamad does not have any claim to the sale proceeds of the DV Unit. On this basis alone, this Court can confirm that 119 has first priority to the sale proceeds from the DV Unit.

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<sup>17</sup> Claims Procedure Order granted February 14, 2023, Appendix "A", paras 15-16 [TAB D].

**B. Mohamad's Claim Fails on its Merits**

22. While any potential trust claim by Mohamad related to the DV Unit can be conclusively determined on the fact that no Dispute Notice to the Disallowance was filed in respect to the DV Unit, the trust claim can also be dismissed on its merits.

23. A certificate of lis pendens does not create rights but rather just serves as notice to the world that title is being questioned:

...a Certificate of Lis Pendens does not create any right and is not an extraordinary process such as a garnishee before judgment... A Certificate of Lis Pendens does no more than give notice to the world of the degree to which the title is being questioned and the basis for such questioning. It creates no[] rights.<sup>44</sup>

24. Mohamad's POC cites no evidence that he advanced funds to 985. At paragraph 46 of his Affidavit, related to the DV Unit, Mohamad swears as follows:

**I have registered two Certificate of Lis Pendens against the DV Unit. The Certificate of Lis Pendens was registered on title to the DV Unit as Instrument No.202 164 797 on August 11, 2020, and is in priority to any other encumbrances or mortgages. A further Certificate of Lis Pendens was registered on title to the DV Unit on October 6, 2022, as Instrument No. 222 223 931. At the time of filing this affidavit, I do not have knowledge as to the net available cash from the Receiver's sale of the DV Unit. I claim a priority interest in the proceeds of the DV Unit.**

25. Mohamad swears that he has priority but provides no evidence as to how, related to the DV Unit, he would have priority over 119.

26. In paragraph 43 of his Affidavit, Mohamad swears that "I verily believe that Faissal and his related corporations... colluded to register mortgages, agreements charging land... for the purposes of intentionally minimizing the equity available in the properties..."

27. 119 has provided evidence that it advanced the sum of \$800,000 (less certain lending fees) to 985. As part of the loan, 985 granted 119 a mortgage, which 119 duly registered on title to the DV Unit. There is no evidence to suggest this transaction was anything other than a bona fide mortgage lending transaction between arms' length parties. Mohamad's bare assertions, without evidence substantiating said assertions and without any evidence of Mohamad advancing funds to 985, is not sufficient to establish any trust over the DV Unit sale proceeds.

28. Mohamad provides no basis having a valid secured claim or trust against the DV Unit. Registering a certificate of lis pendens does not assert an automatic priority. It is nothing more than notice of a potential claim, and on its merits, Mohamad's secured claim against the DV Unit was properly disallowed by the Receiver.

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<sup>44</sup> *Peters v Remington*, 1993 CarswellAlta 932 at para 6, [1993] AJ No 1299 (QB) [TAB G].

**V. CONCLUSION AND RELIEF SOUGHT**

29. 119 was the first registered mortgagee on title to the DV Unit at all material times prior to sale. The mortgage was granted as security for an \$800,000 advance to 985 and was part of a bona fide transaction.
30. Mohamad has both failed to submit a Dispute Notice related to the Disallowance of its secured/ trust claim related to the DV Unit (or any real property) and failed to establish any merit to having a secured/ trust claim against the DV Unit.
31. The Jovica Creditors, and specifically 119, seek this Court to confirm that it is the creditor with first priority to the sale proceeds of the DV Unit. As 119 is owed more than the DV Unit sale proceeds, it seeks confirmation that the entirety of the DV Unit sale proceeds shall be payable to 119.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of October, 2023

**DUNCAN CRAIG LLP**



Per: \_\_\_\_\_

DARREN R. BIEGANEK, KC/  
ZACHARY SOPROVICH  
Counsel for the Jovica Creditors

**LIST OF ATTACHMENTS**

- A.** 119 Proof of Claim
- B.** Disallowance of Mohamad's Proof of Claim dated April 25, 2023
- C.** Dispute Notice of Mohamad dated May 4, 2023
- D.** Claims Procedure Order granted February 14, 2023
- E.** Land title certificate of DV Unit dated December 8, 2022
- F.** Mohamad Proof of Claim dated April 8, 2023
- G.** *Peters v Remington*, 1993 CarswellAlta 932, [1993] AJ No 1299

District of: Alberta  
Division No. 01 - Edmonton  
Court No. 2203-12557

FORM 31 / 36  
Proof of Claim

**Select the Debtor Entity:**

- Faissal Mouhamad Professional Corporation in the City of Red Deer in the Province of Alberta
- 98542 Alberta Ltd. of the Town of Drayton Valley in the Province of Alberta
- 52 Dental Corporation of the City of Calgary in the Province of Alberta
- Delta Dental Corp. of the City of Red Deer in the Province of Alberta
- Michael Dave Management Ltd. of the City of Red Deer in the Province of Alberta

All notices or correspondence regarding this claim must be forwarded to the following address:

c/o Duncan Craig LLP, 2800, 10060 Jasper Avenue, Edmonton, Alberta, T5J 3V9  
Attention: Darren R. Bieganeck, KC

In the matter of the receivership of 985842 Alberta Ltd. of the City of Calgary in and the claim of 1193770 Alberta Ltd., creditor.

I, Jure Jovica (name of creditor or representative of the creditor), of the city of Calgary in the province of Alberta do hereby certify:

1. That I am a creditor of the above-named debtor (or I am agent (position/title) of 1193770 Alberta Ltd., creditor).

2. That I have knowledge of all the circumstances connected with the claim referred to below.

3. That the debtor was, at the Filing Date, and still is, indebted to the creditor in the sum of \$ \_\_\_\_\_, as specified in the statement of account (or affidavit or solemn declaration) attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.) **Please note that proofs of claim in respect of all secured claims must include a sworn affidavit [or solemn declaration] that includes full particulars of the security claimed, including the date on which the security was given, the date on, and the manner in, which the security was perfected, all facts relevant to the priority of the security and the value at which you assess the security.**

4. (Check and complete appropriate category.)

A. UNSECURED CLAIM OF \$ \_\_\_\_\_

(other than as a customer contemplated by Section 262 of the Act)

That in respect of this debt, I do not hold any assets of the debtor as security and  
(Check appropriate description.)

Regarding the amount of \$ \_\_\_\_\_, I claim a right to a priority under section 136 of the Act.

Regarding the amount of \$ \_\_\_\_\_, I do not claim a right to a priority.  
(Set out on an attached sheet details to support priority claim.)

B. CLAIM OF LESSOR FOR DISCLAIMER OF A LEASE \$ \_\_\_\_\_

That I hereby make a claim under subsection 65.2(4) of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)

C. SECURED CLAIM OF \$ 816,808.00 (as at December 8, 2022), plus interest which continues to accrue

That in respect of this debt, I hold assets of the debtor valued at \$ 263,000.00 as security, particulars of which are as follows:  
(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.) **See Affidavit sworn February 9, 2023, filed February 11, 2023**

D. CLAIM BY FARMER, FISHERMAN OR AQUACULTURIST OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.2(1) of the Act for the unpaid amount of \$ \_\_\_\_\_  
(Attach a copy of sales agreement and delivery receipts.)

E. CLAIM BY WAGE EARNER OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.3(8) of the Act in the amount of \$ \_\_\_\_\_,

That I hereby make a claim under subsection 81.4(8) of the Act in the amount of \$ \_\_\_\_\_,

F. CLAIM BY EMPLOYEE FOR UNPAID AMOUNT REGARDING PENSION PLAN OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.5 of the Act in the amount of \$ \_\_\_\_\_,

That I hereby make a claim under subsection 81.6 of the Act in the amount of \$ \_\_\_\_\_,

G. CLAIM AGAINST DIRECTOR \$ \_\_\_\_\_

(To be completed when a proposal provides for the compromise of claims against directors.)



That I hereby make a claim under subsection 50(13) of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)

H. CLAIM OF A CUSTOMER OF A BANKRUPT SECURITIES FIRM \$\_\_\_\_\_

That I hereby make a claim as a customer for net equity as contemplated by section 262 of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)

5. That, to the best of my knowledge, I am not (am/am not) (or the above-named creditor is not (is/is not)) related to the debtor within the meaning of section 4 of the Act, and have not (have/has/have not/has not) dealt with the debtor in a non-arm's-length manner.

6. That the following are the payments that I have received from, and the credits that I have allowed to, and the transfers at undervalue within the meaning of subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Section 2 of the Act: (Provide details of payments, credits and transfers at undervalue.)

Dated at Calgary, AB, this 6 day of April, 2023.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Individual Creditor

\_\_\_\_\_  
Witness

1193770 Alberta Ltd.  
Name of Corporate Creditor

Per [Signature]  
Name and Title of Signing Officer  
Jure Jovica

Return To:

Phone Number: 403-604-6759  
Fax Number: \_\_\_\_\_  
E-mail Address: georgejovica@hotmail.com

MNP Ltd. - Licensed Insolvency Trustee  
Per:

\_\_\_\_\_  
Vanessa Allen - Receiver  
1500, 640 - 5 Avenue SW  
Calgary AB T2P 3G4  
Phone: (403) 263-3385 Fax: (403) 537-8437  
E-mail: calgary.insolvency@mnp.ca

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: There are severe penalties for making any false claim, proof, declaration or statement of account.



**985842 Alberta Ltd. ("985842")**  
**Interim Statement of Receipts and Disbursements**  
**For the Period From September 29, 2022 to March 13, 2023**

|   |                           | <u>Notes</u> |
|---|---------------------------|--------------|
| <b>Receipts:</b>                        |                           |              |
| Sale of assets                          | \$ 456,116                | 1            |
| Rent                                    | 26,173                    | 2            |
| GST collected                           | 1,309                     |              |
| <b>Total receipts:</b>                  | <u>483,598</u>            |              |
| <br><b>Disbursements:</b>               |                           |              |
| Receiver's legal fees and disbursements | 104,000                   | 3            |
| Receiver's fees and disbursements       | 62,650                    | 4            |
| Commission                              | 23,000                    | 5            |
| Repairs and maintenance                 | 7,616                     |              |
| Insurance                               | 6,906                     |              |
| Appraisal                               | 5,000                     |              |
| Miscellaneous                           | 575                       |              |
| GST paid                                | 10,223                    |              |
| <b>Total disbursements:</b>             | <u>219,970</u>            |              |
| <br><b>Net available cash:</b>          | <br><u><u>263,628</u></u> |              |

**Notes - general:**

1. On September 29, 2022, the Court of King's Bench of Alberta granted a Receivership Order appointing MNP Ltd. as Receiver and Manager over all of the current and future assets, undertakings and property of 985842.

**Notes - specific:**

1. Represents the net sale proceeds from the sale of a unit located at 5207 Power Centre Boulevard, in Drayton Valley, Alberta (the "DV Unit"), which houses a dental practice known as Valley Dental. The Sale of the DV Unit was approved by the Court pursuant to an Order granted on February 9, 2023.
2. Represents rent collected from the sole tenant of the DV Unit.
3. Represents the professional fees and disbursements of the Receiver's legal counsel, McMillan LLP, for the period ended February 28, 2023, as detailed on "Schedule 1" attached hereto.
4. Represents the professional fees and disbursements of the Receiver for the period ended February 28, 2023, as detailed on "Schedule 1" attached hereto.
5. Represents the amount payable to NAI Commercial Real Estate Inc. for commission on the sale of the DV Unit.

**In the Matter of the Receivership of  
985842 Alberta Ltd.  
Summary of Professional Fees and Disbursements**

**MNP Ltd.**

| <b>Invoice date</b> | <b>Invoice number</b> | <b>Description</b>                     | <b>Subtotal</b>     | <b>GST</b>         | <b>Total</b>        |
|---------------------|-----------------------|--|---------------------|--------------------|---------------------|
| October 11, 2022    | 10616476              | For the period ended October 10, 2022  | \$ 8,345.00         | \$ 417.25          | \$ 8,762.25         |
| November 14, 2022   | 10658998              | For the period ended October 31, 2022  | 4,458.00            | 222.90             | 4,680.90            |
| December 14, 2022   | 10701491              | For the period ended November 30, 2022 | 3,159.00            | 157.95             | 3,316.95            |
| January 5, 2023     | 10728165              | For the period ended December 31, 2022 | 6,974.00            | 348.70             | 7,322.70            |
| February 21, 2023   | 10792355              | for the period ended January 31, 2023  | 23,907.34           | 1,195.37           | 25,102.71           |
| March 13, 2023      | 10836421              | For the period ended February 28, 2023 | 15,807.02           | 790.35             | 16,597.37           |
|                     |                       |  | <b>\$ 62,650.36</b> | <b>\$ 3,132.52</b> | <b>\$ 65,782.88</b> |

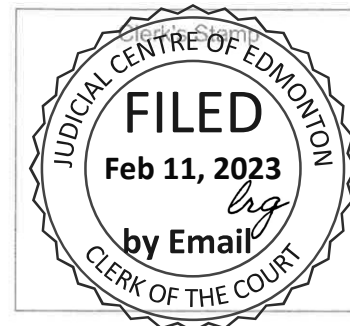
**McMillan LLP**

| <b>Invoice date</b> | <b>Invoice number</b> | <b>Description</b>                      | <b>Subtotal</b>      | <b>GST</b>         | <b>Total</b>         |
|---------------------|-----------------------|---|----------------------|--------------------|----------------------|
| October 27, 2022    | 3017151               | For the period ended September 30, 2022 | \$ 1,581.72          | \$ 79.06           | \$ 1,660.78          |
| November 14, 2022   | 3017277               | For the period ended October 31, 2022   | 5,466.18             | 273.31             | 5,739.49             |
| December 12, 2022   | 3017443               | For the period ended November 30, 2022  | 11,131.19            | 551.51             | 11,682.70            |
| December 31, 2022   | 3017650               | For the period ended December 31, 2022  | 17,424.04            | 870.05             | 18,294.09            |
| February 16, 2023   | 3017826               | For the period ended January 31, 2023   | 35,159.58            | 1,757.57           | 36,917.15            |
| March 9, 2023       | 3017919               | For the period ended February 28, 2023  | 33,237.51            | 1,657.85           | 34,895.36            |
|                     |                       |   | <b>\$ 104,000.22</b> | <b>\$ 5,189.35</b> | <b>\$ 109,189.57</b> |

**Total Professional Fees and Disbursements**

**\$ 166,650.58    \$ 8,321.87    \$ 174,972.45**

COURT FILE NO. 2203 12557  
COURT Court of King's Bench of Alberta  
JUDICIAL CENTRE Edmonton  
PLAINTIFF ROYAL BANK OF CANADA



DEFENDANTS FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, MCIVOR DEVELOPMENTS LTD., 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP., 52 WELLNESS CENTRE INC., PARADISE MCIVOR DEVELOPMENTS LTD., MICHAEL DAVE MANAGEMENT LTD., FAISSAL MOUHAMAD and FETOUN AHMAD also known as FETOUN AHMED

DOCUMENT **AFFIDAVIT**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Darren R. Bieganeck, KC  
Barrister & Solicitor  
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File # 204- -213643

**DUNCAN CRAIG LLP**  
LAWYERS MEDIATORS  
2800 Rice Howard Place  
10060 Jasper Avenue  
Edmonton, Alberta Canada T5J 3V9

**AFFIDAVIT OF JURE JOVICA**

**Sworn on February 9th, 2023**

I, Jure Jovica, of the City of Calgary, in the Province of Alberta, Businessman, SWEAR AND SAY THAT:

1. I am a partner in Jovica Investments Inc. ("Jovica"), a business engaged in real estate investment and mortgage lending. Jovica acts as administrative agent for 1193770 Alberta Ltd. ("119"), a mortgage lender to 985842 Alberta Ltd. ("985").
2. I am authorized on behalf of 119 to make this Affidavit. The matters deposed to are either based on my personal knowledge, my review of the books and records maintained by Jovica on behalf of 119 in the ordinary course of business (entries in which books and records are made reasonably contemporaneously with their entries as the transactions

occur) or information and belief. Where matters are stated to be based on information and belief, I do verily believe the same to be true.

3. This Affidavit is sworn in opposition to the Application of the Receiver for approval of a claims process in respect of 985.
4. To the best of my knowledge, information, and belief, 985 has one asset of material value in this Receivership. That asset is a commercial unit located at 5207 Power Centre Boulevard, Drayton Valley, Alberta (the "DV Unit") which is leased to a dentist.
5. 119 made a loan to 985 in the amount of \$800,000 and holds a first mortgage against the DV Unit.
6. Attached and marked **Exhibit "A"** to this my Affidavit is a copy of the Mortgage.
7. Attached and marked **Exhibit "B"** to this my Affidavit is a copy of the General Security Agreement obtained by 119 in respect of 985.
8. Attached and marked **Exhibit "C"** to this my Affidavit is a copy of a trust letter from the 119 solicitors to the solicitor to 985 confirming the advance of funds.
9. Attached and marked **Exhibit "D"** is a copy of the title to the DV Unit.
10. Attached and marked **Exhibit "E"** is a copy of the Personal Property Registry search from Alberta Personal Property Registry in respect of 985.
11. Attached and marked **Exhibit "F"** is a copy of a payout statement from 119. The amount outstanding to 119 as of December 8, 2022 is \$816,080.
12. All of the foregoing information has already been provided by 119 to the Receiver's legal counsel in November and December.
13. The DV Unit is the subject of an application for a Sale Approval and Vesting Order which is scheduled for the afternoon of February 9, 2023. 119 supports that sale however it will not generate sufficient proceeds to retire 985's indebtedness to 119. There will be a significant shortfall.
14. From the title to the DV Unit, it appears that the only question that needs to be addressed in respect of this matter is a determination of the validity and nature of the claim in relation to the Certificate of Lis Pendens ("CLP") registered ahead of 119's mortgage.
15. Engaging in a claims proving process conducted and managed by the Receiver will only serve to increase costs in relation to this matter in respect of 985. A further increase in costs against these proceeds will further erode the security position of 119 to its detriment.
16. I am informed by legal counsel for Jovica and 119, Darren R. Bieganeck, KC, and do verily believe that the fairest approach to take in respect of this matter is to:
  - (a) Have the Receiver complete the sale;
  - (b) Upon conclusion of the sale, have the Receiver finalize its anticipated cost allocation in respect of 985; and

(c) Thereafter, provide the balance of the net sale proceeds to our legal counsel for holding in trust pending either an agreement with the holder of the CLP or further Order of the Court.

17. 119 can then bring application, on notice to the holder of the CLP, for distribution of the proceeds without incurring further costs of the Receiver and its legal counsel to deal with that issue.

18. No other creditor has an interest in these proceeds.

SWORN BEFORE ME at Calgary, Alberta, )  
this 9<sup>th</sup> day of February, 2023. )

 )

(Commissioner for Oaths in and for the )  
Province of Alberta) )

DARRELL S. COHEN - Barrister & Solicitor )

  
\_\_\_\_\_  
JURE JOVICA



# MORTGAGE PURSUANT TO "THE LAND TITLES ACT"

985842 Alberta Ltd. of Red Deer, Alberta, (herein called the "Mortgagor") being registered as owner of an estate in fee simple in possession, subject, however, to such encumbrances, liens and interests as are notified by memorandum and underwritten or endorsed hereon, in all and singular that certain piece or parcel of land situate in the Province of Alberta, Canada, and legally described as

Plan 0721291  
Block 102  
Lot 14  
Excepting thereout all mines and minerals

This is Exhibit " A " referred to in the  
Affidavit of  
Jure Jovica

Sworn before me this 9th day of  
February A.D. 20 23

~~A Notary Public~~, A Commissioner for Oaths in and for the Province of Alberta DARRELL S. COHEN  
Barrister & Solicitor

together with the benefits and advantages of all easements, franchises and privileges now or hereafter appurtenant or appertaining thereto (hereinafter sometimes called the "said lands" or the "mortgaged premises") in consideration of the sum of **Eight Hundred Thousand (\$800,000.00) Dollars** (hereinafter referred to as the "principal sum") lent to the Mortgagor by **1193770 Alberta Ltd.** (hereinafter called the "Mortgagee"), the receipt of which sum the Mortgagor hereby acknowledges, COVENANTS AND AGREES with the Mortgagee that:

## REPAYMENT

1. The Mortgagor will pay to the Mortgagee the principal sum in lawful money of Canada, at the Mortgagee's Office at c/o 500, 707 - 7th Avenue S.W., Calgary, Alberta T2P 3H6, or at such other place as may be designated by the Mortgagee, with interest at the rate of **Ten percent (10.00%)** per annum, Compounded Monthly, not in advance as well after as before default and maturity until the principal sum and interest and all other money payable under this mortgage shall be fully paid as follows:

(a) interest at the aforesaid rate on the amounts of the principal sum from time to time advanced, computed from the respective dates of such advances up to and including the **July 17, 2020**, (hereinafter called the "interest adjustment date") shall become due and be paid on the date last mentioned, provided the Mortgagee may require the aforesaid interest on the principal advances made from time to time, computed from the date of each such advances, to become due and payable in monthly instalments on the 17th day of the month next following the first advance, and on the 17th day of each and every month thereafter and the balance, if any, of the aforesaid interest on advances shall become due and be paid on the interest adjustment date, and at the option of the Mortgagee interest so due and payable may be deducted from such advances; and

(b) thereafter the principal sum together with interest thereon at the aforesaid rate, computed from the date last mentioned shall become due and be paid by equal consecutive monthly instalments of **Six Thousand Six Hundred and Sixty Six Dollars and Sixty Seven Cents (\$6,666.67)** each, the first of such instalments to become due and be paid on the **August 17, 2020**, and a like amount on the 17th day of each and every consecutive succeeding month thereafter up to and including the **July 17, 2021**, and the full balance of the principal sum and interest thereon as aforesaid shall become due and be paid on the date last mentioned; each of the said monthly instalments to be applied firstly in payment of interest, secondly in payment of all other charges due under this mortgage, and thirdly in reduction of the principal sum.

## PRIOR ENCUMBRANCES

2. (a) The Mortgagor further covenants that should this Mortgage be registered subsequent to another encumbrance the, "Prior Encumbrance", the Mortgagor shall not allow any default to occur pursuant to the terms of the Prior Encumbrance and further covenants and agrees that should the Mortgagor allow a default to occur pursuant to the terms of the Prior Encumbrance, same shall be considered to be a default pursuant to the terms of this Mortgage and will allow the Mortgagee herein to exercise all of its rights and remedies herein contained.

(b) If the Mortgagor makes default in the performance of the covenants or conditions contained in any prior Mortgage, charge or encumbrances secured upon the said lands, then the entire unpaid balance hereby secured together with

interest, shall at the option of the Mortgagee, become forthwith due and payable without notice or demand. The Mortgagee shall be at liberty in case of such default to pay any arrears or other sums payable under the said Mortgage, agreement for sale, or encumbrances, or pay off all or any portion of the principal, interest and any other charges thereby secured. Any amounts so paid by the Mortgagee shall:

- (i) be added to the amount hereby secured;
  - (ii) bear interest at the stipulated rate herein or as amended from time to time until repaid;
  - (iii) be a charge upon the said land, and
  - (iv) unless repaid to the Mortgagee upon demand shall be recoverable from the Mortgagor in the same manner as if such sum had been originally secured hereby.
- (c) The Mortgagor specifically acknowledges and agrees that it has executed an Irrevocable and Unconditional Direction Not

to Re-Advance to Borrower and Direction to Partially Discharge the Mortgage ("Direction") registered on title to the said lands. In the event the Prior Mortgagee advances further funds to the Mortgagor in contravention of the Direction, or fails to provide a partial discharge of their Mortgage for those further funds, such advancement of funds or failure to provide a partial discharge, shall constitute a default under the terms and conditions of this Mortgage. This Mortgagee shall be entitled to recover personally from the Mortgagor any such further advance of funds and any solicitor client costs of the enforcement, on a full indemnity basis, as that advance will make recover against the said Land insufficient to payout this Mortgagee in full.

#### PRIORITY

3. (a) This mortgage may be renewed or extended, from time to time, at the sole option of the Mortgagee by an agreement in writing between the parties for the term offered by the Mortgagee with or without an increased rate of interest, notwithstanding that there may be subsequent encumbrances. The "date of the mortgage" shall be deemed to be the date of the renewal agreement. Such renewal agreement need not be registered against title to the said lands in order to retain the priority for this mortgage, so renewed and altered, over any instrument registered subsequently to the registration of this mortgage prior to its renewal, and such renewal agreement shall be binding against the Mortgagor, its successors and assigns, and all subsequent mortgagors and encumbrancers and other parties.

(b) The Mortgagor shall, forthwith on request therefor by the Mortgagee, provide to the Mortgagee, at the Mortgagor's expense, all such postponements and other assurances as the Mortgagee may require to ensure the foregoing binding effect and priority. All renewals (if any) shall be done at the Mortgagor's expense (including without limitation payment of the Mortgagee's legal expenses on a solicitor-and-his-own-client basis, full indemnity basis).

(c) No such renewal, even if made by a successor in title to the Mortgagor named herein and whether or not the Mortgagor shall consent thereto, shall in any way release or render unenforceable the covenants or obligations of the Mortgagor named herein, which shall continue notwithstanding such renewal or extension and shall apply to this mortgage as renewed or extended. Nothing contained herein shall be taken to confer any right of renewal upon the Mortgagor.

#### ARREARS OF INTEREST

4. All interest in arrears shall become principal and bear interest at the rate aforesaid, payable at the times, in the manner and at the place herein mentioned for the payment of interest, from the time the same becomes due and payable. In case the sums hereby secured or any part thereof be not paid at the time or times above set forth for payment thereof the Mortgagor will, so long as such sums or any part thereof remain unpaid or owing on the security hereof, or during the continuance of this security, pay interest from day to day as above provided on the said sums or so much thereof as shall for the time being remain due, owing or unpaid during the continuance of this security, and the taking of a judgment or judgments under any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Mortgagee's right to interest, at the above rate, on any moneys due or owing to the Mortgagee during the continuance of this security, under any of the covenants herein contained or on any judgment to be recovered thereon. Provided that in the event of any default being made in the payment of any instalment of interest secured under this mortgage the same shall thereupon become part of the principal sum hereby secured and shall bear interest from the time when the same became due at the rate aforesaid, and on each day when any instalment of interest falls due hereunder in each and every year until the whole of the said principal sum and interest secured hereby is fully paid and satisfied; all sums of money, whether interest or otherwise, then due and remaining unpaid shall become principal and bear interest at the rate aforesaid.



## CHARGE

5. And for the better securing to the Mortgagee the repayment in the manner aforesaid of the said principal sum and interest and other charges and all the moneys hereby secured, the Mortgagor hereby mortgages to the Mortgagee all the Mortgagor's estate and interest in the lands herein described.

## SHORT COVENANTS

6. The Mortgagor covenants with the Mortgagee that the Mortgagor:
- (a) has a good title to the said lands;
  - (b) has the right to mortgage the said lands;
  - (c) has done no act to encumber the said lands;
  - (d) will execute such further assurances of the said lands as may be requisite;
  - (e) and that, on default, the Mortgagee shall have quiet possession of the said lands free from all encumbrances.

## MORTGAGEE NOT BOUND TO ADVANCE

7. Neither execution nor registration nor acceptance of this mortgage, nor the advance of part of the moneys secured hereby, shall bind the Mortgagee to advance the said principal sum or any unadvanced portion thereof, but nevertheless this mortgage shall take effect forthwith on the execution of these presents, and if the principal sum or any part thereof shall not be advanced at the date hereof, the Mortgagee may advance the same in one or more sums to or on behalf of the Mortgagor at any future date or dates, and the amount of such advances when so made shall be secured hereby and repayable with interest as herein provided.

## TAXES, LIENS, ENCUMBRANCES, ETC.

8. (a) The Mortgagor will pay, as and when the same shall fall due, all taxes, rates, liens, charges, encumbrances or claims which are or may be or become charges or claims against the said lands or on this mortgage or on the Mortgagee in respect of this mortgage and, on demand therefor by the Mortgagee, will produce and leave with the Mortgagee receipts for the same.

(b) The Mortgagee may pay, as and when the same shall fall due, all taxes, rates, liens, charges, encumbrances or claims which are or may be or become charges or claims against the mortgaged premises or on this mortgage or on the Mortgagee in respect of this mortgage and any amount so paid by the Mortgagee shall become part of the principal sum hereby secured and be a charge on the said lands in favour of the Mortgagee and shall be payable forthwith by the Mortgagor to the Mortgagee, with interest at the rate aforesaid until paid, and in default proceedings for sale and foreclosure may be taken in addition to all other remedies.

(c) If the said lands or any part thereof are sold or forfeited for non-payment of taxes while any sum remains unpaid hereunder, the Mortgagee may acquire title and rights of the purchaser at any sale, or the rights of any other person or corporation becoming entitled on or under any such forfeiture, or the Mortgagee may pay, either in its own name or in the name of the Mortgagor and on the Mortgagor's behalf, any and all sums necessary to be paid to redeem such lands so sold or forfeited, and to revest such lands in the Mortgagor, and the Mortgagor hereby nominates and appoints the Mortgagee as agent to pay such moneys on the Mortgagor's behalf and in the Mortgagor's name, and any moneys so expended by the Mortgagee shall be repaid by the Mortgagor to the Mortgagee forthwith, or in the alternative the Mortgagee shall have the right to bid on and/or purchase the said lands at any tax sale of the same and shall thereupon become the absolute owner thereof.

(d) The Mortgagor further covenants with the Mortgagee that the Mortgagee may deduct from any advance of moneys secured by this mortgage an amount sufficient to pay any and all taxes, rates, liens, charges, encumbrances or claims against the said lands which have become or will become due and payable and are unpaid at the date of such advances, together with such interest as may be due in respect of such advances.

(e) The Mortgagor shall on demand therefor by the Mortgagee pay to the Mortgagee on each monthly payment date of principal and interest and in addition thereto, until the indebtedness hereby secured is fully paid, an instalment on account of taxes, rates, assessments, levies and charges which are now or may hereafter be imposed upon or charged or chargeable against the said lands by any competent authority. The amount of the monthly instalments shall be equal to the amount of such annual taxes next due, as estimated by the Mortgagee, less all instalments already paid therefor, divided by the number of monthly instalments therefor becoming due not later than one (1) month prior to the due date of any such taxes and shall be subject to increase or decrease to the extent required to create as of the monthly payment date on the mortgage immediately preceding the due date of any such taxes, an amount sufficient for the payment thereof in full on such due date. The due date herein referred to is that date from and after which penalties accrue and become an additional charge if payment is not made on or before such



date. Nothing herein contained shall obligate the Mortgagee to apply such moneys on account of taxes more often than once each calendar year.

(f) The Mortgagor covenants to transmit to the Mortgagee all assessment notices, tax notices, and other documents affecting the imposition and payment of taxes against the said lands as soon as the same have been received by the Mortgagor and to obtain and deliver the same to the Mortgagee at least thirty (30) days prior to the due date for the payment thereof.

(g) Any amount paid to the Mortgagee as in this paragraph required, may be held by it with its own funds pending payment or application thereof as herein provided and nothing herein contained shall obligate the Mortgagee to apply such moneys on account of taxes more often than yearly. The Mortgagee shall pay the taxes to the amount of the then unused credit thereof on or before their due date and may, at its option, pay any of such taxes when payable either before or after the said due date, without notice, or make advances therefor in excess of the then amount of credit for such taxes. The excess amount advanced shall be immediately due and payable to the Mortgagee and shall be secured as additional principal sum under this mortgage and bear the same rate of interest from the date of advancement as the principal indebtedness. An official receipt therefor shall be conclusive evidence of such payment and of the validity of such taxes.

(f) The Mortgagee may apply credits for the above taxes, or any part thereof, on account of any delinquent instalments of principal or interest or any other payments maturing or due under this mortgage and the amount of credit existing at any time shall be reduced by the amount thereof paid or applied as herein provided. The amount of the existing credit hereunder at the time of any transfer of the said lands shall without assignment thereof inure to the benefit of the successor owner of the said lands and shall be applied under and subject to all the provisions hereof. Upon the payment in full of the moneys secured hereby, the amount of any unused credit shall be paid to the party lawfully entitled thereto.

(g) If payments are not made as in this paragraph provided, and such default continues for a period of ten (10) days, then the Mortgagee may, at its option, declare the whole of the principal sum and interest hereby secured and not previously paid immediately due and payable and proceed as in the case of any other default in payment thereof.

#### INSURANCE

9. (a) The Mortgagor will forthwith insure, and during the continuance of this security keep insured against loss or damage by fire each and every building on the said lands to the extent of their full replacement value in an insurance company or companies, to be approved of by the Mortgagee; and will not do nor suffer anything whereby the said policy or policies may be vitiated, and will pay all premiums and sums of money necessary for such purposes as the same shall become due and will assign and deliver over unto the Mortgagee the policy or policies of insurance, the receipt or receipts thereto appertaining.

(b) In addition to the furnishing of fire insurance as herein otherwise provided, the Mortgagor covenants and agrees with the Mortgagee to furnish to the Mortgagee insurance policies or insurance contracts against such other insurable risks, perils or events including, without limiting the generality of the foregoing, boiler, plate glass, rental and public liability insurance, and in such amounts as the Mortgagee may require, upon the improvements situate on the mortgaged premises to the full replacement value and for such period of time as the Mortgagee may from time to time require during the existence of this mortgage.

(c) If the Mortgagor shall neglect to keep the said buildings, or any of them, insured as aforesaid, or to pay the said premiums, or to deliver such policy or policies of insurance, or the receipt or receipts thereto appertaining to the Mortgagee, or to deliver satisfactory evidence of the renewal of each policy of insurance to the Mortgagee at its address as stated on Page 1 of this Mortgage at least five (5) days before the expiry thereof, then it shall be lawful for the Mortgagee to insure the said building or buildings in manner aforesaid, at the cost, charge and expense of the Mortgagor, in which case the mortgagee shall be entitled to charge an additional service fee in the sum of \$250.00 which shall be added to the principal sum herein secured with interest thereon at the interest rate herein stated or as amended from time to time.

(d) The Mortgagee may require any insurance of the said buildings to be cancelled and new insurance effected, and it shall be optional with the Mortgagee, in so far as it is entitled so to do from time to time under the laws of the Province of Alberta, to name the company or companies and the agents thereof, by which the insurance shall be written, all at the cost, charge and expense of the Mortgagor.

(e) The loss under any policies or contracts of insurance hereinbefore required to be provided by the Mortgagor, and any renewal thereof, shall be payable to the Mortgagee, and such policies or contracts shall be in terms satisfactory to the



Mortgagee, shall have attached mortgage clauses in a form approved by the Mortgagee, and shall be delivered to and held by the Mortgagee.

(f) If for any reason any insurance as hereinbefore provided for cannot be effected or maintained, the whole of the principal sum and interest hereby secured and not previously paid shall, at the option of the Mortgagee, forthwith become due and payable.

(g) And it is further agreed that in case of the cancellation of any insurance by reason of the unsatisfactory condition of the buildings on the said lands or from any other cause whatsoever, the Mortgagee or its agents shall have the right to enter the said buildings at any time for the purpose of inspection at the expense of the Mortgagor, and the whole of the principal sum and interest hereby secured and not previously paid shall, at the option of the Mortgagee, forthwith become due and payable.

(h) Nothing herein shall be deemed to hold the Mortgagee responsible for failure to have insurance placed or for any loss growing out of any defects in any policy, or because of failure of any insurance company to pay for any loss or damage insured against.

(i) And the Mortgagor agrees forthwith on the happening of any loss or damage, to furnish at the expense of the Mortgagor all necessary proofs and do all necessary acts to enable the Mortgagee to obtain payment of the insurance moneys and all moneys received by virtue of any policy or policies as aforesaid may, at the option of the Mortgagee, either be forthwith applied in or toward repairing, rebuilding, or reinstating the mortgaged premises or be paid to the Mortgagor or any other person appearing by the registered title to be or to have been the owner of the mortgaged premises or be applied or paid partly in one way and partly in another, or it may be applied, at the sole discretion of the Mortgagee, in whole or in part on the mortgage debt or any part thereof whether due or not then due.

#### IMPROVEMENT, FIXTURES, ETC.

10. All erections, buildings, improvements, and other fixtures which are now or which shall hereafter be placed or installed upon the mortgaged premises shall form part of the realty and of the security and are included in the expression "the said lands", and the Mortgagor will not commit any act of waste thereon, and the Mortgagor will at all times during the continuance of this security, the same repair, maintain, restore, amend, keep, make good, finish, add to and put in order, and in the event of any loss or damage thereto or destruction thereof the Mortgagee may give notice to the Mortgagor to repair, rebuild, or reinstate the same within a time to be determined by the Mortgagee and to be stated in such notice; and upon the Mortgagor failing so to repair, rebuild or reinstate within such time, such failure shall constitute a breach of covenant hereunder and thereupon the mortgage moneys shall, at the option of the Mortgagee, become immediately due and payable and that without any demand by the Mortgagee upon the Mortgagor; provided that the Mortgagee may repair, rebuild or reinstate the mortgaged premises at the cost of the Mortgagor and charge all sums of money determined by the Mortgagee to be properly paid therefor to the mortgage account. This provision shall be in addition to any statutory covenants implied in this mortgage.

#### ASSIGNMENT OF RENTS

11 As further security for the payment of all moneys owing hereunder the Mortgagor assigns and agrees to assign to the Mortgagee all rents which shall now, or hereafter may become payable by reason of any tenancy or tenancies covering the mortgaged premises or any part thereof; and if the Mortgagor be in default in the observance or performance of any of the terms, covenants and conditions of this mortgage, then the Mortgagee shall have the right, by its agents or otherwise, to take and receive the rents thereof, and, for such purposes, the Mortgagor hereby appoints the Mortgagee attorney for the Mortgagor and in the Mortgagor's name, to execute such agreements, transfers or conveyances as may be required for the purposes aforesaid, the Mortgagor hereby confirming and ratifying all things which the Mortgagee may do in connection therewith; and the Mortgagor agrees to execute such further assurances as may be required to give effect to the true intent and purpose of this provision; but nothing in this provision shall make the Mortgagee chargeable or accountable as a mortgagee in possession.

#### PREPAYMENT CLAUSE

12. The Mortgagor, acknowledges that this mortgage is closed and may not be prepaid in any way, shape or form, for a period of six (6) months calculated from the interest adjustment date (closed period). However, once the closed period has expired, the Mortgagor, when not in default under this mortgage, may prepay all sums due and owing under same, at any time, without penalty or bonus. This privilege shall not apply to any renewal of this mortgage unless the Mortgagee agrees in writing. No partial prepayment will be accepted by the Mortgagee.

### EXPENSES OF OBTAINING AND MAINTAINING SECURITY

13. All solicitor's, inspector's, valuator's and surveyor's fees and expenses for drawing and registering this mortgage and for examining the mortgaged premises and the title thereto and for making or maintaining this mortgage as an appropriate charge on the mortgaged premises, and in exercising or enforcing or attempting to enforce or in pursuance of any right, power, remedy or purpose hereunder or subsisting, and legal costs as between solicitor and client, **on a full indemnity basis**, and also allowance for the time, work and expenses of the Mortgagee or of any agent, solicitor or servant of the Mortgagee for any purpose herein provided for as from time to time are permitted by the laws of the Province of Alberta together with all sums which the Mortgagee may and does from time to time advance, expend or incur hereunder as principal, insurance premiums, taxes, rates, or in or toward payment of prior liens, charges, encumbrances or claims charged or to be charged against the said lands, or in maintaining, repairing, restoring or completing the mortgaged premises, and in inspecting, leasing, managing or improving the mortgaged premises, including the price or value of any goods of any sort or description supplied to be used on the mortgaged premises, and whether such sums are advanced or incurred with the knowledge, consent, concurrence or acquiescence of the Mortgagor or otherwise are to be secured hereby and shall be a charge on the said lands, together with interest thereon at the said rate; and all such moneys shall be repayable to the Mortgagee on demand, or if not demanded, then with the next ensuing instalment of interest, except as herein otherwise provided.

### MAINTENANCE OF CHARGE

14. The Mortgagor will fully and effectually maintain and keep the security hereby created as a valid and effective security during the currency hereof and will not permit or suffer the registration of any debt, lien or privilege whatsoever, whether of workmen, builders, contractors, engineers, architects or suppliers of material, upon or in respect of the mortgaged premises, which could rank prior to the charge of this mortgage; provided that the registration of any such lien or privilege shall not be deemed to be a breach of this covenant if the Mortgagor shall desire in good faith to contest the same and shall, if the Mortgagee so requires, give security to the satisfaction of the Mortgagee for the due payment of the amount claimed in respect thereof, together with possible costs, in case it shall be a valid lien or privilege.

### ACCELERATION

15. If any default shall be made in any payment of principal or interest of any of the moneys hereby secured or any part thereof, or in the observance or performance of any of the covenants, agreements, provisoes and stipulations herein contained, then, and in such case, the whole principal moneys hereby secured shall, at the option of the Mortgagee, become due and payable in like manner to all intents and purposes as if the time herein mentioned for payment of such principal money had fully come and expired.

### REMEDIES ON DEFAULT

16. In the event of default being made in any of the covenants, agreements, provisoes or stipulations expressed or implied herein:

(h) the Mortgagee may, at the expense of the Mortgagor, and when and to such extent as the Mortgagee deems advisable, observe and perform or cause to be observed and performed such covenant, agreement, proviso or stipulation;

(i) the Mortgagee may send or employ an inspector or agent to inspect and report upon the value, state and condition of the said lands and a solicitor to examine and report upon the title to the same;

(j) the Mortgagee or agent of the Mortgagee may enter into possession of the said lands and whether in or out of possession collect the rents and profits thereof, and make any demise or lease of the mortgaged premises, or any part thereof, for such terms and periods and at such rents as the Mortgagee shall think proper; and the power of sale hereunder may be exercised either before or after and subject to any such demise or lease;

(k) it shall and may be lawful for and the Mortgagor hereby grants full power, right and licence to the Mortgagee to enter, seize and distrain upon the mortgaged premises, or any part thereof, and by distress warrant to recover as much of the moneys secured hereby as shall from time to time be or remain in arrears and unpaid, together with all costs, charges and expenses attending such levy or distress;



(l) the Mortgagee may sell and dispose of the said lands with or without entering into possession of the same and with or without notice to the Mortgagor or any party interested in the said lands; and all remedies competent may be resorted to; and all the rights, powers and privileges granted to or conferred upon the Mortgagee under and by virtue of any statute or by this mortgage may be exercised; and no want of notice or publication or any other defects, impropriety or irregularity shall invalidate any sale made or purporting to be made of the said lands hereunder; and the Mortgagee may sell, transfer and convey any part of the mortgaged premises on such terms of credit or part cash and part credit, secured by contract or agreement for sale or mortgage, or otherwise, as shall appear to the Mortgagee most advantageous and for such prices as can reasonably be obtained therefor; and in the even of a sale on credit or for part cash and part credit, whether by way of contract for sale or by conveyance or transfer and mortgage, the Mortgagee is not to be accountable for or charged with any moneys until the same shall be actually received in cash; and sales may be made from time to time of parts of the said lands to satisfy interest or parts of the principal overdue, leaving the principal or parts thereof to run with interest payable as aforesaid; and the Mortgagee may make stipulations as to title or evidences or commencement of title or otherwise as the Mortgagee shall deem proper, and may buy in or rescind or vary any contract for sale; and on any sale or resale, the Mortgagee shall not be answerable for loss occasioned thereby; and for any of such purposes the Mortgagee may make and execute all agreements and assurances that the Mortgagee shall deem advisable or necessary; and

(m) the Mortgagee shall be entitled (in addition and without prejudice to all its other rights and privileges) forthwith to apply for and obtain the appointment of a receiver of the said lands and premises and the rents and profits thereof without the necessity of first exercising its right to enter into possession.

#### EXPROPRIATION

17. If the said lands shall be expropriated by any government, authority, body or corporation clothed with the powers of expropriation, the amount of the principal sum hereby secured remaining unpaid shall forthwith become due and payable together with interest thereon at the said rate to the date of payment and together with a bonus equal to the sum of three (3) months' interest at the said rate calculated on the amount of the said principal sum so remaining unpaid.

#### MISCELLANEOUS COVENANTS

18. The Mortgagor further covenants and agrees with the Mortgagee that:

(a) it is agreed that this mortgage, the taking, foreclosure or cancellation thereof or any other dealing with or proceeding under the same shall not operate by way of merger of any indebtedness of the Mortgagor to the Mortgagee or any contract or instrument by which the same now or at any time hereafter be represented or evidenced, nor shall it operate to suspend payment of any such indebtedness or affect or prejudice in any way the rights, remedies and powers of the Mortgagee in respect thereof or any securities held by the Mortgagee for the payment thereof; and that no judgment recovered by the Mortgagee and no other dealing with any other security for the moneys advanced hereunder or secured hereby shall operate by way of merger of this mortgage or in any way affect the security hereby created or the Mortgagee's right to interest as aforesaid;

(b) the Mortgagee may at all times release any part or parts of the said lands or any other security or any surety for payment of all or any part of the moneys hereby secured or may release the Mortgagor or any other person from any covenant or other liability to pay the said moneys or any part thereof, either with or without any consideration therefor, and without being accountable for the value thereof or for any moneys except those actually received by the Mortgagee, and without thereby releasing any other part of the said lands, or any other securities or covenants herein contained, it being especially agreed that notwithstanding any such release the lands, securities and covenants remaining unreleased shall stand charged with the whole of the moneys hereby secured;

(c) no extension of time given by the Mortgagee to the Mortgagor, or anyone claiming under the Mortgagor, shall in any way affect or prejudice the rights of the Mortgagee against the Mortgagor or any other person liable for payment of the moneys hereby secured;

(d) the waiver of one or more defaults under this mortgage shall not be construed as a waiver of any subsequent or other default;

(e) in the event of the mortgage moneys advanced hereunder, or any part thereof, being applied to the payment of any charge or encumbrance, the Mortgagee shall be subrogated to all the rights of and stand in the position to and be entitled to all the equities of the party so paid off whether such charge or encumbrance has or has not been discharged; and the decision of

the Mortgagee as to the validity or amount of any advance or disbursement made under this mortgage or of any claim so paid off, shall be final and binding on the Mortgagor;

(f) the Mortgagee shall not be charged with any moneys receivable or collectable out of the mortgaged premises or otherwise, except those actually received; and all revenue of the said premises received or collected by the Mortgagee from any source other than payment by the Mortgagor may, at the option of the Mortgagee, be used in maintaining or insuring or improving the mortgaged premises, or in payment of taxes or other charges against the mortgaged premises, or applied on the mortgage account;

(g) in any action, suit, or proceeding for enforcing this mortgage, or to recover payment of the moneys hereby secured, or for the sale, foreclosure, or obtaining possession of the said lands, or any part thereof, service of any Notice, Writ of Summons, Originating Summons, Statement of Claim, Order of Court or a Judge, or of any legal or other proceeding by the Mortgagee, or by any statute, ordinance, rule, order or practice required to be given or served, may be effected by posting up a copy of such Notice, Writ of Summons, Originating Summons, Statement of Claim, Order or legal proceeding on the said lands (if unoccupied), or by leaving any such copy with a grown person on the said lands (if occupied) or, at the option of the Mortgagee, by publishing the same in some newspaper published in the Province of Alberta; and such notice shall be sufficient though not otherwise addressed than "To Whom It May Concern"; and the Mortgagor hereby agrees to such notice being given or such service being made as aforesaid, and that the same shall be in lieu of and shall have the same effect and be taken as personal notice or service; any statute, ordinance, order, rule, or practice to the contrary notwithstanding;

(h) if the Mortgagor be a corporation, it hereby waives the provisions of Subsections (1) to (3) inclusive of Section 42 and Subsections (1) to (4) inclusive of Section 41 of the Law of Property Act, Revised Statutes of Alberta 1980, Chapter L-8 and all the amendments thereto and all the amendments made subsequent hereto, and all substitutions thereof;

(i) wherever the singular number or the masculine gender is used in this instrument the same shall be construed as including the plural and feminine and neuter respectively where the fact or context so requires; and in any case where this mortgage is executed by more than one party all covenants and agreements herein contained shall be construed and taken as against such executing parties as joint and several; and the heirs, executors, administrators, successors and assigns of any party executing this mortgage are jointly and severally bound by the covenants, agreements, stipulations and provisoes herein contained; and the covenants, agreements, stipulations and provisoes herein stated shall be in addition to those granted or implied by statute; and

(j) the descriptive headings of the several paragraphs of this mortgage are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

#### **BUILDING MORTGAGE**

19. If this mortgage is a building mortgage, the Mortgagor covenants and agrees with the Mortgagee to construct a building or buildings and other improvements on the said lands in accordance with the plans and specifications which have been or are hereafter approved by the Mortgagee and to carry on diligently to completion the said building, buildings and other improvements and that the building or buildings being erected or to be erected on the said lands shall form part of the security for the full amount of the moneys secured by this mortgage, and that advances on this mortgage are to be made from time to time in the future in accordance with the progress of such building or buildings or upon their completion, occupation or sale, subject to the provisions of paragraph 7 hereof.

#### **DISCHARGE**

20. The Mortgagee shall have a reasonable time after payment of the mortgage moneys in full within which to prepare and execute a discharge of this mortgage; and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Mortgagee; and to the extent permitted by law, all legal and other expenses for the preparation and execution of such discharge shall be borne by the Mortgagor; PROVIDED THAT the Mortgagor shall not be entitled to a discharge of this mortgage unless and until all covenants, provisoes, agreements and stipulations herein contained, on the part of the Mortgagor to be observed or performed, have been duly complied with, whether the Mortgagee has taken legal proceedings thereon and recovered judgment or otherwise.



## DUE ON SALE AND RELEASE

21. If the Mortgagor sells, conveys or transfers the said lands or agrees to do so, to anyone without obtaining prior written approval from the Mortgagee, the loan amount shall at the Mortgagees option, immediately become payable in full. Any payment accepted by the Mortgagee from any person or persons whom the Mortgagee has not first approved in writing shall not mean that the Mortgagee has granted prior written approval nor that the Mortgagee has relinquished its right to require the Mortgagor to pay the loan amount in full.

You shall provide us with sufficient written information to enable us to determine whether we should give our written approval and we shall upon receipt of sufficient information, make our determination in a timely manner. Prior written approval by us shall not be unreasonably withheld.

If prior written approval is granted by us to you to sell, convey or transfer your property or any part of it, upon; (a) registration of a valid Deed/Transfer of Land to the approved person or persons; and, (b) if required by us, receipt by us of one or more Guarantee Agreements, we release and forever discharge; (a) you from your obligations under the mortgage and the obligation to pay the loan amount; and (b) if applicable, any guarantors from their guarantee that you would make all payments required by the mortgage and that you would comply with all other obligations contained in the mortgage.

22. The Mortgagor hereby acknowledges having received a Duplicate copy of this Mortgage prior to receiving any of the proceeds of same.

23. In the event any payment is missed and/or dishonoured for any reason whatsoever under this Mortgage, the Mortgagee shall be entitled to charge the Mortgagor a \$250.00 administration fee per payment missed or dishonoured per individual Mortgagee. Upon collection of any defaulted payment(s) and the administration fee(s), the Mortgagee shall be entitled to insist that the collected amount be provided, together with collection costs, by certified cheque, money order, bank draft, cash or solicitor's trust cheque, at the sole option of the Mortgagee.

24. The Mortgagor acknowledges that in the event any obligation of the mortgagor for payment to the mortgagee pursuant to the terms of this mortgage has been deferred (deferred period) interest shall run on those sums so deferred at the rate stated in this mortgage or any renewal thereof during said deferral period.

26. The Mortgagor and the Mortgagee covenant and agree that should the Mortgagee allege default on the part of the Mortgagor, the Mortgagee shall be entitled, at its sole option and discretion, to commence foreclosure proceedings in any Judicial District the Mortgagee chooses, notwithstanding that the lands and premises which are the subject of the foreclosure proceedings are not situate therein. As such, this clause shall be considered to be an "agreement in writing" as contemplated by the Alberta Rules of Court.

27. The Mortgagor hereby specifically acknowledges and agrees that the Mortgagee shall be entitled to make any and all reasonable inquiries and obtain any and all reasonable information with respect to the mortgage premises, such inquiries to include, but not be limited to any other Mortgagees, municipal authority and insurance company.

28. The Mortgagor hereby consents to the Mortgagee, being a credit granting corporation, to conduct a name search of the Mortgagor in accordance with Section 17.3 of the *Land Titles Act* (Alberta). In addition, the Mortgagor hereby appoints the Mortgagee as its agent and attorney for purposes of obtaining any and all information regarding the said lands, including, without limitation, information from the "Information System" established under the *Safety Codes Act* (Alberta).

29. The Mortgagor hereby specifically acknowledges and agrees that, in the event the Mortgagee is requested or required to file a Proof of Claim in Bankruptcy of the Mortgagor, the Mortgagee shall be entitled to charge the Mortgagor a \$250.00 administration fee per Proof of Claim filed. Upon collection of any defaulted payment(s) and the administration fee(s), the Mortgagee shall be entitled to insist that the collected amount be provided, together with collection costs, by certified cheque, money order, bank draft, cash or solicitor's trust cheque, at the sole option of the Mortgagee. Any act of Bankruptcy or Insolvency by the Mortgagor shall be considered a default under the terms and conditions of this mortgage.

30. The Mortgagor authorizes the Mortgagee to collect personal information (including credit, employment and other financially-related

information) about the Mortgagor, from the Mortgagor or from credit bureaus, credit reporting agencies, financial institutions, government departments, insurance institutions, neighborhood and condominium associations, references the Mortgagor has provided to the Mortgagee and from persons who may have referred the Mortgagor's mortgage business to us.

The Mortgagor consents that the personal information collected from the Mortgagor and others may be used for the following purposes: (i) to determine the Mortgagor's financial situation; (ii) to determine the Mortgagor's initial and ongoing eligibility for mortgage services; (iii) to administer or service the Mortgagor's mortgage; (iv) to arrange for and in connection with the financing of the Mortgagee's mortgage business; and (v) as otherwise necessary for the provision of mortgage services and protection of the Mortgagee's security interest herein.

The Mortgagor consents that the personal information collected from the Mortgagor and others may be disclosed to the following people for the following purposes: (i) to credit bureaus, credit reporting agencies, mortgage insurers and financial institutions to confirm the Mortgagor's financial situation and the Mortgagor's initial and ongoing eligibility for mortgage services; (ii) to persons retained to administer or service the Mortgagor's mortgage for the purpose of such administration or servicing; (iii) to persons (or their permitted assignees) involved in the financing or securitizing, or facilitation of the financing and securitizing, of the Mortgagee's mortgage business for the purpose of their providing or facilitating such financing or securitizing (which may include the administration or servicing of the Mortgagor's mortgage by them or their agents); and (iv) to other persons as necessary for the provision of mortgage services to the Mortgagor and protection of the Mortgagee's security interest herein.

31. The Mortgagor specifically acknowledges and agrees that he/she/they have specifically contracted to extend the statutory limitation periods as prescribed by law in the Province of Alberta including but not limited to those prescribed under the *Limitations Act*, R.S.A. 200, c. L-12, as amended or replaced from time to time to a period of 25 years..

32. The Mortgagor further covenants and agrees that in the event the property forming the subject matter of this mortgage is a Condominium as defined by the *Condominium Property Act*, Alberta, then and in that event, the following provisions apply:

- (a) any default by the Mortgagor in the payment of the Mortgagor's share of common area or other authorized charges levied by the Condominium Corporation, shall automatically constitute default under this mortgage.
- (b) should the Mortgagor fail in the Mortgagor's responsibility to pay all charges levied by the Condominium Corporation in respect of the Mortgagor's interest in the property, the Mortgagee may make all such payments on the Mortgagor's behalf, in which event the Mortgagor hereby acknowledges that the amount so paid shall be added to, and form part of, the principal sum secured hereby and shall forthwith be repaid to the Mortgagee, with interest at the rate provided in this mortgage.
- (c) the Mortgagee reserves the right at any time to exercise the Mortgagor's power to vote on all matters as an owner and member of the Condominium Corporation. Such right, if exercised by the Mortgagee, shall not render the Mortgagee in possession, nor shall the Mortgagee be held responsible for the protection of the Mortgagor's interests.

In the event the Mortgagor owns a parking stall registered under the Condominium Plan or leased from the Condominium Corporation, which parking stall has not been secured by the Mortgage or assigned to the Mortgagee, the Mortgagor specifically grants to the Mortgagee an equitable mortgage in the said parking stall, and the Mortgagor hereby mortgages and charges to the Mortgagee all of the Mortgagor's estate, right, title and interest in the said parking stall. Further, the Mortgagor specifically agrees to any rectification of the Mortgage to include said parking stall and as such the said parking stall shall form part of the Mortgaged Premises herein. Further, the Mortgagor specifically agrees not to sell or lease the said parking stall without the specific written consent of the Mortgagee and any attempt to sell or lease the said parking stall shall be considered a default under the Mortgage.

32. The Mortgagor or any subsequent transferee, assignee, estate, etc. shall comply with any requests for and provide to the Mortgagee any reasonable information requested regarding the Mortgagor or the said lands.

33. The Mortgagor warrants and represents that to the best of their knowledge the lands and existing prior uses of the lands, and any construction or development on the lands comply and have at all times complied with all laws, regulations, orders and approvals of all governmental authorities having jurisdiction with respect to environmental matters applicable to the ownership, use, maintenance, and operation thereof (collectively, the "Environmental Laws") and, without limiting the generality of the foregoing:

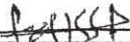


- (a) The property has never been used as a land fill site or to store hazardous substances either above or below ground, in storage tanks or otherwise;
- (b) All hazardous substances used in connection with the business conducted on the Property has at all times been received, handled, used, stored, treated, shipped and disposed of in strict compliance with all Environmental Laws;
- (c) No hazardous substances have been released into the environment or deposited, discharged, placed or disposed of at, on or near the property as a result of the conduct of the business on the Property, and;
- (d) No notices of any violation of any matters referred to above relating to the Property or its use have been received by the Borrower and there are no directions, writs, injunctions, orders or judgments outstanding, no law suits, claims, proceedings, or investigations being instituted or filed.

For the purposes of this Mortgage, a hazardous substance includes but is not limited to contaminants, pollutants, dangerous substances, gasoline, oil, liquid wastes, industrial wastes, whole liquid wastes, toxic substances, hazardous wastes, hazardous materials, and hazardous substances as defined in or pursuant to any applicable Environmental Laws. Further, the Mortgagor shall indemnify and save harmless the Mortgagee from any loss or liability whatsoever arising from any violation whatsoever of any law, regulation, ordinance, judgment, appraisal or decision in connection with hazardous risks or environmental risks, including any costs to enforce this covenant on a solicitor and his own client, full indemnity, basis.

IN WITNESS WHEREOF, I have hereunto signed my hand and the corporate seal of 985842 Alberta Ltd. this 28 day of July, A.D. 2020.

985842 Alberta Ltd.

PER:  c/s  
Faissal Mouhamad



**SECURITY AGREEMENT**

THIS AGREEMENT MADE AS OF THE 26 DAY OF July, A.D. 2020 (the "Security Agreement")

BETWEEN:

This is Exhibit " B " referred to in the Affidavit of Jure Jovica c/o 500, 707 - 7th Avenue S.W., Calgary, Alberta T2P 3H6  
1193770 Alberta Ltd.  
(the "Secured Party")

OF THE FIRST PART

Sworn before me this 9th day of February A.D. 2023

- AND -

~~A Notary Public~~, A Commissioner for Oaths in and for the Province of Alberta

985842 Alberta Ltd.  
108, 5207 Power Centre Boulevard, Drayton Valley, AB

(the "Debtor")

DARRELL S. COHEN  
Barrister & Solicitor

OF THE SECOND PART

WHEREAS the Debtor is or will be indebted to the Secured Party from time to time; and

WHEREAS the Debtor has agreed to secure repayment of all amounts from time to time owing by the Debtor to the Secured Party by the granting of this Security Agreement charging the assets herein described of the Debtor to the Secured Party.

1. SECURITY INTEREST

The Debtor hereby grants to the Secured Party by way of mortgage, charge assignment and transfer, a security interest (the "Security Interest") in all of the Debtor's present and after-acquired personal property and any proceeds thereof, including but not limited to those items which are specifically described in Schedule "A" to this Security Agreement also including but not limited to the Debtors present and future goodwill, monies, contracts, agreements, negotiable and non-negotiable instruments, book debts, judgments, securities, materials, stock, supplies, inventories, furniture, implements and equipment (the "Collateral")

The Security Interest created and provided for herein shall attach upon execution of the Security Agreement in respect of all items of collateral herein described in which the Debtor has rights at that moment, and shall attach to all rights of the Debtor acquired hereafter, immediately upon such registration.

2. DEFINITIONS

The terms goods, chattel paper, documents of title, equipment, consumer goods, instrument, intangible, security, proceeds, inventory and accession whenever used herein shall be interpreted pursuant to their respective meanings when used in The Personal Property Security Act of the Province of Alberta, as amended from time to time, which Act, including amendments thereto is herein referred to as the "PPSA". Any reference herein to the Collateral shall, unless the context otherwise requires, be deemed a reference to the Collateral or any part thereof. The term proceeds (the "Proceeds") whenever used herein shall be interpreted as any and all proceeds of every type or kind, both present and after-acquired, and by way of example include trade-ins, equipment, cash, bank accounts, book debts, notes, chattel paper, goods, contract rights, accounts and any other

personal property or obligations received when such Collateral or Proceeds are sold, exchanged, collected, or otherwise disposed of, and all insurance payments relative to the Collateral or Proceeds.

### 3. INDEBTEDNESS SECURED

The Security Interest granted hereby secures payment and satisfaction of any and all obligations, indebtedness and liability of the Debtor to the Secured Party (including interest thereon) present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred and any ultimate unpaid balance thereof and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether the Debtor be bound alone or with another or others and whether as principal or surety (the "Indebtedness"). If the Security Interest in the Collateral is not sufficient, in the event of default, to satisfy all Indebtedness of the Debtor, the Debtor acknowledges and agrees that the Debtor shall continue to be liable for any Indebtedness remaining outstanding and the Secured Party shall be entitled pursue full payment thereof.

### 4. REPRESENTATIONS AND WARRANTIES OF THE DEBTOR

The Debtor represents and warrants and so long as this Security Agreement remains in effect shall be deemed to continuously represent and warrant that:

- (a) the Collateral is genuine and owned, legally and beneficially, by the Debtor free of all other security interests, mortgages, liens, claims, charges or encumbrances (the "Encumbrances"), save for the Security Interest and the following encumbrances:

|                 |   |     |
|-----------------|---|-----|
| NIL             |   |     |
| NIL             |   |     |
| Secured Party:  | - | NIL |
| Amount Secured: | - | NIL |

(the "Existing Encumbrances")

- (b) each debt, account, chattel paper and instrument constituting Collateral is:
- (i) enforceable in accordance with its terms against the party obligated to pay the same (the Account Debtor); and
  - (ii) free from any defence, set-off, claim or counterclaim against the Debtor which can be asserted against the Secured Party, whether in any proceeding to enforce Collateral or otherwise; and
  - (iii) in the amount which is now and may from time to time be represented to the Secured Party.
- (c) it has full power and authority to conduct its business and own its property in all jurisdictions in which the Debtor carries on business and has full power and authority to execute, deliver and perform all of its obligations under this Security Agreement;
- (d) this Security Agreement when duly executed and delivered by the Debtor will constitute a legal, valid and binding obligation of the Debtor, subject only that such



enforcement may be limited by bankruptcy, insolvency and any other laws of general application affecting creditors' rights and by rules of equity governing enforceability by specific performance;

- (e) there is no provision in any agreement to which the Debtor is a party, nor to the knowledge of the Debtor is there any statute, rule or regulation, or any judgment, decree or order of any court, binding on the Debtor which would be contravened by the execution and delivery of this Security Agreement;
- (f) there is no litigation, proceeding or dispute pending, or to the knowledge of the Debtor threatened, against or affecting the Debtor or the Collateral, the adverse determination of which might materially and adversely affect the Debtor's financial condition or operations or impair the Debtor's ability to perform its obligations hereunder; provided that in the event the Debtor fails to place insurance and it becomes necessary for the Secured party to do so, the Secured shall have the right to place said insurance at the sole cost and expense to the Borrower and shall be additionally entitled to charge an additional service fee of \$250.00, all of which shall bear interest at any rate or rates set out in any and all loan agreements and or documents entered into between the Debtor and the Secured Party.
- (g) the names of the Debtor are accurately and fully set out above, and the Debtor is not known by any other names.

##### 5. COVENANTS OF THE DEBTOR

So long as this Security Agreement remains in effect the Debtor covenants and agrees to, at its own expense:

- (a) defend the Collateral against the claims and demands of all other parties claiming the same or any interest therein; to keep the Collateral free from all encumbrances, except for the Security Interest and the Existing Encumbrances and to maintain and keep in good standing, free from default, all such Existing Encumbrances and not to sell, exchange, transfer, assign, lease or otherwise dispose of any interest therein without the prior written consent of the Secured Party; provided always that until default, the Debtor may, in the ordinary course of the Debtor's business sell or lease inventory and subject to clause 7 of this Security Agreement, use monies that may become available to the Debtor;
- (b) notify the Secured Party promptly of any event causing loss or depreciation to the Collateral or any change in the information contained in this Security Agreement relating to the Debtor, the Debtor's business or the Collateral;
- (c) keep the Collateral in good order, condition and repair and not to use the Collateral in violation of the provisions of this Security Agreement or any other agreement relating to the Collateral or any policy of insurance with respect to the Collateral or any applicable statute, law, by-law, rule, regulation or ordinance and to permit the Secured Party or its representative, upon request, to enter into or upon any premises or lands where the Collateral may be located for the purpose of examining the condition of the Collateral;
- (d) do, execute, acknowledge and deliver such financing statements and further

assignments, transfers, documents, acts, assurances, matters and things (including further schedules hereto) as may be reasonably requested by the Secured Party with respect to the Collateral or otherwise, in order to give effect to these presents and to pay all costs for searches and filings in connection therewith;

- (e) pay all taxes, rates, levies, assessments and other charges of every nature which may be lawfully levied, assessed or imposed against or in respect of the Debtor or the Collateral as and when the same become due and payable;
- (f) insure and keep insured the Collateral for such periods, in such amounts, on such terms and against loss or damage by fire and such other risks as the Secured Party shall reasonably direct and to provide the Secured Party with such evidence of insurance as it may from time to time request with loss payable to the Secured Party and the Debtor, as insures, as their respective interests may appear, and to pay all premiums therefor;
- (g) prevent the Collateral, except the inventory sold or leased as permitted by this Security Agreement, from being or becoming an accession to other property not covered by this Security Agreement;
- (h) continuously carry on and conduct the business of the Debtor in a proper and efficient manner and so as to protect and preserve the Collateral and to keep, in accordance with generally accepting accounting principles, proper books of account for the Debtor's business as well as accurate and complete records concerning the Collateral, and to provide the Secured Party or its representative, upon request, access to all such books of account and records;
- (i) punctually pay all rents, taxes, rates and assessments lawfully assessed or imposed upon any property or income of the Debtor and to punctually pay all debts and obligations to labourers, workmen, employees, contractors, subcontractors, suppliers of materials and other debts which, when unpaid, might under the laws of Canada or any province of Canada have priority over the Security Interest granted by this Security Agreement;
- (j) immediately give notice to the Secured Party of:
  - (i) any change in location of the Collateral;
  - (ii) the details of any material acquisition or disposition of Collateral (whether authorized by the Secured Party or not);
  - (iii) any material loss of or damage to Collateral;
  - (iv) the details of any claims or litigation affecting materially the Debtor or Collateral; and
  - (v) any change of its name;
- (k) not remove any of the Collateral from Alberta without prior written consent of the Secured Party;
- (l) comply with such additional affirmative and negative covenants and restrictions to



be performed and observed by the Debtor in respect of provision of financial information, payment of dividends, capital expenditures, incurring additional obligations, reduction of capital, distribution of assets, amalgamation, repayment of loans, lending of money, sale and other disposition of assets and/or such other matters as the Secured Party may advise, and the Debtor agrees to perform and observe such affirmative and negative covenants and restrictions to the same extent and effect as if the same were fully set forth in this Security Agreement;

- (m) not, without first informing the Secured Party in writing, carry on business under or use any name or style other than the name(s) specified in this Security Agreement;
- (n) allow the Secured Party or its representatives the right to inspect the Collateral and review and copy any and all information and data relating to the Collateral or any other transactions between the parties hereto wherever and however such information and data may be stored. In the event that the use of a computer system is required to access such information and data, the Debtor shall allow the Secured Party the use of its computer system for such purpose and shall provide assistance in that regard. If for any reason the information and data cannot be accessed and retrieved at the Debtor's premises the Secured Party may remove the medium in which such information or data is stored from the Debtor's premises to any other place which has a computer system that will give the Secured Party the opportunity to retrieve, record or copy such information and data. The Secured Party shall be entitled to reproduce and retain a copy of any such information and data in any format whatsoever;
- (o) deliver to the Secured Party upon request:
  - (i) any chattel paper, instrument, security, and document of title, and upon such delivery, where applicable, duly endorse the same for transfer in blank or as the Secured Party may direct;
  - (ii) all computer software, tapes, discs, drums and cards, all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to the Collateral for the purpose of inspecting, auditing or copying the same;
  - (iii) all financial statements prepared by or for the Debtor regarding the Debtor's business;
  - (iv) all policies and certificates of insurance relating to the Collateral;
  - (v) all agreements, licenses, permits and consents relating to the Collateral and the Debtor's business;
  - (vi) such information concerning the Collateral, the Debtor and the Debtor's business and affairs as the Secured Party may request;
- (p) provide such information as the Secured Party may request from time to time with respect to Account Debtors and the debts payable by such Account Debtors;
- (g) comply with all terms, conditions, and covenants contained in any other agreements made between the Debtor and the Secured Party, including, without restriction, the terms of any Loan Agreement, between the Debtor and the Secured Party.

## 6. USE AND VERIFICATION OF THE COLLATERAL

As long as the Debtor is not in default of any of the terms, conditions, covenants or representations contained in this Agreement, the Debtor may, until default occurs, possess, operate, collect, use, enjoy and deal with the Collateral in the ordinary course of the Debtor's business in any manner not inconsistent with the provisions of this Security Agreement; provided always that the Secured Party shall at all times continue to have the right at any time and from time to time to verify the existence and state of the Collateral in any manner the Secured Party may consider appropriate and the Debtor agrees to furnish all assistance and information and to perform all acts as the Secured Party may reasonably request in connection therewith.

## 7. COLLECTION OF DEBTS

Before or after default under this Security Agreement, the Secured Party may notify all or any Account Debtors of the Security Interest and may also direct such Account Debtors to pay all payments on the Collateral to the Secured Party. The Debtor acknowledges that any payments on or other Proceeds of the Collateral received by the Debtor from Account Debtors, whether before or after notification of this Security Interest to Account Debtors and whether before or after default under this Security Agreement shall be received and held by the Debtor in trust for the Secured Party and shall be turned over to the Secured Party upon request.

## 8. EVENTS OF DEFAULT

The happening of any of the following events or conditions shall constitute default hereunder, which is herein referred to as "Default":

- (a) the nonpayment when due, whether by acceleration or otherwise, of any principal, interest or other sums forming part of Indebtedness or the failure of the Debtor to observe or perform any obligation, covenant, term, provision or condition contained in this Security Agreement or any other agreement between the Debtor and the Secured Party;
- (b) the death of or a declaration of incompetency by a court of competent jurisdiction with respect to the Debtor, if any individual;
- (c) the bankruptcy or insolvency of the Debtor; the filing against the Debtor of a petition in bankruptcy; the making of an authorized assignment for the benefit of creditors by the Debtor; the appointment of a receiver or a receiver and manager or trustee for the Debtor or any property of the Debtor, or the institution by or against the debtor of any other type of insolvency proceeding under the Bankruptcy Act or otherwise, or the taking of proceedings under The Companies' Creditors Arrangement Act;
- (d) the institution by or against the Debtor or any formal or informal proceeding for the amalgamation, dissolution, liquidation or winding up of affairs of the Debtor;
- (e) if any encumbrance whether an Existing Encumbrance or otherwise affecting the Collateral becomes enforceable against the Collateral;
- (f) if the Debtor ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets without complying with the applicable law or commits or threatens to commit an act of bankruptcy;



- (g) if any execution, sequestration, extent, distress or any other similar process is levied or enforced against the Debtor or any property of the Debtor;
- (h) if any certificate, statement, representation, warranty or information provided by or on behalf of the Debtor to the Secured Party, whether pursuant to or in connection with this Security Agreement, or otherwise, (including, without limitation, the representations and warranties contained herein) or as an inducement to the Secured Party to extend any credit or to enter into this or any other agreement with the Debtor, proves to have been false or misleading in any material way, or proves to have omitted any contingent or unliquidated liability or claim against the Debtor; or if upon the date of execution of this Security Agreement, there shall have been any material adverse change in any of the facts disclosed by any such certificate, statement, representation, warranty or information, which change shall not have been disclosed to the Secured Party at or prior to the time of such execution;
- (i) if the Debtor fails when due to perform any obligation to any other person, and such failure is not cured within 30 days of the date the Debtor first knew or should have known of such failure;
- (j) if any of the licenses, permits or approvals granted by any government or any governmental authority and essential to the business of the Debtor, is withdrawn cancelled or significantly altered;
- (k) if the Secured Party in good faith believes the prospect of payment or performance of the Debtor's obligations under this Security Agreement is impaired or is likely to be impaired or that the Collateral is or is likely to be placed in jeopardy.

9. ACCELERATION

In the event of default by the Debtor under this Security Agreement the Secured Party, in its sole discretion, may declare all or any part of the Indebtedness which is not by its terms payable on demand, to be immediately due and payable without demand or notice of any kind. The provisions of this clause 9 do not affect or change the demand nature of any portion of the indebtedness which is now or may hereafter be payable on demand.

10. REMEDIES

On default:

- (a) the Secured Party may appoint or reappoint by instrument in writing, any person or persons, whether an officer or officers or an employee or employees of the Secured Party or not, to be a receiver or receivers (hereinafter called the "Receiver", which term when used herein shall include a receiver and manager) of the undertaking of the Debtor and the Collateral (including any interest, income or profits there from) and may remove any Receiver so appointed and appoint another in his stead. Any such Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of the Debtor and not the Secured Party, and the Secured Party shall not in any way be responsible for any misconduct, negligence or non-feasance on the part of any such Receiver, his servants, agents or employees. Every such Receiver may, in the discretion of the Secured Party, be vested with all or any of the rights and powers of the Secured Party;

- (b) the Secured Party, either directly or through its agents or nominees, may exercise any or all of the powers and rights given to a Receiver by virtue of the foregoing clause 10(a);
- (c) the Secured Party may take possession of, collect, demand, sue on, enforce, recover and receive the Collateral and give valid and binding receipts and discharges therefor and in respect thereof and, the Secured Party may sell, release or otherwise dispose of the Collateral in such manner, at such time or times and place or places, for such consideration and upon such terms and conditions as the Secured Party may deem reasonable;
- (d) in addition to all rights granted by this Security Agreement or otherwise held by the Secured Party, whether in law or in equity, it is specifically acknowledged that, both before and after default, the Secured party shall have all rights and remedies of a secured party under the PPSA. The Secured Party shall not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, lease or otherwise dispose of the Collateral or to institute any proceedings for such purposes and shall have no obligation to take any steps to preserve rights against prior parties to any instrument or chattel paper whether Collateral or Proceeds and whether or not in the Secured Party's possession and shall not be liable or accountable for any failure to do so;
- (e) the Secured Party or any Receiver appointed by it may take possession of the Collateral wherever it may be located by any method permitted by law and the Debtor agrees upon request from the Secured Party or any such Receiver to assemble and deliver possession of the Collateral at such place or places as directed.
- (f) any Receiver will have the power:
  - (i) to take possession of any Collateral and for that purpose to take any proceedings, in the name of the Debtor or otherwise;
  - (ii) to carry on or concur in carrying on the business of the Debtor;
  - (iii) to sell or lease any Collateral by deferred payment or otherwise;
  - (iv) to make any arrangement or compromise which he may think expedient in the interest of the Secured Party;
  - (v) to pay all liabilities and expenses connected with the Collateral, including the cost of insurance and payment of taxes or other charges incurred in obtaining, maintaining possession of and preserving the Collateral, and the same shall be added to the Indebtedness and secured by the Collateral;
  - (vi) to hold as additional security any increase or profits resulting from the Collateral;
  - (vii) to exercise all rights the Secured Party has under this Security Agreement, other agreements between the Debtor and Secured Party, or otherwise at law;



- (viii) with the consent of the Secured Party in writing, to borrow money for the purpose of carrying on the business of the Debtor or for the maintenance of the Collateral or any part thereof or for other purposes approved by the Secured Party, and any amount so borrowed together with interest thereon shall form a charge upon the Collateral in priority to the Security Interest created by this Agreement;
- (xi) to enter into and to occupy any premises in which the Debtor has any interest;
- (g) the Debtor hereby appoints each Receiver appointed by the Secured Party to be its attorney to effect transfer, sale, lease or other disposition of any Collateral and any deed, lease, agreement or other document signed by a Receiver under his seal pursuant hereto will have the same effect as if it were under the seal of the Debtor;
- (h) neither the Secured Party, the Receiver or the Sheriff will be required to take any steps to preserve any rights against other parties pursuant to any chattel paper, security, or instrument constituting the Collateral or any part of it;
- (i) neither the Secured Party, the Receiver or the Sheriff is required to keep Collateral identifiable;
- (j) the Secured Party may use the Collateral in any manner as it in its sole discretion deems advisable.

## 11. SECURITIES

If Collateral at any time includes securities, the Debtor irrevocably authorizes and appoints the Secured Party as its attorney and agent to transfer the same or any part thereof into its own name or that of its nominee so that the Secured Party or its nominee may appear on record as the sole owner thereof; provided that, until Default, the Secured Party shall deliver promptly to the Debtor all notices or other communications received by it or its nominee as such registered owner and, upon demand and receipt of payment of any necessary expenses thereof, shall issue to the Debtor or its order a proxy to vote and take all action with respect to such securities. After default, the Debtor waives all rights to receive any notices or communications received by the Secured Party or its nominee as such registered owner and agrees that no proxy issued by the Secured Party to the Debtor or to its order as aforesaid shall thereafter be effective.

## 12. COSTS AND EXPENSES

The Debtor agrees to pay all costs, charges and expenses incurred by the Secured Party or any Receiver appointed by it (including, but without restricting the generality of the foregoing, legal fees as between a solicitor and client on a full indemnity basis), in preparing, registering or enforcing this Agreement, taking custody of, preserving, repairing, maintaining, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting the Indebtedness and all such costs, charges and expenses together with any monies owing as a result of any borrowing by the Secured Party or any Receiver appointed by it shall be a first charge on the proceeds of realization, collection, or disposition of Collateral and shall be secured hereby.

13. MISCELLANEOUS

- (a) The Debtor hereby authorizes the Secured Party to file such financing statements and other documents and do such acts, matters, and things as the Secured Party may deem appropriate to perfect and continue the Security Interest, to protect and preserve the Collateral and to realize upon the Security Interest and the Debtor hereby irrevocably constitutes and appoints the Secured Party or its agent the true and lawful attorney of the Debtor, with the full power of substitution, to do any of the foregoing in the name of the Debtor whenever and where in the sole discretion of the Secured Party it may be deemed necessary or expedient.
- (b) Without limiting any other rights or the Secured Party, whenever the Indebtedness is immediately due and payable or the Secured Party has the right to declare Indebtedness to be immediately due and payable, whether or not it has so declared, the Secured Party may, in its sole discretion, set off the Indebtedness or any portion thereof against any and all monies then owed to the Debtor by the Secured Party in any capacity, whether or not due, and the Secured Party shall be deemed to have exercised such right to set off immediately at the time of making its decision to do so even though such set off may only subsequently entered in the Secured Parties records.
- (c) The Secured Party may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with the Debtor, debtors of the Debtor, sureties, guarantors, and others and with the Collateral and other security as the Secured Party may see fit without prejudice to the liability of the Debtor or the Secured Party's rights to hold and realize the Security Interest. Furthermore, the Secured Party may demand, collect and sue on the Collateral in either the Debtor's or the Secured Party's name at the Secured Party's option, and may endorse the Debtor's name or any and all cheques, commercial paper, and other instruments pertaining to or constituting Collateral.
- (d) No delay or omission by the Secured Party in exercising any right or remedy under this Security Agreement or with respect to the Indebtedness or any portion thereof shall operate as a waiver of any of the Secured Party's rights or remedies, and no single or partial exercise thereof shall preclude any other right or remedy. Furthermore, the Secured Party may but is not obligated to remedy any default by the Debtor under this Security Agreement in any reasonable manner without waiving the default remedies and without waiving any other prior or subsequent default by the Debtor. All rights and remedies of the Secured Party granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.
- (e) This Security Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. In any action brought by an assignee of this Security Agreement and the Security Interest or any part thereof to enforce any rights hereunder, the Debtor shall not assert against the assignee any claim or defence which the Debtor now has or hereafter may have against the Secured Party.



- (f) This Security Agreement shall not be assignable by the Debtor without the prior written consent of the Secured Party, which consent may be arbitrarily withheld.
- (g) Any case where more than one (1) Debtor executes this Security agreement the obligation of such Debtors hereunder shall be joint and several.
- (h) This Security Agreement and the security created hereby is in addition to and not in substitution for any other security now or hereafter held by the Secured Party.
- (i) The headings used in this Security Agreement are for convenience only and are not to be considered a part of the Security Agreement and do not in any way limit or amplify the terms and provisions of this Security Agreement.
- (j) The Security Interest created hereby is intended to attach upon the execution of this Security Agreement, except that, in respect of after-acquired property subject to the Security Interest, attachment shall occur forthwith upon the Debtor acquiring its interest and rights thereto, and the Debtor and the Secured Party agree that value has been given by the Secured Party to the Debtor.
- (k) Whenever the singular number and masculine gender, respectively, are used in this Security Agreement, the same shall be construed as meaning and including the plural and/or feminine or neutral gender, respectively, if the context so requires.
- (l) Any provision of this Security Agreement which is prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.
- (m) This Security Agreement contains the entire agreement between the parties relating to the Security Interests granted herein. Any modification of this Security Agreement or waiver of any provision herein contained shall not be binding unless in writing and signed by the Secured Party and the Debtor. This Security Agreement shall continue in effect until the obligations hereunder are satisfied and the indebtedness paid in full.
- (n) Nothing herein shall obligate the Secured Party to make any advance or loan or further advance or extend credit to the Debtor.
- (o) The Secured Party shall be entitled to charge the Debtor a \$100.00 additional charge for every payment made by the Debtor to the Secured Party that is dishonoured.

14. COPY OF AGREEMENT

The Debtor hereby acknowledges receipt of a copy of this Security Agreement.

15. NOTICES

Any demand, notice or other communication to be given in connection with this Security Agreement shall be given in writing and delivered or mailed, postage prepaid, to the Debtor at:

108, 5207 Power Centre Boulevard, Drayton Valley, AB

and to the Secured Party at:

c/o 500, 707 - 7th Avenue S.W., Calgary, Alberta T2P 3H6

16. GOVERNING OF LAW

This Security Agreement shall be deemed conclusively to be a contract made in the Province of Alberta and shall be governed by and interpreted in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein, and each of the parties irrevocably attorns to the jurisdiction of the Courts of Alberta.

IN WITNESS WHEREOF, the debtor(s) has/have hereunto signed her/his/its name and seal as of the day and year first written above.

985842 Alberta Ltd.

PER:  c/s  
Faissal Mouhamad

**SCHEDULE "A" TO SECURITY AGREEMENT**

DATED THIS 20 DAY OF July, A.D. 2020.

All present and after acquired personal property of the debtor, including but not limited to all personal property located at the following property municipally described as

108, 5207 Power Centre Boulevard, Drayton Valley, AB

and legally described as:

Plan 0721291

Block 102

Lot 14

Excepting thereout all mines and minerals



**Hendrix Law**   
est. 1986

August 24, 2020

Our File No: 44964

Via Courier

**Barristers & Solicitors**  
#500, 707 - 7 Avenue SW  
Calgary, Alberta, T2P 3H6  
**Phone:** 403-269-9400  
**Toll Free:** 1-855-580-9400  
**Fax:** 403-266-2447

**Warren Sinclair LLP**  
600, 4911 - 51 Street  
Red Deer, Alberta  
T4N 6V4

**Attention: Paul Rattan**

Dear Sir:

**Re: 985842 Alberta Ltd. and Faissal Mouhamad as Guarantor**  
**First Mortgage to 1193770 Alberta Ltd.**  
**108, 5207 Power Centre Boulevard, Drayton Valley, AB**

This is Exhibit " C " referred to in the  
**Affidavit of**  
Jure Jovica

Sworn before me this 9th day of  
February A.D. 20 23

**Notary Public, A Commissioner for Oaths in  
and for the Province of Alberta**

DARRELL S. COHEN - Barrister & Solicitor

Further to the above please find enclosed the following:

1. Our Statement of Account for Services rendered;
2. Our Statement of Receipts and Disbursements;
3. Our firm trust cheque in the sum of \$788,976.88.

The above funds are provided to you in trust on the condition that you make no use of same whatsoever until such time as we have been provided with the following:

1. Your written confirmation that you have made the net (balance of the) mortgage proceeds payable to the title holders after payment of real property taxes, prior registered encumbrances, execution creditors, insurance and any other matters you are in trust to pay.

The above funds are further forwarded to you in trust on the condition that you comply with any outstanding requirements of our original letter and provide to our office within a reasonable period of time and in any event no later than 45 days from the date hereof with that compliance, including but not limited to, the following:

1. Certified Copy of Title to the Primary Security evidencing registration of our client's mortgage as First financial charge and Assignment of Rents and Leases as the next financial charge; and
2. Certified Copy of Title to the Colateral Security evidencing registration of our client's mortgage as Second financial charge and Assignment of Rents and Leases as the next financial charge.

If for any reason you are unable or unwilling to comply with the above trust condition you are to immediately return the funds unused to our office within

48 hours. If funds are kept more than 24 hours you are deemed to have accepted our trust conditions and agreed to be bound by same.

Further, if for any reason you have not submitted documents for registration at Land Titles within 24 hours of your receipt of this letter, you are to immediately return the funds unused to our office.

Please note as funds have been made available to your client as per your request for funds, your client(s) are liable for all costs and charges deducted from the mortgage proceeds and interest accruing on the mortgage should the funds be returned.

Yours very truly,

**Hendrix Law**

Per:

A handwritten signature in black ink, appearing to be 'BT', written over a horizontal line.

**Brian Twerdoff**

BT/cj

encls.





**Hendrix Law**

Barristers & Solicitors  
#500, 707 - 7<sup>th</sup> Avenue SW.  
Calgary, Alberta,  
T2P 3H6

Phone: 403-269-9400  
Toll Free: 1-855-580-9400  
Fax: 403-266-2447

Email:  
dhendrix@hendrixlaw.ca

August 24, 2020

Our File No: 44964  
GST #82892 1965 RT0001  
Invoice #33784  
Via Email

985842 Alberta Ltd.  
108, 5207 Power Centre Boulevard  
Drayton Valley, AB

Attention: Faissal Mouhamad:

Re: **First Mortgage to 1193770 Alberta Ltd.**  
**108, 5207 Power Centre Boulevard, Drayton Valley, AB**

**TO ALL PROFESSIONAL SERVICES RENDERED IN RELATION TO  
THE ABOVE CAPTIONED TRANSACTION:**

|          | <b>FEE</b> | <b>GST</b> | <b>TOTAL</b> |
|----------|------------|------------|--------------|
| OUR FEE: | \$2,500.00 | \$125.00   | \$2,625.00   |

| <b>OTHER CHARGES</b>                        | <b>FEE</b> | <b>GST</b> | <b>TOTAL</b> |
|---|------------|------------|--------------|
| To paid photocopies                         | \$136.50   | \$6.83     | \$143.33     |
| To paid telecopier & scanning transmissions | \$28.50    | \$1.43     | \$29.93      |
| To paid storage                             | \$12.00    | \$0.60     | \$12.60      |
| Subtotals                                   | \$177.00   | \$8.86     | \$185.86     |

| <b>DISBURSEMENTS</b>                      | <b>FEE</b> | <b>GST</b> | <b>TOTAL</b> |
|---|------------|------------|--------------|
| To paid search of title                   | \$10.00    | \$0.00     | \$10.00      |
| To paid long distance fax & phone charges | \$12.85    | \$0.64     | \$13.49      |
| To paid tax search                        | \$7.00     | \$0.35     | \$7.35       |
| To Paid KVP                               | \$32.00    | \$1.10     | \$33.10      |
| To paid long distance fax & phone         | \$21.35    | \$1.07     | \$22.42      |
| To paid courier charges                   | \$110.50   | \$6.63     | \$117.13     |
| To paid postage and ADX charges           | \$8.35     | \$0.42     | \$8.77       |



| <b>DISBURSEMENTS</b> | <b>FEE</b> | <b>GST</b> | <b>TOTAL</b> |
|----------------------|------------|------------|--------------|
| Subtotals            | \$202.05   | \$10.21    | \$212.26     |


TOTAL FEES: \$2,500.00

TOTAL DISBURSEMENTS: \$379.05

TOTAL GST: \$144.07

**TOTAL ACCOUNT** \$3,023.12

THIS IS OUR ACCOUNT HEREIN:  
Hendrix Law

PER:   
Brian Twerdoff

BT/cj

E. & O. E.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

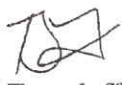
Borrower(s): 985842 Alberta Ltd.  
Re: First Mortgage in the sum of \$ 800,000.00  
Lender: 1193770 Alberta Ltd.

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|  | Received                 | Disbursed                |
|--|--------------------------|--------------------------|
| Received from 1193770 Alberta Ltd.             | \$ 800,000.00            |                          |
| Paid to 1193770 Alberta Ltd. - lender fee      |                          | \$ 8,000.00              |
| Paid to Hendrix Law fees & disbursements       |                          | \$ 3,023.12              |
| Balance herewith to <b>Warren Sinclair LLP</b> |                          | \$ 788,976.88            |
|  | <hr/> <hr/> \$800,000.00 | <hr/> <hr/> \$800,000.00 |

This is our Statement of  
Receipts and Disbursements  
August 24, 2020

Hendrix Law

Per:   
Brian Twerdoff  
BT/ cj

HENDRIX LAW BARRISTERS AND SOLICITORS  
TRUST ACCOUNT

CHEQUE NO. 034068

Date 08/24/2020  
Payee WARREN SINCLAIR LLP, IN TRUST  
Description WARREN SINCLAIR LLP, IN TRUST PAYMENT  
Number 34068  
Amount 788,976.88

| Client / G/L | Amount     | Client / G/L | Amount | Client / G/L | Amount |
|--------------|------------|--------------|--------|--------------|--------|
| 44964 /      | 788,976.88 |              |        |              |        |

THIS DOCUMENT CONTAINS SECURITY FEATURES - SEE REVERSE



HENDRIX LAW BARRISTERS AND SOLICITORS

#500, 707 - 7th AVENUE SW  
CALGARY, ALBERTA T2P 3H6  
Tel: 403-269-9400

Hendrix Law  
est. 1986



CANADIAN IMPERIAL BANK OF COMMERCE  
309 8TH AVE SW, BOX 2585  
CALGARY, AB T2P 2P2

034068

0 8 2 4 2 0 2 0

Date M M D D Y Y Y Y

PAY \*\*\*\*\* SEVEN HUNDRED EIGHTY EIGHT THOUSAND NINE HUNDRED SEVENTY SIX and 88/100 dollars

\$788,976.88

WARREN SINCLAIR LLP, IN TRUST

TO THE  
ORDER  
OF

HENDRIX LAW BARRISTERS AND SOLICITORS  
TRUST ACCOUNT

PER:

PER:

⑈034068⑈ ⑆00009⑈010⑆ 55⑈27910⑈



LAND TITLE CERTIFICATE

S LINC SHORT LEGAL TITLE NUMBER
0032 255 698 0721291;102;14 122 161 801

LEGAL DESCRIPTION
PLAN 0721291
BLOCK 102
LOT 14
EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: FEE SIMPLE
ATS REFERENCE: 5;7;49;17;SW

MUNICIPALITY: TOWN OF DRAYTON VALLEY

REFERENCE NUMBER: 082 034 088

This is Exhibit " D " referred to in the Affidavit of Jure Jovica

Sworn before me this 9th day of February A.D. 20 23

Notary Public, A Commissioner for Oaths in and for the Province of Alberta
DARRELL S. COHEN - Barrister & Solicitor

Table with 5 columns: REGISTRATION, DATE (DMY), REGISTERED OWNER(S), DOCUMENT TYPE, VALUE, CONSIDERATION. Row 1: 122 161 801, 25/05/2012, TRANSFER OF LAND, \$750,000, \$750,000

OWNERS

985842 ALBERTA LTD.
OF C/O 7151-50 AVENUE
RED DEER
ALBERTA T4N 4E4

(DATA UPDATED BY: CHANGE OF ADDRESS 222066417)

ENCUMBRANCES, LIENS & INTERESTS

Table with 3 columns: REGISTRATION NUMBER, DATE (D/M/Y), PARTICULARS. Rows include utility rights and easements for ATCO Gas and Pipelines Ltd. and The Town of Drayton Valley.

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ENCUMBRANCES, LIENS & INTERESTS

PAGE 2

# 122 161 801

REGISTRATION

| NUMBER      | DATE (D/M/Y) | PARTICULARS  |
|-------------|--------------|--|
|             |              | AS TO PORTION OR PLAN:0520040<br>AREAS A,B,C,D,E,F,G,U   |
| 052 003 265 | 05/01/2005   | UTILITY RIGHT OF WAY<br>GRANTEE - FORTISALBERTA INC.<br>AS TO PORTION OR PLAN:0520040<br>AREAS B,C,U                                       |
| 052 030 033 | 24/01/2005   | CAVEAT<br>RE : EASEMENT , ETC.   |
| 052 045 234 | 03/02/2005   | POSTPONEMENT<br>OF EASE 052003262<br>TO CAVE 052030033   |
| 052 190 900 | 17/05/2005   | EASEMENT<br>AS TO PORTION OR PLAN:0520040<br>AS TO AREAS B, C & L<br>"OVER PLAN 0520039 BLOCK 102 LOT 2"                                   |
| 052 245 797 | 21/06/2005   | EASEMENT<br>"OVER SW 17-49-7-5 AS TO PLAN 0520040 AREAS "B" "J"<br>& "L"   |
| 052 275 197 | 08/07/2005   | RESTRICTIVE COVENANT   |
| 052 275 200 | 08/07/2005   | CAVEAT<br>RE : EASEMENT AND RESTRICTIVE COVENANT   |
| 052 308 371 | 27/07/2005   | POSTPONEMENT<br>OF EASE 052003262<br>TO CAVE 052275200   |
| 082 034 087 | 22/01/2008   | PARTY WALL AGREEMENT   |
| 082 034 089 | 22/01/2008   | RESTRICTIVE COVENANT   |
| 082 034 090 | 22/01/2008   | RESTRICTIVE COVENANT   |
| 202 164 797 | 11/08/2020   | CERTIFICATE OF LIS PENDENS<br>BY - MAHMOUD MOHAMAD<br>SEE INSTRUMENT FOR INTEREST  |
| 202 165 891 | 12/08/2020   | MORTGAGE<br>MORTGAGEE - 1193770 ALBERTA LTD.<br>C/O 500, 707 7 AVE SW<br>CALGARY<br>ALBERTA T2P3H6<br>ORIGINAL PRINCIPAL AMOUNT: \$800,000 |
| 202 165 892 | 12/08/2020   | CAVEAT   |

( CONTINUED )



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ENCUMBRANCES, LIENS & INTERESTS

PAGE 3  
# 122 161 801

REGISTRATION

NUMBER      DATE (D/M/Y)      PARTICULARS

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RE : ASSIGNMENT OF RENTS AND LEASES  
CAVEATOR - 1193770 ALBERTA LTD.  
C/O 500, 707 7 AVE SW  
CALGARY  
ALBERTA T2P3H6  
AGENT - BRIAN TWERDOFF

222 066 418      21/03/2022 MORTGAGE  
MORTGAGEE - GHALIB HADI  
7151-50TH AVE  
RED DEER  
ALBERTA T4N4E4  
ORIGINAL PRINCIPAL AMOUNT: \$800,000

222 066 419      21/03/2022 CAVEAT  
RE : ASSIGNMENT OF RENTS AND LEASES  
CAVEATOR - GHALIB HADI  
C/O ALTALAW LLP  
5233 49TH AVE  
RED DEER  
ALBERTA T4N6G5  
AGENT - N LOCKE RICHARDS

222 223 931      06/10/2022 CERTIFICATE OF LIS PENDENS  
BY - MAHMOUD MOHAMAD  
CONSTRUCTIVE TRUST, ETC.

TOTAL INSTRUMENTS: 020

-----  
PENDING REGISTRATION QUEUE

| DRR<br>NUMBER | RECEIVED<br>DATE (D/M/Y) | CORPORATE LLP TRADENAME   | LAND ID        |
|---------------|--------------------------|---|----------------|
| D00CERH       | 07/11/2022               | MCMILLAN LLP<br>403-531-4716<br>CUSTOMER FILE NUMBER:<br>293571 (PREET) |                |
| 001           |                          | ORDER - ENDORSEMENT   | 0721291;102;14 |

TOTAL PENDING REGISTRATIONS: 001

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN  
ACCURATE REPRODUCTION OF THE CERTIFICATE OF  
TITLE REPRESENTED HEREIN THIS 8 DAY OF  
DECEMBER, 2022 AT 10:07 A.M.

ORDER NUMBER: 46036551

CUSTOMER FILE NUMBER: 214-213293



\*END OF CERTIFICATE\*

---

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED  
FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER,  
SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM  
INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION,  
APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS  
PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING  
OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

IF MORE INFORMATION IS REQUIRED ON A PENDING REGISTRATION WHERE  
THE CONTACT INFORMATION DISPLAYS N/A PLEASE EMAIL LTO@GOV.AB.CA.

Search ID #: Z15702996

**Transmitting Party**

DUNCAN CRAIG LLP

2800 SCOTIA PLACE 10060 JASPER AVE  
EDMONTON, AB T5J 3V9

Party Code: 50001320  
Phone #: 780 428 6036  
Reference #: 213293

Search ID #: Z15702996

Date of Search: 2022-Dec-21

Time of Search: 08:16:21

**Business Debtor Search For:**

985842 ALBERTA LTD.

Exact Result(s) Only Found

**NOTE:**

A complete Search may result in a Report of Exact and Inexact Matches.  
Be sure to read the reports carefully.

This is Exhibit " E " referred to in the  
Affidavit of

Jure Jovica

Sworn before me this 9th day of

February

A.D. 20<sup>23</sup>

**A Notary Public, A Commissioner for Oaths in  
and for the Province of Alberta**

DARRELL S. COHEN - Barrister & Solicitor





Search ID #: Z15702996

**Business Debtor Search For:**

985842 ALBERTA LTD.

Search ID #: Z15702996

Date of Search: 2022-Dec-21

Time of Search: 08:16:21

---

Registration Number: 15081313819

Registration Date: 2015-Aug-13

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2025-Aug-13 23:59:59

---

Exact Match on: Debtor No: 1

---

**Amendments to Registration**

20062227077

Renewal

2020-Jun-22

---

**Debtor(s)**

**Block**

**Status**  
Current

1 985842 ALBERTA LTD  
5018 45 ST, SUITE 101  
RED DEER, AB T4N 1K9

---

**Secured Party / Parties**

**Block**

**Status**  
Current

1 BANK OF MONTREAL/BANQUE DE MONTREAL  
2ND FLOOR, 234 SIMCOE ST.  
TORONTO, ON M5T 1T4

---

**Collateral: General**

**Block**

**Description**

**Status**

1 GIC 0551-9797-653 IAO \$37500.00

Current

Search ID #: Z15702996

**Business Debtor Search For:**

985842 ALBERTA LTD.

Search ID #: Z15702996

Date of Search: 2022-Dec-21

Time of Search: 08:16:21

---

Registration Number: 15081313835

Registration Type: SECURITY AGREEMENT

Registration Date: 2015-Aug-13

Registration Status: Current

Expiry Date: 2025-Aug-13 23:59:59

---

Exact Match on: Debtor No: 1

---

**Amendments to Registration**

20050131632

Renewal

2020-May-01

---

**Debtor(s)**

**Block**

**Status**  
Current

1 985842 ALBERTA LTD  
5018 45 ST, SUITE 101  
RED DEER, AB T4N 1K9

**Secured Party / Parties**

**Block**

**Status**  
Current

1 BANK OF MONTREAL/BANQUE DE MONTREAL  
2ND FLOOR, 234 SIMCOE ST.  
TORONTO, ON M5T 1T4

**Collateral: General**

**Block**

**Description**

**Status**  
Current

1 GIC 0551-9797-653 IAO \$143640.00

Search ID #: Z15702996

**Business Debtor Search For:**

985842 ALBERTA LTD.

Search ID #: Z15702996

Date of Search: 2022-Dec-21

Time of Search: 08:16:21

---

Registration Number: 16081905158

Registration Date: 2016-Aug-19

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2026-Aug-19 23:59:59

---

Exact Match on: Debtor No: 1

---

**Amendments to Registration**

21073032629

Renewal

2021-Jul-30

---

**Debtor(s)**

**Block**

**Status**

1 985842 ALBERTA LTD  
SUITE 101 5018 45 STREET  
RED DEER, AB T4N 1K9

Current

**Secured Party / Parties**

**Block**

**Status**

1 ROYAL BANK OF CANADA  
36 YORK MILLS ROAD, 4TH FLOOR  
TORONTO, ON M2P 0A4

Current

**Collateral: General**

**Block**

**Description**

**Status**

|   |   |         |
|---|---|---------|
| 1 | PRIORITY AGREEMENT DATED AUGUST 12 2016 BETWEEN BANK OF   | Current |
| 2 | MONTREAL AND ROYAL BANK OF CANADA IN FAVOUR OF SECURITY   | Current |
| 3 | AGREEMENT BETWEEN ROYAL BANK OF CANADA AND 985842 ALBERTA | Current |
| 4 | LTD, REG 16080309153                                      | Current |



Search ID #: Z15702996

**Business Debtor Search For:**

985842 ALBERTA LTD.

Search ID #: Z15702996

Date of Search: 2022-Dec-21

Time of Search: 08:16:21

Registration Number: 18042545916

Registration Date: 2018-Apr-25

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2023-Apr-25 23:59:59

Exact Match on: Debtor No: 1

**Amendments to Registration**

22081811233

Amendment

2022-Aug-18

**Debtor(s)**

**Block**

1 985842 ALBERTA LTD.  
7151 50 AVE  
RED DEER, AB T4N 4E4

**Status**

Current

**Block**

2 DELTA DENTAL CORP.  
202 - 4921 49 STREET  
RED DEER, AB T4N 1V2

**Status**

Current by  
22081811233

**Block**

3 52 DENTAL CORPORATION  
202 - 4921 49 STREET  
RED DEER, AB T4N 1V2

**Status**

Current by  
22081811233

**Block**

4 52 WELLNESS CENTER INC.  
600, 4911 51 STREET  
RED DEER, AB T4N 6V4

**Status**

Current by  
22081811233

**Block**

5 AHMAD, FETOUN  
52-26534 TOWNSHIP ROAD 384  
RED DEER COUNTY, AB T4E1A1

**Status**

Current by  
22081811233

Search ID #: Z15702996

**Block**

6 AHMED, FETOUN  
52-26534 TOWNSHIP ROAD 384  
RED DEER COUNTY, AB T4E1A1

**Status**

Current by  
22081811233

**Block**

7 MICHAEL DAVE MANAGEMENT LTD  
600, 4911 51 STREET  
RED DEER, AB T4N 6V4

**Status**

Current by  
22081811233

**Block**

8 PARADISE MCIVOR DEVELOPMENTS LTD.  
600, 4911 51 STREET  
RED DEER, AB T4N 6V4

**Status**

Current by  
22081811233

**Secured Party / Parties**

**Block**

1 ROYAL BANK OF CANADA  
36 YORK MILLS ROAD, 4TH FLOOR  
TORONTO, ON M2P 0A4

**Status**

Deleted by  
22081811233

**Block**

2 ROYAL BANK OF CANADA  
36 YORK MILLS ROAD, 4TH FLOOR  
TORONTO, ON M2P 0A4  
Email: torbscpr@rbc.com

**Status**

Current by  
22081811233

**Collateral: General**

**Block**

**Description**

1 ALL PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.

**Status**

Current

2 THIS REGISTRATION IS A RE-REGISTRATION PURSUANT TO SECTION

Current

3 35(7) AND 35(8) OF THE PERSONAL PROPERTY SECURITY ACT

Current

4 RELATING TO REGISTRATION NO. 16080309153 DATED AUGUST 3,

Current

5 2016, ERRONEOUSLY DISCHARGED ON APRIL 19, 2018.

Current

Search ID #: Z15702996

**Business Debtor Search For:**

985842 ALBERTA LTD.

Search ID #: Z15702996

Date of Search: 2022-Dec-21

Time of Search: 08:16:21

---

Registration Number: 19101647977

Registration Date: 2019-Oct-16

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2029-Oct-16 23:59:59

---

Exact Match on:

Debtor

No: 1

---

**Debtor(s)**

**Block**

**Status**

1 985842 ALBERTA LTD.  
202, 4921 - 49 STREET  
RED DEER, AB T4N 1V2

Current

**Secured Party / Parties**

**Block**

**Status**

1 JOVICA PROPERTY MANAGEMENT LTD.  
C/O 500, 707 - 7 AVENUE S.W.  
CALGARY, AB T2P 3H6

Current

**Block**

**Status**

2 SOLAR STAR HOLDINGS INC.  
C/O 500, 707 - 7 AVENUE S.W.  
CALGARY, AB T2P 3H6

Current

**Collateral: General**

**Block**

**Description**

**Status**

1 ALL PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY OF THE DEBTOR.

Current



Search ID #: Z15702996

**Business Debtor Search For:**

985842 ALBERTA LTD.

Search ID #: Z15702996

Date of Search: 2022-Dec-21

Time of Search: 08:16:21

---

Registration Number: 20072816823

Registration Type: SECURITY AGREEMENT

Registration Date: 2020-Jul-28

Registration Status: Current

Expiry Date: 2030-Jul-28 23:59:59

---

Exact Match on:

Debtor

No: 1

---

**Debtor(s)**

**Block**

**Status**

1 985842 ALBERTA LTD.  
108, 5207 POWER CENTRE BOULEVARD  
DRAYTON VALLEY, AB

Current

**Secured Party / Parties**

**Block**

**Status**

1 1193770 ALBERTA LTD.  
C/O 500, 707 - 7TH AVENUE S.W.,  
CALGARY, AB T2P 3H6  
Phone #: 403 269 9400 Fax #: 403 266 2447  
Email: btwerdoff@hendrixlaw.ca

Current

**Collateral: General**

**Block**

**Description**

**Status**

1 ALL PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY OF THE DEBTOR,  
INCLUDING, BUT NOT LIMITED TO ALL PERSONAL PROPERTY LOCATED AT THE  
FOLLOWING PROPERTY MUNICIPALLY DESCRIBED AS:  
108, 5207 POWER CENTRE BOULEVARD, DRAYTON VALLEY, ALBERTA  
AND LEGALLY DESCRIBED AS:  
PLAN 0721291, BLOCK 102, LOT 14, EXCEPTING THEREOUT ALL MINES AND  
MINERALS

Current

Search ID #: Z15702996

**Business Debtor Search For:**

985842 ALBERTA LTD.

Search ID #: Z15702996

Date of Search: 2022-Dec-21

Time of Search: 08:16:21

---

Registration Number: 21081933272

Registration Date: 2021-Aug-19

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2026-Aug-19 23:59:59

---

Exact Match on: Debtor No: 1

---

**Debtor(s)**

**Block**

**Status**

1 985842 ALBERTA LTD.  
600, 4911 - 51 STREET  
RED DEER, AB T4N 6V4

Current

**Secured Party / Parties**

**Block**

**Status**

1 THE BANK OF NOVA SCOTIA  
4715 TAHOE BOULEVARD  
MISSISSAUGA, ON L4W 0B4  
Email: bsc@scotiabank.com

Current

**Collateral: General**

**Block**

**Description**

**Status**

1 ANY AND ALL PRESENT AND FUTURE ACCOUNTS, MONIES AND ALL OTHER INDEBTEDNESS, OBLIGATIONS, AND LIABILITIES OF ANY KIND, DIRECT OR INDIRECT, ABSOLUTE OR CONTINGENT, JOINT OR SEVERAL OF 52 WELLNESS CENTRE INC. WHICH ARE NOW OR HEREAFTER OWED TO THE DEBTOR AND ALL INSTRUMENTS, DOCUMENTS, AGREEMENTS, CHOSES IN ACTION, CLAIMS AND/OR DEMANDS IN RESPECT OF THEREOF, OR IN ANY WAY RELATED THERETO.

Current

2 PROCEEDS:  
ALL PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.

Current

Result Complete

Loan Payout Statement for 985842 Alberta Ltd Loan

December 8th, 2022

Below is the current loan statement up to December 17<sup>th</sup>, 2022 for the loan known as “985842 Alberta ltd Loan”, lent out by 1193770 Alberta Ltd.

Properties:

1<sup>st</sup> mortgage charge on #108 5207 Power Centre Boulevard, Drayton Valley, AB  
Legal: Plan 0721291, Block 102, Lot 14

2<sup>nd</sup> mortgage charge on personal residence in Red Deer:  
Legal: Qtr NE, Sec 30, Twp 38, Rng 26, Mer 4 Plan 0120803, Block 3, Lot 2A

Loan commencement Date: July 17, 2020

The current interest rate is: 10.0% compounding monthly

Current Loan Principle: \$816,080.00

September 17<sup>th</sup> interest: \$6800.67 (822,880.67)  
October 17<sup>th</sup> interest: \$6857.34 (829,738.01)  
November 17<sup>th</sup> interest: \$6914.48 (836,652.49)  
December 17<sup>th</sup> interest: \$6972.10 (843,624.59)

Total outstanding on December 17<sup>th</sup>, 2022: \$843,624.59

1193770 Alberta ltd is to be paid: \$843,624.59

Per Diem: \$231.13 per day.

If you have any other questions or concerns, feel free to contact us.  
Thank you for your time,

Ellis Jovica  
403-604-6759

**This is Exhibit “ F ” referred to in the  
Affidavit of**

Jure Jovica

Sworn before me this 9<sup>th</sup> day of

February A.D. 20 23

~~A Notary Public~~, A Commissioner for Oaths in  
and for the Province of Alberta

DARRELL S. COHEN - Barrister & Solicitor



|                        |   |                      |
|------------------------|---|----------------------|
| <b>COURT FILE NO.</b>  | <b>2203-12557</b>   | <b>Clerk's Stamp</b> |
| <b>COURT</b>           | <b>COURT OF KING'S BENCH OF ALBERTA</b>   |                      |
|                        | <b>IN BANKRUPTCY AND INSOLVENCY</b>   |                      |
| <b>JUDICIAL CENTRE</b> | <b>EDMONTON</b>   |                      |
| <b>PLAINTIFF</b>       | <b>ROYAL BANK OF CANADA</b>   |                      |
| <b>DEFENDANTS</b>      | <b>FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, MCIVOR DEVELOPMENTS LTD., 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP., 52 WELLNESS CENTRE INC., PARADISE MCIVOR DEVELOPMENT LTD., MICHAEL DAVE MANAGEMENT LTD., FAISSAL MOUHAMAD AND FETOUN AHMAD also known as FETOUN AHMED</b> |                      |
| <b>DOCUMENT</b>        | <b>NOTICE OF REVISION OR DISALLOWANCE IN THE MATTER OF THE RECEIVERSHIPS OF FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP. AND MICHAEL DAVE MANAGEMENT LTD.</b>  |                      |

1. As you are aware, MNP Ltd. acts as Receiver and Manager (the "Receiver") of all of the assets, undertakings, and properties of Faissal Mouhamad Professional Corporation o/a Delta Dental ("FMPC"), 985842 Alberta Ltd. ("985842"), 52 Dental Corporation, Delta Dental Corp. ("DDC") and Michael Dave Management Ltd. ("MDML", and collectively, the "Companies").
2. Pursuant to an Order granted by the Court of King's Bench of Alberta (the "Court") on February 14, 2023 (the "Claims Process Order"), a claims process was approved that directed the Receiver to solicit claims from all creditors of the Companies for the purpose of determining the claims that will be eligible to share in any distribution(s) that may be available in the Receivership proceedings.
3. Pursuant to the Claims Process Order, the Receiver hereby gives you notice that it has reviewed your proof of claim filed in the Receivership proceedings and has disallowed your claim.

4. Subject to further disputes by you in accordance with the Claims Process Order, your claim will be allowed as follows:

**Amount allowed by the Receiver:**

| Type:           | Proof of claim amount: | Admitted amount:                                      |
|-----------------|------------------------|---|
| Unsecured Claim | \$1,740,461.00         | Unsecured claims are not being reviewed at this time. |
| Secured Claim   | \$11,259,539.00        | NIL   |

**Claim by: Mahmoud Mohamad against all of the Companies**

**Reasons for the Revision or Disallowance:**

*Unsecured Claim. Please note that unsecured claims are not being reviewed by the Receiver at this time. The Receiver may review unsecured claims at a future date if it is determined that there are sufficient proceeds of sale to make a distribution to unsecured creditors of one or more of the Companies.*

*Secured Claim. Based on the information provided, the only security you may hold is in relation to Certificates of Lis Pendens registered against certain real properties previously owned by 985842 and MDML (the "Real Properties") and/or a constructive trust over personal property of FMPC and/or DDC (the "Personal Property"). No agreements have been provided that would suggest that you have a contractual security interest in any real property or personal property of the Companies.*

*The Affidavit provided in support of your claim suggests that you are asserting a constructive trust over the proceeds of sale of the Real Properties and the Personal Property. At this time, no determination as to the validity of your claim has been made by the Court in the proceedings commenced by you. Accordingly, your claim appears to be unliquidated and contingent. In addition, your claim appears to rely on contentious facts that are not proven and may require discovery of documents, questionings and/or viva voce evidence. Accordingly, the Receiver is of the view that your claim is too remote or speculative to constitute a provable claim.*

5. If you intend to dispute this Notice of Revision or Disallowance (the "Disallowance Notice"), you must within 10 days from the date of this Disallowance Notice, deliver to the Receiver, a Dispute Notice (in the form enclosed) either by prepaid registered mail, personal delivery, courier to MNP Ltd., 1500, 640 – 5<sup>th</sup> Avenue SW, Calgary, AB T2P 3G4 or via email to [Temitope.Muraina@mnp.ca](mailto:Temitope.Muraina@mnp.ca) to the attention of Temitope Muraina.

**IF YOU FAIL TO FILE YOUR DISPUTE NOTICE WITHIN TEN (10) DAYS OR THE DATE ON THIS DISALLOWANCE NOTICE, THE VALUE OF YOUR CLAIM WILL BE DEEMED TO BE ACCEPTED AS FINAL AND BINDING AS SET OUT IN THIS DISALLOWANCE NOTICE.**

Dated: April 25, 2023

**MNP Ltd.**, in its capacity as Receiver of Faissal Mouhamad Professional Corporation o/a Delta Dental, 985842 Alberta Ltd., 52 Dental Corporation, Delta Dental Corp. and Michael Dave Management Ltd. and not in its personal or corporate capacity



Per:

\_\_\_\_\_  
Vanessa Allen, B. Comm, CIRP, LIT  
Senior Vice President

COURT FILE NO. 2203-12557

Clerk's Stamp

COURT COURT OF KING'S BENCH OF ALBERTA  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE EDMONTON

PLAINTIFF ROYAL BANK OF CANADA

DEFENDANTS FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, MCIVOR DEVELOPMENTS LTD., 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP., 52 WELLNESS CENTRE INC., PARADISE MCIVOR DEVELOPMENT LTD., MICHAEL DAVE MANAGEMENT LTD., FAISSAL MOUHAMAD AND FETOUN AHMAD also known as FETOUN AHMED

DOCUMENT NOTICE OF DISPUTE IN THE MATTER OF THE RECEIVERSHIPS OF FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP. AND MICHAEL DAVE MANAGEMENT LTD.

1. I, Mahmoud Mohamad, of Calgary, in the Province of Alberta, dispute the amount stated in the attached Notice of Revision or Disallowance provided in respect of Faissal Mouhamad Professional Corporation, 985842 Alberta Ltd., 52 Dental Corporation, Delta Dental Corp., Michael Dave Management Ltd., (Debtors).
2. I dispute the amount stated in the Notice of Revision or Disallowance for the following reasons and attach all applicable documents:

Pursuant to the Actions that I have filed in Court of King's Bench and referenced in my April 5, 2023, Affidavit, I have claimed a constructive trust to the proceeds from the sale of any of the Personal Property of the Defendants which includes MDML and 985842. As such, I disagree with the position that I hold a constructive trust over only FMPC and DDC and verily believe that it applies to MDML and 985842 as well. On September 8, 2022, Faissal Mouhamad provided a sworn affidavit in Action 2203-12557 where he admits, in Paragraph 20, mortgaging property, in which I have an interest in, to one or more financial institutions, and the funds were used to



purchase dental equipment for one or more of the Debtors. I believe this makes my claim not speculative.

I verily believe that I should have the opportunity to seek a constructive trust during Action No. 2203-12557 when and if the sale proceeds of any of the Personal Property of the Debtors is to be distributed, pursuant to my Actions.

Dated at Calgary, this 4<sup>th</sup> day of May, 2023.



\_\_\_\_\_  
Witness



\_\_\_\_\_  
Mahmoud Mohamad

COURT FILE NUMBER 2203 12557  
COURT COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE EDMONTON  
PLAINTIFF ROYAL BANK OF CANADA  
DEFENDANTS FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, MCIVOR DEVELOPMENTS LTD., 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP., 52 WELLNESS CENTRE INC., PARADISE MCIVOR DEVELOPMENTS LTD., MICHAEL DAVE MANAGEMENT LTD., FAISSAL MOUHAMAD and FETOUN AHMAD also known as FETOUN AHMED

DOCUMENT **ORDER (CLAIMS PROCEDURE)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT McMillan LLP  
TD Canada Trust Tower  
1700, 421 – 7<sup>th</sup> Avenue SW  
Calgary, AB T2P 4K9

**Attention:** Adam Maerov/Kourtney Rylands/  
Preet Saini  
Telephone: 403.531.4700  
Fax: 403.531.4720  
File No. 293571

**DATE ON WHICH ORDER WAS PRONOUNCED:** Tuesday, February 14, 2022

**LOCATION WHERE ORDER WAS PRONOUNCED:** Edmonton Law Courts

**NAME OF JUSTICE WHO MADE THIS ORDER:** The Honourable Justice Mah

UPON THE APPLICATION of MNP Ltd., in its capacity as court-appointed receiver and manager (the “**Receiver**”) of Faissal Mouhamad Professional Corporation, 52 Dental Corporation, Delta Dental Corp., Michael Dave Management Ltd., 52 Wellness Centre Inc. and 985842 Alberta Ltd.; AND UPON reviewing the First Report of the Interim Receiver dated September 9, 2022, the First Report of the Receiver dated September 29, 2022, the Second Report of the Receiver dated October 28, 2022 (the “**Second Report**”), the First Confidential Report of the Receiver dated October 28, 2022 (“**First**

**Confidential Report**”), the Third Report of the Receiver dated January 3, 2023 (the “**Third Report**”), the Second Confidential Report of the Receiver dated January 3, 2023, the Supplement to the Third Report dated January 10, 2023, the Fourth Report of the Receiver dated January 30, 2023 (the “**Fourth Report**”), the Third Confidential Report of the Receiver dated January 30, 2023 (the “**Third Confidential Report**”) and the Fifth Report of the Receiver dated February 6, 2023 (the “**Fifth Report**”); AND UPON reviewing the receivership order granted by the Honourable Justice Mah on September 16, 2022 (the “**Receivership Order**”) AND UPON noting that the Receiver seeks approval of the Claims Process attached as **Appendix “A”** hereto (the “Claims Process”); AND UPON noting that MNP Ltd. previously acted as interim receiver of Faissal Mouhamad Professional Corporation, 52 Dental Corporation, and Delta Dental Corp pursuant to an interim receivership order granted on August 23, 2022 by the Honourable Justice Hiller (in such capacity, the “**Interim Receiver**”); AND UPON reviewing the Affidavit of Service confirming service on the service list contained therein (“**Service List**”); AND UPON hearing counsel for the Receiver and any other interested parties present;

## **IT IS HEREBY ORDERED AND DECLARED THAT:**

### **SERVICE**

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

### **DEFINED TERMS**

2. Capitalized terms used herein or not otherwise defined shall have the meaning ascribed to them in the Claims Process.

### **APPROVAL OF CLAIMS PROCESS**

3. The Claims Process for determining any and all Claims of any and all Creditors in the receivership proceedings of Faissal Mouhamad Professional Corporation, 52 Dental Corporation, Delta Dental Corp., Michael Dave Management Ltd. and 985842 Alberta Ltd. (collectively, the “**Debtors**”) is hereby approved and the Receiver is authorized and directed to implement the Claims Process in accordance herewith in order to identify all Creditors and assess the amount, nature and priority of Claims proven in accordance herewith.
4. The form of Notice of Claims Process, Notice of Revision or Disallowance, Notice of Dispute, and Newspaper Notice, all as set forth in the attached **Appendices “B”, “C”, “D” and “E”**, respectively, are approved.

### **CLAIMS BAR DATE**

5. Any Creditor who has a Claim against any one or more of the Debtors as of the Filing Date and who has not, as of the Claims Bar Date, submitted a Proof of Claim to the Receiver in respect of such Claim, in accordance with the Claims Process, shall have their Claim forever extinguished, unless otherwise ordered by the Court.

### **NOTICE OF TRANSFEREES**

6. If a Creditor or any subsequent holder of a Claim who has been acknowledged by the applicable Debtor(s) as the holder of the Claim transfers or assigns such Claim to another Person, the Receiver shall not be required to give notice to or otherwise deal with the transferee or assignee of the Claim



as the holder of such Claim unless and until actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, has been delivered to the Receiver. Thereafter, such transferee or assignee shall, for all purposes hereof, constitute the holder of such Claim and shall be bound by notices given and steps taken in respect of such Claim in accordance with the provisions of the Claims Process.

7. If a Creditor of any subsequent holder of a Claim who has been acknowledged by the Receiver as the holder of the Claim transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person or Persons, such transferred or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Receiver shall not, in each such case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim provided such Creditor may, by notice in writing delivered to the Receiver, direct that subsequent dealings in respect of such Claim, but only as a whole, shall be dealt with by a specified Person and, in such event, such Person shall be bound by any notices given or steps taken in respect of such Claim with such Creditor in accordance with the provisions of the Claims Process.

## **NOTICE AND COMMUNICATION**

8. Except as otherwise provided herein, the Receiver may deliver any notice or other communication to be given under this Order to any Creditor or other interested Person by forwarding true copies thereof by ordinary mail, courier, personal delivery, facsimile or email to such Creditor or Person at the address last shown on the books and records of the Debtors, and that any such notice by courier, personal delivery, facsimile or email 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 within Alberta, the fifth Business Day after mailing within Canada, and the tenth Business Day after mailing internationally.
9. Any notice or other communication to be given under this Order by a Creditor to the Receiver shall be in writing in substantially the form, if any, provided for in this Order and will be sufficiently given only if delivered by registered mail, courier, email (in PDF format), personal delivery or facsimile transmission and addressed to:

**MNP Ltd.**, Receiver and Manager of Faissal Mouhamad Professional Corporation, 985842 Alberta Ltd., 52 Dental Corporation, Delta Dental Corp. and Michael Dave Management Ltd.

Attention: Temitope Muraina  
1500, 640 – 5<sup>th</sup> Avenue SW  
Calgary, AB T2P 3G4

Phone: 403-537-8424  
Email: Temitope.Muraina@mnp.ca  
Fax: 403-537-8393

10. In the event that the day on which any notice or communication required to be delivered pursuant to the Claims Process is not a Business Day then such notice or communication shall be required to be delivered on the next Business Day.

#### **GENERAL**

11. The Receiver is hereby authorized and directed to do all such acts and things, and execute such deeds and documents, as are necessary or appropriate to give full effect to the provisions of this Order.
12. The Receiver is authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which Proofs of Claim are submitted, completed and executed and may, if satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of the Claims Process and this Order as to the submission, completion and execution of the Proofs of Claim.
13. Notwithstanding:
  - a. any application(s) for bankruptcy order(s) issued against a Debtor pursuant to BIA, or any bankruptcy order made pursuant to such application(s);
  - b. the filing of any assignment by a Debtor for the general benefit of creditors made pursuant to the BIA; or
  - c. any proceedings commenced by or in respect of a Debtor pursuant to the CCAA;

the Claims Process and any distributions, steps, revisions, or disallowances made pursuant to the Claims Process shall be binding on any trustee, trustee in bankruptcy, or monitor that may be appointed in respect of such Debtor pursuant to the BIA, the CCAA, or any other applicable legislation.

14. References in this Order to the singular shall include the plural, references to the plural shall include the singular, and to any gender shall include the other gender.
15. Notwithstanding the terms of this Order, the Receiver or any interested Person may apply to this Court from time to time for such further order or orders as it considers necessary or desirable to apply for such further advice, assistance and direction as may be necessary to give full force and effect to the terms of this Order or to amend, supplement or modify the Claims Process or this Order.
16. Service of this Order on the Service List by email, facsimile, registered mail, courier or personal delivery shall constitute good and sufficient service of this Order, and no Persons, other than those on the Service List, are entitled to be served with a copy of this Order. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
17. Service of this Order on any party not attending this application is hereby dispensed with.



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J.C.C.K.B.A.

## APPENDIX “A” TO CLAIMS PROCESS ORDER

### CLAIMS PROCESSES

#### DEFINITIONS

1. For purpose of this Claims Process the following terms should have the following meanings:
  - (a) “**985842**” means 985842 Alberta Ltd.
  - (b) “**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. 8-3, as amended;
  - (c) “**Business Day**” means a day, other than a Saturday or a Sunday, on which banks are generally open for business in Calgary, Alberta;
  - (d) “**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
  - (e) “**Claim**” means any right or claim or any Person that may be asserted or made in whole or in part against one or more Debtors, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including without limitation, by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, without limitation, any legal, statutory, regulatory, equitable or fiduciary duty or obligation) or by reason of any right of ownership or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including, without limitation, any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof (A) is based in whole or in part on facts prior to the Filing Date, (B) relates to a time period prior to the Filing Date, or (C) is a right or claim of any kind that would be a debt provable in bankruptcy within the



meaning of the BIA had such Debtor become bankrupt on the Filing Date, provided, however, that “Claim” shall not include an Excluded Claim;

- (f) **“Claims Bar Date”** means 5:00 p.m. (Mountain Time) on Monday, April 10, 2023 or such other date as may be ordered by the Court;
- (g) **“Claims Package”** means the document package which shall include a Proof of Claim and such other materials as the Receiver considers necessary or appropriate;
- (h) **“Claims Process”** means the procedures outlined herein in connection with the assertion of any Claim against the Debtors;
- (i) **“Claims Process Order”** means the Order pronounced by Justice D.H. Mah of the Court on February 14, 2023 approving the Claims Process;
- (j) **“Court”** means the Court of King’s Bench of Alberta;
- (k) **“Creditor”** means any Person that asserts a Claim;
- (l) **“Debtors”** means Faissal Mouhamad Professional Corporation, 52 Dental Corporation, Delta Dental Corp., Michael Dave Management Ltd., and 985842 and **“Debtor”** means any one of them;
- (m) **“Excluded Claim”** means Claims:
  - (i) secured by a registered mortgage or charge on real property;
  - (ii) secured by the Receiver’s Charge;
  - (iii) made by or on behalf of the beneficiaries of the Receiver’s Borrowing Charge;
- (n) **“Filing Date”** means, the case of each of the Debtors other than 985842, September 16, 2022, and in the case of 985842, September 29, 2022;
- (o) **“Known Creditors”** means Creditors which the books and records of a Debtor disclose as having a Claim against a Debtor as of the Filing Date for such Debtor;

- (p) “**Newspaper Notice**” means the notice of the Claims Process to be published in the newspapers in accordance with the Claims Process in substantially the form attached to the Claims Process Order as Appendix “E”;
- (q) “**Notice to Creditors**” means the notice to be sent by the Receiver to all Known Creditors on or before February 21, 2023, setting out the method by which any Person may file a Proof of Claim in the prescribed form with the Receiver, which notice shall be substantially in the form attached to the Claims Process Order as Appendix “B”;
- (r) “**Notice of Dispute**” means the form to be sent to the Receiver by any Person objecting to the classification or quantum of their Claim, which notice shall be substantially in the form attached to the Claims Process Order as Appendix “D”;
- (s) “**Notice of Revision or Disallowance**” means the form sent by the Receiver revising or disallowing a Proof of Claim submitted by any Person, which notice shall be substantially in the form attached to the Claims Process Order as Appendix “C”;
- (t) “**Person**” shall be broadly interpreted and includes an individual, firm, partnership, joint venture, venture capital fund, limited liability company, unlimited liability company, association, trust, corporation, unincorporated association or organization, syndicate, committee, the government or a country or any political subdivision thereof, or any agency, board, tribunal, commission, bureau, instrumentality or department of such government or political subdivision, or any other entity, however designated or constituted, and the trustees, executors, administrators, or other legal representatives of any individual;
- (u) “**Proof of Claim**” means the form setting forth a Creditor’s Claim, which proof of claim shall be substantially in the form attached to the Notice of Creditors (Appendix “B” to the Claims Process Order);
- (v) “**Proven Claim**” means the quantum and classification of the Claim of a Creditor as finally determined in accordance with the Claims Process, provided that a Proven Claim will be “finally determined” in accordance with the Claims Process when: (i) it has been accepted in part or in full by the Receiver and the applicable time period for challenging a Notice of Revision or Disallowance by submitting a Notice of Dispute has expired; or (ii) to the extent permitted by the court and applicable, any court of competent jurisdiction has made a determination with respect to the classification and quantum of the Claim and

no appeal or applications for leave to appeal therefrom shall have been taken or served on either party, or if any appeals(s) or applications(s) for leave to appeal or further appeal shall have been taken therefrom or served on either party, any and all such appeal(s) or application(s) shall have been dismissed, determined or withdrawn;

(w) “**Receiver**” means MNP Ltd., in its capacity as the Court appointed receiver and manager of the Debtors, and not in its personal capacity or corporate capacity; and

(x) “**Website**” means the website established by the Receiver and located at <https://mnpdebt.ca/en/corporate/corporate-engagements/fmpc>.

### **NOTICE OF CLAIMS PROCESS**

2. The Receiver shall cause a Claims Package to be sent to each Known Creditor by regular prepaid mail, courier, facsimile, personal delivery or email on or prior to February 21, 2023.
3. The Receiver shall cause the Newspaper Notice to be published in the Calgary Herald and any other newspaper the Receiver considers advisable, on or prior to February 21, 2023.
4. The Receiver shall cause the Claims Package to be posted on the Website as soon as practicable after the granting of this Claims Process Order;
5. The Receiver shall cause a copy of a Proof of Claim to be sent to any Person requesting such material as soon as practicable.

### **PERSON ASSERTING CLAIMS**

6. Any other Person who has a Claim against one or more Debtors, as of the Filing Date, other than an Excluded Claim, and who wishes to assert such Claim against such Debtor(s), shall, on or before the Claims Bar Date, send a completed Proof of Claim to the Receiver setting out the classification and quantum of its Claim.
7. A Proof of Claim filed in respect of a secured Claim must include an affidavit sworn or solemn declaration affirmed by an individual representative of the Person asserting the Claim setting out the basis for the Claim and full particulars of the security granted therefore, including the date on, and the manner in, which the security was given, the date on which the security was perfected, all facts relevant to the priority of the security and the value at which the Person assesses the security.

8. Any Person who fails to comply with Paragraph 6 or Paragraph 7 of this Claims Process shall be forever barred, enjoined and estopped from asserting such Claim against the Debtors and such Claim or security shall be forever extinguished, except as otherwise may be ordered by the Court.
9. Upon the request of any Creditor that files a Proof of Claim prior to the Claims Bar Date in accordance with the Claims Process (the “**Requesting Creditor**”), the Receiver is authorized and directed to make available to such Requesting Creditor any Proof of Claim filed by a Creditor that is not the Requesting Creditor so as to provide the Requesting Creditor with a reasonable opportunity to examine such Proof of Claim and question the affiant in respect of such Proof of Claim in accordance with paragraph 10 of this Order.
10. Any Creditor on being paid the proper conduct money and on being served with a copy of this Order and of an appointment of any duly qualified or authorized person to hold examinations shall attend and submit to be questioned *viva voce* upon oath on that Creditor’s filed Proof of Claim at a place and at a time agreed by such Creditor and the Requesting Creditor, each acting reasonably, for the purpose of assisting the Receiver in determining whether to accept, revise or disallow a Proof of Claim submitted in accordance with this Order. Any questioning pursuant to this paragraph may take the form of a cross-examination.

## **RESOLUTION OF CLAIMS**

11. The Receiver shall review any Proof of Claim that is submitted to it on or before the Claims Bar Date and, subject to the terms of this Order, may accept, revise or disallow the Proof of Claim.
12. The Receiver may attempt to consensually resolve the classification or quantum of any Proof of Claim submitted by any Person prior to the Receiver accepting, revising or disallowing such Proof of Claim.
13. In the event that the Receiver elects to accept the quantum and classification of the Claim as set forth in the Proof of Claim, the Creditor shall have a Proven Claim in the quantum and with the classification specified in the Proof of Claim submitted by the Person.
14. In the event that the Receiver elects to revise or disallow the Proof of Claim, the Receiver shall send a Notice of Revision or Disallowance setting out the revision or disallowance of the Proof of Claim.



15. Any Person who wishes to dispute the Notice of Revision or Disallowance received from the Receiver shall, within 10 days of delivery of the Notice of Revision or Disallowance from the Receiver, send a Notice of Dispute the Receiver setting out the particulars of the Dispute.
16. Any Person who receives a Notice of Revision or Disallowance from the Receiver and who fails to comply with Paragraph 15 of this Claims Process shall (i) be deemed to have accepted the classification and quantum of its Claim as set forth in the Notice of Revision or Disallowance, (ii) to the extent applicable, shall have a Proven Claim in the quantum and with the classification specified in the Notice of Revision or Disallowance, and (iii) shall be forever barred, enjoined and estopped from challenging the classification and quantum of its Claim as set forth in the Notice of Revision or Disallowance delivered to it by the Receiver and the balance of its Claim shall be extinguished, except as otherwise may be ordered by the Court.

#### **CURRENCY OF CLAIMS**

17. Any Claim set out in a Proof of Claim shall be denominated in Canadian dollars, failing which such Claim shall be converted to and shall constitute obligations in Canadian dollars and such calculation will be effected using the noon spot rate of the Bank of Canada as of the Filing Date.

**APPENDIX "B" TO THE CLAIMS PROCESS ORDER**  
**NOTICE TO CREDITORS**



4. Additional copies of the prescribed proof of claim form can be obtained by contacting the Receiver via telephone at 403-537-8393 or via email at [Temitope.Muraina@mnp.ca](mailto:Temitope.Muraina@mnp.ca) or it can be downloaded from the Receiver's Website.
5. Any creditor who chooses to file a proof of claim is required to provide whatever documentation it may have to support its Claim, such as contracts, invoices, bills of lading, shipping receipts, security of other agreements and proof of relevant security registrations, in relation to the goods and/or services provided or funds advanced to the Debtors, with all amounts being presented in the appropriate currency under which its Claim arose (the "Claim Support").
6. Any creditor that asserts that it has a secured Claim must append to its proof of claim an affidavit a sworn or solemn declaration affirmed (a "Secured Claim Affidavit") by an individual representative of the creditor asserting the Claim setting out the basis for the Claim and full particulars of the security granted therefore, including the date on, and the manner in, which the security was given, the date on which the security was perfected, all facts relevant to the priority of the security and the value at which the Person assesses the security.
7. All proofs of claim, together with supporting documentation Claim Support and Secured Claim Affidavits, must be delivered by mail or courier service to MNP Ltd., 1500, 640 – 5<sup>th</sup> Avenue SW, Calgary, AB T2P 3G4 or via email at [Temitope.Muraina@mnp.ca](mailto:Temitope.Muraina@mnp.ca) to the attention of Temitope Muraina on or before 4:00 p.m. Mountain Time on Monday, April 10, 2023 (the "Claims Bar Date").
8. Creditors that do not submit a proof of claim to the Receiver by the specified time on the Claims Bar Date, or such later date as the Court may order, shall not be entitled to receive any further notice of the receivership proceedings, shall not be entitled to receive any distribution in the receivership proceedings and shall be forever barred from making or enforcing any Claim against any of the Debtors related to the period prior to the Filing Date.
9. Where a Creditor objects to a Disallowance Notice, the creditor must notify the Receiver of its objection in writing (the "Dispute Notice") by registered mail, courier service or email within 10 days from the date of the Disallowance Notice.



10. A creditor who does not file a Dispute Notice to a Disallowance Notice issued by the Receiver shall, unless otherwise ordered by the Court, be conclusively deemed to have accepted the assessment of its Claim as set out in the Disallowance Notice.

Dated February 14, 2023

**MNP Ltd.**, in its capacity as Receiver of Faissal Mouhamad Professional Corporation o/a Delta Dental, 985842 Alberta Ltd., 52 Dental Corporation, Delta Dental Corp. and Michael Dave Management Ltd.



Per:

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Vanessa Allen, B. Comm, CIRP, LIT  
Senior Vice President

District of: Alberta  
Division No. 02 - Calgary  
Court No. 2203-12557

FORM 31 / 36  
Proof of Claim

**Select the Debtor Entity:**

- Faissal Mouhamad Professional Corporation in the City of Red Deer in the Province of Alberta
- 98542 Alberta Ltd. of the Town of Drayton Valley in the Province of Alberta
- 52 Dental Corporation of the City of Calgary in the Province of Alberta
- Delta Dental Corp. of the City of Red Deer in the Province of Alberta
- Michael Dave Management Ltd. of the City of Red Deer in the Province of Alberta

All notices or correspondence regarding this claim must be forwarded to the following address:

\_\_\_\_\_

In the matter of the receivership of \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_ in and the claim of \_\_\_\_\_, creditor.

I, \_\_\_\_\_ (name of creditor or representative of the creditor), of the city of \_\_\_\_\_ in the province of \_\_\_\_\_ do hereby certify:

1. That I am a creditor of the above-named debtor (or I am \_\_\_\_\_ (position/title) of \_\_\_\_\_, creditor).

2. That I have knowledge of all the circumstances connected with the claim referred to below.

3. That the debtor was, at the Filing Date, and still is, indebted to the creditor in the sum of \$ \_\_\_\_\_, as specified in the statement of account (or affidavit or solemn declaration) attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.) **Please note that proofs of claim in respect of all secured claims must include a sworn affidavit [or solemn declaration] that includes full particulars of the security claimed, including the date on which the security was given, the date on, and the manner in, which the security was perfected, all facts relevant to the priority of the security and the value at which you assess the security.**

4. (Check and complete appropriate category.)

A. UNSECURED CLAIM OF \$ \_\_\_\_\_

(other than as a customer contemplated by Section 262 of the Act)

That in respect of this debt, I do not hold any assets of the debtor as security and  
(Check appropriate description.)

Regarding the amount of \$ \_\_\_\_\_, I claim a right to a priority under section 136 of the Act.

Regarding the amount of \$ \_\_\_\_\_, I do not claim a right to a priority.  
(Set out on an attached sheet details to support priority claim.)

B. CLAIM OF LESSOR FOR DISCLAIMER OF A LEASE \$ \_\_\_\_\_

That I hereby make a claim under subsection 65.2(4) of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)

C. SECURED CLAIM OF \$ \_\_\_\_\_

That in respect of this debt, I hold assets of the debtor valued at \$ \_\_\_\_\_ as security, particulars of which are as follows:  
(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

D. CLAIM BY FARMER, FISHERMAN OR AQUACULTURIST OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.2(1) of the Act for the unpaid amount of \$ \_\_\_\_\_  
(Attach a copy of sales agreement and delivery receipts.)

E. CLAIM BY WAGE EARNER OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.3(8) of the Act in the amount of \$ \_\_\_\_\_,

That I hereby make a claim under subsection 81.4(8) of the Act in the amount of \$ \_\_\_\_\_,

F. CLAIM BY EMPLOYEE FOR UNPAID AMOUNT REGARDING PENSION PLAN OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.5 of the Act in the amount of \$ \_\_\_\_\_,

That I hereby make a claim under subsection 81.6 of the Act in the amount of \$ \_\_\_\_\_,

G. CLAIM AGAINST DIRECTOR \$ \_\_\_\_\_

(To be completed when a proposal provides for the compromise of claims against directors.)

That I hereby make a claim under subsection 50(13) of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)

H. CLAIM OF A CUSTOMER OF A BANKRUPT SECURITIES FIRM \$ \_\_\_\_\_

That I hereby make a claim as a customer for net equity as contemplated by section 262 of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)

5. That, to the best of my knowledge, I \_\_\_\_\_ (am/am not) (or the above-named creditor \_\_\_\_\_ (is/is not)) related to the debtor within the meaning of section 4 of the Act, and \_\_\_\_\_ (have/has/have not/has not) dealt with the debtor in a non-arm's-length manner.

6. That the following are the payments that I have received from, and the credits that I have allowed to, and the transfers at undervalue within the meaning of subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Section 2 of the Act: (Provide details of payments, credits and transfers at undervalue.)

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Individual Creditor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Corporate Creditor

Per \_\_\_\_\_  
Name and Title of Signing Officer

Return To:

Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

MNP Ltd. - Licensed Insolvency Trustee  
Per:

\_\_\_\_\_  
Vanessa Allen - Receiver  
1500, 640 - 5 Avenue SW  
Calgary AB T2P 3G4  
Phone: (403) 537-8393 Fax: (403) 537-8437  
E-mail: calgary.insolvency@mnp.ca

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: There are severe penalties for making any false claim, proof, declaration or statement of account.

## **CHECKLIST FOR PROOFS OF CLAIM**

This checklist is provided to assist you in preparing the accompanying proof of claim form in a complete and accurate manner. Please specifically check each requirement.

### **PROOF OF CLAIM**

- ▶ The signature of a witness is required;
- ▶ The claim must be signed personally by the individuals;
- ▶ If the creditor is a corporation, the full and complete legal name of the company or firm must be stated;
- ▶ Give the complete address, including postal code, where all notices or correspondence is to be forwarded, the name of the person to contact, the phone number and fax number.

### **PARAGRAPH 1**

- ▶ Please state your name, city of residence, and if you are completing the declaration for a corporation or another person, your position or title.

### **PARAGRAPH 3**

- ▶ State the amount of your claim;
- ▶ A detailed statement of account must be attached and must show the date, number and amount of all the invoices, charged credits or payments;
- ▶ A statement of account is not complete if it begins with an amount brought forward;
- ▶ The amount of the statement of account must agree with the amount claimed on the proof of claim.

### **PARAGRAPH 4**

- ▶ An ordinary creditor must check subparagraph A. A preferred creditor must set out on an attached schedule the particulars of your priority;
- ▶ A secured creditor must check subparagraph C. those creditors advancing secured claims against personal property will be required to provide documentation in support of their claims, such as contracts, invoices, bills of lading, shipping receipts, security of other agreements and proof of relevant security registrations, in relation to the goods and/or services provided or funds advanced, by way of a sworn affidavit or solemn declaration filed in these proceedings. The sworn affidavit or solemn declaration will also be required to include full particulars of the security, including the date on, and the manner in, which the security was given, the date on which the security was perfected, all facts relevant to the priority of the security and the value at which the creditor assesses the security

### **PARAGRAPH 5**

Strike out "are" or "are not" as applicable to you. You would be considered a related person if:

- ▶ You are related to blood or marriage to the debtor;
- ▶ If the debtor is a corporation and you were a shareholder or if your company was controlled by the same shareholders as the debtor corporation.

### **PARAGRAPH 6**

All creditors must attach a detailed list of all payments or credits received or granted, as follows:

- ▶ Within the 3 months preceding the receivership, if the creditor and the debtor are not related;
- ▶ Within 12 months preceding the receivership, if the creditor and debtor are related.



**APPENDIX "C" TO CLAIMS PROCESS ORDER  
NOTICE OF REVISION OR DISALLOWANCE**

|                        |   |                      |
|------------------------|---|----------------------|
| <b>COURT FILE NO.</b>  | <b>2203-12557</b>   | <b>Clerk's Stamp</b> |
| <b>COURT</b>           | <b>COURT OF KING'S BENCH OF ALBERTA</b>   |                      |
|                        | <b>IN BANKRUPTCY AND INSOLVENCY</b>   |                      |
| <b>JUDICIAL CENTRE</b> | <b>EDMONTON</b>   |                      |
| <b>PLAINTIFF</b>       | <b>ROYAL BANK OF CANADA</b>   |                      |
| <b>DEFENDANTS</b>      | <b>FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, MCIVOR DEVELOPMENTS LTD., 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP., 52 WELLNESS CENTRE INC., PARADISE MCIVOR DEVELOPMENT LTD., MICHAEL DAVE MANAGEMENT LTD., FAISSAL MOUHAMAD AND FETOUN AHMAD also known as FETOUN AHMED</b> |                      |
| <b>DOCUMENT</b>        | <b>NOTICE OF REVISION OR DISALLOWANCE IN THE MATTER OF THE RECEIVERSHIPS OF FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP. AND MICHAEL DAVE MANAGEMENT LTD.</b>  |                      |

1. As you are likely aware, MNP Ltd. acts as Receiver and Manager (the "Receiver") of all of the assets, undertakings, and properties of Faissal Mouhamad Professional Corporation o/a Delta Dental, 985842 Alberta Ltd., 52 Dental Corporation, Delta Dental Corp. and Michael Dave Management Ltd. (the "Debtors").
2. Pursuant to an Order granted by the Court of King's Bench of Alberta on February 14, 2023 (the "Claims Process Order"), a claims process (the "Claims Process") was approved that directed the Receiver to solicit claims from all creditors of the Debtors for the purpose of determining the claims that will be eligible to share in any distribution(s) that may be available in the receivership proceedings.
3. Pursuant to the Claims Process Order, the Receiver hereby gives you notice that it has reviewed your proof of claim filed in the receivership proceedings and has revised or disallowed your claim.

4. Subject to further disputes by you in accordance with the Claims Process Order, your claim will be allowed as follows:

**Amount allowed by the Receiver:**

| Type:           | Debtor(s)/Collateral | Proof of claim amount: | Admitted amount: |
|-----------------|----------------------|------------------------|------------------|
| Unsecured Claim |                      |                        |                  |
| Secured Claim   |                      |                        |                  |

**Reasons for the Revision or Disallowance:**

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5. If you intend to dispute this Notice of Revision or Disallowance (the “Disallowance Notice”), you must within 10 days from the date of this Disallowance Notice, deliver to the Receiver, a Dispute Notice (in the form enclosed) either by prepaid registered mail, personal delivery, courier to MNP Ltd., 1500, 640 – 5<sup>th</sup> Avenue SW, Calgary, AB T2P 3G4 or via email to [Temitope.Muraina@mp.ca](mailto:Temitope.Muraina@mp.ca) to the attention of Temitope Muraina.

**IF YOU FAIL TO FILE YOUR DISPUTE NOTICE WITHIN TEN (10) DAYS OF THE DATE ON THIS DISALLOWANCE NOTICE, THE VALUE OF YOUR CLAIM WILL BE DEEMED TO BE ACCEPTED AS FINAL AND BINDING AS SET OUT IN THIS DISALLOWANCE NOTICE.**

Dated: \_\_\_\_\_, 2023

**MNP Ltd.**, in its capacity as Receiver of Faissal Mouhamad Professional Corporation o/a Delta Dental, 985842 Alberta Ltd., 52 Dental Corporation, Delta Dental Corp. and Michael Dave Management Ltd. and not in its personal or corporate capacity

Per: \_\_\_\_\_  
Vanessa Allen, B. Comm, CIRP, LIT  
Senior Vice President

**APPENDIX "D" TO CLAIMS PROCESS ORDER**

**NOTICE OF DISPUTE**

COURT FILE NO. 2203-12557

Clerk's Stamp

COURT COURT OF KING'S BENCH OF ALBERTA

IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE EDMONTON

PLAINTIFF ROYAL BANK OF CANADA

DEFENDANTS FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, MCIVOR DEVELOPMENTS LTD., 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP., 52 WELLNESS CENTRE INC., PARADISE MCIVOR DEVELOPMENT LTD., MICHAEL DAVE MANAGEMENT LTD., FAISSAL MOUHAMAD AND FETOUN AHMAD also known as FETOUN AHMED

DOCUMENT NOTICE OF DISPUTE IN THE MATTER OF THE RECEIVERSHIPS OF FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP. AND MICHAEL DAVE MANAGEMENT LTD.

1. I, \_\_\_\_\_(name), of \_\_\_\_\_ (city/town), in the Province of \_\_\_\_\_, and \_\_\_\_\_ (title) of \_\_\_\_\_(creditor name) dispute the amount stated in the attached Notice of Revision or Disallowance provided in respect of \_\_\_\_\_ (debtor).

2. I dispute the amount stated in the Notice of Revision or Disallowance for the following reasons and attach all applicable documents:

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

(use additional pages if necessary).

Dated at \_\_\_\_\_ (city/town), this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_
Witness

\_\_\_\_\_
Signature of individual completing the form



**APPENDIX "E" TO CLAIMS PROCESS ORDER**

**NEWSPAPER NOTICE**

**NOTICE TO CREDITORS OF FAISSAL MOUHAMAD PROFESSIONAL CORPORATION, 985842 ALBERTA LTD., 52 DENTAL CORPORATION, DELTA DENTAL CORP. AND MICHAEL DAVE MANAGEMENT LTD.**

MNP Ltd. acts as Receiver and Manager (the "Receiver") of the assets, undertakings, and properties of Faissal Mouhamad Professional Corporation o/a Delta Dental, 985842 Alberta Ltd., 52 Dental Corporation, Delta Dental Corp. and Michael Dave Management Ltd. (the "Debtors").

On February 14, 2023, the Court of King's Bench of Alberta granted an Order (the "Claims Process Order") establishing a process (the "Claims Process") by which the identify and the status of all creditors of the Debtors and the amounts of their claims would be established for the purpose of the receivership proceedings (the "Claims Process Order"). A copy of the Claims Process Order may be viewed on the Receiver's website at <https://mnpdebt.ca/en/corporate/corporate-engagements/fmpc> (the "Receiver's Website") or obtained by contacting the Receiver via email at [Temitope.Muraina@mnp.ca](mailto:Temitope.Muraina@mnp.ca).

Pursuant to the Claims Process Order the Receiver was required, by February 21, 2023 to send a Notice to Creditors to each known creditor of the Debtors.

**ANY CREDITOR HAVING A CLAIM AGAINST ONE OR MORE OF THE DEBTORS MUST FILE A PROOF OF CLAIM WITH THE RECEIVER IN THE PRESCRIBED FORM BEFORE 5:00 PM (MST) ON APRIL 10, 2023. CLAIMS NOT PROVEN IN ACCORDANCE WITH THE CLAIMS PROCESS SHALL BE DEEMED TO BE FOREVER BARRED AND EXTINGUISHED AND MAY NOT BE ADVANCED AGAINST THE DEBTORS, EXCEPT AS MAY BE OTHERWISE ORDERED BY THE COURT.**

The prescribed "Proof of Claim" form may be found on the Receiver's Website or can otherwise be obtained by contacting:

**MNP Ltd.**, Receiver and Manager of Faissal Mouhamad Professional Corporation, 985842 Alberta Ltd., 52 Dental Corporation, Delta Dental Corp. and Michael Dave Management Ltd.

Attention: Temitope Muraina  
1500, 640 – 5<sup>th</sup> Avenue SW  
Calgary, AB T2P 3G4

Phone: 403-537-8424  
Email: [Temitope.Muraina@mnp.ca](mailto:Temitope.Muraina@mnp.ca)  
Fax: 403-537-8393



LAND TITLE CERTIFICATE

S  
LINC                      SHORT LEGAL                      TITLE NUMBER  
0032 255 698            0721291;102;14            122 161 801

LEGAL DESCRIPTION  
PLAN 0721291  
BLOCK 102  
LOT 14  
EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: FEE SIMPLE  
ATS REFERENCE: 5;7;49;17;SW

MUNICIPALITY: TOWN OF DRAYTON VALLEY

REFERENCE NUMBER: 082 034 088

---

| REGISTERED OWNER(S) |            |                  |           |               |
|---------------------|------------|------------------|-----------|---------------|
| REGISTRATION        | DATE (DMY) | DOCUMENT TYPE    | VALUE     | CONSIDERATION |
| 122 161 801         | 25/05/2012 | TRANSFER OF LAND | \$750,000 | \$750,000     |

---

OWNERS

985842 ALBERTA LTD.  
OF C/O 7151-50 AVENUE  
RED DEER  
ALBERTA T4N 4E4

(DATA UPDATED BY: CHANGE OF ADDRESS 222066417)

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ENCUMBRANCES, LIENS & INTERESTS

| REGISTRATION NUMBER | DATE (D/M/Y) | PARTICULARS  |
|---------------------|--------------|--|
| 042 379 769         | 04/09/2004   | UTILITY RIGHT OF WAY<br>GRANTEE - ATCO GAS AND PIPELINES LTD.  |
| 052 003 262         | 05/01/2005   | EASEMENT<br>AS TO PORTION OR PLAN:0520040<br>AS TO AREAS H & K |
| 052 003 264         | 05/01/2005   | UTILITY RIGHT OF WAY<br>GRANTEE - THE TOWN OF DRAYTON VALLEY.  |

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ENCUMBRANCES, LIENS & INTERESTS

PAGE 2

# 122 161 801

## REGISTRATION

| NUMBER      | DATE (D/M/Y) | PARTICULARS  |
|-------------|--------------|--|
|             |              | AS TO PORTION OR PLAN:0520040<br>AREAS A,B,C,D,E,F,G,U   |
| 052 003 265 | 05/01/2005   | UTILITY RIGHT OF WAY<br>GRANTEE - FORTISALBERTA INC.<br>AS TO PORTION OR PLAN:0520040<br>AREAS B,C,U                                       |
| 052 030 033 | 24/01/2005   | CAVEAT<br>RE : EASEMENT , ETC.   |
| 052 045 234 | 03/02/2005   | POSTPONEMENT<br>OF EASE 052003262<br>TO CAVE 052030033   |
| 052 190 900 | 17/05/2005   | EASEMENT<br>AS TO PORTION OR PLAN:0520040<br>AS TO AREAS B, C & L<br>"OVER PLAN 0520039 BLOCK 102 LOT 2"                                   |
| 052 245 797 | 21/06/2005   | EASEMENT<br>"OVER SW 17-49-7-5 AS TO PLAN 0520040 AREAS "B" "J"<br>& "L"   |
| 052 275 197 | 08/07/2005   | RESTRICTIVE COVENANT   |
| 052 275 200 | 08/07/2005   | CAVEAT<br>RE : EASEMENT AND RESTRICTIVE COVENANT   |
| 052 308 371 | 27/07/2005   | POSTPONEMENT<br>OF EASE 052003262<br>TO CAVE 052275200   |
| 082 034 087 | 22/01/2008   | PARTY WALL AGREEMENT   |
| 082 034 089 | 22/01/2008   | RESTRICTIVE COVENANT   |
| 082 034 090 | 22/01/2008   | RESTRICTIVE COVENANT   |
| 202 164 797 | 11/08/2020   | CERTIFICATE OF LIS PENDENS<br>BY - MAHMOUD MOHAMAD<br>SEE INSTRUMENT FOR INTEREST  |
| 202 165 891 | 12/08/2020   | MORTGAGE<br>MORTGAGEE - 1193770 ALBERTA LTD.<br>C/O 500, 707 7 AVE SW<br>CALGARY<br>ALBERTA T2P3H6<br>ORIGINAL PRINCIPAL AMOUNT: \$800,000 |
| 202 165 892 | 12/08/2020   | CAVEAT   |

( CONTINUED )

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 ENCUMBRANCES, LIENS & INTERESTS

PAGE 3  
 # 122 161 801

REGISTRATION

-----  
 NUMBER            DATE (D/M/Y)            PARTICULARS  
 -----

RE : ASSIGNMENT OF RENTS AND LEASES  
 CAVEATOR - 1193770 ALBERTA LTD.  
 C/O 500, 707 7 AVE SW  
 CALGARY  
 ALBERTA T2P3H6  
 AGENT - BRIAN TWERDOFF

222 066 418    21/03/2022 MORTGAGE  
 MORTGAGEE - GHALIB HADI  
 7151-50TH AVE  
 RED DEER  
 ALBERTA T4N4E4  
 ORIGINAL PRINCIPAL AMOUNT: \$800,000

222 066 419    21/03/2022 CAVEAT  
 RE : ASSIGNMENT OF RENTS AND LEASES  
 CAVEATOR - GHALIB HADI  
 C/O ALTALAW LLP  
 5233 49TH AVE  
 RED DEER  
 ALBERTA T4N6G5  
 AGENT - N LOCKE RICHARDS

222 223 931    06/10/2022 CERTIFICATE OF LIS PENDENS  
 BY - MAHMOUD MOHAMAD  
 CONSTRUCTIVE TRUST, ETC.

TOTAL INSTRUMENTS: 020

-----  
 PENDING REGISTRATION QUEUE

-----  
 DRR            RECEIVED  
 NUMBER    DATE (D/M/Y)            CORPORATE LLP TRADENAME            LAND ID  
 -----

D00CERH    07/11/2022 MCMILLAN LLP  
 403-531-4716  
 CUSTOMER FILE NUMBER:  
 293571 (PREET)

001                            ORDER - ENDORSEMENT                            0721291;102;14

TOTAL PENDING REGISTRATIONS: 001



THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN  
ACCURATE REPRODUCTION OF THE CERTIFICATE OF  
TITLE REPRESENTED HEREIN THIS 8 DAY OF  
DECEMBER, 2022 AT 10:07 A.M.

ORDER NUMBER: 46036551

CUSTOMER FILE NUMBER: 214-213293



\*END OF CERTIFICATE\*

---

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED  
FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER,  
SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM  
INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION,  
APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS  
PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING  
OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

IF MORE INFORMATION IS REQUIRED ON A PENDING REGISTRATION WHERE  
THE CONTACT INFORMATION DISPLAYS N/A PLEASE EMAIL LTO@GOV.AB.CA.

District of: Alberta  
Division No. 01 - Edmonton  
Court No. 2203-12557

FORM 31 / 36  
Proof of Claim

Select the Debtor Entity:

- Faissal Mouhamad Professional Corporation in the City of Red Deer in the Province of Alberta ("FMPC")
- 98542 Alberta Ltd. of the Town of Drayton Valley in the Province of Alberta ("985")
- 52 Dental Corporation of the City of Calgary in the Province of Alberta ("52 Dental")
- Delta Dental Corp. of the City of Red Deer in the Province of Alberta ("Delta")
- Michael Dave Management Ltd. of the City of Red Deer in the Province of Alberta ("MDML")

All notices or correspondence regarding this claim must be forwarded to the following address:

52 Erin Green Mews SE Calgary Alberta, T2B 3C3

In the matter of the receivership of FMPC, 985, 52 Dental, Delta, MDML of the Prov of Alberta in and the claim of Mahmoud Mohamad, creditor.

I, Mahmoud Mohamad (name of creditor or representative of the creditor), of the city of Calgary in the province of Alberta do hereby certify:

1. That I am a creditor of the above-named debtor (or I am \_\_\_\_\_ (position/title) of \_\_\_\_\_, creditor).
2. That I have knowledge of all the circumstances connected with the claim referred to below.

3. That the debtor was, at the Filing Date, and still is, indebted to the creditor in the sum of \$ 13,000,000.00, as specified in the statement of account (or affidavit or solemn declaration) attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.) **Please note that proofs of claim in respect of all secured claims must include a sworn affidavit [or solemn declaration] that includes full particulars of the security claimed, including the date on which the security was given, the date on, and the manner in, which the security was perfected, all facts relevant to the priority of the security and the value at which you assess the security.**

4. (Check and complete appropriate category.)

A. UNSECURED CLAIM OF \$ 1,740,461.00

(other than as a customer contemplated by Section 262 of the Act)

That in respect of this debt, I do not hold any assets of the debtor as security and  
(Check appropriate description.)

Regarding the amount of \$ 1,740,461.00, I claim a right to a priority under section 136 of the Act.

Regarding the amount of \$ \_\_\_\_\_, I do not claim a right to a priority.  
(Set out on an attached sheet details to support priority claim.) Please see attached affidavit.

B. CLAIM OF LESSOR FOR DISCLAIMER OF A LEASE \$ \_\_\_\_\_

That I hereby make a claim under subsection 65.2(4) of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)

C. SECURED CLAIM OF \$ 11,259,539.00

That in respect of this debt, I hold assets of the debtor valued at \$ 1,974,690.00 as security, particulars of which are as follows:  
(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

D. CLAIM BY FARMER, FISHERMAN OR AQUACULTURIST OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.2(1) of the Act for the unpaid amount of \$ \_\_\_\_\_  
(Attach a copy of sales agreement and delivery receipts.)

E. CLAIM BY WAGE EARNER OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.3(8) of the Act in the amount of \$ \_\_\_\_\_.

That I hereby make a claim under subsection 81.4(8) of the Act in the amount of \$ \_\_\_\_\_.

F. CLAIM BY EMPLOYEE FOR UNPAID AMOUNT REGARDING PENSION PLAN OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.5 of the Act in the amount of \$ \_\_\_\_\_.

That I hereby make a claim under subsection 81.6 of the Act in the amount of \$ \_\_\_\_\_.

G. CLAIM AGAINST DIRECTOR \$ \_\_\_\_\_

(To be completed when a proposal provides for the compromise of claims against directors.)

That I hereby make a claim under subsection 50(13) of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)

H. CLAIM OF A CUSTOMER OF A BANKRUPT SECURITIES FIRM \$ \_\_\_\_\_


That I hereby make a claim as a customer for net equity as contemplated by section 262 of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)


5. That, to the best of my knowledge, I am \_\_\_\_\_ (am/am not) (or the above-named creditor \_\_\_\_\_ (is/is not)) related to the debtor within the meaning of section 4 of the Act, and \_\_\_\_\_ have \_\_\_\_\_ (have/has/have not/has not) dealt with the debtor in a non-arm's-length manner.

6. That the following are the payments that I have received from, and the credits that I have allowed to, and the transfers at undervalue within the meaning of subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Section 2 of the Act: (Provide details of payments, credits and transfers at undervalue.)

N/A

Dated at Calgary, this 8th day of April, 2023.

Mohamad Mohamad   
Witness

Mahmoud Mohamad   
Individual Creditor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Corporate Creditor

Per \_\_\_\_\_  
Name and Title of Signing Officer

Return To:

Phone Number: (403) 903-1069  
Fax Number: \_\_\_\_\_  
E-mail Address: mahmoudmohamad2755@gmail.com

MNP Ltd. - Licensed Insolvency Trustee  
Per:

\_\_\_\_\_  
Vanessa Allen - Receiver  
1500, 640 - 5 Avenue SW  
Calgary AB T2P 3G4  
Phone: (403) 263-3385 Fax: (403) 537-8437  
E-mail: calgary.insolvency@mnp.ca

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: There are severe penalties for making any false claim, proof, declaration or statement of account.

# Schedule "A"

Court File No 2203-12557  
Court COURT OF QUEEN'S BENCH OF ALBERTA  
Judicial Centre EDMONTON  
Plaintiff ROYAL BANK OF CANADA  
Defendants FAISSAL MOUHAMAD PROFESSIONAL CORPORATION,  
MCIVOR DEVELOPMENTS LTD., 985842 ALBERTA LTD., 52  
DENTAL CORPORATION., DELTA DENTAL CORP., 52  
WELLNESS CENTRE INC., PARADISE MCIVOR  
DEVELOPMENTS LTD., MICHAEL DAVE MANAGEMENT  
LTD., FAISSAL MOUHAMAD and FETOUN AHMAD, also  
known as FETOUN AHMED.  
Document **SECURED CLAIM AFFIDAVIT**  
Address for service and contact information of party filing this document Attention: **Mahmoud Mohamad**  
52 Erin Green Mews SE  
Calgary Alberta T2B 3C3  
403-629-1997

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**AFFIDAVIT OF MAHMOUD MOHAMAD**

Sworn on 5 April 2023

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I, Mahmoud Mohamad, of Calgary Alberta, AFFIRM AND SAY THAT:

1. I am the Plaintiff in Court of King's Action No. 2001-09035 and Action No.2201-06421, and as such have personal knowledge of the facts and matters hereinafter deposed to in this affidavit.
2. Faissal Mouhamad ("**Faissal**"), is an individual residing in Red Deer, Alberta. Faissal and I had historically done numerous land development projects and investments together.
3. Fetoun Ahmad, also known as Fetoun Ahmed ("**Fetoun**") is an individual residing in or around the City of Red Deer, in the Province of Alberta. Faissal and Fetoun are married.
4. Faissal Mouhamad Professional Corporation ("**FMPC.**"), is a corporation owned and operated by Faissal, through which he operates his dental practice, with its head office in Red Deer, Alberta.
5. 985842 Alberta Ltd. ("**985**"), is an Alberta corporation with a registered office at 7150 50 Ave Red Deer, Alberta, T4N 4E4. At all material times, Faissal was a director of 985.
6. Michael Dave Management Ltd. ("**MDML**"), is an Alberta corporation with a registered office at 7150 50 Ave Red Deer, Alberta, T4N 4E4. At all material times, Faissal was a director of MDML.
7. 52 Wellness Centre Inc. ("**Wellness**") is an Alberta corporation with a registered office at 7150 50 Ave Red Deer, Alberta, T4N 4E4. At all material times, Faissal was a director of Wellness.
8. 52 Dental Corporation ("**52 Dental**") is an Alberta corporation. To my knowledge, Fetoun is the sole director and voting shareholder of 52 Dental.



9. Delta Dental Corp. ("**Delta Corp**") is an Alberta corporation. To my knowledge, Delta Corp was originally incorporated on August 28, 2017, and Faissal was its director at that time. On December 14 2021, Faissal, changed the director and shareholder of Delta Corp from himself to his wife Fetoun. The change of director of Delta Corp from Faissal to Fetoun occurred 8 days after 52 Dental's incorporation.
10. On or around August 2022, I became aware of Court of King's Action No.2203-12557 (the "**RBC Action**"). The Plaintiff in that action, Royal Bank of Canada, had taken legal proceedings against Faissal, Fetoun, FMPC, 985, MDM, Mclvor, 52 Dental, and Delta Corp.
11. During the RBC Action, I became aware of 52 Dental and Delta Corp.
12. Pursuant to an Order granted by the Court of Queen's Bench of Alberta, as it was known at the time, on August 23, 2022, MNP Ltd. was appointed as Interim Receiver, without security, of all of the current and future assets, undertakings and properties of every nature and kind whatsoever (the "**Property**"), and wherever situate, including all proceeds thereof of FMPC, Delta Corp and 52 Dental.
13. On September 16, 2022, MNP Ltd. was appointed as Receiver and Manager ("**Receiver**") of the Property of the Interim Receivership Companies as well as MDML and Wellness. Subsequently, on September 29, 2022, MNP Ltd. was appointed as Receiver over all of the Property of 985.
14. On February 14, 2023, the Court of King's Bench approved a claims process ("**Claims Procedure Order**") for FMPC, Delta Corp., 52 Dental, MDML and 985.
15. I make this affidavit with respect to the Claims Procedure Order that was pronounced on February 14, 2023.

#### DeWinton Lands

16. Mclvor Developments Ltd. ("Mclvor") is the registered owner of lands in the municipality of Foothills County, near the hamlet of DeWinton. The lands are comprised of 109 acres, legally described as follows:

MERIDIAN 4 RANGE 29 TOWNSHIP 21  
SECTION 32  
THAT PORTION OF THE SOUTH WEST QUARTER  
WHICH LIES NORTH EAST OF ROAD PLAN 8210125  
CONTAINING 44.2 HECTARES (109.2 ACRES) MORE OR LESS  
EXCEPTING THEREOUT

| PLAN        | NUMBER  | HECTARES | (ACRES) | MORE OR LESS |
|-------------|---------|----------|---------|--------------|
| ROAD        | 0210206 | 0.860    | 2.13    |              |
| ROAD        | 0211040 | 3.66     | 9.04    |              |
| SUBDIVISION | 0211003 | 7.40     | 18.29   |              |

EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK THE SAME

(the "**DeWinton Lands**")

17. On 6 June 2012, I executed an offer to purchase the DeWinton Lands from the previous owner, Paragon Properties (DeWinton) Inc. ("**Paragon Properties**") for a purchase price of \$1.7 million, which was accepted on 8 June 2012 (the "**Purchase Contract**"). The initial purchase price was \$1,950,000.00, but in or around August 2012 I amended this to \$1.7

million. Attached as **EXHIBIT A** is a copy of the executed Purchase Contract with the addendum.

18. The primary reason why I was purchasing the DeWinton Lands was to develop them into residential lots. After executing the Purchase Contract and prior to the Closing Date, I was approached by Faissal, who was interested in partnering with me to purchase the DeWinton Lands and to develop them.
19. Rather than being listed as joint owners in our personal capacities, Faissal and I discussed using a holding company. The company we created was 1711403 Alberta Ltd. ("**171 Corp**"), which was incorporated on 7 November 2012. Attached as **EXHIBIT B** is a corporate registry search for 171 Corp.
20. Faissal and I agreed that both of us would be directors and shareholders of 171 Corp and that all decisions about the DeWinton Lands would need to be made jointly between him and I.
21. With 171 Corp now the purchaser of the DeWinton Lands, the deal closed in November 2012 with title transferring to 171 Corp on 7 November 2012. Attached as **EXHIBIT C** is a copy of the transfer of the DeWinton Lands from Paragon Properties to 171 Corp.
22. The investment strategy that Faissal and I agreed to was that we would sit on DeWinton Lands for several years in anticipation that the value would go up, and then develop and subdivide the DeWinton Lands.
23. Not long after purchasing the DeWinton Lands, Faissal and I collaborated on several steps. This included in January 2013 when 171 Corp obtained a quote from 818 Studio Ltd. for a land development proposal. Attached as **EXHIBIT D** is a letter dated 16 January 2013 from 818 Studio Ltd. to 171 Corp enclosing the proposal.
24. Not long after this, Faissal and I turned our attention to a different development project that we were working together on.
25. Notwithstanding our joint ownership of the DeWinton Lands via 171 Corp and the plan to develop and subdivide the DeWinton Lands, I came to learn in or around June 2020 that Faissal treated the DeWinton Lands as his own, without my knowledge or consent.
26. More specifically, I came to learn that on 21 April 2015 Faissal executed a transfer of land on behalf of 171 Corp, transferring the DeWinton Lands from 171 Corp to Mclvor. The transfer was registered at land titles on 29 April 2015 as instrument number 151 108 411. Attached as **EXHIBIT E** is a copy of the transfer.
27. After discovering the DeWinton Lands had been transferred, I found out that on the same day, 21 April 2015, Faissal (on behalf of Mclvor) executed a mortgage against the DeWinton Lands from the Toronto Dominion Bank in principal sum of \$2,500,000, which was registered against title to the DeWinton Lands on 29 April 2015 as instrument number 151 108 412 (the "TD Mortgage"). Attached as **EXHIBIT F** is a copy of the TD Mortgage.
28. 171 Corp did not actually receive any money from the transfer of the DeWinton Lands to Mclvor.
29. Not only did Faissal transfer the DeWinton Lands without my knowledge or consent, in August 2016 Faissal caused Mclvor to take out a mortgage against the DeWinton Lands from the Royal Bank of Canada for the principal amount of \$6,000,000 (the "RBC Mortgage"). The RBC Mortgage was registered against title to the DeWinton Lands on 29 August 2016 as instrument number

161 203 509. Attached as **EXHIBIT G** is a copy of the RBC Mortgage. I understand from the RBC Action that Faissal, 985 and FMPC guaranteed the RBC Mortgage.

30. The RBC Mortgage was procured by Faissal through Mclvor without my knowledge or consent. I did not become aware of the RBC Mortgage until in or around June 2020.
31. In summary, Faissal has borrowed against most or all of the equity in the DeWinton Lands without my consent.
32. On July 20, 2020, I commenced a lawsuit against Faissal, Mclvor, FMPC, MDML, 985. Attached as **EXHIBIT H** is the Statement of Claim which outlines the particulars of the claim and the Certificate of Lis Pendens which was filed with those proceedings.
33. After discovering that the DeWinton Lands had been improperly transferred, I registered a caveat against title to the DeWinton Lands as instrument number 201 128 484 on 20 July 2020 (the "**Mahmoud Caveat**").
34. In July 2020, Faissal, 985, MDML, and FMPC and Faissal's related corporations were aware that I would be pursuing the above action. In response, Faissal caused 985 and FMPC to register various mortgages and encumbrances on properties registered in the name of one or more of the Defendants in Action No. 2001-09035 and the RBC Action. Upon becoming aware of this, my legal counsel in Action No. 2001-09035, amended the Statement of Claim to reflect the registrations that occurred by Faissal and his related corporations. The amended Statement of Claim is attached as **EXHIBIT I**.
35. By registering mortgages and other encumbrances on the DeWinton Lands, Faissal, 985, FMPC and his other related corporations have removed all or most of the equity in the DeWinton Lands for the sole benefit of Faissal and any one or more of the defendants. I verily believe that the defendants, or any one or more of them, colluded to intentionally minimize the equity in the DeWinton Lands and properties registered in the name of 985, MDML, FMPC. Furthermore, as Faissal, 985, MDML, FMPC and his other related corporations have borrowed against the DeWinton Lands, and since no improvements have been made to the DeWinton Lands with the funds advanced by the TD Mortgage Lands, RBC Mortgage or other mortgages.
36. During the RBC Action and by reviewing the affidavit sworn by Faissal Mouhamad on September 8, 2022, in that action, I learned that Faissal had taken the TD Mortgage against the DeWinton Lands to purchase dental equipment for FMPC.
37. I have claimed an interest in any and all of the dental equipment and property in the possession of one or more of the Defendants in Court of Queen's Action No. 2001-09035 and No. 2201-0642. Furthermore, I have claimed an interest to any and all proceeds from the sale of any of the property, including but not limited to, any property or equipment acquired by FMPC in relation to its operations as a dental office.

**Initial and Second Cochrane Lands Purchase**

38. During Mclvor's business, Mclvor purchased and acquired real property in the Province of Alberta as set out below:

a) Real Property in Cochrane, Alberta and legally described as:

PLAN M.D. OF ROCKY VIEW 7410941  
LOT TWO (2)  
CONTAINING EIGHTEEN AND SIXTEEN HUNDREDTHS (18.16) ACRES MORE OR LESS  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK SAME

This property was purchased by Mclvor from a third party for \$3,000,000.00 cash, pursuant to a transfer of land dated January 19, 2015, as instrument number 151 016 043.

Referred to as the **Initial Cochrane Lands**

b) Real Property in Cochrane, Alberta and legally described as:

PLAN 7410941  
LOT 3  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK SAME  
AREA: 7.6 HECTARES (18.77 ACRES) MORE OR LESS

This property was purchased by Mclvor from a third party for \$3,000,000.00 cash, pursuant to a transfer of land dated May 19, 2015, as instrument number 151 126 016.

Referred to as the **Second Cochrane Lands**

39. Notwithstanding the joint ownership of the Initial Cochrane Lands and Second Cochrane Lands via Mclvor, as I am the owner of 50% of all issued and outstanding shares in Mclvor (attached as **EXHIBIT J**), Faissal treated the Initial Cochrane Lands and Second Cochrane Lands as his own as set out below (the "**Mclvor Lands Transfer**").

40. On or about February 2015, Faissal executed a transfer of land on behalf of Mclvor, transferring the Initial Cochrane Lands from Mclvor to himself personally for \$NIL DOLLARS. The transfer was registered at land titles on 26 February 2015 as instrument number 151 056 838. The transfer of the Initial Cochrane Lands was executed by Faissal without my knowledge or consent. Attached as **EXHIBIT K** is the transfer document of the Initial Cochrane Lands from Mclvor to Faissal for \$NIL DOLLARS.

41. On or about July 2016 Faissal executed a transfer of land on behalf of Mclvor, transferring the Second Cochrane Lands from Mclvor to himself personally for \$NIL DOLLARS. The transfer was registered at land titles on July 27, 2016, as instrument number 161 176 636. The transfer of the Second Cochrane Lands was executed by Faissal without my knowledge or consent. Attached as **EXHIBIT L** is the transfer document of the Second Cochrane Lands from Mclvor to Faissal for \$NIL DOLLARS.

42. After Faissal and the Corporate Defendant's execution of the Mclvor Lands Transfer, the Defendants colluded to cause the following:



- a) On or about April 4, 2015, Faissal executed a mortgage against the Initial Cochrane Lands from the Canadian Imperial Bank of Commerce in the principal sum of \$998,082, which was registered against title to the Initial Cochrane Lands as Instrument No. 151 099 942. I did not consent to the transfer of the Initial Lands from Mclvor to Faissal and the Canadian Imperial Bank of Commerce mortgage referenced herein.
- b) On or about September 6, 2016, Faissal executed a mortgage against the Initial Cochrane Lands and Second Cochrane Lands from Jovica Property Management Ltd and Solar Star Holdings Inc in the principal sum of \$3,500,000.00 which was registered against title to the Initial Cochrane Lands and Second Cochrane Lands as Instrument No.161 210 266.

I did not consent to the transfer of the Initial Cochrane Lands from Mclvor to Faissal and to the Jovica Property Management Ltd and Solar Star Holdings Inc mortgage referenced herein.

- c) On or about June 22, 2017, Faissal executed a mortgage against the Initial Cochrane Lands and Second Cochrane Lands from Jovica Property Management Ltd, 1105550 Alberta Inc, 1245233 Alberta Inc and Solar Star Holdings Inc in the principal sum of \$4,500,000.00 which was registered against title to the Initial Cochrane Lands and the Second Cochrane Lands as Instrument No.171 136 885. I verily believe that the mortgage was executed to minimize any equity available in those properties and to thwart my interest in the Initial Cochrane Lands and Second Cochrane Lands

I did not consent to the transfer of the Initial Cochrane Lands and Second Cochrane Lands from Mclvor to Faissal and to the Jovica Property Management Ltd, 1105550 Alberta Inc, 1245233 Alberta Inc and Solar Star Holdings Inc mortgage referenced herein.

- d) On or about April 10, 2019, Faissal executed a mortgage against the Initial Cochrane Lands from 1245233 Alberta Inc. and Solar Star Holdings Inc. in the principal sum of \$2,222,000.00 which was registered against title to the Initial Cochrane Lands and Second Cochrane Lands as Instrument No.191 070 061. I verily believe that the mortgage was executed to thwart my interest in the Initial Cochrane Lands. I did not consent to the transfer of the Initial Cochrane Lands from Mclvor to Faissal and to the 1245233 Alberta Inc and Solar Star Holdings Inc mortgage referenced herein. It came to my knowledge during the RBC Action that the execution of this mortgage was a personal guarantee by Faissal for these funds to be provided to MDML.
- e) On or about July 23, 2020, Mclvor and Faissal improperly provided an interest in the Initial Cochrane Lands, Second Cochrane Lands and real property registered in their names to 985 and FMPC pursuant to a mortgage for the sum of \$6,500,000.00 which has been secured as Instrument No. 201 128 323. I verily believe that the mortgage was provided to thwart my claims.
- f) On or about August 9, 2016, Faissal executed a mortgage against the Second Cochrane Lands from the Bank of Montreal in the principal sum of \$1,300,000.00 which was registered against title to the Second Cochrane Lands as Instrument No. 161 210 266.

I did not consent to the transfer of the Second Cochrane Lands from Mclvor to Faissal and to the Bank of Montreal mortgage referenced herein.

- g) On or about August 29, 2016, Faissal caused Mclvor to borrow the principal sum of \$6,500,000.00 from the Royal Bank of Canada, which was registered against one or more of the assets in the name of any one or more of the Defendants in the RBC Action as Instrument No.161 203 509. I did not consent to the Royal Bank of Canada mortgage referenced herein.



During the RBC Action, I learned that Faissal, FMPC and 985 have guaranteed the amount borrowed by RBC.

- h) On or about November 2021, Faissal caused 985 to assign the purchase agreement for a property in Calgary, Alberta legally described as Plan 9910835 Block 39 Lot 1 Excepting Thereout All Mines And Minerals ("**52 Wellness Centre**") to Wellness. The deposits for the purchase of the 52 Wellness Centre were made by 985 as outlined in Jocelyn Beriault's affidavits that were sworn in the RBC Action.
- i) On or about March 21, 2022, Faissal caused Wellness to improperly provide an interest to Faissal pursuant to an Agreement Charging Land for the sum of \$700,000.00 which has been secured against the 52 Wellness Centre. The Agreement Charging Land has been registered against the 52 Wellness Centre as Instrument No. 221 059 534. I verily believe that this Agreement Charging Land and transfer of payments from 985 to Wellness was done to thwart my claim.

By means of the Mclvor Lands Transfer, Faissal and his related corporations have converted my interest in the Initial Cochrane Lands and Second Cochrane Lands for their own personal use by causing mortgages and encumbrances to be registered against the Initial Cochrane Lands and Second Cochrane Lands, and thereby depriving me of the benefit of my interest in the Initial Cochrane Lands and Second Cochrane Lands, and the business opportunities associated with them.

- 43. I verily believe that the Faissal and his related corporations, or any one or more of them, colluded to register mortgages, agreements charging land and encumbrances for the purposes of intentionally minimizing the equity available in the properties outlined in Court of King's Action No. 2001-09035, Action No.2201-06421 to thwart my claims. Furthermore, I verily believe that one or more of the Defendants named in Court of King's Action No. 2001-09035, Action No.2201-06421 and the RBC Action, received and accepted the proceeds arising from Mclvor Lands Transfer when each knew or ought to have known that such proceeds arose from, and were made to each of them, in breach of the duties owed by them to me.
- 44. As a result of the transfer of the Initial Cochrane Lands and Second Cochrane Lands from Mclvor to Faissal, and the encumbrances caused by Faissal and the other Defendants in Court of King's Action No. 2001-09035, Action No.2201-06421, and the RBC Actions, Faissal and the Defendants have removed all or most of the equity of the Initial Cochrane Lands and Second Cochrane Lands, for the sole benefit of Faissal and any one or more of his related corporations. Faissal and his related corporations have received the benefit of the proceeds of the Mclvor Lands Transfer and have used the funds to acquire/improve assets, to service loan payments and to carry out self-dealing transactions, including but not necessarily limited to, taking numerous business and corporate opportunities, for Faissal's personal benefit or for the benefit of his related corporations or third parties to my detriment.
- 45. On June 6, 2022, I commenced Court of King's Action No.2201-06421 against Faissal, Mclvor, MDML, FMPC, 985 and Wellness. The particular of the claim is attached as **EXHIBIT M**.

#### **Priority Claim**

- 46. With respect to the property registered in the name of 985 in Drayton Valley, Alberta, and legally described as:

PLAN 0721291  
BLOCK 102

**LOT 14  
EXCEPTING THEREOUT ALL MINES AND MINERALS**

Referred to as the **DV Unit**

I have registered two Certificate of Lis Pendens against the DV Unit. The Certificate of Lis Pendens was registered on title to the DV Unit as Instrument No.202 164 797 on August 11, 2020, and is in priority to any other encumbrances or mortgages. A further Certificate of Lis Pendens was registered on title to the DV Unit on October 6, 2022, as Instrument No. 222 223 931. At the time of filing this affidavit, I do not have knowledge as to the net available cash from the Receiver's sale of the DV Unit. I claim a priority interest in the proceeds of the DV Unit.

47. With respect to the property registered in the name of Wellness in Calgary, Alberta, and legally described as:

PLAN 9910835  
BLOCK 39  
LOT 1  
EXCEPTING THEREOUT ALL MINES AND MINERALS

Referred to as the **52 Wellness Centre**

I have registered a Certificate of Lis Pendens against the 52 Wellness Centre. The Certificate of Lis Pendens was registered on title to the 52 Wellness Centre on October 6, 2022, as Instrument No. 222 223 931. Based on the March 23, 2023, Receiver's Interim Report and the Statement of Receipts and Disbursements, I understand that Wellness's net available cash is \$1,765,520.

48. With respect to the property registered in the name of MDML in Red Deer, Alberta, and legally described as:

PLAN 2223KS  
BLOCK 1  
LOT 4A  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 0.291 HECTARES (0.72 ACRES) MORE OR LESS

Referred to as the **Delta Dental Building.**

I have registered two Certificate of Lis Pendens against the Delta Dental Building. The Certificate of Lis Pendens was registered on title to the Delta Dental Building as Instrument No.202 164 797 on August 11, 2020. A further Certificate of Lis Pendens was registered on title to the Delta Dental Building on October 6, 2022, as Instrument No. 222 223 931. Based on the March 23, 2023 Receiver's Interim Report and the Statement of Receipts and Disbursements, I understand that MDML's net available cash is \$1,224,690. I have claimed a proprietary interest in the Delta Dental Building and any proceeds from the Delta Dental Building.

To my knowledge, MDML did not operate a dental clinic at any material time and did not purchase or possess any dental equipment. As alluded to in the amended statement of claim in Action No. 2001-09035, in the event that MDML owns any dental equipment, I have claimed an interest in that equipment. Furthermore, in the event that MDML owns any property in the Delta Dental Building, including but not limited to, any equipment, machinery, tools, apparatus, furniture, fixtures or tenant improvements, I have claimed an interest in those items.

49. As mentioned in paragraph 12, I was not aware of the existence of 52 Dental and Delta Corp prior to the RBC Action. Due to the improper conduct of Faissal and the Defendants named in Court of King's Action No. 2001-09035, Action No.2201-06421 and RBC Action, funds received or disbursed by any one or more of the Defendants, directly or indirectly to 52 Dental and Delta Corp are still being discovered. I claim an interest in the funds in possession of 52 Dental. Based on the March 23, 2023, Receiver's Interim Report and the Statement of Receipts and Disbursements, I understand that 52 Dental's net available cash is \$41,914.
50. With respect to FMPC, I have claimed an interest and rights to a constructive trust over any property held by FMPC or to the sale proceeds of any of property, including but not limited to, any equipment, machinery, tools, apparatus, furniture, goodwill, fixtures or tenant improvements acquired or owned by FMPC in relation to its operations as a business and dental office pursuant to Court of King's Action No. 2001-09035 and Action No.2201-06421. I claim an interest and rights to a constructive trust in the net available cash held by FMPC and Delta Corp. Based on the March 23, 2023, Receiver's Interim Report and the Statement of Receipts and Disbursements, I understand that FMPC and Delta Corp's net available cash is \$1,740,461.
51. The amounts I have claimed are outlined in Court of King's Action No. 2001-09035 and Action No. 2201-06421.

*✓*  
**SWORN (OR AFFIRMED) BEFORE ME** at  
Calgary, Alberta, this 5 day of April 2023.

  
A Commissioner for Oaths in and for Alberta

  
Mahmoud Mohamad

**CHRISTOPHER LEWIS KOZORIZ**  
A Commissioner for Oaths  
in and for Alberta  
My Commission expires June 21, 20 *24*  
Appointee No. 0735825

# EXHIBIT A

THIS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF

*Muhammad Mohamud*  
SWORN BEFORE ME THIS 5 DAY  
OF April A.D. 2023

COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA

**CHRISTOPHER LEWIS KOZORIZ**

A Commissioner for Oaths  
in and for Alberta

My Commission expires June 21, 2024  
Appointee No. 0735825

Alberta  
Real Estate  
ASSOCIATION

#1001

**COMMERCIAL REAL ESTATE PURCHASE CONTRACT**

This form was developed by the Alberta Real Estate Association for the use of its members and may not be distributed outside its jurisdiction. Consult your Real Estate Broker for more information.

**PART A - OFFER TO PURCHASE**

This Contract is between  
**THE SELLER** and **THE BUYER**

Name: **TRILACON Properties (Oscariston) INC.** Name: **MAHMOUD MAHMOUD**

**THE PROPERTY**

1.1 The Property is the Land, Buildings, Accepted Tenancies, Attached Goods (unless excluded) and Included Unattached Goods located at:

Municipal Address: **NE 1/4 SECTION 32, TOWNSHIP 21, RANGE 29 WEST OF THE 4th MERIDIAN. 3.74.24 ACRES.**

Legal Description: Plan \_\_\_\_\_ Block/Unit \_\_\_\_\_ Lot \_\_\_\_\_

Title(s) # **111-191-702**. A copy of the existing Title(s) attached hereto as Schedule "A".

If Condominium Property, legal description and details as described in Condominium Property Schedule (attached).

1.2 All Attached Goods (fixtures) except for: **NONE.**

1.3 No Unattached Goods (specific chattels) except for: **NONE.**

1.4 Title to the Property shall be subject to any reservations and exceptions stated on the Certificate of Title, non-financial obligations now on file such as assessments, utility rights-of-way, covenants and conditions normally found on registered legal property of this nature, and non-financial encumbrances that have been accepted by the Buyer (the "Permitted Encumbrances"). Unless otherwise agreed in writing, the Title shall be free and clear of all other liens, encumbrances, restrictions and obligations except those implied by law.

The Buyer agrees to accept the following Permitted Encumbrances: **#001-131-8A1**

**#381-067-937 and 001 327 578.**  
The Buyer agrees to accept the following tenancies (the "Accepted Tenancies"): **NONE.**

**BUYER'S RESPONSIBILITIES**

2.1 The Buyer and the Seller agree to act cooperatively, reasonably and in good faith.

2.2 The Buyer hereby offers to purchase the Property for the Purchase Price specified and allocated below:

\$ **50,000** Initial Deposit  
 \$ **150,000** Additional Deposit **Aug 8th / 2012 ON Removal of CONDITIONS.**  
 \$ \_\_\_\_\_ New Financing  
 \$ \_\_\_\_\_ Seller Financing (as per attached Financing Schedule)  
 \$ \_\_\_\_\_ Other Value  
 \$ **1,750,000** Total Offer  
 \$ **1,800,000** Total Offer  
 \$ **1,900,000** Total Offer

2.3 The Purchase Price does not include GST. In the event that GST is payable and the Buyer is not a GST registrant, then the Buyer shall remit the applicable GST to the Seller's lawyer on or before Completion Day.

2.4 Other than the Deposits, the Buyer shall pay the Purchase Price by lawyer's trust cheque, bank draft or other agreed value.



**Alberta Real Estate Association** #1001  
Contract and Brochure Order

**REPRESENTATIVE**

3.1 All Deposits shall be delivered in trust to MAXWELL CAPITAL REALTY IN TRUST.  
 Unless otherwise agreed in writing, the Initial Deposit shall accompany the offer.

3.2 The Initial Deposit shall be deposited no later than the 3rd Business Day following the day that Final Signing occurred (as per clause 17.1) or the 3rd Business Day following the receipt of the Initial Deposit, whichever is last.

3.3 Any Additional Deposits shall be delivered in trust as follows:  
 Additional Deposits shall be deposited no later than the 3rd Business Day following the day the Additional Deposit is received.

3.4 In the event that either Deposit(s) are undelivered or retained by the financial institution as funds not cleared or non-sufficient funds, then the Buyer must replace the Deposit(s) by money order, bank draft or lawyer's trust cheque within two (2) Business Days of being notified that the Deposits did not clear. If the Buyer fails to provide the Deposit(s), the Seller may, at its discretion, terminate the Contract by notice in writing to the Buyer within two (2) Business Days.

3.5 Unless otherwise agreed in writing, no interest on the Deposits shall be paid to the Seller or the Buyer.

3.6 The Deposits shall be held in trust for both the Seller and the Buyer and shall be:  
 (a) applied against the Commission and paid directly out of trust to the brokerage(s) when the Commission is earned in accordance with the terms of the Listing Contract or other commission agreement signed by the Seller;  
 (b) returned forthwith to the Buyer if this offer is not accepted and the cheque has not been deposited;  
 (c) returned forthwith to the Buyer if this offer is not accepted and the Buyer's cheque has cleared the brokerage's trust account;  
 (d) returned forthwith to the Buyer upon the Buyer's cheque clearing the brokerage's trust account if a condition is not satisfied or waived (as per Section 4) or the Seller fails to perform on this Contract; and  
 (e) retained to the Seller if this offer is accepted and all conditions are satisfied or waived and the Buyer fails to perform on this Contract.

3.7 The brokerage holding the Deposits is further directed and authorized to pay that portion of the Deposits exceeding the Commission in trust to the Seller's lawyer no later than two (2) Business Days prior to the Completion Day.

3.8 If there is a dispute between the Seller and the Buyer as to entitlement to the Deposits then:  
 (a) the brokerage holding the Deposits shall review the circumstances, determine entitlement and pay the money to the party who is entitled to the Deposits;  
 (b) if no reasonable conclusion can be made in regard to (a) above, the brokerage shall notify the parties to the Contract in writing and shall pay the money into a lawyer's trust account;  
 (c) the parties agree to allow the lawyer and/or the brokerage to deduct from the Deposits a reasonable fee and costs incurred for dealing with the Deposits;  
 (d) a brokerage and/or lawyer acting in good faith under this clause shall not be liable to either party for any damages associated with the handling of the Deposits except as arising from the negligence of the brokerage or lawyer.

3.9 In the event that the brokerage holding the trust funds cannot be licensed in real estate, the Buyer and the Seller agree to allow the trust funds to be transferred to the brokerage representing the other party.

**CLOSING**

4.1 Subject to compliance with the laws, taxes, assessments of the Property shall be available and given to the Buyer on or before 12 noon on the 5 day of NOV 2012 (the "Completion Day"), subject to the rights of the Accepted Tenures, if any.  
 When the Buyer obtains possession, the Property will be in substantially the condition as it was in when this Contract was accepted.

4.2 All normal obligations for the Property including but not limited to taxes, local improvement levy and assessments, municipal charges, fees, utilities, tenant deposits including interest, prepaid rent, mortgage principal and interest that are applicable with respect to the Property shall be adjusted as of 24:00 hours on the Completion Day. The Buyer shall assume all local improvements, assessments and charges against the Property as of that time.

4.3 Closing documents shall:  
 (a) consist of the transfer of land (the "Transfer") in registrable form together with all applicable conveyancing documents normally expected in a conventional transaction of this nature;  
 (b) include estoppel certificates for each of the Accepted Tenures (if applicable); and  
 (c) be prepared at the expense of the Seller and delivered to the Buyer's lawyer within a reasonable time to confirm registration prior to the Completion Day.

4.4 In the event the Seller fails to deliver the Transfer to the Buyer's lawyer within such reasonable time, then the Buyer shall not be obliged to pay interest on that portion of the cash to close attributable to the Buyer's own funds excluding mortgages, provided that those funds are paid to Seller's lawyer in trust, until the Buyer has a reasonable time in which to register the Transfer.

4.5 The Seller's lawyer may use the Purchase Price to pay out all mortgages, condominium contributions, registrations and other financial obligations that are the Seller's obligation to pay or discharge. Within a reasonable period of time after the Completion Day, the Seller's lawyer will provide the Buyer's lawyer with evidence of all discharges including, where required, a certified copy of the certificate of title and an estoppel certificate evidencing the payment of all condominium contributions that are the Seller's obligation to pay.

*[Handwritten signature]*



Contract and Home Purchase Contract

# 1001

|  |  |  |
|--|--|--|
| 4.6                                      | All money due and owing to the Seller including GST, if applicable, shall be paid to the Seller's lawyer on or before the Completion Day. If the Seller agrees to accept payment after the Completion Day, the Buyer shall pay interest at a rate of 3% per annum above the prime rate set by the Alberta Treasury Branch on all monies owing to the Seller, from the Completion Day to and including the date that the monies owing have been unconditionally paid. Payment received after noon on any day will be payment as of the next Business Day.   |  |
| 4.7                                      | If a new mortgage is a condition of this Contract, the Seller agrees to trust conditions that allow the Buyer's lawyer to register the Transfer so as to obtain the advance of mortgage funds on the new mortgage, provided however that the Buyer's lawyer undertakes, accepts, and complies with reasonable trust conditions imposed by the Seller's lawyer until the Seller has been paid the total Purchase Price.   |  |
| 4.8                                      | The Seller's lawyer has a right to prepare (at the expense of the Buyer) any mortgage or agreement for sale between the Seller and the Buyer.  |  |
| <b>5. INSURANCE</b>                      |  |  |
| 5.1                                      | The risk of loss or damage to the Property will be with the Seller until the Purchase Price is paid according to the terms of this Contract. If loss or damage to the Property occurs before the Seller is paid the Purchase Price, then any insurance proceeds shall be held in trust for the Buyer and the Seller according to their interests in the Property.  |  |
| <b>6. REPRESENTATIONS AND WARRANTIES</b> |  |  |
| 6.1                                      | The Seller represents and warrants to the Buyer that: <ul style="list-style-type: none"> <li>(a) the current use of the Land and Buildings complies with the existing municipal land use bylaw;</li> <li>(b) the Buildings and other improvements on the Land are not placed partly or wholly on any easement or utility right-of-way and are entirely on the Land and do not encroach upon neighbouring lands, except where an encroachment agreement is registered on title, or in the case of an encroachment into municipal lands or a right-of-way, the municipality has endorsed an encroachment approved directly on the real property report;</li> <li>(c) the location of Buildings and other improvements on the Land complies with all relevant municipal bylaws, regulations or resolutions granted by the appropriate municipality prior to the Possession Date, or the Buildings and other improvements on the Land are "non-conforming buildings" as that term is defined in the <i>Municipal Government Act</i> (Alberta);</li> <li>(d) the current use of the Land and Buildings and the location of the Buildings and other improvements on the Land comply with any restrictive covenant on title;</li> <li>(e) to the best of the Seller's knowledge, there is no legal action outstanding with respect to the Property;</li> <li>(f) the Seller is not in breach of any contract with respect to the Property;</li> <li>(g) the Seller is not in breach of any obligation to any third party with respect to the Property;</li> <li>(h) within the meaning of the <i>Income Tax Act</i> (Canada), the Seller is not now nor will be on the Completion Day a non-resident of Canada nor an agent or a trustee for any person with an interest in the Property who is a non-resident of Canada;</li> <li>(i) \$_____ is the current monthly condominium contribution payable (fee for administrative or other expenses); and</li> <li>(j) except as otherwise disclosed, the Seller is not aware of any defects that are not visible and that may render the Property dangerous or potentially dangerous to occupants or unfit for habitation.</li> </ul> |  |
| 6.2                                      | All of the warranties contained in this Contract and any attached Schedules are made as of and will be true at the Completion Day, unless otherwise agreed in writing.   |  |
| 6.3                                      | The Seller and the Buyer each acknowledge that, except as otherwise described in this Contract, there are no other warranties, representations or collateral agreements made by or with the other party, the Seller's brokerage and the Buyer's brokerage about the Property, any neighbouring lands, and this transaction, including any warranty, representation or collateral agreement relating to the dimensions of the Land and Buildings or the existence or non-existence of any environmental condition or problem.   |  |
| 6.4                                      | The representations and warranties in this Contract may be enforced after the Completion Day, provided that any legal action is commenced within the time limits prescribed by the <i>Limitations Act</i> (Alberta).   |  |
| 6.5                                      | The Buyer shall have the right to register a caveat against the title to the Property upon the acceptance of this offer by the Seller. Should the Buyer fail to perform this Contract, it agrees to forthwith discharge that caveat.   |  |
| <b>7. ADDITIONAL TERMS</b>               |  |  |
| 7.1                                      | All time periods, deadlines and dates in this Contract shall be strictly followed and enforced. All times will be Alberta time unless otherwise stated.  |  |
| 7.2                                      | Neither the Buyer or the Seller shall assign its interest in the Property without the written approval of the other, such approval not to be unreasonably withheld.  |  |
| 7.3                                      | All changes of number and gender shall be made where required.   |  |
| 7.4                                      | This Contract will be governed by the laws of the Province of Alberta. The parties submit to the exclusive jurisdiction of the Courts in the Province of Alberta for any dispute that may arise out of this transaction.   |  |
| 7.5                                      | The following terms are a part of this Contract:   |  |

*[Handwritten signature]*

Alberta  
Real Estate  
ASSOC AT-GT

Commercial Real Estate Purchase Contract

#1001

8.1 The Buyer's Conditions are:

(a) Financing Condition

It is a condition precedent of this offer that the Buyer, as per clause 2.1, is able to place a new mortgage(s) upon terms acceptable to the Buyer. The Buyer shall have the opportunity to obtain such financing until Before 5 p.m. on \_\_\_\_\_ (the Condition Day).

(b) Due Diligence Condition

Within three (3) Business Days of the Final Signing of this Contract, as per clause 17.1, the Seller will provide to the Buyer five copies of all agreements/documents/information that reasonably relate to the Property and to the Buyer's Conditions and which are in the possession of the Seller or under its control (the Documents). The Documents will include: any Pending Encumbrances; Accepted Tenancies; financial records and statements respecting the Property and any operating agreements that the Buyer is to assume; all engineering, mechanical, electrical, plumbing, roof, heating, ventilation, construction or similar reports, assessments, plans, drawings, specifications, relevant correspondence or work orders; environmental reports; and

(i) The Buyer may also, at its expense, retain consultants to conduct searches and such inspections, reviews and tests and to produce such observations, reports or assessments regarding the Property or if deemed necessary, and for these purposes the Buyer and its authorized representatives, acting reasonably, will have access to the Property after Final Signing and during normal business hours. The rights of the existing tenants must be respected and the Buyer will be responsible for all damages caused by its representatives. The Seller will provide the Buyer with such written authorizations and other assistance when reasonably required by the Buyer to facilitate its inspections, reviews or tests.

It is a condition precedent of this offer that the information be satisfactory to the Buyer.

Before 5 p.m. on 11:00 PM 2011 (the Condition Day).

The Buyer shall keep all information obtained in strict confidence and shall only make the information available to the Buyer's employees, agents and professional advisors in strict confidence and shall return all of the above materials including all copies to the Seller before any Deposits are released to the Buyer pursuant to the Contract.

(c) Condominium Documents Condition

This Contract is subject to the Buyer's Condition regarding Condominium Documents as per attached Commercial Condominium Property Schedule.  Yes  No

Before 5 p.m. on \_\_\_\_\_ (the Condition Day).

(d) Additional Buyer's Conditions

The seller will be responsible for all Commissions to Maxwell Capital Realty at 2% of the purchase price RMM

Before 5 p.m. on \_\_\_\_\_ (the Condition Day).

8.2 The Seller's Conditions are:

Before 5 p.m. on \_\_\_\_\_ (the Condition Day).

8.3 Unless otherwise agreed in writing, the Buyer's Conditions are for the sole benefit of the Buyer and the Seller's Conditions are for the sole benefit of the Seller. The Buyer and Seller must use reasonable efforts to satisfy their respective Conditions.

8.4 The Buyer and the Seller may unilaterally waive or acknowledge satisfaction of their Conditions by giving a written notice to the other party on or before the stated Condition Day. If that notice is not given, then this Contract is ended immediately following that Condition Day and the Deposits plus any earned interest will be returned to the Buyer and all agreements, documents, materials and written information exchanged between the parties will be returned to the Buyer and Seller respectively.

8.5 Subject to clause 8.3, the Buyer and the Seller may give written notice to the other party on or before the stated Condition Day advising that a Condition will not be waived, has not been satisfied and will not be satisfied on or before the Condition Day. If that notice is given, then this Contract is ended upon the giving of that notice.

ATTACHED SCHEDULES

8.1 The following Schedules form part of this Contract and are attached:

- Schedule A (copy of Title)
- Schedule B (other documents)
- Financing Schedule
- Commercial Condominium Property Schedule
- Addendum
- Seller Financing
- Assumption of Mortgage/Agreement for Sale
- Other Value
- Other Schedules

TO BE FULFILLED BY THE BUYER

10.1 If the Seller or the Buyer fails or refuses to complete the Contract according to its terms, then the other party may pursue all available remedies. The Seller's remedies include keeping the Deposits and claiming additional damages. Both the Seller and the Buyer own their respective costs including legal fees and disbursements on a solicitor-client indemnity basis.

[Signature] MM [Signature]

**Alberta Real Estate Association**  
 Organized Real Estate Professionals

**16. OFFER**

16.1 The Buyer offers to buy the Property for the Purchase Price according to the terms of this Contract.

16.2 This offer/counter offer shall be open for acceptance in writing until 4 p.m. on JUNE 6th 2012 11:00 AM

SIGNED AND DATED at Calgary, Alberta at 2 p.m. on JUNE 6th, 2012

Name of Buyer (only) MAHMOUD MOHAMAD

Per: [Signature]  
 Authorized Signing Officer(s)

Print Name of Authorized Signing Officer(s) MAHMOUD MOHAMAD

Per: [Signature]  
 Authorized Signing Officer(s)

Print Name of Authorized Signing Officer(s) ALI BOUFOURK

Witness \_\_\_\_\_  
 Print Name of Witness \_\_\_\_\_

Buyer's GST # \_\_\_\_\_

**PART B - ACCEPTANCE**

**17. ACCEPTANCE**

17.1 The Seller accepts the Buyer's offer and agrees to sell the Property for the Purchase Price according to the terms of this Contract.

SIGNED AND DATED at Calgary, Alberta at 11 a.m. on JUNE 8, 2012

Name of Seller (only) ROBERT ROBERTS (De-2011)

Per: [Signature]  
 Authorized Signing Officer(s)

Print Name of Authorized Signing Officer(s) ALAN STEWART

Per: \_\_\_\_\_  
 Authorized Signing Officer(s)

Print Name of Authorized Signing Officer(s) \_\_\_\_\_

Witness \_\_\_\_\_  
 Print Name of Witness \_\_\_\_\_

Seller's GST # \_\_\_\_\_

**17.2 FINAL SIGNING**

17.2 Final Signing of this Contract occurred at 3:22 p.m. on JUNE 12, 2012

Initials of the person(s) who signed last [Signature]

**COMMERCIAL**

Seller's Lawyer DLBtt Nick Danilatoschuk

Lawyer's Address 1200, 1015 4th St SW (postal code) \_\_\_\_\_

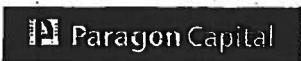
Lawyer's Phone 252 9937 Fax \_\_\_\_\_

Buyer's Lawyer \_\_\_\_\_

Lawyer's Address \_\_\_\_\_ (postal code) \_\_\_\_\_

Lawyer's Phone \_\_\_\_\_ Fax \_\_\_\_\_

603-263-8529



Paragon Capital Corporation Ltd.  
1200, 1015 4th Street SW  
Calgary, Alberta T2R 1M  
① 403 263 6446  
① 403 263 6445  
① paragon@paragoncorp.ca  
② www.paragoncorp.ca

August 10, 2012

Attention: Mr. G. <sup>DHAAH</sup>~~Dahl~~, Maxwell Capital Realty

Re: 80 acres located at NE ¼ Section 32 Township 21 Range 29 W4M

As indicated in the Addendum to the Commercial Real Estate Purchase Contract #1001, the Buyers conditions have been met and we now have a firm deal.

As per Section 8.1 (d) of the above referenced Agreement, Gurdeep Shergill has advised that you have agreed to a reduced commission. As such, please confirm your acceptance of the reduced commission to 1% of the Purchase Price now agreed to as \$1,700,000. Therefore, based on the reduced selling price, commission payable to Maxwell Capital Realty is hereby confirmed as \$17,000 plus GST if applicable.

This confirmation letter will supercede the Commercial Real Estate Purchase Contract #1001 between Paragon Properties (Dewinton) and Mahmoud Mohamad.

Yours truly,  
PARAGON CAPITAL (DEWINTON)

  
Abby Steinberg

ACCEPTANCE

I, Gurmit S. Dhah, on behalf of Maxwell Capital Realty, confirm that the Seller of the above noted property will be responsible for 1% of the Purchase Price as full and final commission payable to Maxwell Capital Realty upon closing of the sale of the Property. I confirm I have authority to bind Maxwell Capital Realty.

  
Per: Maxwell Capital Realty

  
Witness





### BUYER CUSTOMER DISCLOSURE ACKNOWLEDGMENT

This form was developed by the Alberta Real Estate Association for the use of its members and may not be shared electronically by any person. Others who use this document do so at their own risk.

I have read the *Agency Relationships* guide published by the Alberta Real Estate Association and have been given the opportunity to request further information and independent advice concerning the representation relationships it describes.

I acknowledge that I have chosen to forgo any agency representation and have expressly elected to work with the real estate brokerage and its representative (named below) in a customer capacity only. I understand that the real estate brokerage will not provide me with any services that require exercising discretion or judgment, giving advice, or advocating on my behalf.

I acknowledge that the obligations owed to me are limited to:

- exercising reasonable care and skill in providing services to me;
- not negligently or knowingly providing me with false or misleading information;
- holding any monies received from me in trust in accordance with the provisions of the *Real Estate Act*; and
- complying with the provisions of the *Real Estate Act* and its regulations, and the rules and bylaws of the Real Estate Council of Alberta.

In accordance with the Rules of the Real Estate Council of Alberta, I may be provided with the following services and/or information:

- real estate statistics and comparable property information;
- the names of real estate service providers, but the real estate brokerage will not recommend any particular service provider;
- documents and standard forms related to the purchase of a property;
- acting as a scribe in completing an offer to purchase;
- conveying information in a timely manner to and from a seller;
- keeping me informed of the progress of a transaction to which I am a party.

I further acknowledge that the real estate brokerage may be representing sellers and other buyers to whom it owes the agency duties described in the *Agency Relationships* guide.

AA  
Signature of Buyer Customer

MOHAMOUD MUHAMAD  
Print Name of Buyer Customer

Signature of Buyer Customer

Print Name of Buyer Customer

Dhak  
Signature of Real Estate Brokerage Representative

MAXWELL CAPITAL REALTY.  
Print Name of Real Estate Brokerage Representative

Name of Real Estate Brokerage

JUNE 12, 2012.  
Date



### BUYER CUSTOMER DISCLOSURE ACKNOWLEDGMENT

This form was developed by the Alberta Real Estate Association for the use of its members and may not be altered electronically by any person. Others who use this document do so at their own risk.

I have read the *Agency Relationships* guide published by the Alberta Real Estate Association and have been given the opportunity to request further information and independent advice concerning the representation relationships it describes.

I acknowledge that I have chosen to forgo any agency representation and have expressly elected to work with the real estate brokerage and its representative (named below) in a customer capacity only. I understand that the real estate brokerage will not provide me with any services that require exercising discretion or judgment, giving advice, or advocating on my behalf.

I acknowledge that the obligations owed to me are limited to:

- exercising reasonable care and skill in providing services to me;
- not negligently or knowingly providing me with false or misleading information;
- holding any monies received from me in trust in accordance with the provisions of the *Real Estate Act*; and
- complying with the provisions of the *Real Estate Act* and its regulations, and the rules and bylaws of the Real Estate Council of Alberta.

In accordance with the Rules of the Real Estate Council of Alberta, I may be provided with the following services and/or information:

- real estate statistics and comparable property information;
- the names of real estate service providers, but the real estate brokerage will not recommend any particular service provider;
- documents and standard forms related to the purchase of a property;
- acting as a scribe in completing an offer to purchase;
- conveying information in a timely manner to and from a seller;
- keeping me informed of the progress of a transaction to which I am a party.

I further acknowledge that the real estate brokerage may be representing sellers and other buyers to whom it owes the agency duties described in the *Agency Relationships* guide.

MA  
Signature of Buyer Customer

MOHAMMAD MUHAMMAD  
Print Name of Buyer Customer

Signature of Buyer Customer

Print Name of Buyer Customer

Dhakir  
Signature of Real Estate Brokerage Representative

MAXWELL CAPITAL REALTY.  
Print Name of Real Estate Brokerage Representative

Name of Real Estate Brokerage

JUNE 12, 2012.  
Date



**COMMERCIAL REAL ESTATE PURCHASE CONTRACT  
ADDENDUM**

This Addendum is attached to and forms part of the Commercial Real Estate Purchase Contract # 1001

Between

THE SELLER

and

THE BUYER

Name Paragon Properties (Dawinton) Inc. Name MAHMOUD MOHAMMED

Name \_\_\_\_\_ Name \_\_\_\_\_

With respect to the Property described as:

Municipal Address \_\_\_\_\_

| W. of (Meridian) | Range      | Township   | Section    | Part           | Acres          |
|------------------|------------|------------|------------|----------------|----------------|
| <u>4th.</u>      | <u>29.</u> | <u>21.</u> | <u>32.</u> | <u>NE 1/4.</u> | <u>579.74.</u> |

Legal Address: Plan \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

Condo. Plan \_\_\_\_\_ Legal Unit No. \_\_\_\_\_ Legal Parking Unit \_\_\_\_\_

Other TITLE # 111-191-702.

Delete section 2.2 \$1,950,000. ONE MILLION NINE HUNDRED AND FIFTY THOUSAND DOLLARS. SELLING PRICE.  
INSERT. Section 2.2 \$1,700,000. ONE MILLION SEVEN HUNDRED THOUSAND DOLLARS. SELLING PRICE  
INSERT SECTION 8.1 BUYERS CONDITIONS HAVE BEEN MET WE NOW HAVE A FIRM DEAL. (AUG 2/2012).

Note: This form must be signed by all parties to the Commercial Real Estate Purchase Contract.

DATED at R.P.M on Aug 2012

Seller \_\_\_\_\_

Witness Kam Bqal

Seller AT

Witness [Signature]

Buyer \_\_\_\_\_

Witness \_\_\_\_\_

Buyer \_\_\_\_\_

Witness \_\_\_\_\_

# EXHIBIT B

THIS EXHIBIT "B" REFERRED TO IN THE  
AFFIDAVIT OF

*Mahmoud Mahamad*

SWORN BEFORE ME THIS 5 DAY

OF April A.D. 2023

COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA

**CHRISTOPHER LEWIS KOZORIZ**

A Commissioner for Oaths  
in and for Alberta

My Commission expires June 21, 2024.  
Appointee No. 0735825

# Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2020/07/06  
Time of Search: 11:50 AM  
Search provided by: ANDERSON JAMES MCCALL  
Service Request Number: 33692757  
Customer Reference Number: 9409

**Corporate Access Number:** 2017114030  
**Business Number:** 842249930  
**Legal Entity Name:** 1711403 ALBERTA LTD.

**Legal Entity Status:** Active  
**Alberta Corporation Type:** Numbered Alberta Corporation  
**Registration Date:** 2012/11/07 YYYY/MM/DD

## Registered Office:

**Street:** 202, 4921 - 49 ST  
**City:** RED DEER  
**Province:** ALBERTA  
**Postal Code:** T4N1V2

## Records Address:

**Street:** 202, 4921 - 49 ST  
**City:** RED DEER  
**Province:** ALBERTA  
**Postal Code:** T4N1V2

## Directors:

**Last Name:** MOHAMAD  
**First Name:** MAHMOUD  
**Street/Box Number:** 52 ERIN GREEN MEWS SE  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2B3C3

**Last Name:** MOUHAMAD  
**First Name:** FAISSAL  
**Street/Box Number:** 7151-50 AVENUE  
**City:** RED DEER



7/6/2020

**Province:** ALBERTA  
**Postal Code:** T4N4E4

**Voting Shareholders:**

**Last Name:** MOHAMAD  
**First Name:** MAHMOUD  
**Street:** 52 ERIN GREEN MEWS SE  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2B3C3  
**Percent Of Voting Shares:** 49

**Last Name:** MOUHAMAD  
**First Name:** FAISSAL  
**Street:** 7151-50 AVENUE  
**City:** RED DEER  
**Province:** ALBERTA  
**Postal Code:** T4N4E4  
**Percent Of Voting Shares:** 51

**Details From Current Articles:**

**The information in this legal entity table supersedes equivalent electronic attachments**

**Share Structure:** SEE ATTACHED  
**Share Transfers Restrictions:** SEE ATTACHED  
**Min Number Of Directors:** 1  
**Max Number Of Directors:** 15  
**Business Restricted To:** NONE  
**Business Restricted From:** NONE  
**Other Provisions:** SEE ATTACHED

**Other Information:**

**Last Annual Return Filed:**

| File Year | Date Filed (YYYY/MM/DD) |
|-----------|-------------------------|
| 2019      | 2019/10/25              |

**Filing History:**

| List Date (YYYY/MM/DD) | Type of Filing  |
|------------------------|---|
| 2012/11/07             | Incorporate Alberta Corporation                             |
| 2019/10/25             | Enter Annual Returns for Alberta and Extra-Provincial Corp. |
| 2020/02/21             | Update BN   |

**Attachments:**

| Attachment Type                 | Microfilm Bar Code | Date Recorded (YYYY/MM/DD) |
|---------------------------------|--------------------|----------------------------|
| Share Structure                 | ELECTRONIC         | 2012/11/07                 |
| Restrictions on Share Transfers | ELECTRONIC         | 2012/11/07                 |
| Other Rules or Provisions       | ELECTRONIC         | 2012/11/07                 |

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



# EXHIBIT C

THIS EXHIBIT "C" REFERRED TO IN THE  
AFFIDAVIT OF

*Mahmoud Mohamed*

SWORN BEFORE ME THIS 5 DAY

OF April A.D. 2023

*[Signature]*  
COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA

**CHRISTOPHER LEWIS KOZORIZ**

A Commissioner for Oaths  
in and for Alberta

My Commission expires June 21, 2024  
Appointee No. 0735825

THE LAND TITLES ACT  
TRANSFER OF LAND

*Nowlde  
BR*

PARAGON PROPERTIES (DEWINTON) INC. of 1200, 1015 - 4 ST SW, Calgary, Alberta, T2R 1J4 being the registered owner of an estate in fee simple, in possession, subject to registered encumbrances, liens and interests, if any, in all that piece of land described as follows:

MERIDIAN 4 RANGE 29 TOWNSHIP 21  
SECTION 32  
THAT PORTION OF THE SOUTH WEST QUARTER  
WHICH LIES NORTH EAST OF ROAD PLAN 8210125  
CONTAINING 44.2 HECTARES (109.2 ACRES) MORE OR LESS  
EXCEPTING THEREOUT:

| PLAN        | NUMBER  | HECTARES | (ACRES) | MORE OR LESS |
|-------------|---------|----------|---------|--------------|
| ROAD        | 0210206 | 0.860    | 2.13    |              |
| ROAD        | 0211040 | 3.66     | 9.04    |              |
| SUBDIVISION | 0211003 | 7.40     | 18.29   |              |

EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK THE SAME

do hereby in consideration of the sum of ONE MILLION SEVEN HUNDRED THOUSAND (\$1,700,000.00) DOLLARS paid to us by the Transferee hereunder, the receipt of which sum is hereby acknowledged, transfer to the said Transferee,

~~WST~~ #101, 5018 - 45 STREET, RED-DEER, ALBERTA T4N 1K9  
1711403 ALBERTA LTD. of ~~#202, 4921 - 49<sup>th</sup> Street, Red Deer, Alberta, T4N 1V2~~ ✓ ~~WST~~

all our estate and interest in the said piece of land.

IN WITNESS WHEREOF we have hereunto subscribed our names this 7 day of November, 2012.

PARAGON PROPERTIES (DEWINTON) INC.

  
Witness

Per:  (c/s)

CERTIFICATE

The undersigned Vendor, certifies that it is resident of Canada for all purposes arising under The Income Tax Act of Canada including but not limited to, Section 116(5) thereof.

PARAGON PROPERTIES (DEWINTON) INC.

Per: 

*ALCESANCK*

# EXHIBIT D

THIS EXHIBIT "D" REFERRED TO IN THE  
AFFIDAVIT OF

*Mahmoud Mohamed*

SWORN BEFORE ME THIS *5* DAY

OF *April* A.D. 20*24*

COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA

**CHRISTOPHER LEWIS KOZORIZ**  
A Commissioner for Oaths  
In and for Alberta  
My Commission expires June 21, 20*24*  
Appointee No. 0735825

818 studio ltd.  
1812 14a Street SW  
Calgary, Alberta  
T2T 3W6

T 403.244.8188  
F 403.244.8011  
info@818studio.ca  
www.818studio.ca



January 16th, 2013  
**RE: DeWinton Development (Heritage Creek)**

**Dr. Mahmoud Mohamed  
Dr. Faissal Mohamed,**

**1711403 Alberta Limited  
52 Erin Green Mews SE  
Calgary Alberta T2B 3C3**

Thank you for the opportunity to submit this proposal for your proposed development in the Hamlet of DeWinton, within the Municipal District of Foothills. As we have previously discussed, I understand it is your intent to subdivide the approximately 80 acre parcel into quarter acre lots.

In our experience a well received and successful site design is one that incorporates all site elements into a homogeneous layout that allows the buyer to experience the site beyond their lot; experience their home as part of a community integrated with the open spaces and neighborhood amenities as an extension of their home and is tied together with a theme that gives the community a sense of unity and is respectful of its surroundings.

Coupled with the right design, the right housing stock mix enhances architectural diversity and creates a richer, more appealing visual environment that allows for personalization and individuality.

Our goal is not to design a subdivision, we will design a community.

For this purpose we will conduct a thorough site analysis and engage in extensive discussions with the MD of Foothills. We will prepare an Outline Plan to apply for Land Use Redesignation and once approved apply for subdivision. We can also offer our services for detailed design of the infrastructure and green spaces, as well as marketing of the house lots.

I have prepared the following scope of work and associated fees for your review and consideration.

Please feel free to call me at your convenience should you have any questions or would like to further discuss any part of this proposal.

Best Regards,

A handwritten signature in black ink, appearing to read 'Carlos Mier y Ponce Arzani', is written over a horizontal line.

**Carlos Mier y Ponce Arzani  
Principal**



## **background + analysis**

The background + analysis phase is the most important component of the project. This is the phase where the background information and history is reviewed and discussed, and we familiarize ourselves with the site, municipal requirements, the environmental conditions, and the community issues surrounding the project.

A thorough analysis provides a solid decision making base for the forthcoming tasks and helps to generate the overall identity for the project. The key project controls needed here are an understanding of the project requirements, the current condition of the site and ensuring that all necessary coordination and feedback elements are incorporated into the project.

A few of the tasks this phase involves are:

- conduct first hand site visit, review existing site conditions and context, document through site photography, identify any notable features on site which could be incorporated into the community,
- review environmental conditions of the area to determine microclimate, environmental conditions and geophysical aspects of the site that could potentially dictate the overall design of the community
- evaluate site aesthetics and fringe areas bordering site, including the existing surface drainage, surrounding communities and the interface with the highways
- preliminary planning review and assessment of site conditions, public use patterns, traffic conditions, and surrounding land uses,
- gather background materials, research local and regional bylaw requirements, review existing Municipal Development Plans and Area Structure Plans as well as Municipal Growth public consultation documents
- review existing adjacent developments and identify types of available lots and products to determine best product mix for the development
- discuss with client overall vision and goals for the community
- acquire base mapping data and survey information (we will coordinate the survey with prior authorization from the client)
- initial meeting with the MD of Foothills planning personnel to discuss the intent of the project and set some guidelines for moving forward in a manner that fits both the clients needs and the municipal vision for the area.

## Land Use Re-Designation and Subdivision

With all the background information on hand, we will begin to develop the Outline Plan. In this phase we will go through the land use redesignation and the subdivision approval process with the planning authorities of the MD of Foothills.

We will prepare and submit all documents required for the Land Use Redesignation process and once that has been approved we will prepare and submit conceptual designs to apply for subdivision. If we can come to an agreement with the MD within our initial conversations, we will apply for Land Use Redesignation and Subdivision at the same time in the interest of speeding up the review and approval process.

At this stage we will prepare concept plans and enter into formal discussion with the MD to determine the information they will require for approval.

A few of the tasks this phase involves are:

- coordinate with the MD of Foothills regarding the type of application required for the purposes of this project and if required review MD of Foothills land use bylaws as they relate to the Development requirements for the community,
- coordinate with Alberta Environment and Alberta Transportation as required with the support of the MD of Foothills
- coordinate a detailed survey of the parcel, as well as identify any potential restrictions such as UFRW's, easements and caveats that may be registered within the site.
- prepare a product mix that fits within the clients vision for lot sizing and type of housing
- examine the vehicular access, connections into the community, and emergency vehicle requirements
- based on the achievable density, determine the requirements for Municipal Reserve space, Environmental Reserve space as well as amenity and recreation areas
- layout lot locations, pedestrian pathway network and internal road structure to achieve optimal connectivity throughout the community
- design recreation and amenity areas both private and public including water features, ponds, un-programmed open spaces and programmed activities such as sports courts
- provide general residential design policies and guidelines, such as architectural character, lot landscaping standards, etc...
- prepare and conduct stakeholder group and public open houses as required by the approval process
- refine designs based on stakeholder group, public and municipal feedback and prepare final community design documents for submittal and approval by the MD

### **additional reports from sub-consultants**

Additional reports from sub-consultants may be required by the approving authorities as part of the approval process; this may entail involving other disciplines such as Civil engineers, Surveyors and Traffic Engineers as needed.

At that time we will engage the proper discipline with authorization of the client. Fees for these services are not included within this proposal.

such documents potentially include:

- Noise Control Study and a Traffic Impact Analysis
- geotechnical report and Slope Stability Analysis Report
- provisions for water supply, sanitary sewer system and water treatment (if required)
- storm water management plan
- legal agreements with the MD ( development agreement, fees and securities, etc...)

### **detailed design and construction**

Once the redesignation and subdivision have been approved, we would be pleased to continue with the detailed design of the community as prime consultants and in coordination with engineering subconsultants, and carry through construction.

In this phase our team will prepare construction specifications and construction tender documents to sufficiently explain the design. Some of the tasks involved include:

- as prime consultants we will assemble team of pertinent subconsultants (Civil engineers, geotechnical engineers, traffic engineers, etc...)
  - refine designs for the community, detailing parks, open space, medians, waterfeatures, etc...
  - written construction specifications and associated schedule of quantities,
  - prepare preliminary cost estimates for hard and soft landscape elements for review by Client,
  - establish a list of pre-qualified contractors, for review and consideration by Client,
  - prepare landscape construction tender documents and forward to Client for inclusion in tender package,
  - coordinate tender packages with subconsultants
  - issue tender addenda as required during bidding period,
  - review submitted construction bids with Client, recommend award of project to the appropriate contractor
  - updates to tender documents, as required, provide 'issued for construction' set to contractors,
  - periodic site reviews with the contractor during construction,
  - Issue Change Orders, Site Instructions, Clarifications during construction process,
  - review progress billing submitted by landscape contractors and provide recommendations for payment,
  - arrange and document construction completion and final completion certificates of site
  - arrange for release of development holding securities as required
- Fees for this services will be discussed when the opportunity arises.

## **marketing**

---

In this phase our main goal is to negotiate with potential buyers and sell the available inventory of lots in the community.

We will prepare and implement a sales and marketing strategy best suited for the community at the time of beginning of sales. This may include print media, web based advertisement and social media, negotiation with home builders, etc...

some tasks of this phase may include:

- prepare presentation drawings for the community as well as promotional packages,
- creation of a web page with up to date information of lots, availability, phasing, etc...
- coordination and installation of marketing signage and pageantry programme,
- coordination with interested homebuilders to negotiate and sell available lots,
- prepare builder packages for lot sales,
- liaise between builder and applicable consultants for approval,
- coordinate lot purchase agreement and payments,

Fees for this services will be discussed when the opportunity arises.

## **additional services**

---

Additional services are those services which may be requested from time to time which may be outside of our established scope, including services for:

- work additional to the scope of work outlined in phases described above,
- detailed survey of site
- additional report needed from subconsulting disciplines as required by the MD of Foothills, Alberta Transportation or Alberta Environment
- environmental impact study
- structural design of any required hardscape or site elements
- revisions which are required resulting from your instructions after approval to proceed has been given,

Any fees required for any additional services will be reviewed with the Client in advance.

**professional fees**

Fees for this project will largely depend on negotiations with the MD of Foothills, approval times and results from public consultations, as well as the number of required revisions, so we propose to bill monthly on an hourly basis at our current rates stated below. We will be very pleased to provide fees for services for detailed design, construction documents and marketing services at a later date when the opportunity arises.

We anticipate the fees to be approximately as follows:

|   |                            |
|---|----------------------------|
| background + analysis                         | \$ 8,225.00                |
| <u>land use redesignation and subdivision</u> | <u>\$ 51,475.00</u>        |
| <b>total</b>                                  | <b><u>\$ 59,700.00</u></b> |

|   |             |
|---|-------------|
| GST expenses                              | 5%          |
| landscaping architect / principal         | costs + 10% |
| landscaping architectural technologist I  | \$ 155.00   |
| landscaping architectural technologist II | 130.00      |
| clerkal / administration                  | 100.00      |
|   | 95.00       |
|   | 70.00       |

*please note:*

The fees will be billed monthly on an hourly basis. If fees go beyond the approximated amounts stated, a summary of the reasons will be forwarded to the Client for review. Conversely, any unbilled fees will remain with the Client. 818 Studio will cease work on the project until written acceptance of the amended fees has been received by the Client

We request that all our invoices be paid within 30 days from date of invoice. Should our invoices remain unpaid after 30 days, 818 studio will cease work on the project until the outstanding invoice has been paid in full. The above fees are exclusive of GST.

Expenses will be billed at costs plus a 10% handling charge. Typical expenses include plotting / printing, mileage (55¢ per km), and courier charges.

**limitation of liability**

818 studio ltd. shall not be responsible for:

- accuracy of reports provided by subcontractants
- the failure of a contractor retained by the Client, to perform the work required for the Project in accordance with the applicable contract documents;
- the design of or defects in equipment or information supplied or provided by the Client for incorporation into the Project;
- any cross-contamination resulting from subsurface investigations;
- any damage to subsurface structures and utilities which were identified and located by the Client;
- any Project decisions made by the Client if the decisions were made without the advice of 818 studio ltd. or contrary to or inconsistent with 818 studio ltd.'s advice;
- any consequential loss, injury or damages suffered by the Client, including but not limited to loss of use, earnings and business interruption.

**termination**

Either party may terminate this engagement without cause upon thirty (30) days' notice in writing. On termination by either party under this paragraph, the Client shall forthwith pay to 818 studio ltd. all Charges for the Services performed, including all expenses and other charges incurred by 818 studio ltd. for this Project.




**client acceptance**

The commencement of any services described in this proposal shall indicate the Client's acceptance of this proposal. Thank you again for the opportunity to work with you on this project.

818 studio ltd. is available to undertake this project at your earliest convenience.

Assuming you find this proposal satisfactory, please sign where indicated, and email this last page back to our offices.

|                  |   |              |                         |
|------------------|---|--------------|-------------------------|
| Project          | DeWinton Development (Heritage Creek)   | Date:        |                         |
| Name of Client   | Faisal Nawwaj   | Organization | 1711403 Alberta Limited |
| Client Signature |  |              |                         |

# EXHIBIT E

THIS EXHIBIT "E" REFERRED TO IN THE  
AFFIDAVIT OF

*Mohamed Mohamed*

SWORN BEFORE ME THIS.....DAY

OF *April*.....A.D. 20*23*

COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA



**CHRISTOPHER LEWIS KOZORIZ**

A Commissioner for Oaths  
in and for Alberta

My Commission expires June 21, 20*24*.

Appointee No. 0735825

I/WE, **1711403 ALBERTA LTD.**

of #101, 5018-45 STREET, RED DEER, ALBERTA T4N 1K9  
being registered owner(s) of an estate in fee simple, subject however to  
registered encumbrances, liens and interests if any, in all that piece  
of land situate in the Province of Alberta, being composed of:

MERIDIAN 4 RANGE 29 TOWNSHIP 21  
SECTION 32  
THAT PORTION OF THE SOUTH WEST QUARTER  
WHICH LIES NORTH EAST OF ROAD PLAN 8210125  
CONTAINING 44.2 HECTARES (109.2 ACRES) MORE OR LESS  
EXCEPTING THEREOUT:  
PLAN NUMBER HECTARES (ACRES) MORE OR LESS  
ROAD 0210206 0.860 2.13  
ROAD 0211040 3.66 9.04  
SUBDIVISION 0211003 7.40 18.29  
EXCEPTING THEREOUT ALL MINES AND MINERALS ✓  
AND THE RIGHT TO WORK THE SAME



do hereby in consideration of the sum of -----  
---- ONE MILLION SEVEN HUNDRED THOUSAND ---- (\$1,700,000.00 ) DOLLARS  
paid to me/us/it by the Transferee(s) hereunder, the receipt of which  
sum I/we/it hereby acknowledge(s) transfer to the said Transferee(s),

MCIVOR DEVELOPMENTS LTD.  
#101, 5018 - 45 Street  
Red Deer, Alberta  
T4N 1K9

all my/our/its/ estate and interest in the piece of land.

The undersigned certify that I/we are resident(s) of Canada for  
all purposes arising under the Income Tax Act of Canada including but  
not limited to Section 116(5).

IN WITNESS WHEREOF I/we/it has/have hereunto subscribed (affixed)  
my/our/its name(s) (and corporate seal by its proper officers) this  
21 day of APRIL, 2015.

1711403 ALBERTA LTD.

Per: 



# EXHIBIT F

THIS EXHIBIT "F" REFERRED TO IN THE  
AFFIDAVIT OF  
*Muhammad Mohamed*  
SWORN BEFORE ME THIS 5 DAY  
OF April A.D. 2023  
*[Signature]*  
COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA

**CHRISTOPHER LEWIS KOZORIZ**  
A Commissioner for Oaths  
in and for Alberta  
My Commission expires June 21, 2024  
Appointee No. 0735825

**Mortgage**  
The Land Titles Act - Alberta

The address of the Bank in Alberta is  
4902 Gaetz Avenue, Red Deer, Alberta, T4N 4A8

I/WE,  
MCIVOR DEVELOPMENTS LTD.  
#101, 5018 - 45 Street, Red Deer, Alberta T4N 1K9

being registered as owner of an estate in fee simple in possession, subject, however, to such encumbrances, liens and interests as are notified by memorandum underwritten or endorsed hereon, in consideration of the sum of TWO (\$2.00) DOLLARS paid to me/us from time to time by The Toronto-Dominion Bank (hereinafter called the "Bank") charge the land hereinafter particularly described, namely:

hereinafter called the "Mortgagor"

Full Legal  
Description of  
Mortgaged  
Property

MERIDIAN 4 RANGE 29 TOWNSHIP 21  
SECTION 32  
THAT PORTION OF THE SOUTH WEST QUARTER  
WHICH LIES NORTH EAST OF ROAD PLAN 8210125  
CONTAINING 44.2 HECTARES (109.2 ACRES) MORE OR LESS  
EXCEPTING THEREOUT:  
PLAN NUMBER HECTARES (ACRES) MORE OR LESS  
ROAD 0210206 0.860 2.13  
ROAD 0211040 3.66 9.04  
SUBDIVISION 0211003 7.40 18.29  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK THE SAME ✓

being the whole of the said Parcel with payment to the Bank ON DEMAND of up to the principal amount of

Principal Amount  
of Mortgage

-- TWO MILLION FIVE HUNDRED THOUSAND (\$ 2,500,000.00 ) DOLLARS  
with interest thereon (~~at the rate of 6.50% per annum~~) (at the rate equal to the Bank's Prime Rate - defined below - charged  
on loans by the Bank in Canadian dollars plus 6.50 %\*) per annum calculated and payable monthly, not in  
advance, before and after maturity, default and judgment with interest on overdue interest at the rate aforesaid and all  
other amounts charged to the Mortgagor hereunder (the said principal amount, interest and other amounts being  
hereinafter referred to as the "Indebtedness") and taxes and performance of statute labour and observance and  
performance of all covenants, provisos and conditions herein contained. Any payment appropriated as a permanent  
reduction of this mortgage shall be first applied against interest accrued hereunder. If applicable, "Prime Rate" means the  
rate of interest per annum established and reported by the Bank to the Bank of Canada from time to time as the reference  
rate of interest for the determination of interest rates that the Bank charges to customers of varying degrees of credit  
worthiness in Canada for Canadian dollar loans made by it in Canada.

\* Insert Fixed  
or Margin Rate  
and Delete  
Inapplicable  
Bracketed  
Wording

**OBLIGATIONS SECURED**

THE MORTGAGOR agrees that this mortgage is a continuing collateral security and that the Indebtedness hereby secured shall include all current or running accounts and all monies and liabilities whether direct or indirect, absolute or contingent, now or hereafter owing, whosoever or howsoever incurred from or by the Mortgagor, as principal or surety, whether alone or jointly with any other person and in whatever name style or firm, whether otherwise secured or not and whether arising from dealings between the Bank and the Mortgagor from other dealings or proceedings by which the Bank may become a creditor of the Mortgagor including, without limitation, advances upon overdrawn account or upon bills of exchange, promissory notes or other obligations discounted for the Mortgagor or otherwise, all bills of exchange, promissory notes and other obligations negotiable or otherwise representing money and liabilities, or any portion thereof, now or hereafter owing or incurred from or by the Mortgagor and all interest, damages, costs, charges and expenses which may become due or payable to the Bank or may be paid or incurred by the Bank, upon or in respect of the said money and liabilities or any portion thereof, all premiums of insurance upon the buildings, fixtures and improvements now or hereafter brought or erected upon the said lands (which buildings, fixtures, improvements and the lands and premises shall hereinafter be referred to as the "Mortgaged Property" unless the context otherwise provides), which may be paid by the Bank and taxes.

AND THE MORTGAGOR further covenants and agrees with the Bank that the Mortgagor will assume and pay all costs, charges and expenses, including solicitors' costs, charges and expenses as between solicitor and his own client, of the Bank relating to the preparation and registration of this mortgage or to the collection, enforcement, realization or protection of the security herein contained or the monies due and payable hereunder, including foreclosure or execution proceedings commenced by the Bank or any other party, and until paid the same shall be part of the principal hereby secured and be a charge on the Mortgaged Property in favour of the Bank, carrying interest at the rate aforesaid, prior to all claims thereon subsequent to this mortgage.

**DEFEASANCE**

PROVIDED, however, this mortgage to be void UPON REPAYMENT of the Indebtedness upon demand or UPON PERMANENT REPAYMENT of the Indebtedness with written notice to such effect to the Bank.

**Spousal Consent  
(Delete if  
inapplicable)**

AND I,  
the spouse of the Mortgagor, hereby consent to the within mortgage.

**PROMISE TO  
PAY  
TITLE  
INSURANCE**

THE MORTGAGOR covenants with the Bank THAT: he will ON DEMAND pay the Indebtedness and observe all provisos contained herein; he has a good title in fee simple to the Mortgaged Property, save and except prior registered encumbrances; he has the right to charge the Mortgaged Property to the Bank; on default the Bank shall have quiet possession of the Mortgaged Property free from all encumbrances, save as aforesaid; he will execute such further assurances of the Mortgaged Property as may be requisite; and he will insure the Mortgaged Property to an amount of not less than the principal amount hereby secured in dollars of lawful money of Canada, PROVIDED that if and whenever such amount be greater than the insurable value of the buildings, fixtures and improvements now or hereafter brought or erected upon the lands and premises, such insurance shall not be required to any greater extent than such insurable value and if and whenever such amount shall be less than the insurable value the Bank may require such insurance to the full insurable value. It is further agreed that the Bank may require any insurance hereunder to be cancelled and new insurance effected by an insurer to be approved by it and also may of its own accord effect or maintain any insurance herein provided for, and any amount paid by it therefor shall be forthwith payable to it with interest at the aforesaid rate by the Mortgagor and shall be a charge upon the Mortgaged Property prior to all claims thereon subsequent to this mortgage

**REPAIRS AND  
MAINTENANCE**

THE MORTGAGOR covenants with the Bank that he will keep the Mortgaged Property in good condition and repair, and that the Bank may, whenever it deems it necessary, by its surveyor or agent enter upon and inspect the Mortgaged Property and the reasonable cost of such inspection shall be added to the Indebtedness, and that if the Mortgagor or those claiming under him neglect to keep the Mortgaged Property in good condition and repair or commit any act of waste on the Mortgaged Property or do anything by which the value of the Mortgaged Property shall be diminished, as to all of which the Bank shall be sole judge, or make default as to any of the covenants or provisos herein contained, the Indebtedness shall, at the option of the Bank, forthwith become due and payable, and in default of payment thereof the powers of entering upon, leasing and selling hereby given may, subject to applicable law, be exercised forthwith, and the Bank may make such repairs as it deems necessary and the cost thereof with interest thereon at the aforesaid rate shall be a charge upon the Mortgaged Property prior to all claims thereon subsequent to this mortgage.

**OBLIGATION  
TO BUILD  
DILIGENTLY**

THE MORTGAGOR covenants with the Bank that if the Mortgagor fails at any time for a period of ten days to diligently carry on the work of construction of any building or buildings being or to be erected on the Mortgaged Property or, without the consent in writing of the Bank, departs in such construction from any plans and specifications thereof approved by the Bank or from the generally accepted standards of construction in the locality of the Mortgaged Property, or permits any mechanics' or other lien to be registered against the Mortgaged Property for any period exceeding thirty days, the Bank at its option at any time thereafter through its agents or contractors may enter the Mortgaged Property and have exclusive possession thereof and of all materials, plant, gear and equipment thereon free of interference from or by the Mortgagor and proceed to complete the construction of the building or buildings either according to the said plans and specifications or according to other plans, specifications or design as the Bank in its absolute discretion shall elect, and all expenses of every nature incurred by the Bank in going into possession and securing and in completing and equipping the building or buildings or in any way in connection therewith shall be payable by the Mortgagor to the Bank, and at the aforesaid rate shall be a charge upon the Mortgaged Property prior to all claims thereon subsequent to this mortgage.

**POWER TO  
LEASE OR SELL  
MORTGAGED  
PROPERTY**

PROVIDED that the Bank, on default of payment of the Indebtedness or any portion thereof for the minimum default period, on giving the minimum notice, according to applicable law, may enter on, lease or sell the Mortgaged Property. Provided further that, on default of payment for the relevant minimum default period, according to applicable law, the foregoing powers of entry, leasing and selling may be exercised by the Bank without any notice whatsoever.



**RIGHTS OF BANK IN SALE OF MORTGAGED PROPERTY**

THE BANK, in the event of default by the Mortgagor in payment of the Indebtedness or any portion thereof, may sell the Mortgaged Property or any part thereof by public auction or private sale for such price as can reasonably be obtained therefor and on such terms as to credit and otherwise and with such conditions of sale as it shall in its discretion deem proper and, in the event of any sale on credit or for cash or for part cash and part credit, the Bank shall not be accountable for or be charged with any monies until actually received by it; and the Bank may rescind or vary any contract of sale and may buy in and resell the Mortgaged Property or any part thereof without being answerable for loss occasioned thereby, and no purchaser shall be bound to enquire into the legality, regularity or propriety of any sale or be affected by notice of any irregularity or impropriety; and no lack of default or want of notice or other requirement or any irregularity or impropriety of any kind shall invalidate any sale hereunder, but the Bank alone shall be responsible, and the Bank may sell without entering into actual possession of the Mortgaged Property and while in possession shall be accountable only for monies which are actually received by it and sales may be made from time to time of parts of the Mortgaged Property to satisfy any portion of the Indebtedness, leaving the residue thereof secured hereunder on the remainder of the Mortgaged Property, or may take proceedings to sell and may sell the Mortgaged Property for any portion of the Indebtedness subject to the balance of any Indebtedness not yet due at the time of the said sale; and the costs of any sale proceedings hereunder, whether such sale proves abortive or not, and all costs, charges and expenses, including solicitors' costs, charges and expenses as between solicitor and his own client incurred in taking, recovering or keeping possession of the Mortgaged Property or in enforcing the personal remedies under this mortgage or by reason of non-payment or in procuring payment of the monies payable hereunder shall be payable forthwith by the Mortgagor.

**APPOINTMENT OF RECEIVER**

If the Mortgagor shall be in default in the observance or performance of any of the terms, conditions, covenants or payments described herein or in any additional or collateral security given by the Mortgagor to the Bank then the Bank may in writing appoint any person, whether an officer or employee of the Bank or not, to be a receiver of the Mortgaged Property and the rents and profits derived therefrom, and may remove the receiver so appointed and appoint another in his stead. The term "receiver" as used in this mortgage includes a receiver and manager. The following provisions shall apply to this paragraph:

- (a) The receiver so appointed is conclusively the agent of the Mortgagor and the Mortgagor shall be solely responsible for the acts or defaults and for the remuneration and expenses of the receiver. The Bank shall not be in any way responsible for any misconduct or negligence on the part of the receiver and may, from time to time, fix the remuneration of the receiver and be at liberty to direct the payment thereof from proceeds collected.
- (b) Nothing contained herein and nothing done by the Bank or by the receiver shall render the Bank a mortgagee in possession or responsible as such.
- (c) All monies received by the receiver, after providing for payment and charges ranking prior to this mortgage and for all costs, charges and expenses of or incidental to the exercise of any of the powers of the receiver as hereinafter set forth, shall be applied in or towards satisfaction of the monies owing pursuant to this mortgage.
- (d) The receiver so appointed shall have power to:
  - (i) take possession of, collect rents and profits and get in, the property charged by this mortgage and any additional or collateral security granted by the Mortgagor to the Bank and for that purpose may take any proceedings, be they legal or otherwise, in the name of the Mortgagor or otherwise;
  - (ii) carry on or concur in carrying on the business which the Mortgagor is conducting on and from the Mortgaged Property and for that purpose may borrow money on the security of the Mortgaged Property in priority to this mortgage;
  - (iii) lease all or any portion of the Mortgaged Property and for this purpose execute contracts in the name of the Mortgagor which said contracts shall be binding upon the Mortgagor.
- (e) The rights and powers conferred herein are supplemental to and not in substitution for any other rights which the Bank may have from time to time.

**TAKING POSSESSION OF PERSONAL PROPERTY**

PROVIDED that the Bank may distrain for arrears of any portion of the Indebtedness. The Mortgagor hereby waives the right to claim exemption of, and agrees that the Bank shall not be limited to, the amount for which the Bank may distrain.

**QUIET POSSESSION**

PROVIDED that until default of payment the Mortgagor shall have quiet possession of the Mortgaged Property.

**RELEASE OF MORTGAGED PROPERTY BY BANK**

IT IS FURTHER AGREED by the Mortgagor that the Bank may at its discretion at all times release any part or parts of the Mortgaged Property or any other security or any surety for the Indebtedness or any portion thereof either with or without any sufficient consideration therefor, without responsibility therefor and without thereby releasing any other part of the Mortgaged Property or any person from this mortgage or from any of the covenants herein contained and without being accountable to the Mortgagor for the value thereof or for any money except that actually received by the Bank, it being expressly agreed that every part or lot into which the Mortgaged Property is or may hereafter be divided does and shall stand charged with the whole of the Indebtedness. PROVIDED that no extension of time given by the Bank to the Mortgagor or anyone claiming under the Mortgagor or any other dealing by the Bank with the owner or owners of the equity of redemption of the Mortgaged Property or of any part thereof shall in any way affect or prejudice the rights of the Bank against the Mortgagor or any other person liable for the payment of the Indebtedness or any portion thereof.

PAYMENT  
OF OTHER  
CHARGES  
BY BANK

AND IT IS FURTHER AGREED by the Mortgagor that the Bank may satisfy any charge now or hereafter existing or to arise or be claimed upon the Mortgaged Property, and the amount so paid shall be added to the Indebtedness and bear interest at the aforesaid rate and shall be forthwith payable by the Mortgagor to the Bank and in default of payment, the Indebtedness, at the option of the Bank, shall forthwith become due and payable and the power of sale hereby given may be exercised forthwith without any notice. And, in the event of the Bank satisfying any such charge or claim, the Bank shall be entitled to all equities and securities of the person or persons so paid off and it may retain any discharge unregistered for six months and thereafter as long as it may think proper.

SALE OR  
TRANSFER OF  
MORTGAGED  
PROPERTY BY  
MORTGAGOR

AND THE MORTGAGOR covenants and agrees with the Bank that he will not, without the prior consent in writing of the Bank, sell, transfer or otherwise dispose of the Mortgaged Property or any portion thereof or any interest therein; and, in the event of such sale, transfer or other disposition, without the consent of the Bank, the Indebtedness shall, at the option of the Bank, forthwith become due and payable.

MORTGAGE  
NOT A  
SUBSTITUTE  
FOR ANY  
OTHER  
SECURITY

PROVIDED ALWAYS and it is hereby expressly agreed by the Mortgagor that this mortgage shall not create any merger, rebate or discharge of any debt owing to the Bank or of any lien, bond, promissory note, bill of exchange or other security held by or which may hereafter be held by the Bank, whether from the Mortgagor or any other party or parties whomsoever, and this mortgage shall not in any way affect any security held or which may hereafter be held by the Bank for the Indebtedness or any portion or portions thereof or the liability of any endorser or any other person or persons upon any such lien, bond, bill of exchange, promissory note or other security or contract or any renewal or renewals thereof held by the Bank for or on account of the Indebtedness or any portion or portions thereof nor shall the remedies of the Bank in respect thereof be affected in any manner whatsoever. PROVIDED further that the taking of a judgment or judgments against the Mortgagor on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Bank's right to interest on the Indebtedness at the rate payable by the Mortgagor to the Bank, and further that any such judgment may provide that interest thereon shall be computed at the same rate until such judgment shall have been fully paid and satisfied.

BANK MAY  
APPROPRIATE  
PAYMENTS  
TO ANY DEBT

AND IT IS FURTHER UNDERSTOOD AND AGREED that the Bank shall have the right at any time, subject to applicable law, to appropriate any payment made as a temporary or permanent reduction of any portion of the Indebtedness, whether the same be represented by open account, overdraft or by any bills, notes or other instruments and whether then due or to become due, and may from time to time, subject to applicable law, revoke or alter such appropriation and appropriate such payment as a temporary or permanent reduction of any other portion of the Indebtedness as the Bank in its sole and uncontrolled discretion may see fit

MORTGAGE  
CONTINUING  
SECURITY

AND IT IS FURTHER UNDERSTOOD AND AGREED that this mortgage may secure a current or running account and shall stand as a continuing collateral security to the Bank for the payment of the Indebtedness and all interest, damages, costs, charges and expenses which may become due or payable to the Bank or which may be paid or incurred by the Bank upon or in respect of the Indebtedness or any portion thereof notwithstanding any fluctuation or change in the amount, nature or form of the Indebtedness or in the bills, notes or other obligations now or hereafter representing the same or any portion thereof or in the names of the parties to the said bills, notes or obligations or any of them.

TAXES

AND THE MORTGAGOR covenants and agrees with the Bank that he will in each year within ten (10) days after the same become due and payable produce to and leave with the Bank the duly receipted tax bills for that year covering the Mortgaged Property.

CONDOMINIUMS  
BANK'S RIGHT  
TO VOTE

If a condominium unit or units are part of the Mortgaged Property, the Bank by accepting delivery of and registering this mortgage authorizes and empowers the Mortgagor to vote or consent or not to consent respecting all matters relating to the affairs of the relevant Condominium Corporation provided that:

- (a) the Bank may at any time upon written notice to the Mortgagor and the Condominium Corporation revoke this authorization; in such case
- (b) the Bank shall not be under any obligation to vote or consent or not to consent as aforesaid to protect the interests of the Mortgagor; and
- (c) the exercise by the Bank of its right to vote or consent or not to consent as aforesaid shall not constitute the Bank a mortgagee in possession.

For the better securing to the Bank the repayment in the manner aforesaid of the principal sum and interest and other mortgage monies hereby secured, the Mortgagor does hereby mortgage to the Bank all its estate and interest in the land above described.

IT IS HEREBY AGREED that wherever in this mortgage the word "Mortgagor" is used the same shall extend to and include the heirs, executors, administrators, successors and assigns of the Mortgagor, and wherever in this mortgage the word "Bank" is used the same shall extend to and include the successors and assigns of the Bank and wherever the singular or masculine is used the same shall be construed as meaning the plural or the feminine or the neuter where the context or the parties hereto so require.

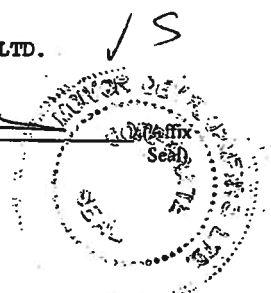
IT IS UNDERSTOOD AND AGREED that this mortgage shall be deemed to be made in and shall be construed according to the laws of the province of Alberta.

The Mortgagor acknowledges having received a true copy of this mortgage.

DATED this 21 day of APRIL, 2015

MCIVOR DEVELOPMENTS LTD. ✓ S

Per: [Signature]



**ENCUMBRANCES REFERRED TO:**

This Mortgage is subject to prior Registrations, if any.

Branch must  
insert date and  
initial as required

|               |       |
|---------------|-------|
| DATE RECEIVED | _____ |
| RECORDED      | _____ |
| APPROVED      | _____ |

✓



**Consent of Spouse**

I, \_\_\_\_\_, being married to \_\_\_\_\_, do hereby give my consent to the disposition of our homestead, made in this Instrument, and I have executed this document for the purpose of giving up my life estate and other dower rights in the said property given to me by THE DOWER ACT, to the extent necessary to give effect to the said disposition.

Signature of Spouse \_\_\_\_\_

**Certificate of Acknowledgement by Spouse**

- This document was acknowledged before me by \_\_\_\_\_ apart from her husband (or his wife).
- \_\_\_\_\_ acknowledged to me that she (or he),
  - is aware of the nature of the disposition;
  - is aware that THE DOWER ACT gives her (or him) a life estate in the homestead and the right to prevent disposition of the homestead by withholding consent;
  - consents to the disposition for the purpose of giving up the life estate and other dower rights in the homestead given to her (or him) by THE DOWER ACT to the extent necessary to give effect to the said disposition;
  - is executing the document freely and voluntarily without any compulsion on the part of her husband (or his wife).

Dated at \_\_\_\_\_, in the Province of \_\_\_\_\_  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_  
month year

A Commissioner for Oaths in and for the Province of Alberta

**Affidavit**

Canada } I,  
Province of Alberta } of the \_\_\_\_\_ of  
To Wit: } in the \_\_\_\_\_

MAKE OATH AND SAY:

- That I am the mortgagor named in the within Instrument.
- That I am not married  
or  
That neither myself nor my spouse have resided on the within mentioned land at any time since our marriage.

SWORN before me at \_\_\_\_\_ }  
in the Province of \_\_\_\_\_ }  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ }  
month year

A Commissioner for Oaths in and for the Province of Alberta

**Affidavit of Execution**

Canada } I,  
Province of Alberta } of the \_\_\_\_\_ of  
To Wit: } in the \_\_\_\_\_

MAKE OATH AND SAY:

- That I was personally present and did see named in the within Instrument, who is/are personally known to me to be the person(s) named therein, duly sign, seal and execute the same for the purpose named therein.
- That the same was executed at \_\_\_\_\_ of \_\_\_\_\_ in the \_\_\_\_\_ and that I am the subscribing witness thereto.
- That I know the said \_\_\_\_\_ and they are in my belief of the full age of eighteen years.

SWORN before me at \_\_\_\_\_ }  
in the Province of \_\_\_\_\_ }  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ }  
month year

A Commissioner for Oaths in and for the Province of Alberta

# EXHIBIT G

THIS EXHIBIT "G" REFERRED TO IN THE  
AFFIDAVIT OF

*Mahmoud Mohamed*

SWORN BEFORE ME THIS 5 DAY

OF April A.D. 2023

COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA

**CHRISTOPHER LEWIS KOZORIZ**

A Commissioner for Oaths  
in and for Alberta

My Commission expires June 21, 2024

Appointee No. 0735825





Collateral Mortgage - General  
Saskatchewan/Alberta/NWT/Nunavut

**COLLATERAL MORTGAGE**

I/WE, MCIVOR DEVELOPMENTS LTD.

(hereinafter referred to as the "Mortgagor") having an address at 101, 5018-45 STREET, RED DEER,  
*(Street Address) (City)*  
ALBERTA, T4N 1K9, being registered owner (or for the purposes of land located  
*(Province) (Postal Code)*  
in Northwest Territories or Nunavut Territory, being or being entitled to become registered owner)  
of an estate in fee simple/leasehold estate (and for the purposes of land located in Alberta  
only, subject to registered encumbrances, liens and interests, if any) (and for the purposes of land located in Northwest  
Territories or Nunavut Territory only, subject to the encumbrances and interests listed below or which apply under the  
applicable Land Titles Act) in all that piece of land described as follows:

SEE ATTACHED SCHEDULE "A"

(hereinafter referred to as "the land"), IN CONSIDERATION OF the premises herein and other valuable consideration,  
the receipt and sufficiency of which is acknowledged, hereby covenant with ROYAL BANK OF CANADA, a chartered  
bank having its Head Office in the City of Montreal, in the Province of Quebec (hereinafter referred to as the  
"Mortgagee") and having an office at 4943 ROSS STREET, 2ND FLOOR  
*(Street Address)*  
RED DEER, ALBERTA, T4N 1X8, as follows:  
*(City) (Province) (Postal Code)*

- (1) **Charging Clause:** The Mortgagor hereby encumbers, mortgages and charges the land and each and every building and improvement on the land (the "premises") which now or hereafter may be erected thereon (the land and the premises being hereinafter referred to as the "mortgaged property") with payment of:
  - (a) the Liabilities (as hereinafter defined), excluding any portion thereof constituting interest or constituting Enforcement Obligations (as hereinafter defined), up to the amount of \_\_\_\_\_  
~~SIX MILLION~~ DOLLARS (\$6,000,000.00);
  - (b) the Enforcement Obligations (as hereinafter defined); and
  - (c) interest payable on the Liabilities calculated at the rate and in the manner specified herein or in the instrument or other agreement creating or evidencing the obligation to pay such interest.

"Enforcement Obligations" means all amounts payable hereunder which are stated to constitute Enforcement Obligations.

"Liabilities" means all amounts owing to the Mortgagee from time to time in respect of any current or running account or revolving line of credit and all indebtedness, liabilities and obligations of the Mortgagor to the Mortgagee (which includes for greater certainty all Enforcement Obligations) whether present or future, direct or indirect, absolute or contingent, matured or not, and whether incurred or arising before, during or after the time that the Mortgagor is the owner of the mortgaged property, and whether arising within or outside Canada, and whether incurred by or arising from any agreement or dealing between the Mortgagee and the Mortgagor or by or from any agreement or dealing with any third party by which the Mortgagee may be or become in any manner whatsoever a creditor of the Mortgagor, or however otherwise incurred or arising, and whether the Mortgagor be bound alone or with another or others, and whether as principal, guarantor or surety.

"Prime Rate" means the annual rate of interest established and announced from time to time by the Mortgagee as being a reference rate then in effect for determining interest rates on Canadian dollar commercial loans made in Canada.

- (2) **Liabilities:** These presents are given and taken as general and continuing collateral security to secure payment of the Liabilities and this mortgage shall obtain priority for all Liabilities notwithstanding that at any time or from time to time there may not be any Liabilities then outstanding. The Mortgagor agrees to pay to the Mortgagee each and every amount, indebtedness, liability and obligation forming part of the Liabilities in the manner agreed to in respect of such amount, indebtedness, liability or obligation. Any future or contingent Liability that does not constitute a debt or loan shall accrue and be payable upon the satisfaction of any applicable condition or contingency which is specified in the agreement or dealing creating such Liability or upon the satisfaction of any other condition or contingency which may be applicable to making a determination of whether such Liability is accrued and payable. The accounts and records of the Mortgagee shall, in the absence of manifest error, constitute prima facie evidence of the amount of Liabilities outstanding and owing from time to time by the Mortgagor to the Mortgagee. Unless otherwise specified herein or in an instrument or other agreement creating or evidencing an obligation to pay interest on the Liabilities, the Mortgagor shall pay to the Mortgagee interest on the amount of the Liabilities outstanding from time to time for the period commencing on the date of demand for payment thereof until paid, such interest to be calculated at a rate equal to the Prime Rate plus ~~FIVE~~ (5.000%) per annum, calculated and payable monthly not in advance, both before and after default and judgment, with interest on overdue interest at the rate aforesaid.
- (3) **Enforcement Obligations:** All Enforcement Obligations shall be payable by the Mortgagor to the Mortgagee upon demand therefor by the Mortgagee to the Mortgagor together with interest thereon from the date such Enforcement Obligations become due and payable until paid, calculated at a rate equal to the Prime Rate plus two percent (2%) per annum, calculated and payable monthly not in advance, both before and after maturity, default and judgment, with interest on overdue interest at the rate aforesaid.
- (4) **No Merger:** Neither the granting of this mortgage nor any proceeding taken hereunder or with respect hereto or under any securities or evidences of securities taken by the Mortgagee, nor any judgment obtained in such proceeding, shall operate as a merger of the Liabilities or of any simple contract debt or in any way suspend payment of, affect or prejudice the rights, remedies or powers, legal or equitable, which the Mortgagee may hold in connection with the Liabilities and any securities which may be taken by the Mortgagee in addition to, by way of renewal of, or in substitution for any present or future bill, promissory note, obligation or security evidencing the Liabilities or a part thereof, or be deemed a payment or satisfaction of the Liabilities or any part thereof or merger therein and any right reserved to the Mortgagee under any document may be exercised by the Mortgagee concurrently or consecutively with or to any other rights reserved to it.

- (5) **Further Covenants:** The Mortgagor further covenants with the Mortgagee that the Mortgagor:
- (a) has a good title to the land and premises;
  - (b) has the right to mortgage the land and premises and that on default the Mortgagee shall have quiet possession of the land and premises free from all encumbrances;
  - (c) will execute such further assurances of the land and premises as may be requisite; and
  - (d) has done no act to encumber the land and premises.
- (6) **Covenants:** The Mortgagor further covenants with the Mortgagee that:
- (a) **Insurance:** The Mortgagor will forthwith insure and during the continuance of this mortgage keep insured in favour of the Mortgagee against loss or damage by the perils of fire and such other perils as the Mortgagee may require, the premises, both during erection and thereafter, for a total amount not less than the lesser of the replacement cost of the premises and the amount of the Mortgagee's interest therein, with an insurance company and under policies satisfactory to the Mortgagee; and each policy of insurance shall provide that every loss shall be payable to the Mortgagee as its interest may appear in accordance herewith, subject to a standard form of mortgage clause approved by the Mortgagee; and each policy of insurance shall provide that the Mortgagee shall receive at least thirty (30) days prior notice of any cancellation or material alteration thereof; and the Mortgagor will forthwith assign, transfer and deliver to the Mortgagee the policies of insurance and all renewal receipts pertaining thereto; and no insurance will be carried on the premises other than such as is made payable to the Mortgagee in accordance with the provisions of this paragraph; and the Mortgagor will not do or omit or cause anything to be done, omitted or caused whereby the policies of insurance may become void; and the Mortgagor will pay all premiums necessary for such purposes promptly as the same shall become due and will deliver evidence of renewal to the Mortgagee at least seven (7) days prior to the expiration of any policy of insurance; and, in the event of any breach of the foregoing covenants respecting insurance, the Mortgagee, without prejudice to its other rights hereunder, may, at its option, effect such insurance to a value deemed, in the sole opinion of the Mortgagee, adequate to protect the Mortgagee's insurable interest and any amount paid therefor by the Mortgagee shall be payable by the Mortgagor to the Mortgagee on demand and shall constitute an Enforcement Obligation; and forthwith on the happening of any loss or damage, the Mortgagor will furnish at its own expense all necessary proofs and do all necessary acts to enable the Mortgagee to obtain payment of the insurance monies and the production of this mortgage shall be sufficient authority for the insurance company to pay every such loss to the Mortgagee, and the insurance company is hereby directed thereupon to pay the same to the Mortgagee; and any insurance monies received may, at the option of the Mortgagee, be applied in rebuilding, reinstating or repairing the premises or be paid to the Mortgagor or be applied or paid partly in one way and partly in another, or it may be applied, in the sole discretion of the Mortgagee, in whole or in part on the Liabilities or any part thereof whether due or not then due; and the Mortgagor hereby releases to the Mortgagee all its claims upon the mortgaged property subject to the said provisos;
  - (b) **Taxes and Encumbrances:** The Mortgagor will pay when and as the same fall due all taxes, rates, levies, assessments, liens, charges, encumbrances or claims which are or may be or become charges or claims against the mortgaged property or on this mortgage or on the Mortgagee in respect of this mortgage; and in default of payment, the Mortgagee may pay the amount of such taxes, rates, levies, assessments, liens, charges, encumbrances and claims, and all monies so paid by the Mortgagee shall be payable by the Mortgagor to the Mortgagee on demand and shall constitute an Enforcement Obligation;

- (c) **Assignment of Rents and Leases:** For the better securing to the Mortgagee the payment of the Liabilities, the Mortgagor hereby gives, grants, assigns, transfers and sets over unto the Mortgagee all leases, agreements, tenancies, quotas and licenses which affect the mortgaged property whether written, verbal or otherwise howsoever, including all renewals or extensions thereof, together with all rents and other monies payable thereunder and all rights, benefits and advantages to be derived therefrom; provided that nothing done in pursuance hereof shall have or be deemed to have the effect of making the Mortgagee responsible for the collection of rent, or of any part thereof, or any income or revenue whatsoever of and from the mortgaged property, or for the performance or observance of any provision of such leases and agreements;
- (d) **Fixtures:** Without restricting the generality of the term "fixtures", fences, plumbing, air-conditioning, ventilating, lighting and water heating equipment, cooking and refrigeration equipment, window blinds, storm windows and storm doors, window screens and screen doors, and all appliances and appurtenances relating thereto which now are or may hereafter be placed upon the mortgaged property by the Mortgagor or which now are or may hereafter be attached to the mortgaged property by the Mortgagor, and all farm machinery, improvements and irrigation systems, fixed or otherwise, and even though not attached to the land otherwise than by their own weight, shall be deemed to be fixtures and all fixtures shall form a part of the mortgaged property and are charged by and subject to this mortgage;
- (e) **Good Repair:** The Mortgagor will not remove any fixtures of any kind from the mortgaged property, and will keep the premises and all fixtures, gates, fences, drains and improvements for the time being subject to this mortgage in good and substantial repair, and will at all times make such repairs to, and if incomplete, will complete such buildings and improvements as may be required by the Mortgagee in writing; and will not without the consent in writing of the Mortgagee, commit or permit any kind of waste on the mortgaged property; and in default of any of the foregoing the Mortgagee may at its option enter upon the mortgaged property from time to time in order to inspect, and may at its option complete, repair and keep in repair the said premises, fixtures, gates, fences, drains and improvements without thereby becoming liable as mortgagee in possession and the amount expended by the Mortgagee in doing all or any of the foregoing things shall be payable by the Mortgagor to the Mortgagee on demand and shall constitute an Enforcement Obligation;
- (f) **Erection of Improvements:** The Mortgagor will not, without the consent of the Mortgagee in writing, erect or permit to be erected on the mortgaged property any improvement, or enter into any contract that may cause the mortgaged property to be encumbered by a lien for work done, labor provided, services performed or material supplied and will keep the mortgaged property free from same;
- (g) **Inspection:** The Mortgagee, its agents, employees, and independent contractors may at any time enter upon the mortgaged property to inspect the mortgaged property, and where deemed necessary and/or advisable by the Mortgagee, to conduct investigations thereon, including, without limiting the generality of the foregoing, intrusive testing and sampling on the mortgaged property for the purpose of determining the presence of or the potential for environmental pollution, and the reasonable cost of such inspection and investigations paid for by the Mortgagee including any intrusive testing and sampling shall be payable by the Mortgagor to the Mortgagee on demand and shall constitute an Enforcement Obligation;
- (h) **No Other Encumbrances:** The Mortgagor will not, without the consent of the Mortgagee in writing, grant, create, assume or suffer to exist any mortgage, charge, lien or other encumbrance against the mortgaged property, whether ranking in priority to or subsequent to this mortgage, and the Mortgagee may pay the amount of any mortgage, charge, lien or other encumbrance, now or hereafter existing upon the mortgaged property having or claiming priority over this mortgage. All monies so paid by the Mortgagee shall be payable by the Mortgagor to the Mortgagee on demand and shall constitute an Enforcement Obligation; and

- (i) **Compliance with Laws:** The Mortgagor covenants with the Mortgagee to at all times promptly observe, perform, execute and comply with all applicable laws, including without limiting the generality of the foregoing, those dealing with zoning, use, occupancy, subdivision, parking, historical designations, fire, access, loading facilities, landscaped area, building construction, builders' liens, or public health and safety, and all private covenants and restrictions affecting the mortgaged property or any portion thereof and the Mortgagor will from time to time, upon request of the Mortgagee, provide to the Mortgagee evidence of such observance and compliance and will at its own expense make any and all improvements thereon or alterations to the mortgaged property, structural or otherwise, and will take all such other action as may be required at any time by any such present or future law, and the Mortgagor will cause its tenants, agents and invitees to comply with all the foregoing at their own expense.
- (7) **Environmental Provisions:** The Mortgagor represents and warrants to the Mortgagee that there is no product or substance on the mortgaged property or on any property adjacent thereto which contravenes any environmental law or which is not being dealt with according to best recognized environmental practices, and that the mortgaged property is being used in compliance with all environmental laws. The Mortgagor will give the Mortgagee immediate notice of any material change in circumstances which would cause any of the foregoing representations and warranties to become untrue. The Mortgagor will indemnify the Mortgagee and each of its directors, officers, employees, agents and independent contractors, from all loss or expense (including, without limitation, legal fees on a solicitor and his own client basis) due to the Mortgagor's failure to comply with any environmental law or due to the presence of any product or substance referred to in this paragraph, as well as any lien or priority asserted with respect thereto, and this indemnity shall survive the discharge of this mortgage or the release from this mortgage of part or all of the mortgaged property. All amounts payable to the Mortgagee in respect of such indemnity shall be payable by the Mortgagor to the Mortgagee on demand and shall constitute an Enforcement Obligation.
- (8) **Remedies for Breach of Covenants:** In the event of non-payment when due of the Liabilities or a part thereof, or upon breach of or default under any provision of any agreement evidencing or relating to the Liabilities or a part thereof, or upon breach of or default in any provision of this mortgage:
- (a) **Liabilities Due:** The Liabilities shall immediately become due and payable at the option of the Mortgagee unless such non-payment, breach or default is waived or postponed by the Mortgagee;
- (b) **May Enter on to Mortgaged Property to Lease or Sell:** The Mortgagee may on giving the minimum notice, if any, according to applicable law, enter on and lease or sell the mortgaged property; and the Mortgagee may collect the rents and profits and lease or sell as aforesaid without entering into possession of the mortgaged property; and the Mortgagee is hereby irrevocably appointed the attorney of the Mortgagor for the purpose of making such lease or sale, and for recovering all rents and sums of money that may become or are due or owing to the Mortgagor in respect of the mortgaged property, and for enforcing all agreements binding on any lessee or occupier of the mortgaged property or on any other person in respect of it, and for taking and maintaining possession of the mortgaged property, and for protecting it from waste, damage or trespass, and for making arrangements for completing the construction of, repairing or putting into order any buildings or other improvements on the mortgaged property, and for harvesting, threshing and marketing any crops on the land, keeping down and destroying any noxious weeds, summer fallowing, and working, breaking and otherwise farming any farm land, and for conducting remediation to bring the mortgaged property in compliance with recognized environmental standards, statutory or otherwise, and for executing all instruments, deeds and documents pertaining thereto, and for doing all acts, matters and things that may be necessary for carrying out the powers hereby given; and any such sale may be either for cash or on credit, or part cash and part credit, and by private sale or public auction, and at such sale the whole or any part of the mortgaged property may be sold; and the Mortgagee may vary or rescind any contract of sale made by virtue of these presents, and may buy in and resell the mortgaged property or any part thereof, without being responsible for any loss or deficiency on resale or expense occasioned thereby, and may sell on such terms as to credit or otherwise as to it shall seem appropriate, and for such prices as can reasonably be obtained therefor, and may make any stipulation as to title or evidence or commencement of title or otherwise as to it may seem proper, and no purchaser or lessee under such power shall be bound to inquire into the legality or regularity of any sale or lease under the said power, or to see to the application of the proceeds thereof, nor shall any omission, irregularity or want of notice invalidate or in any way affect the legality of any such sale or lease; and out of the money arising from such sale

or lease the Mortgagee shall be entitled to retain an amount equal to the Liabilities together with all expenses incurred in or about taking, recovering or keeping possession of the mortgaged property, selling or leasing the same or otherwise by reason of any default of the Mortgagor hereunder, including solicitor's fees and disbursements as between a solicitor and his own client, and any balance of monies remaining after the satisfaction of all claims of the Mortgagee, as hereinbefore provided, shall be paid to the Mortgagor but the Mortgagee shall in no event be liable to pay to the Mortgagor any monies except those actually received by the Mortgagee;

- (c) **Foreclosure:** The Mortgagee may take foreclosure or foreclosure and sale proceedings in respect of the mortgaged property in accordance with the provisions of the laws of the jurisdiction in which the mortgaged property is situate; and in the event of any deficiency on account of the Liabilities remaining due to the Mortgagee after realizing all the mortgaged property, then the Mortgagor will pay to the Mortgagee on demand the amount of such deficiency together with interest thereon until paid, calculated at a rate equal to the Prime Rate plus ~~FIVE~~ (5.000%) per annum, calculated and payable monthly not in advance, both before and after maturity, default and judgment, with interest on overdue interest at the rate aforesaid. In the event foreclosure proceedings are commenced in respect of the mortgaged property, then from the time of the application for an order nisi in such proceedings, the rate of interest payable under this mortgage shall, at the option of the Mortgagee, be fixed at the rate applicable under this mortgage at that time and shall thereafter remain at such fixed rate unless and until such proceedings have been settled or discontinued;
- (d) **Distrain:** The Mortgagee may distrain for arrears of the Liabilities, and as part of the consideration for any advance or creation of the Liabilities, the Mortgagor agrees to waive, and hereby waives, on the exercise of any such right of distress all rights to exemptions from seizure and distress under any law applicable in the jurisdiction in which the mortgaged property is situate;
- (e) **Receivership:** The Mortgagee may appoint a receiver of the mortgaged property and of the income of the mortgaged property, or any part thereof, and every such receiver shall be the agent of the Mortgagor and the Mortgagee shall be solely responsible for the receiver's acts or defaults; and such receiver shall have power to demand, recover and receive all the income of the mortgaged property, by action, distress or otherwise, either in the name of the Mortgagor or of the Mortgagee, and to give effectual receipts for the same; and the receiver may lease the mortgaged property and execute contracts in the name of the Mortgagor; provided that such receiver may be removed and a new receiver appointed from time to time by the Mortgagee, by writing under the hand of any authorized agent or solicitor; and it is further agreed that such receiver shall be entitled to retain out of the monies received by it a commission of five percent (5%) of the gross receipts, or such higher rate as any judge of any court having jurisdiction may allow upon application by it for that purpose, and also its disbursements in the collection of such income, and thereafter shall apply all monies received by it as such receiver as follows: namely, in discharge of all taxes, rates and accounts payable whatsoever affecting the mortgaged property and all liens, charges (including, without limitation, those imposed under environmental laws), annual sums or other payments and interest thereon, if any, having priority to this mortgage; in payment of the premiums on insurance payable under this mortgage; in payment of the cost of all necessary or proper repairs to the mortgaged property; and the balance, if any, thereafter upon the Liabilities; provided further that neither the existence of the foregoing relating to attornment, to distrain for arrears, to entry upon the mortgaged property, to foreclosure and to the said receivership, nor anything done by virtue thereof, shall render the Mortgagee a mortgagee in possession so as to be accountable for any monies except those actually received; and
- (f) **Performance of Obligations:** The Mortgagee, at its option, may by and on behalf of the Mortgagor and at the sole cost and expense of the Mortgagor, and to such extent as the Mortgagee deems advisable, observe and perform or cause to be observed and performed, any provision with respect to which default has occurred hereunder or under any provision of any agreement or dealing evidencing the Liabilities and for such purpose make such payments as are contemplated herein, and all monies expended by the Mortgagee for any such purpose shall be payable by the Mortgagor to the Mortgagee upon demand and shall constitute an Enforcement Obligation; provided however that nothing herein contained shall be deemed to hold the Mortgagee responsible for and the Mortgagee shall not be responsible for any loss arising out of its or its agents' or employees' observance or performance of any such provision. No remedy herein conferred is intended to be exclusive of any other remedy or remedies hereunder or under any security collateral hereto, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under any security collateral hereto or now or hereafter existing at law or in equity.



- (9) **Bankruptcy:** If the Mortgagor shall commit an act of bankruptcy within the meaning of the Bankruptcy and Insolvency Act, become bankrupt or insolvent or shall be subject to the provisions of the Bankruptcy and Insolvency Act, the Companies Creditors Arrangement Act, the Winding Up Act or any other Act for the benefit of creditors or relating to bankrupt or insolvent debtors or go into liquidation either voluntarily or under an order of a court of competent jurisdiction or make a general assignment for the benefit of its creditors or otherwise acknowledge its insolvency, the same shall constitute a breach of covenant pursuant to this mortgage.
- (10) **Costs to Protect Security:** All fees, charges, costs (including solicitor's fees and disbursements as between a solicitor and his own client) or expenses levied or charged by any solicitors or inspectors retained by or on behalf of the Mortgagee for the preparation, taking, registration, maintenance, protection or enforcement of this mortgage and any other securities which may be taken by the Mortgagee in connection with the Liabilities or any part thereof, together with the costs of any sale or abortive sale and of taking, recovering and keeping possession of the mortgaged property, the costs of inspecting or managing the same and generally any costs in any other proceeding, matter or thing taken or done in connection with or for completing the construction of, repairing or putting in order any buildings or other improvements on the mortgaged property, or for remediation to bring the mortgaged property into compliance with recognized environmental standards, statutory or otherwise, or to protect or realize upon this mortgage or any other security taken in connection with the Liabilities, or to perfect the title of the mortgaged property, or relating to expropriation of part or all of the mortgaged property, shall be payable by the Mortgagor to the Mortgagee on demand and shall constitute an Enforcement Obligation. If the Mortgagor shall default in payment of any Enforcement Obligation on demand, the Liabilities shall at the option of the Mortgagee forthwith become due and payable unless such default is waived or postponed by the Mortgagee.
- (11) **Extension or Replacement of Covenants:** The Mortgagee may, in its discretion and with or without the consent of the Mortgagor or any guarantor or surety, in respect of the Liabilities or any part thereof give an extension of time, take the covenant of any purchaser of the equity of redemption of the mortgaged property or any part thereof, or any security whatsoever from them or from any other person, for the assumption and payment of the whole or any part of the Liabilities or for the due performance of any of the provisions hereof and any such action on the part of the Mortgagee shall not release the Mortgagor or any guarantor or surety from payment of the Liabilities or any part thereof or the performance of the said provisions or any of them; and the Mortgagee may also, in its discretion, compound with or release the Mortgagor or any one claiming under it, or any other person liable for payment of the Liabilities, or surrender, release or abandon or omit to perfect or enforce any securities, remedies or proceedings which the Mortgagee may now or hereafter hold, take or acquire, and may pay all monies received from the Mortgagor or others, or from securities upon such part of the Liabilities as the Mortgagee may think best without prejudice to or in any way limiting or lessening the liability of the mortgaged property or of any surety or obligor or any other person liable for payment of the Liabilities; and the Mortgagee shall incur no liability to any person by reason of anything aforesaid; any provision or liability aforesaid shall continue in full force as long as any of the Liabilities remain unpaid, but the Mortgagee shall not be bound to exhaust its recourse or remedies against the mortgaged property or the Mortgagor or other parties or the securities it may hold before being entitled to payment from any guarantor or surety of the Liabilities.
- (12) **Release of Lands:** The Mortgagee may, in its discretion and with or without the consent of the Mortgagor or any guarantor or surety, release any part of the mortgaged property or any other security for the Liabilities either with or without any consideration therefor, and without being accountable for the value thereof or for any monies except those actually received by it and without thereby releasing any other part of the mortgaged property, or any provision hereof, including any covenants or agreements on the part of any guarantor or surety for the payment of the Liabilities and the performance of the provisions hereof.
- (13) **No Waiver:** The permitting of or the acquiescence in the non-performance or non-observance of or the extension of time for the performance of any of the provisions of this mortgage shall not be or constitute any waiver of or cure any continuing or subsequent default, and shall not justify any default or delay on any other occasion and no waiver shall be inferred from or implied by anything done or omitted by the Mortgagee, except by express agreement.

- (14) **No Apportionment:** Every part, lot or unit into which the mortgaged property is or may hereafter be divided stands charged with the whole of the Liabilities and no person shall have any right to require the Liabilities to be apportioned on or in respect of any such part, lot or unit, or to require the charge of this mortgage to be released or discharged in respect of any such part, lot or unit, and the Mortgagor hereby waives any provision of any legislation which provides for such right.
- (15) **All Taxes Paid:** The Mortgagor represents and warrants that it has paid all taxes, interest and penalties payable by it under the provisions of federal, provincial and municipal statutes or by-laws relating thereto, and which may create a charge or lien upon the mortgaged property.
- (16) **Expropriation:** In the event that the whole or any material portion of the mortgaged property is expropriated by any entity empowered to do so, then at the option of the Mortgagee all Liabilities shall forthwith become due and payable. The Mortgagor hereby waives the provisions of any law applicable in the jurisdiction in which the mortgaged property is situate which would restrict recovery under this mortgage to recovering the market value of this mortgage at the date of any expropriation if the market value is then less than the amount of the Liabilities. In the event such market value is less than the amount of the Liabilities and the Mortgagee receives from the expropriating authority the market value of this mortgage, the Mortgagor shall, notwithstanding the provisions of any such law, forthwith upon demand pay to the Mortgagee the remaining portion as a separate debt together with interest thereon until paid at a rate equal to the Prime Rate plus FIVE (5.00%) per annum, calculated and payable monthly not in advance, both before and after maturity, default and judgment, with interest on overdue interest at the rate aforesaid. The proceeds from any expropriation affecting the whole or any part of the mortgaged property shall be paid to the Mortgagee in priority to the claims of any other person.
- (17) **Discharge:** The Mortgagor shall not be entitled to a discharge of this mortgage unless and until the Liabilities have been paid in full or are no longer in existence, the Mortgagee has no further obligations to the Mortgagor in respect of any Liabilities and the Mortgagor has kept and performed all of the provisions hereunder and under any provision of any agreement evidencing the Liabilities; and the Mortgagee shall have a reasonable time after payment or termination of the Liabilities within which to prepare or have prepared an executed discharge of this mortgage, and interest shall continue to run and accrue until all Liabilities have been paid and actual payment in full has been received by the Mortgagee and all legal and other expenses for the preparation and execution of such discharge and any administration fee of the mortgagee in connection therewith shall be borne by the Mortgagor.
- (18) **Condominium Units:** Notwithstanding anything to the contrary herein contained, in the event that the mortgaged property constitutes a condominium or a unit in a condominium:
- (a) The Mortgagor covenants with the Mortgagee that the Mortgagor will observe and perform each and every provision required to be observed and performed under or pursuant to the terms of this mortgage, each and every provision of any law applicable in the jurisdiction in which the mortgaged property is situate which affects such condominium or unit in a condominium and the by-laws and any amendments thereto of the condominium corporation of which the Mortgagor is a member by virtue of the Mortgagor's ownership of the condominium being charged by this mortgage (hereafter referred to as the "Condominium Corporation");
  - (b) Without limiting the generality of the foregoing subparagraph, the Mortgagor covenants to pay promptly when due any and all unpaid assessments, instalments or payments due to the Condominium Corporation;
  - (c) In addition to the Mortgagor's obligations hereunder to insure the mortgaged property, the Mortgagor covenants and agrees to provide the Mortgagee, from time to time upon the Mortgagee's request, with evidence satisfactory to the Mortgagee that the Condominium Corporation keeps the condominium insured in favour of the Mortgagee against all risks of direct physical loss or damage on a replacement cost basis for an amount equal to the full replacement value of the condominium; provided that, if the Condominium Corporation neglects to keep the condominium insured as aforesaid, the Mortgagee shall be entitled but shall not be obligated to insure the condominium to a value deemed, in the sole opinion of the Mortgagee, adequate to protect the Mortgagee's insurable interest and any amount paid therefor by the Mortgagee shall be payable on demand and shall constitute an Enforcement Obligation;

- (d) As a member of the Condominium Corporation, the Mortgagor covenants and agrees to seek the full compliance by the Condominium Corporation with the requirement that the Condominium Corporation insure the condominium; and the Mortgagor hereby releases to the Mortgagee all of the Mortgagor's claim upon the Condominium Corporation, subject to the terms of the said insurance policy;
  - (e) The Mortgagee authorizes the Mortgagor to vote respecting all matters relating to the affairs of the Condominium Corporation, provided that the Mortgagee may at any time upon written notice to the Mortgagor and the Condominium Corporation, revoke this authorization, in which case all power to vote shall rest in the Mortgagee, although the Mortgagee shall be under no obligation to vote to protect the interests of the Mortgagor or to vote in any particular manner;
  - (f) The Mortgagor further covenants that, where the Mortgagor defaults in the Mortgagor's obligations to pay any assessment, instalment or payment due to the Condominium Corporation, or upon breach of any provision contained in this paragraph, regardless of any other action or proceeding taken or to be taken by the Condominium Corporation, the Mortgagee, at its option and without notice to the Mortgagor, may deem such default to be default under the terms of this mortgage and proceed to exercise its rights herein;
  - (g) Upon default herein and notwithstanding any other right or action of the Condominium Corporation or the Mortgagee, the Mortgagee may distrain for arrears of any assessment, instalment or payment due to the Condominium Corporation or arising under this paragraph; and
  - (h) The Mortgagor covenants to request the Condominium Corporation to send to the Mortgagee copies of all notices sent to the Mortgagor, and the Mortgagor covenants to notify the Mortgagee of any breaches by the Condominium Corporation that come to the attention of the Mortgagor.
- (19) **Farm Lands:** Notwithstanding anything to the contrary herein contained, in the event that the mortgaged property is or includes farm lands:
- (a) In addition to the Mortgagor's obligations herein to insure the mortgaged property, the Mortgagor covenants and agrees to forthwith insure and during the continuance of this mortgage keep insured in favour of the Mortgagee against loss or damage by hail and such other perils as the Mortgagee may require, all crops now or hereafter to be grown on the land;
  - (b) The Mortgagor will in each year during the currency of this mortgage either put into crop or summer fallow in good, proper and husbandlike manner every portion of the land which has been or may hereafter be brought under cultivation, and will keep the land clean and free from all noxious weeds and generally see that the mortgaged property does not depreciate in any way; and
  - (c) The Mortgagor will pay when and as the same fall due any charges for keeping down and destroying noxious weeds on the land and in default of payment the Mortgagee may pay the same, and all monies so paid by the Mortgagee shall be payable by the Mortgagor to the Mortgagee upon demand and shall constitute an Enforcement Obligation.
- (20) **Due on Sale or on Change in Ownership:** In the event that the Mortgagor shall sell, convey, transfer or otherwise dispose of the mortgaged property, or enter into any agreement to sell, convey, transfer or otherwise dispose of or lose title thereto, the Liabilities shall forthwith become due and payable at the option of the Mortgagee. In the event that the Mortgagor is a corporation, and in the event that there is a sale or sales which result in a transfer of the legal or beneficial interest of a majority of the shares in the capital of the Mortgagor or there is a change in the effective control of a majority of the voting shares in the capital of the Mortgagor, then the Liabilities shall forthwith become due and payable at the option of the Mortgagee.
- (21) **Cross Default:** In the event that the Mortgagor makes default under any mortgage, charge, lien or other encumbrance against the mortgaged property ranking or claiming priority over this mortgage, the same shall constitute default under this mortgage and the Liabilities shall at the option of the Mortgagee forthwith become due and payable, and the Mortgagee shall be at liberty to exercise its rights under this mortgage.

- (22) **No Obligation to Advance:** Neither the execution nor registration of this mortgage nor the advancing or creation of any part of the Liabilities shall bind the Mortgagee to advance or create any further Liabilities; and notwithstanding anything herein contained, all payments to be made on or by virtue of this mortgage shall be made in lawful money of Canada to the Mortgagee at its Head Office or at such other place as the Mortgagee may, from time to time, in writing designate.
- (23) **Proving of Prime Rate:** In the event that it may be necessary at any time for the Mortgagee to prove the Prime Rate applicable as at any time or times, it is agreed that the certificate in writing of the Manager for the time being of the branch of the Mortgagee responsible for the collection of the Liabilities setting forth the Prime Rate as at any time or times shall be and shall be deemed to be conclusive evidence as to the Prime Rate.
- (24) **Lawful Interest Rate:** In the event interest chargeable or payable on principal or interest or on arrears of principal or interest as provided for in this mortgage is in excess of that permitted by the Interest Act (Canada) or any other applicable law, then in such event, interest payable and chargeable on such principal or interest or on arrears of principal or interest under this mortgage shall be chargeable and payable at the highest lawful rate permitted by the Interest Act (Canada) or such other applicable law and no other interest on principal or interest or on arrears of principal or interest shall be chargeable or payable hereunder.
- (25) **Type of Land Ownership:**
- (a) **Freehold:** If this mortgage is a mortgage of a fee simple interest, the Mortgagor represents and warrants to the Mortgagee that it has a fee simple interest in possession in the mortgaged property and that it has full power to mortgage the mortgaged property.
- (b) **Leasehold:** If the interest of the Mortgagor in the mortgaged property derives from a lease, sublease, agreement to lease, tenancy, right of use or occupation, right of first refusal to lease, option to lease or license of the mortgaged property (such lease, sublease, agreement to lease, tenancy, right of use or occupation, right of first refusal to lease, option to lease or license including any renewal, extension, modification, replacement or assignment thereof is hereinafter collectively called the "Lease"), then the following additional provisions apply with respect to such interest:
- (i) all references in this mortgage to "mortgaged property" shall include all right, title and interest of the Mortgagor from time to time in and to the Lease and the lands and premises demised under the Lease, including any greater right, title or interest therein or in any part thereof acquired after the date of this mortgage;
- (ii) the Mortgagor grants, mortgages, demises, sub-leases and charges to the Mortgagee all estate, term, right, title and interest of the Mortgagor in and to the Lease and the mortgaged property, together with any and all other, further or additional title, estate, interest or right therein or any part thereof which may at any time be acquired by the Mortgagor in or to the lands and premises demised by the Lease during the term of the mortgage, and all benefit and advantage therefrom for the Mortgagee including any right or option to purchase or to lease contained therein, to have and to hold for and during the remainder of the term of the Lease, save and except the last day thereof, as security for the payment to the Mortgagee of the Liabilities, plus the interest on the Liabilities, Enforcement Obligations and all other amounts secured by this mortgage and for the performance of all liabilities and obligations secured by this mortgage upon the terms set out in this mortgage;
- (26) **Representations and Warranties regarding Leasehold Title:** If this mortgage is a mortgage of a leasehold title, the Mortgagor represents and warrants to the Mortgagee that:
- (a) the leasehold estate which is the subject of this mortgage arises under the Lease, which has not been further modified or amended;
- (b) the Lease is a valid, effective and subsisting lease which has not been surrendered or forfeited, and the Lease is not presently subject to any assignment, mortgage or other encumbrance;
- (c) the Mortgagor has taken possession of the mortgaged property and all sums due under the Lease have been paid in full to the date hereof;

- (d) the Mortgagor has full power to mortgage the Lease (subject to the consent, if necessary, of the lessor), and if the consent of the lessor is required, such consent has either been obtained or will be obtained prior to any advance of monies secured by this mortgage; and
- (e) "Lease" means the lease from \_\_\_\_\_ to \_\_\_\_\_ dated \_\_\_\_\_ commencing on \_\_\_\_\_ and expiring on \_\_\_\_\_, subject only to the following amending agreements, if any:

(27) **Covenants regarding Leasehold Title:** If this mortgage is a mortgage of a leasehold estate, the Mortgagor covenants with the Mortgagee that:

- (a) it will not modify or amend or consent to any modification or amendment to the Lease without the prior written consent of the Mortgagee;
- (b) it will not surrender or forfeit or consent to any surrender or forfeiture of the Lease, and it will not without the prior written consent of the Mortgagee further assign, mortgage or otherwise encumber the Lease;
- (c) it will not postpone or subordinate its interest in Lease to any other mortgage or encumbrance without the prior written consent of the Mortgagee;
- (d) it will faithfully comply with each provision of the Lease and will do all things necessary to preserve the Lease and the lessee's rights thereunder;
- (e) it will promptly notify the Mortgagee of any default under the Lease by the Mortgagor, or the giving or receipt of any notice of default in respect thereof, and it agrees to request that the lessor provide the Mortgagee with the opportunity (but not the obligation) to cure any default under the Lease and any amount which may be required to be paid by the Mortgagee to cure such default and the costs thereof (including any legal costs as between solicitor and client) shall constitute an Enforcement Obligation;
- (f) the Mortgagor will notify the Mortgagee of each and every notice of default, demand or claim forwarded to or served upon the Mortgagor by the lessor under the Lease;
- (g) it will notify the Mortgagee promptly in writing after learning of any condition that with or without the passage of time or the giving of any notice might result in a default under or the termination of the Lease;
- (h) if the Mortgagor becomes the owner of the freehold title to the mortgaged property, then  

if the mortgaged property is located in Alberta or Saskatchewan, it hereby mortgages to the Mortgagee all of its estate and interest in the mortgaged property, freehold and otherwise, such mortgage to take effect on the Mortgagor acquiring the freehold title thereof, and this mortgage will thereupon be deemed to be a mortgage of the freehold title as if the Mortgagor had been the owner in fee simple at the date of execution of this mortgage and the Mortgagor agrees, if so requested by the Mortgagee, to execute in favour of the Mortgagee a mortgage covering the freehold estate on the same terms and conditions as are contained in this mortgage; and

if the mortgaged property is located in the Northwest Territories or Nunavut Territory, it agrees to provide to the Mortgagee, on request, a mortgage of all of its estate and interest in the mortgaged property, freehold and otherwise;
- (i) it will indemnify the Mortgagee against any claims and demands in respect of the Lease, including any legal costs incurred by the Mortgagee in connection therewith, on a solicitor and client basis;
- (j) the Mortgagor will at all times promptly observe and comply with all applicable laws, rules, requirements, orders, directions, by-laws, ordinances, work orders and regulations of every governmental authority and agency whether federal, provincial, municipal, or otherwise, and all private covenants and restrictions affecting the mortgaged property or any portion thereof and the Mortgagor

will from time to time, upon request of the Mortgagee, provide to the mortgagee evidence of such observance and compliance, and will at its own expense make any and all improvements thereon or alterations to the mortgaged property structural or otherwise, and will take all such other action as may be required at any time by any such present or future law, rule, requirement, order, direction, by-law, ordinance, work order or regulation.

- (k) if this mortgage is outstanding at the end of the term of the Lease, it will at the appropriate time seek a renewal of the Lease or the issuance of a new lease in substitution and will promptly notify the Mortgagee if it becomes aware that such a renewed or substituted lease may not be forthcoming. The Mortgagor will provide a copy of any such renewed or substituted lease to the Mortgagee upon issuance and such a renewed or substituted lease will be included within the definition of the Lease hereunder and for greater certainty, will be subject to this mortgage.
  - (l) The Mortgagor agrees that it will from the date of execution of this mortgage stand possessed of the last day of the term of the Lease (whether it is the last date of the present term or of any extended term) and all rights, privileges and options of the Mortgagor under the Lease, in trust for the Mortgagee. The Mortgagor further agrees it will assign and dispose of said last day, consistent with the terms of the Lease, as the Mortgagee may direct, but subject to the Mortgagor's right of redemption. The Mortgagor irrevocably appoints the Mortgagee as its attorney for on on behalf of the Mortgagor and in its name or otherwise to assign the said last day and privileges as the Mortgagee shall at any time direct, consistent with the terms of the Lease. The Mortgagor further agrees that upon a sale or other disposition made by the Mortgagee, and if requested by the Mortgagee, to assign the last day and privileges and options relating thereto to the purchaser or assignee and to exercise any and all assignments and transfers for that purpose; and the Mortgagee may at any time, by deed or other instrument, remove the Mortgagor or any other person as trustee for the last day and appoint a new trustee or trustees in its place.
  - (m) **Information:** The Mortgagor authorizes the Mortgagee to contact the lessor from time to time to obtain information regarding the rent or other sums payable under the Lease, the status of payment thereof and any other information relating to the Lease or default thereunder.
  - (n) **Breach:** The Mortgagor agrees that it will be deemed to constitute a breach of the provisions of this mortgage if the leasehold estate which is the subject of this mortgage ceases to exist.
- (28) **Special Provisions:** The Mortgagor covenants with the Mortgagee that in the event the mortgaged property is situate in the Province of Saskatchewan and the Mortgagor is a body corporate, the Mortgagor agrees that:
- (a) The Land Contracts (Actions) Act of the Province of Saskatchewan shall have no application to an action, as defined in the said Act, with respect to this mortgage; and
  - (b) The Limitation of Civil Rights Act of the Province of Saskatchewan, or any provision thereof shall have no application to this mortgage or any agreement or instrument renewing or extending or collateral to this mortgage, or the rights, powers or remedies of any other person under this mortgage, or any such agreement or instrument renewing or extending or collateral to this mortgage.
- (29) **Severability:** If any provision of this mortgage or the application thereof to any person is to any extent held invalid or unenforceable, the remainder of this mortgage or the application of such provision to persons other than those with respect to which it is held invalid or unenforceable shall not be affected thereby and shall continue to be enforceable to the fullest extent permitted by law.
- (30) **Joint and Several:** In the event there is more than one Mortgagor hereunder, the terms, conditions and other obligations of each Mortgagor hereunder shall be joint and several.
- (31) **Interpretation:** The words used herein which import the singular number and neuter shall be read and construed as plural and feminine or masculine, as the case may be, and the terms of this mortgage shall be binding upon and apply to the party's heirs, executors, administrators, successors or assigns, as applicable.



(32) **Statutory Mortgage Clause:** And for better securing to the Mortgagee the repayment in the manner aforesaid of the Liabilities, the Mortgagor hereby mortgages to the Mortgagee all of the Mortgagor's estate and interest in the mortgaged property.

(33) **Land Titles Act:** It is understood and intended that this mortgage is made with reference to and under the Land Titles Act of the jurisdiction in which the mortgaged property is situate.

IN WITNESS WHEREOF THIS MORTGAGE IS SIGNED, SEALED AND DELIVERED THIS 12 day of AUGUST, 2016.

in the presence of )

\_\_\_\_\_) )

(Witness) )

\_\_\_\_\_) )

(Witness) )

\_\_\_\_\_) )

(Witness) )

\_\_\_\_\_) (seal)

(Mortgagor)

\_\_\_\_\_) (seal)

(Mortgagor)

MCIVOR DEVELOPMENTS LTD.  
Name of Mortgagor (if Corporation)

By: ~~FAISSAL MOUHAMAD~~

Title: FAISSAL MOUHAMAD  
PRESIDENT c/s

By: \_\_\_\_\_

Title: \_\_\_\_\_

*seal*

**Schedule "A"**

**MERIDIAN 4 RANGE 29 TOWNSHIP 21**

**SECTION 32**

**THAT PORTION OF THE SOUTH WEST QUARTER**

**WHICH LIES NORTH EAST OF ROAD PLAN 8210125**

**CONTAINING 44.2 HECTARES (109.2 ACRES) MORE OR LESS**

**EXCEPTING THEREOUT:**

| <b>PLAN</b>        | <b>NUMBER</b>  | <b>HECTARES</b> | <b>(ACRES)</b> | <b>MORE OR LESS</b> |
|--------------------|----------------|-----------------|----------------|---------------------|
| <b>ROAD</b>        | <b>0210206</b> | <b>0.860</b>    | <b>2.13</b>    |                     |
| <b>ROAD</b>        | <b>0211040</b> | <b>3.66</b>     | <b>9.04</b>    |                     |
| <b>SUBDIVISION</b> | <b>0211003</b> | <b>7.40</b>     | <b>18.29</b>   |                     |

**EXCEPTING THEREOUT ALL MINES AND MINERALS**

**AND THE RIGHT TO WORK THE SAME**

# EXHIBIT H

HIS EXHIBIT "H" REFERRED TO IN THE  
AFFIDAVIT OF

*Mahmoud Mohamad*

SWORN BEFORE ME THIS 5 DAY

OF April A.D. 2023

COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA

**CHRISTOPHER LEWIS KOZORIZ**

A Commissioner for Oaths  
in and for Alberta

My Commission expires June 21, 2024  
Appointee No. 0735825

Court File No **2001 - 09035**

Court **Court of Queen's Bench of Alberta**

Judicial Centre **Calgary**

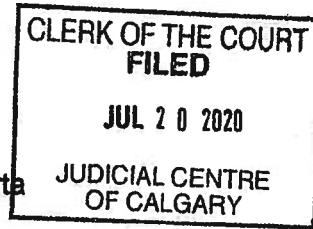
Plaintiff **Mahmoud Mohamad**

Defendants **Faissal Mouhamad, Mclvor Developments Ltd., Michael Dave Management Ltd., Faissal Mouhamad Professional Corporation and 985842 Alberta Ltd.**

Document **STATEMENT OF CLAIM**

Address for service and contact information of party filing this document **ANDERSON JAMES MCCALL  
300, 444 -5<sup>th</sup> Avenue SW  
Calgary, AB T2P 2T8**

Attention: **Brad J. Findlater**  
Phone: **403.221.8333**  
Facsimile: **403.221.8339**  
File No.: **9409**



#### **NOTICE TO DEFENDANTS**

You are being sued. You are a defendant. Go to the end of this document to see what you can do and when you must do it.

#### **The Parties**

1. The Plaintiff, Mahmoud Mohamad ("**Mahmoud**") is an individual residing in Calgary, Alberta.
2. The Defendant, Faissal Mouhamad ("**Faissal**"), is an individual residing in Red Deer, Alberta. Faissal and Mahmoud are brothers.
3. The Defendant, Mclvor Developments Ltd. ("**Mclvor**"), is an Alberta corporation owned and operated by Faissal, who is also the sole director and shareholder.
4. The Defendant, Michael Dave Management Ltd. ("**MDM Corp**"), is an Alberta corporation owned and operated by Faissal, who is also the sole director and shareholder.
5. The Defendant, Faissal Mouhamad Professional Corporation ("**FMPC**"), is to the best of the Plaintiff's knowledge, a professional corporation with its main dental offices in Red Deer, Alberta, which to the best of the Plaintiff's knowledge, at all material times, Faissal was the sole practitioner.
6. The Defendant, 985842 Alberta Ltd. ("**985 Corp**"), is an Alberta corporation owned and operated by Faissal, who is also the sole director and shareholder.

7. The company 1711403 Alberta Ltd. ("171 Corp") is an Alberta corporation created by both Faissal and Mahmoud on or about 7 November 2012, for which both they are co-directors. The shareholdings of 171 Corp are listed at the corporate registry as 51% Faissal and 49% Mahmoud, however it should be 50% each.
8. The Defendants Mclvor, MDM Corp, FMPC and 985 Corp are referred to collectively as the "Corporate Defendants".
9. At all material times, the Corporate Defendants were the *alter egos* of, and were dominated by Faissal. As such, Faissal is personally liable for the wrongful conduct of the Corporate Defendants set out below.

#### DeWinton Lands Acquisition

10. Mahmoud and Faissal are brothers who have historically done numerous land development projects and other investments together. One such investment was to purchase farmlands in the municipality of Foothills County, near the hamlet of DeWinton. The farmlands are comprised of 109 acres, legally described as follows:

MERIDIAN 4 RANGE 29 TOWNSHIP 21  
 SECTION 32  
 THAT PORTION OF THE SOUTH WEST QUARTER  
 WHICH LIES NORTH EAST OF ROAD PLAN 8210125  
 CONTAINING 44.2 HECTARES (109.2 ACRES) MORE OR LESS  
 EXCEPTING THEREOUT  

| PLAN        | NUMBER  | HECTARES | (ACRES) | MORE OR LESS |
|-------------|---------|----------|---------|--------------|
| ROAD        | 0210206 | 0.860    | 2.13    |              |
| ROAD        | 0211040 | 3.66     | 9.04    |              |
| SUBDIVISION | 0211003 | 7.40     | 18.29   |              |

 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK THE SAME

(the "DeWinton Lands")

11. In or around June 2012, Mahmoud executed a purchase contract with the previous owner to purchase the DeWinton Lands for a purchase price of \$1.7 million. The transaction was scheduled to close on or about 8 November 2012.
12. After executing the purchase and sale contract in his personal capacity, Mahmoud was approached by Faissal, who was interested in partnering with Mahmoud to purchase the DeWinton Lands. Mahmoud agreed to partner with Faissal for the purchase and development of the DeWinton Lands, incorporating 171 Corp on 7 November 2012 for that purpose.

13. Faissal and Mahmoud agreed to purchase the DeWinton Lands via 171 Corp for a purchase price of \$1.7 million, with title transferring to 171 Corp on 16 November 2012, registered as instrument number 121 300 022.
14. 171 Corp was created for the sole purpose of holding title to the DeWinton Lands, which was its only asset. 171 Corp did not conduct any other business.
15. With respect to the funds to purchase the DeWinton Lands, Mahmoud and Faissal agreed that:
  - a. Mahmoud and Faissal would each contribute equally to the purchase price of the DeWinton Lands, at \$850,000 each;
  - b. Mahmoud's \$850,000 contribution would be paid directly by Faissal by way of cash, in partial satisfaction of an investment liability that Faissal owed Mahmoud, in relation to Mahmoud's work associated with the construction of Faissal's primary residence municipally described as 52-26534 Township Road 384, Red Deer County, Alberta;
  - c. Faissal's \$850,000 contribution would be financed by way of a mortgage taken out by 171 Corp in the amount of \$900,000 from Paragon Capital Corporation Ltd., which was executed on 8 November 2012 by both Faissal and Mahmoud, on behalf of 171 Corp, and registered against title to the DeWinton Lands as instrument number 121 300 323 on 16 November 2012 (the "Paragon Mortgage"). The Paragon Mortgage had an interest rate of 0.625%; and
  - d. As the Paragon Mortgage represented Faissal's contribution to the purchase price, the brothers agreed that Faissal would be solely responsible for servicing the Paragon Mortgage, as well as the property taxes for the DeWinton Lands.
16. The investment strategy agreed to between the brothers was to sit on the DeWinton Lands for several years as the value increased, then use the equity in the DeWinton Lands to finance its development and subdivision into 144 lots. During that time Faissal and Mahmoud collaborated to execute steps towards completing the land development, including:
  - a. In or around January 2013 Mahmoud and Faissal (via 171 Corp) engaged the company 818 Studio Ltd. to create a land development proposal;
  - b. In or around April 2014 Mahmoud and Faissal (via 171 Corp) engaged Acumen Real Estate Valuations Inc. to provide an appraisal of the DeWinton Lands for potential financing, the value of which was appraised at \$6,000,000; and
  - c. Between 2014 and 2020 Faissal and Mahmoud's son purchased additional plots of land adjacent to the DeWinton Lands, in anticipation of the future development of these properties concurrently with the DeWinton Lands.



17. In or around 2016, both Mahmoud and Faissal's focus shifted to a different land development project in Chestermere that they were partners in, which is still ongoing today and for which Mahmoud is still owed money.

#### **DeWinton Lands Scheme**

18. Notwithstanding the joint ownership of the DeWinton Lands via 171 Corp and the plan to use the equity from that land to develop it, Faissal treated the DeWinton Lands as his own, without the knowledge of Mahmoud, as set out below (the "DeWinton Lands Scheme").
19. On or about 21 April 2015 Faissal executed a transfer of land on behalf of 171 Corp, transferring the DeWinton Lands from 171 Corp to his wholly owned corporation, Mclvor. The transfer was registered at land titles on 29 April 2015 as instrument number 151 108 411.
20. The transfer of land from 171 to Mclvor was executed without the knowledge or consent of Mahmoud. In fact, Mahmoud did not become aware the DeWinton Lands had been transferred out of the name of 171 Corp until in or around June 2020.
21. On the same day, 21 April 2015, Faissal (on behalf of Mclvor) executed a mortgage against the DeWinton Lands from the Toronto Dominion Bank in principal sum of \$2,500,000, which was registered against title to the DeWinton Lands on 29 April 2015 as instrument number 151 108 412 (the "TD Mortgage"). The TD Mortgage had an interest rate of 6.5% + prime. A discharge of the Paragon Mortgage was registered on 4 June 2015 as instrument number 151 139 440.
22. The TD Mortgage was procured by Faissal through Mclvor without the knowledge or consent of Mahmoud. In fact, Mahmoud did not become aware of the TD Mortgage until in or around July 2020.
23. On or about 12 August 2016 Faissal caused Mclvor to take out a mortgage against the DeWinton Lands from the Royal Bank of Canada for the principal amount of \$6,000,000 (the "RBC Mortgage"). The RBC Mortgage was registered against title to the DeWinton Lands on 29 August 2016 as instrument number 161 203 509. The RBC Mortgage has an interest rate of 5% plus prime. A discharge of the TD Mortgage was registered against title to the DeWinton Lands on 3 November 2016 as instrument number 161 203 509.
24. The RBC Mortgage was procured by Faissal through Mclvor without the knowledge or consent of Mahmoud. In fact, Mahmoud did not become aware of the RBC Mortgage until in or around June 2020. It is currently unknown what the balance is left owing is under the RBC Mortgage.
25. As a result of the transfer of land to Mclvor, the TD Mortgage and the RBC Mortgage, Faissal (via Mclvor) has removed all or most of the equity of the DeWinton Lands, for the

sole benefit of himself and his related corporate entities, all without the knowledge or approval of Mahmoud. As no improvements or developments have been done to the DeWinton Lands, the funds from the RBC Mortgage were used by Faissal to purchase other properties or fund other investments.

#### **Breach of Duties to Mahmoud and 171 Corp**

26. At all material times Faissal was permitted a discretion to act in ways that could significantly affect the interests of Mahmoud and 171 Corp, who were vulnerable in the exercise of that discretion, such that Faissal owed fiduciary duties to Mahmoud and 171 Corp.
27. At all material times, Faissal was co-director and shareholder of 171 Corp, and owed Mahmoud and 171 Corp statutory and common law duties, including but not limited to:
  - a. to serve 171 Corp faithfully and loyally, and perform his duties and responsibilities in a competent and diligent manner, with due regard to the interests of Mahmoud;
  - b. to act honestly and in good faith in the performance of his duties and responsibilities;
  - c. to obey all lawful direction of 171 Corp, including the implied directions to perform the duties and responsibilities he was tasked with performing;
  - d. to not intentionally or recklessly perform any tasks in a manner detrimental to the interests or well-being of Mahmoud, or in a manner for which harm or loss was reasonably foreseeable;
  - e. to not misuse or misappropriate the funds, property or opportunities of the corporation;
  - f. to exercise reasonable care, diligence and skill in the performance and discharge of their duties to carry out the affairs of the corporation having regard to the best interests of the corporation, and to put those interests ahead of his own personal interests;
  - g. to perform his duties as director in an honest, diligent and competent manner; and
  - h. to keep the other director and shareholder of the corporation, being Mahmoud, properly informed of the financial affairs and business dealings of the corporation, and to not conceal facts or information from him about the financial affairs and business dealings of 171 Corp.
28. Faissal has mismanaged the affairs of 171 Corp, and has breached his statutory and common law duties of care to Mahmoud and 171 Corp, and has acted in a manner that is oppressive and prejudicial to Mahmoud, which includes the following:
  - a. concealed the financial and business affairs of 171 Corp, the specifics of which are still being discovered, including selling or disposing all its assets;

- b. redirected the corporate opportunities of 171 Corp to himself, Mclvor or the other Defendants;
  - c. is or was using the property of 171 Corp for his own personal use, without authorization, and has converted the property of 171 Corp to his own use, directly or indirectly;
  - d. has misappropriated assets from the corporation, the full specifics of which are still being discovered due to the intentional or reckless concealment of corporate information by Faissal;
  - e. has wrongfully diverted corporate opportunities of 171 Corp by transferring the DeWinton Lands and causing a mortgage to be taken out against all, or substantially all, of its equity;
  - f. without authority from 171 Corp, and without the knowledge, consent or approval of Mahmoud, Faissal has caused 171 Corp to pay his personal or related corporation expenses, the full specifics of which are still being discovered;
  - g. Has utilized his power as director and officer of 171 Corp, and has caused the business and affairs of 171 Corp to be carried on and conducted, in a manner that is oppressive or unfairly disregards the interests of Mahmoud; and
  - h. Such further breaches as may be discovered and proven at trial.
29. Further or in the alternative, Faissal as an officer and key employee of 171 Corp, having regard to the specific responsibilities of his respective position within 171 Corp, was privy to financial and proprietary business information of 171 Corp, and was afforded a discretion to act in ways that could adversely affect the interests of 171 Corp, and Mahmoud was vulnerable to him in the exercise of that discretion. Faissal accordingly owed 171 Corp fiduciary duties, including but not limited to a duty to perform his tasks and exercise his power and authority within 171 Corp in good faith, with a view to the best interests of 171 Corp, and in such a manner as to safeguard the interests of 171 Corp and its financial and proprietary business information.
30. As a result of the investment of Mahmoud into 171 Corp and the subsequent improper transfer of the DeWinton Lands to Mclvor, Faissal was the Trustee of Mahmoud's funds and as a result owed Mahmoud a fiduciary duty. This duty required, at minimum, for Faissal to report to the Plaintiff on the business and affairs of both 171 Corp and Mclvor.
31. As a result, the Plaintiff was and is a beneficial owner of no less than 50% of the issued and outstanding shares of Mclvor.

#### **Breach of Trust**

32. At all material times, Mclvor was the Trustee for Mahmoud. As all acts of Mclvor as trustee were carried out by Faissal and Faissal possessed and administered the trust property, Faissal was a Trustee *de son tort* for the Plaintiff.

33. **As Trustees, each of Faissal and Mclvor were in a fiduciary relationship with Mahmoud and owed to Mahmoud,**
- a. **A duty to act honestly and with that level of skill and prudence which would be expected of the reasonable person;**
  - b. **A duty to not place their personal interests ahead of the interests of the Plaintiff;**
  - c. **A duty not to appropriate for other purposes the business and corporate opportunities arising from the trust relationship;**
  - d. **A duty to protect the assets standing in the name of 171 Corp and not to transfer any such assets without the express knowledge and approval of the Plaintiff, as beneficiary of this trust; and**
  - e. **A duty not to profit personally from its dealings with the trust property or with the beneficiary of the trust.**
34. **Mahmoud states that Faissal, Mclvor or both or either of them acted in breach of trust and in breach of their fiduciary duties to Mahmoud, the particulars of which include:**
- a. **Failing to meet the standard of care of an ordinary trustee including failing to be honest to Mahmoud as the beneficiary of the trust, and failing to administer the trust in the way an ordinary prudent person would conduct his affairs;**
  - b. **Registering the shareholdings of 171 Corp as 51% Faissal and 49% Mahmoud, rather than the initially agreed upon shareholdings of 50/50;**
  - c. **Transferring the DeWinton Lands from the jointly owned company 171 Corp to the solely owned company Mclvor, without the knowledge or consent of Mahmoud;**
  - d. **Procuring the TD Mortgage against the DeWinton Lands for the principal amount of \$2.5 Million, without the knowledge and consent of Mahmoud, and for their benefit only;**
  - e. **Procuring the RBC Mortgage against the DeWinton Lands for the principal amount of \$6 Million, without the knowledge and consent of Mahmoud, and for their benefit only;**
  - f. **Failing to account to Mahmoud for the proceeds from the TD Mortgage and the RBC Mortgage, or any investments for which those funds were used;**
  - g. **Failing to provide an accurate accounting to the Plaintiff or intentionally providing a misleading accounting to the Plaintiff including, Failing or refused to provide any financial information from 171 Corp and Mclvor or back up records in respect to Mahmoud's investments notwithstanding the obligation of a Trustee to do so;**

- h. Carrying out self-dealing transactions including the DeWinton Lands Scheme, and taking numerous business and corporate opportunities, for Faissal's personal benefit or for the benefit of his related corporations or unknown third parties;**
  - i. Failing to disclose or otherwise misrepresenting his conduct to Mahmoud; and**
  - j. Such further and other breaches as may be proven at the trial of this action.**
- 35. As a result of the breaches of trust by Faissal and Mclvor, Mahmoud has suffered and will continue to suffer damages and losses, particulars of which include:**
  - a. Loss of equity of the DeWinton Lands;**
  - b. Loss of investment opportunity;**
  - c. Loss of business opportunity, including the ability to develop the DeWinton Lands and neighbouring parcels of land that were purchased by Mahmoud and his son;**
  - d. Loss of share value;**
  - e. Loss of interest; and**
  - f. Such further and other damages as may be proven at the trial of this action.**

#### **Oppression**

- 36. Further, Faissal as the sole director of Mclvor, as a director of 171 Corp, and as a director of various subsidiaries, partnerships, and affiliated corporations, breached the duty of care owed to his respective shareholders, and the beneficial owners thereof, including Mahmoud. Faissal did so by failing to act in accordance with the best interests of the beneficial owners thereof, and by failing to exercise the care, diligence and skill of a reasonably prudent person in Faissal's position.**
- 37. Mahmoud states that Faissal in his capacity as director of the Mclvor and 171 Corp, breached his fiduciary obligations owed to the Plaintiff and acted in a manner which is prejudicial to, or unfairly disregards the interests of, or is oppressive to the Plaintiff, the particulars of which include:**
  - a. Secretly and imprudently advancing and stripping the equity of all, or substantively all, of the assets of 171 Corp, to related companies operated or controlled by Faissal, some of which are other Defendants herein, without adequate or any security, without any written documentation, and without the knowledge, consent or approval of the Plaintiff;**
  - b. Improperly transferring amounts between shareholder loan accounts in such a way as to misrepresent amounts due and owing to the Plaintiff;**

- c. Inappropriately withdrawing excessive amounts in management fees, salary, bonuses, benefits and other remuneration without knowledge, consent and approval of the Plaintiff, the particulars of which are still being discovered;
- d. Failing to follow generally accepted accounting principles and practices; and
- e. Such further and other particulars of oppression or breach of the various obligations as may be proven at the trial of this action,

(collectively, the "Oppressive Actions").

- 38. The Plaintiff specifically pleads and relies on section 242 of the *Business Corporations Act*, RSA 2000, c B-9.
- 39. As a result of the Oppressive Action, and other wrongful acts set out herein, the Plaintiff has suffered and will continue to suffer damages and irreparable harm, particulars of which include, *inter alia* the following:
  - a. Loss of the value of the DeWinton Lands;
  - b. Loss of business opportunity, including the ability to develop the DeWinton Lands and the neighbouring parcels of land purchased by Mahmoud and his son;
  - c. Loss of share value;
  - d. Diminution of share value;
  - e. Loss of investment opportunity;
  - f. Loss of interest; and
  - g. Such further and other damages as may be proven at the trial of this action.
- 40. As a result of the foregoing, the corporate veil should be pierced and liability should be imposed on the director, Faissal, personally, for the wrongful acts of Mclvor.

#### **Conversion**

- 41. By means of the DeWinton Lands Scheme, Faissal has converted Mahmoud's interest in the DeWinton Lands for his own use by causing mortgages to be registered against the DeWinton Lands via Mclvor, and thereby depriving Mahmoud of the benefit of his interest in the DeWinton Lands and the business opportunities associated with the DeWinton Lands.



### Unjust Enrichment

42. Further, and without any juristic reason, the Defendants have received the benefit of the proceeds of the DeWinton Lands Scheme to the detriment of the Plaintiff. The Plaintiff seeks a declaration of a constructive trust or restitution and damages as a result of such unjust enrichment. The quantum of such damages is no less than half the fair market value of the DeWinton Lands.
43. The Defendants are the constructive trustees of any and all funds, property, or other benefits any or all of them received, either directly or indirectly, from the DeWinton Lands Scheme and the Oppressive Actions, set out herein and therefore hold any such funds, property or other benefits in trust for the benefit of the Plaintiff to the extent of his interest. To the extent that any of the Defendants have dissipated any of the funds, property, or other benefits so held on behalf of the Plaintiff, they are in breach of trust and liable to account for and make restitution to the Plaintiff arising from any such breach of trust.
44. Without limiting the generality of the foregoing, the Plaintiff claims the right to a constructive trust over the following real property acquired or improved, directly or indirectly, from proceeds derived from the DeWinton Lands Scheme and the Oppressive Actions, or to the proceeds from the sale of any of the real property, including:

- a. The property owned solely by Faissal in Cochrane, Alberta and legally described as:

PLAN 7410941  
 LOT 4  
 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK SAME  
 AREA: 8.13 HECTARES (20.1 ACRES) MORE OR LESS

This property was purchased by Faissal from a third party for \$2,250,000.00 cash, pursuant to a transfer of land executed 11 August 2016 and registered as instrument number 161 210 265.

- b. The property owned solely by Faissal in Cochrane, Alberta and legally described as:

PLAN 7410941  
 LOT 3  
 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK SAME  
 AREA: 7.6 HECTARES (18.77 ACRES) MORE OR LESS

This property was transferred to Faissal from Mclvor for *nil* consideration pursuant to a transfer of land executed 12 July 2016, registered as instrument number 161 176 636.

- c. The property owned solely by Faissal in Cochrane, Alberta and legally described as:

PLAN M.D. OF ROCKY VIEW 7410941  
 LOT TWO (2)  
 CONTAINING EIGHTEEN AND SIXTEEN HUNDREDTHS (18.16) ACRES  
 MORE OR LESS  
 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK SAME

- d. The property owned solely by Faissal in Foothills County, Alberta and legally described as:

PLAN 731581  
 BLOCK 6  
 CONTAINING 7.93 HECTARES (19.6 ACRES) MORE OR LESS  
 EXCEPTING THEREOUT:

|                             | HECTARES | ACRES | MORE OR LESS |
|-----------------------------|----------|-------|--------------|
| A) PLAN 9913138 SUBDIVISION | 1.84     | 4.55  |              |

EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK SAME

- e. The property owned solely by Faissal municipally described as 52-26534 Township Road 384, Red Deer County, Alberta and legally described as:

PLAN 0120803  
 BLOCK 3  
 LOT 2A  
 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AREA: 1.13 HECTARES (2.79 ACRES) MORE OR LESS

This property is the primary residence of Faissal and is the property-managed and constructed by Mahmoud, and for which Mahmoud accepted 50% equity in the DeWinton Lands as partial payment for his services and investment related to the development.

- f. The property owned solely by Faissal municipally described as 243190 Rainbow Road, Chestermere, Alberta and legally described as:

MERIDIAN 4 RANGE 28 TOWNSHIP 24  
 SECTION 22  
 ALL THAT PORTION OF THE NORTH WEST QUARTER  
 LYING TO THE SOUTH OF PLAN 7510158, TO THE  
 WEST OF BLOCK 3, PLAN 2078 JK, AND TO THE NORTH  
 OF THE WESTERLY PRODUCTION OF THE SOUTH BOUNDARY  
 OF BLOCK 3, PLAN 2078 J.K.,  
 CONTAINING 8.09 HECTARES (20 ACRES) MORE OR LESS  
 EXCEPTING THEREOUT:

|                     |        |                  |              |
|---------------------|--------|------------------|--------------|
| A) PLAN             | NUMBER | HECTARES (ACRES) | MORE OR LESS |
| SUBDIVISION 9012376 | 2.03   | (5.01)           |              |

EXCEPTING THEREOUT ALL MINES AND MINERALS

This property was purchased by Faissal for \$2.05 million pursuant to a transfer of land registered at land titles as instrument number 151 010 609 on 14 January 2015.

- g. The property owned solely by 985 Corp in Drayton Valley, Alberta and legally described as:

PLAN 0721291  
BLOCK 102  
LOT 14  
EXCEPTING THEREOUT ALL MINES AND MINERALS

- h. The property owned solely by MDM Corp in Red Deer, Alberta and legally described as:

PLAN 2223KS  
BLOCK 1  
LOT 4A  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 0.291 HECTARES (0.72 ACRES) MORE OR LESS

This property was purchased by MDM Corp. for \$1.1 million from a third party pursuant to a transfer of land registered at land titles as instrument number 162 262 370 on 21 September 2016.

(collectively, the "Real Property").

45. The Real Property was purchased by Faissal, directly or through closely held corporations including the Defendants, with some or all the funds advanced from the TD Mortgage, and/or the RBC Mortgage on the DeWinton Lands.
46. The Plaintiff claims that the Real Property set out above was acquired, improved, and mortgages were serviced by, funds paid by Faissal or one of the Corporate Defendants.
47. The Plaintiff claims to be entitled to a proprietary interest in all assets and property, including the Real Property set out above, currently in the possession of one or more of the Defendants. This claim and property right arises by virtue of constructive trust, resulting trust, the law of tracing or any of these concepts.
48. The Plaintiff expressly claims an ownership interest in the Real Property.
49. The Plaintiff also claims rights to a constructive trust over any personal property acquired directly or indirectly from proceeds derived from the DeWinton Lands Scheme and the Oppressive Actions, and located anywhere in Canada or to the proceeds from the sale of any of the personal property, including any property or equipment acquired by FMPC in relation to its operations as a dental office.

**Conspiracy**

50. Further, or in the alternative, Faissal and the other Defendants, together or each individually, acted pursuant to a common design, the predominant purpose of which was to cause harm to the Plaintiff. The Plaintiff has suffered loss and damage as a result in an amount to be proven at the trial of this action.
51. Each of Faissal and the Corporate Defendants unlawfully conspired to carry out the DeWinton Lands Scheme and the Oppressive Actions, for the predominate purpose of causing injury to the Plaintiff and benefit themselves, which resulted in the Plaintiff suffering loss and damage. In so doing, the Defendants acted jointly knowing that injury to the Plaintiff was likely to occur and that the means being used to carry out the DeWinton Lands Scheme and the Oppressive Actions, were unlawful.
52. Alternatively, Faissal and the other defendants together with other unknown parties, acted jointly, their conduct was directed at the Plaintiff, and they knew or ought to have known that the Plaintiff would suffer harm as a result of these actions.
53. In doing any of the foregoing activities and by participating in the DeWinton Lands Scheme and the Oppressive Actions, Faissal has misused corporate authority and abused his power as an officer and director of the Corporate Defendants and 171 Corp. In doing so, Faissal breached his obligation to manage the Plaintiff's funds and instead acted in his own best interest and for his own benefit or the benefit of the other Defendants.

**Knowing Assistance / Knowing Receipt**

54. The Corporate Defendants, and each of them, knew or were reckless or willfully blind to the fact that Faissal was acting unlawfully and in breach of trust and in breach of his fiduciary duties to the Plaintiff and 171 Corp in orchestrating the DeWinton Lands Scheme and other actions set out herein against the Plaintiff. The Corporate Defendants received and accepted the proceeds arising from this scheme when each knew or ought to have known that such proceeds arose from, and were made to each of them, in breach of the duties owed by Faissal to the Plaintiff and 171 Corp.
55. Further, or in the alternative, the corporate Defendants ought to have known that receipt and acceptance of the proceeds from the wrongful acts constituted the knowing receipt of the proceeds of unlawful conduct or were generated in breach of the fiduciary obligations owed by Faissal to the Plaintiff. As a result, the Defendants hold any proceeds received by the Defendants (whether directly or indirectly) as a result of the actions of Faissal as constructive trustees for the Plaintiff.

**Waiver of Tort**

56. In light of the wrongful and unlawful conduct of the Defendants, this is an appropriate case under which the Plaintiff may elect to waive compensation as a remedy and receive the

disgorgement of any gains received by the Defendants as a result of their misconduct, along with an accounting of any profits received by the Defendants.

57. The Plaintiff claims return of those funds in whatever form to which they can be traced, and damages to the extent such funds have been dissipated.

#### **Tracing and Preservation Orders**

58. As a result of the Defendants' wrongful conduct as set out above, the Plaintiff is entitled to trace all amounts received or disbursed by the Defendants, directly or indirectly, as part of or as a result of the the DeWinton Lands Scheme and the Oppressive Actions, including the Real Property, and any other assets as part of the constructive trust claim, and the right to recover same (the "Traced Assets").
59. The Plaintiff is also entitled to an accounting of the monies belonging to the Plaintiff that have come into the possession of any of the Defendants, and to an accounting of any benefit received by any of the Defendants as a result of the DeWinton Lands Scheme and the Oppressive Actions.
60. The Plaintiff is also entitled to interim and permanent injunctions restraining the Defendants from disposing of any of their assets wherever located and an accounting of all of these Defendants' assets, effects, and property, including any trust account or jointly held assets, any improper disposition thereof, and all money had or received by the Defendants or anyone on their behalf.
61. The Plaintiff is also entitled to a preservation order preventing the Defendants from diminishing the value of any of their assets, wherever located, and requiring the Defendants to take all necessary steps to preserve the value of any such property along with any evidence in their power, possession, or control relating to the matters at issue in this Action.
62. The Defendants are liable to make restitution to the Plaintiff and to disgorge any benefits received from the DeWinton Lands Scheme and the Oppressive Actions, to the Plaintiff.

#### **Remedy sought:**

63. The Plaintiff claims jointly and severally against the Defendants:
- a. Damages in the amount of \$3,000,000.00 or such further and other amount as may be proven at trial;
  - b. An accounting of all assets, effects and property of the Defendants, including interest in any accounts and of all money had or received by the Defendants, or any person on their behalf and all dealings and transactions between the Defendants;

- c. A full accounting from Faissal and Mclvor, include the dealings with the other Defendants or other corporations or individuals, their subsidiaries and affiliates;
- d. An Order that Faissal and Mclvor disgorge all profits made and all assets acquired as a result of their breaches of trust and breaches of fiduciary duty;
- e. A declaration that the Plaintiff is an owner, and holder of a proprietary interest, in each of parcels identified as the Real Property above;
- f. A declaration that the Plaintiff is entitled to trace all amounts wrongfully received or disbursed by the Defendants in, to and through any financial institution, accounts or deposit facilities in the name of the Defendants and in, to or through any assets purchased by the Defendants with the Plaintiff's funds and to recover same;
- g. An Order directing rectification of the registers or other records of all corporations in which the Plaintiff has proved his interest and directing compensation to the Plaintiff under section 244 of the *Business Corporations Act*;
- h. A declaration that the corporate veil of the corporate Defendants be pierced so that judgment may be granted against Faissal personally;
- i. An Order to compensate the Plaintiff, as a complainant under Part 19 of the *Business Corporations Act*, and such further and other relief to which the Plaintiff is entitled, as determined by the Court;
- j. An Order, pursuant to section 118(5) and 118(6)(a) of the *Business Corporations Act*, directing the repayment and restoration of Mahmoud and 171 Corp's funds and property;
- k. An Order pursuant to section 240 and 242(3)(g) of the *Business Corporations Act*, granting leave to Mahmoud to commence a derivative action in the name of 171 Corp, if necessary and a corresponding Order, pursuant to section 241 of the *Business Corporations Act*, (a) authorizing Mahmoud to control the conduct of this Action on behalf of 171 Corp (b) for the Court's directions regarding the conduct of this Action, and (c) requiring that any amount adjudged payable by the Defendants in this Action shall be paid, in whole or in part, to Mahmoud;
- l. An interim and permanent injunction restraining the Defendants from disposing of any of their assets, wherever located, including those held by any other person on their behalf;
- m. A preservation order restraining the Defendants from any conduct that would diminish the value of any of their assets, wherever located, and requiring the Defendants to take all necessary steps to preserve the value of any such property along with any evidence in their power, possession, or control relating got the matters at issue in this Action;
- n. An order appointing a receiver or receiver-manager over the assets and undertakings of Faissal and Mclvor on such terms as this Court may deem just;

- o. Damages for breach of trust and breach of fiduciary duty in an amount to be proven at trial;
- p. Special damages arising out of the detection, investigation and quantification, and recovery of the losses, and consequential losses suffered by the Plaintiff in an amount to be proven at trial;
- q. Punitive and exemplary damages in the amount of \$100,000 against Faissal;
- r. Pre-judgment and post-judgment interest in accordance with the Plaintiff's costs of funds, or alternatively, the *Judgment Interest Act*;
- s. Costs of this action on a solicitor and client basis; and
- t. Such further and other relief as this Honourable Court deems just.

**NOTICE TO THE DEFENDANTS**

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

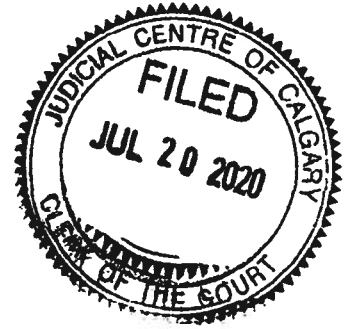
2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at 601 – 5<sup>th</sup> Street, Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's address for service.

**WARNING**

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff against you.





Court File No 2001-09035  
Court Court of Queen's Bench of Alberta  
Judicial Centre Calgary  
Plaintiff Mahmoud Mohamad  
Defendants Faissal Mouhamad, Mclvor Developments Ltd., Michael Dave Management Ltd., Faissal Mouhamad Professional Corporation and 985842 Alberta Ltd.

Document CERTIFICATE OF LIS PENDENS

Address for service and contact information of party filing this document

Anderson James McCall  
300, 444 - 5 Avenue SW  
Calgary, AB T2P 2T8

Attention: Brad J. Findlater  
Phone: 403.221.8333  
Facsimile: 403.221.8339  
Email: bfindlater@ajmbarristers.com  
File No.: 9409bjf

I hereby certify this to be a true copy of the original CLP

Dated this 20 day of July 2020  
McCall  
for Clerk of the Court

TO: Registrar of Land Title

THIS IS TO CERTIFY that in this action a claim has been made to enforce an interest in land or some title or interest in land is called into question, as follows:

The Plaintiff claims an interest as the beneficiary of a trust or through a constructive trust,

in the following described lands and premises, namely:

✓  
MERIDIAN 4 RANGE 29 TOWNSHIP 21  
SECTION 32  
THAT PORTION OF THE SOUTH WEST QUARTER  
WHICH LIES NORTH EAST OF ROAD PLAN 8210125  
CONTAINING 44.2 HECTARES (109.2 ACRES) MORE OR LESS  
EXCEPTING THEREOUT

| PLAN        | NUMBER  | HECTARES | (ACRES) | MORE OR LESS |
|-------------|---------|----------|---------|--------------|
| ROAD        | 0210206 | 0.860    | 2.13    |              |
| ROAD        | 0211040 | 3.66     | 9.04    |              |
| SUBDIVISION | 0211003 | 7.40     | 18.29   |              |

EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK THE SAME

And

5 ✓

PLAN 7410941  
LOT 4  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK SAME  
AREA: 8.13 HECTARES (20.1 ACRES) MORE OR LESS

And

5 ✓

PLAN 7410941  
LOT 3  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK SAME  
AREA: 7.6 HECTARES (18.77 ACRES) MORE OR LESS

And

5 ✓

PLAN M.D. OF ROCKY VIEW 7410941  
LOT TWO (2)  
CONTAINING EIGHTEEN AND SIXTEEN HUNDREDTHS (18.16) ACRES  
MORE OR LESS  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK SAME

And

5 ✓

PLAN 731581  
BLOCK 6  
CONTAINING 7.93 HECTARES (19.6 ACRES) MORE OR LESS  
EXCEPTING THEREOUT:  

|                             |          |       |              |
|-----------------------------|----------|-------|--------------|
|                             | HECTARES | ACRES | MORE OR LESS |
| A) PLAN 9913138 SUBDIVISION | 1.84     | 4.55  |              |

  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK SAME

And

N

PLAN 0120803  
BLOCK 3  
LOT 2A  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 1.13 HECTARES (2.79 ACRES) MORE OR LESS

And

5 ✓

MERIDIAN 4 RANGE 28 TOWNSHIP 24  
SECTION 22  
ALL THAT PORTION OF THE NORTH WEST QUARTER  
LYING TO THE SOUTH OF PLAN 7510158, TO THE  
WEST OF BLOCK 3, PLAN 2078 JK, AND TO THE NORTH  
OF THE WESTERLY PRODUCTION OF THE SOUTH BOUNDARY  
OF BLOCK 3, PLAN 2078 J.K.,  
CONTAINING 8.09 HECTARES (20 ACRES) MORE OR LESS  
EXCEPTING THEREOUT:  
A) PLAN NUMBER HECTARES (ACRES) MORE OR LESS  
SUBDIVISION 9012376 2.03 (5.01)  
  
EXCEPTING THEREOUT ALL MINES AND MINERALS

And

N

PLAN 0721291  
BLOCK 102  
LOT 14  
EXCEPTING THEREOUT ALL MINES AND MINERALS

And

N

PLAN 2223KS  
BLOCK 1  
LOT 4A  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 0.291 HECTARES (0.72 ACRES) MORE OR LESS

pursuant to a Statement of Claim issued on the 27 day of July 2020.

Dated at Calgary, Alberta,

On 27 July 2020

Monica Nestor  
Clerk of the Court

# EXHIBIT I

THIS EXHIBIT "I" REFERRED TO IN THE  
AFFIDAVIT OF

*McDonald Mahood*

SWORN BEFORE ME THIS 5 DAY

OF April A.D. 2023

*[Signature]*  
COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA

**CHRISTOPHER LEWIS KOZORIZ**

A Commissioner for Oaths  
in and for Alberta

My Commission expires June 21, 2024  
Appointee No. 0735825



Court File No 2001-09035  
Court Court of Queen's Bench of Alberta  
Judicial Centre Calgary  
Plaintiff Mahmoud Mohamad  
Defendants Faissal Mouhamad, McIvor Developments Ltd., Michael Dave Management Ltd., Faissal Mouhamad Professional Corporation and 985842 Alberta Ltd.

Document **AMENDED STATEMENT OF CLAIM**

Address for service and contact information of party filing this document

**ANDERSON JAMES MCCALL**  
300, 444 -5<sup>th</sup> Avenue SW  
Calgary, AB T2P 2T8  
Attention: Brad J. Findlater  
Phone: 403.221.8333  
Facsimile: 403.221.8339  
File No.: 9409

AMENDED this 10<sup>th</sup> day of August 2020 Pursuant to Rule 3.15 dated the            day of           

**NOTICE TO DEFENDANTS**

You are being sued. You are a defendant. Go to the end of this document to see what you can do and when you must do it.

**The Parties**

1. The Plaintiff, Mahmoud Mohamad ("Mahmoud") is an individual residing in Calgary, Alberta.
2. The Defendant, Faissal Mouhamad ("Faissal"), is an individual residing in Red Deer, Alberta. Faissal and Mahmoud are brothers.
3. The Defendant, McIvor Developments Ltd. ("McIvor"), is an Alberta corporation owned and operated by Faissal, who is also the sole director and shareholder.
4. The Defendant, Michael Dave Management Ltd. ("MDM Corp"), is an Alberta corporation owned and operated by Faissal, who is also the sole director and shareholder.
5. The Defendant, Faissal Mouhamad Professional Corporation ("FMPC"), is to the best of the Plaintiff's knowledge, a professional corporation with its main dental offices in Red Deer, Alberta, which to the best of the Plaintiff's knowledge, at all material times, Faissal was the sole practitioner.
6. The Defendant, 985842 Alberta Ltd. ("985 Corp"), is an Alberta corporation owned and operated by Faissal, who is also the sole director and shareholder.

7. The company 1711403 Alberta Ltd. ("171 Corp") is an Alberta corporation created by both Faissal and Mahmoud on or about 7 November 2012, for which both they are co-directors. The shareholdings of 171 Corp are listed at the corporate registry as 51% Faissal and 49% Mahmoud, however it should be 50% each.
8. The Defendants McIvor, MDM Corp, FMPC and 985 Corp are referred to collectively as the "Corporate Defendants".
9. At all material times, the Corporate Defendants were the *alter egos* of, and were dominated by Faissal. As such, Faissal is personally liable for the wrongful conduct of the Corporate Defendants set out below.

#### DeWinton Lands Acquisition

10. Mahmoud and Faissal are brothers who have historically done numerous land development projects and other investments together. One such investment was to purchase farmlands in the municipality of Foothills County, near the hamlet of DeWinton. The farmlands are comprised of 109 acres, legally described as follows:

MERIDIAN 4 RANGE 29 TOWNSHIP 21  
 SECTION 32  
 THAT PORTION OF THE SOUTH WEST QUARTER  
 WHICH LIES NORTH EAST OF ROAD PLAN 8210125  
 CONTAINING 44.2 HECTARES (109.2 ACRES) MORE OR LESS  
 EXCEPTING THEREOUT  

| PLAN        | NUMBER  | HECTARES | (ACRES) | MORE OR LESS |
|-------------|---------|----------|---------|--------------|
| ROAD        | 0210206 | 0.860    | 2.13    |              |
| ROAD        | 0211040 | 3.66     | 9.04    |              |
| SUBDIVISION | 0211003 | 7.40     | 18.29   |              |

 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK THE SAME

(the "DeWinton Lands")

11. In or around June 2012, Mahmoud executed a purchase contract with the previous owner to purchase the DeWinton Lands for a purchase price of \$1.7 million. The transaction was scheduled to close on or about 8 November 2012.
12. After executing the purchase and sale contract in his personal capacity, Mahmoud was approached by Faissal, who was interested in partnering with Mahmoud to purchase the DeWinton Lands. Mahmoud agreed to partner with Faissal for the purchase and development of the DeWinton Lands, incorporating 171 Corp on 7 November 2012 for that purpose.

13. Faissal and Mahmoud agreed to purchase the DeWinton Lands via 171 Corp for a purchase price of \$1.7 million, with title transferring to 171 Corp on 16 November 2012, registered as instrument number 121 300 022.
14. 171 Corp was created for the sole purpose of holding title to the DeWinton Lands, which was its only asset. 171 Corp did not conduct any other business.
15. With respect to the funds to purchase the DeWinton Lands, Mahmoud and Faissal agreed that:
  - a. Mahmoud and Faissal would each contribute equally to the purchase price of the DeWinton Lands, at \$850,000 each;
  - b. Mahmoud's \$850,000 contribution would be paid directly by Faissal by way of cash, in partial satisfaction of an investment liability that Faissal owed Mahmoud, in relation to Mahmoud's work associated with the construction of Faissal's primary residence municipally described as 52-28534 Township Road 384, Red Deer County, Alberta;
  - c. Faissal's \$850,000 contribution would be financed by way of a mortgage taken out by 171 Corp in the amount of \$900,000 from Paragon Capital Corporation Ltd., which was executed on 8 November 2012 by both Faissal and Mahmoud, on behalf of 171 Corp, and registered against title to the DeWinton Lands as instrument number 121 300 323 on 16 November 2012 (the "Paragon Mortgage"). The Paragon Mortgage had an interest rate of 0.625%; and
  - d. As the Paragon Mortgage represented Faissal's contribution to the purchase price, the brothers agreed that Faissal would be solely responsible for servicing the Paragon Mortgage, as well as the property taxes for the DeWinton Lands.
16. The investment strategy agreed to between the brothers was to sit on the DeWinton Lands for several years as the value increased, then use the equity in the DeWinton Lands to finance its development and subdivision into 144 lots. During that time Faissal and Mahmoud collaborated to execute steps towards completing the land development, including:
  - a. In or around January 2013 Mahmoud and Faissal (via 171 Corp) engaged the company 818 Studio Ltd. to create a land development proposal;
  - b. In or around April 2014 Mahmoud and Faissal (via 171 Corp) engaged Acumen Real Estate Valuations Inc. to provide an appraisal of the DeWinton Lands for potential financing, the value of which was appraised at \$6,000,000; and
  - c. Between 2014 and 2020 Faissal and Mahmoud's son purchased additional plots of land adjacent to the DeWinton Lands, in anticipation of the future development of these properties concurrently with the DeWinton Lands.



17. In or around 2016, both Mahmoud and Faissal's focus shifted to a different land development project in Chestermere that they were partners in, which is still ongoing today and for which Mahmoud is still owed money.

#### **DeWinton Lands Scheme**

18. Notwithstanding the joint ownership of the DeWinton Lands via 171 Corp and the plan to use the equity from that land to develop it, Faissal treated the DeWinton Lands as his own, without the knowledge of Mahmoud, as set out below (the "DeWinton Lands Scheme").
19. On or about 21 April 2015 Faissal executed a transfer of land on behalf of 171 Corp, transferring the DeWinton Lands from 171 Corp to his wholly owned corporation, Mclvor. The transfer was registered at land titles on 29 April 2015 as instrument number 151 108 411.
20. The transfer of land from 171 to Mclvor was executed without the knowledge or consent of Mahmoud. In fact, Mahmoud did not become aware the DeWinton Lands had been transferred out of the name of 171 Corp until in or around June 2020.
21. On the same day, 21 April 2015, Faissal (on behalf of Mclvor) executed a mortgage against the DeWinton Lands from the Toronto Dominion Bank in principal sum of \$2,500,000, which was registered against title to the DeWinton Lands on 29 April 2015 as instrument number 151 108 412 (the "TD Mortgage"). The TD Mortgage had an interest rate of 6.5% + prime. A discharge of the Paragon Mortgage was registered on 4 June 2015 as instrument number 151 139 440.
22. The TD Mortgage was procured by Faissal through Mclvor without the knowledge or consent of Mahmoud. In fact, Mahmoud did not become aware of the TD Mortgage until in or around July 2020.
23. On or about 12 August 2016 Faissal caused Mclvor to take out a mortgage against the DeWinton Lands from the Royal Bank of Canada for the principal amount of \$6,000,000 (the "RBC Mortgage"). The RBC Mortgage was registered against title to the DeWinton Lands on 29 August 2016 as instrument number 161 203 509. The RBC Mortgage has an interest rate of 5% plus prime. A discharge of the TD Mortgage was registered against title to the DeWinton Lands on 3 November 2016 as instrument number 161 203 509.
24. The RBC Mortgage was procured by Faissal through Mclvor without the knowledge or consent of Mahmoud. In fact, Mahmoud did not become aware of the RBC Mortgage until in or around June 2020. It is currently unknown what the balance is left owing is under the RBC Mortgage.
25. On 23 July 2020 Faissal, after the filing of the Statement of Claim in this Action, FMPC and 985 Corp caused a mortgage to be registered against title to the DeWinton Lands in

the principal amount of \$6,500,000, the mortgagees being FMPC for \$4,500,000 and 985 Corp for \$2,000,000 (the "Faissal Mortgage").

26. The Faissal Mortgage was also registered as against several other properties that are included and particularized at paragraphs \_\_\_ below, and defined as the 'Real Property'.

**As a result of the transfer of land to Mclvor, the TD Mortgage and the RBC Mortgage, and the Faissal Mortgage, Faissal (via Mclvor and the other Defendants) has removed all or most of the equity of the DeWinton Lands, for the sole benefit of himself and his related corporate entities, all without the knowledge or approval of Mahmoud. As no improvements or developments have been done to the DeWinton Lands, the funds from the RBC Mortgage were used by Faissal to purchase other properties or fund other investments. Breach of Duties to Mahmoud and 171 Corp**

27. At all material times Faissal was permitted a discretion to act in ways that could significantly affect the interests of Mahmoud and 171 Corp, who were vulnerable in the exercise of that discretion, such that Faissal owed fiduciary duties to Mahmoud and 171 Corp.
28. At all material times, Faissal was co-director and shareholder of 171 Corp, and owed Mahmoud and 171 Corp statutory and common law duties, including but not limited to:
- a. to serve 171 Corp faithfully and loyally, and perform his duties and responsibilities in a competent and diligent manner, with due regard to the interests of Mahmoud;
  - b. to act honestly and in good faith in the performance of his duties and responsibilities;
  - c. to obey all lawful direction of 171 Corp, including the implied directions to perform the duties and responsibilities he was tasked with performing;
  - d. to not intentionally or recklessly perform any tasks in a manner detrimental to the interests or well-being of Mahmoud, or in a manner for which harm or loss was reasonably foreseeable;
  - e. to not misuse or misappropriate the funds, property or opportunities of the corporation;
  - f. to exercise reasonable care, diligence and skill in the performance and discharge of their duties to carry out the affairs of the corporation having regard to the best interests of the corporation, and to put those interests ahead of his own personal interests;
  - g. to perform his duties as director in an honest, diligent and competent manner; and
  - h. to keep the other director and shareholder of the corporation, being Mahmoud, properly informed of the financial affairs and business dealings of the corporation, and to not conceal facts or information from him about the financial affairs and business dealings of 171 Corp.

29. **Faissal has mismanaged the affairs of 171 Corp, and has breached his statutory and common law duties of care to Mahmoud and 171 Corp, and has acted in a manner that is oppressive and prejudicial to Mahmoud, which includes the following:**
- a. **concealed the financial and business affairs of 171 Corp, the specifics of which are still being discovered, including selling or disposing all its assets;**
  - b. **redirected the corporate opportunities of 171 Corp to himself, Mclvor or the other Defendants;**
  - c. **is or was using the property of 171 Corp for his own personal use, without authorization, and has converted the property of 171 Corp to his own use, directly or indirectly;**
  - d. **has misappropriated assets from the corporation, the full specifics of which are still being discovered due to the intentional or reckless concealment of corporate information by Faissal;**
  - e. **has wrongfully diverted corporate opportunities of 171 Corp by transferring the DeWinton Lands and causing a mortgage to be taken out against all, or substantially all, of its equity;**
  - f. **without authority from 171 Corp, and without the knowledge, consent or approval of Mahmoud, Faissal has caused 171 Corp to pay his personal or related corporation expenses, the full specifics of which are still being discovered;**
  - g. **Has utilized his power as director and officer of 171 Corp, and has caused the business and affairs of 171 Corp to be carried on and conducted, in a manner that is oppressive or unfairly disregards the interests of Mahmoud; and**
  - h. **Such further breaches as may be discovered and proven at trial.**
30. **Further or in the alternative, Faissal as an officer and key employee of 171 Corp, having regard to the specific responsibilities of his respective position within 171 Corp, was privy to financial and proprietary business information of 171 Corp, and was afforded a discretion to act in ways that could adversely affect the interests of 171 Corp, and Mahmoud was vulnerable to him in the exercise of that discretion. Faissal accordingly owed 171 Corp fiduciary duties, including but not limited to a duty to perform his tasks and exercise his power and authority within 171 Corp in good faith, with a view to the best interests of 171 Corp, and in such a manner as to safeguard the interests of 171 Corp and its financial and proprietary business information.**
31. **As a result of the investment of Mahmoud into 171 Corp and the subsequent improper transfer of the DeWinton Lands to Mclvor, Faissal was the Trustee of Mahmoud's funds and as a result owed Mahmoud a fiduciary duty. This duty required, at minimum, for Faissal to report to the Plaintiff on the business and affairs of both 171 Corp and Mclvor.**

32. As a result, the Plaintiff was and is a beneficial owner of no less than 50% of the issued and outstanding shares of Mclvor.
33. In accordance with the Plaintiff's beneficial interest in the DeWinton Lands, the Plaintiff caused a caveat to be registered against title to the DeWinton Lands on 20 July 2020 as instrument number 201 128 484 (the "Caveat").

#### **Breach of Trust**

34. At all material times, Mclvor was the Trustee for Mahmoud. As all acts of Mclvor as trustee were carried out by Faissal and Faissal possessed and administered the trust property, Faissal was a Trustee *de son tort* for the Plaintiff.
35. As Trustees, each of Faissal and Mclvor were in a fiduciary relationship with Mahmoud and owed to Mahmoud,
- a. A duty to act honestly and with that level of skill and prudence which would be expected of the reasonable person;
  - b. A duty to not place their personal interests ahead of the interests of the Plaintiff;
  - c. A duty not to appropriate for other purposes the business and corporate opportunities arising from the trust relationship;
  - d. A duty to protect the assets standing in the name of 171 Corp and not to transfer any such assets without the express knowledge and approval of the Plaintiff, as beneficiary of this trust; and
  - e. A duty not to profit personally from its dealings with the trust property or with the beneficiary of the trust.
36. Mahmoud states that Faissal, Mclvor or both or either of them acted in breach of trust and in breach of their fiduciary duties to Mahmoud, the particulars of which include:
- a. Failing to meet the standard of care of an ordinary trustee including failing to be honest to Mahmoud as the beneficiary of the trust, and failing to administer the trust in the way an ordinary prudent person would conduct his affairs;
  - b. Registering the shareholdings of 171 Corp as 51% Faissal and 49% Mahmoud, rather than the initially agreed upon shareholdings of 50/50;
  - c. Transferring the DeWinton Lands from the jointly owned company 171 Corp to the solely owned company Mclvor, without the knowledge or consent of Mahmoud;
  - d. Procuring the TD Mortgage against the DeWinton Lands for the principal amount of \$2.5 Million, without the knowledge and consent of Mahmoud, and for their benefit only;

- e. Procuring the RBC Mortgage against the DeWinton Lands for the principal amount of \$6 Million, without the knowledge and consent of Mahmoud, and for their benefit only;
  - f. Procuring the Faissal Mortgage against the DeWinton Lands for the principal amount of \$6.5 million, without the knowledge and consent of Mahmoud, for the benefit of the Defendants, and for an improper purpose;
  - g. Failing to account to Mahmoud for the proceeds from the TD Mortgage and the RBC Mortgage, or any investments for which those funds were used;
  - h. Failing to provide an accurate accounting to the Plaintiff or intentionally providing a misleading accounting to the Plaintiff including, Failing or refused to provide any financial information from 171 Corp and Mclvor or back up records in respect to Mahmoud's investments notwithstanding the obligation of a Trustee to do so;
  - i. Carrying out self-dealing transactions including the DeWinton Lands Scheme, and taking numerous business and corporate opportunities, for Faissal's personal benefit or for the benefit of his related corporations or unknown third parties;
  - j. Failing to disclose or otherwise misrepresenting his conduct to Mahmoud; and
  - k. Such further and other breaches as may be proven at the trial of this action.
37. As a result of the breaches of trust by Faissal and Mclvor, Mahmoud has suffered and will continue to suffer damages and losses, particulars of which include:
- a. Loss of equity of the DeWinton Lands;
  - b. Loss of investment opportunity;
  - c. Loss of business opportunity, including the ability to develop the DeWinton Lands and neighbouring parcels of land that were purchased by Mahmoud and his son;
  - d. Loss of share value;
  - e. Loss of interest; and
  - f. Such further and other damages as may be proven at the trial of this action.

#### **Oppression**

38. Further, Faissal as the sole director of Mclvor, as a director of 171 Corp, and as a director of various subsidiaries, partnerships, and affiliated corporations, breached the duty of care owed to his respective shareholders, and the beneficial owners thereof, including Mahmoud. Faissal did so by failing to act in accordance with the best interests of the

beneficial owners thereof, and by failing to exercise the care, diligence and skill of a reasonably prudent person in Faissal's position.

39. Mahmoud states that Faissal in his capacity as director of the McIvor and 171 Corp, breached his fiduciary obligations owed to the Plaintiff and acted in a manner which is prejudicial to, or unfairly disregards the interests of, or is oppressive to the Plaintiff, the particulars of which include:

- a. Secretly and imprudently advancing and stripping the equity of all, or substantively all, of the assets of 171 Corp, to related companies operated or controlled by Faissal, some of which are other Defendants herein, without adequate or any security, without any written documentation, and without the knowledge, consent or approval of the Plaintiff;
- b. Improperly transferring amounts between shareholder loan accounts in such a way as to misrepresent amounts due and owing to the Plaintiff;
- c. Inappropriately withdrawing excessive amounts in management fees, salary, bonuses, benefits and other remuneration without knowledge, consent and approval of the Plaintiff, the particulars of which are still being discovered;
- d. Registering the Faissal Mortgage as against the DeWinton Lands and several other properties (as set out below), when the Faissal Mortgage was never funded, and further or in the alternative, for the sole purpose of attempting to strip the equity of the real property owned by one or more the Defendants;
- e. Failing to follow generally accepted accounting principles and practices; and
- f. Such further and other particulars of oppression or breach of the various obligations as may be proven at the trial of this action,

(collectively, the "Oppressive Actions").

40. The Plaintiff specifically pleads and relies on section 242 of the *Business Corporations Act*, RSA 2000, c B-9.

41. As a result of the Oppressive Action, and other wrongful acts set out herein, the Plaintiff has suffered and will continue to suffer damages and irreparable harm, particulars of which include, *inter alia* the following:

- a. Loss of the value of the DeWinton Lands;
- b. Loss of business opportunity, including the ability to develop the DeWinton Lands and the neighbouring parcels of land purchased by Mahmoud and his son;
- c. Loss of share value;

- d. Diminution of share value;
  - e. Loss of investment opportunity;
  - f. Loss of interest; and
  - g. Such further and other damages as may be proven at the trial of this action.
42. As a result of the foregoing, the corporate veil should be pierced and liability should be imposed on the director, Faissal, personally, for the wrongful acts of Mclvor.

#### **Conversion**

43. By means of the DeWinton Lands Scheme, Faissal has converted Mahmoud's interest in the DeWinton Lands for his own use by causing mortgages to be registered against the DeWinton Lands via Mclvor, and thereby depriving Mahmoud of the benefit of his interest in the DeWinton Lands and the business opportunities associated with the DeWinton Lands.

#### **Unjust Enrichment**

44. Further, and without any juristic reason, the Defendants have received the benefit of the proceeds of the DeWinton Lands Scheme to the detriment of the Plaintiff. The Plaintiff seeks a declaration of a constructive trust or restitution and damages as a result of such unjust enrichment. The quantum of such damages is no less than half the fair market value of the DeWinton Lands.
45. The Defendants are the constructive trustees of any and all funds, property, or other benefits any or all of them received, either directly or indirectly, from the DeWinton Lands Scheme and the Oppressive Actions, set out herein and therefore hold any such funds, property or other benefits in trust for the benefit of the Plaintiff to the extent of his interest. To the extent that any of the Defendants have dissipated any of the funds, property, or other benefits so held on behalf of the Plaintiff, they are in breach of trust and liable to account for and make restitution to the Plaintiff arising from any such breach of trust.
46. Without limiting the generality of the foregoing, the Plaintiff claims the right to a constructive trust over the following real property acquired or improved, directly or indirectly, from proceeds derived from the DeWinton Lands Scheme and the Oppressive Actions, or to the proceeds from the sale of any of the real property, including:
- a. The property owned solely by Faissal in Cochrane, Alberta and legally described as:

**PLAN 7410941  
 LOT 4  
 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK SAME**



**AREA: 8.13 HECTARES (20.1 ACRES) MORE OR LESS**

This property was purchased by Faissal from a third party for \$2,250,000.00 cash, pursuant to a transfer of land executed 11 August 2016 and registered as instrument number 161 210 265.

The Faissal Mortgage was registered as against this property.

- b. The property owned solely by Faissal in Cochrane, Alberta and legally described as:

PLAN 7410941  
 LOT 3  
 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK SAME  
 AREA: 7.6 HECTARES (18.77 ACRES) MORE OR LESS

This property was transferred to Faissal from McIvor for *nil* consideration pursuant to a transfer of land executed 12 July 2016, registered as instrument number 161 176 636.

The Faissal Mortgage was registered as against this property.

- c. The property owned solely by Faissal in Cochrane, Alberta and legally described as:

PLAN M.D. OF ROCKY VIEW 7410941  
 LOT TWO (2)  
 CONTAINING EIGHTEEN AND SIXTEEN HUNDREDTHS (18.16) ACRES  
 MORE OR LESS  
 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK SAME

The Faissal Mortgage was registered as against this property.

- d. The property owned solely by Faissal in Foothills County, Alberta and legally described as:

PLAN 731581  
 BLOCK 6  
 CONTAINING 7.93 HECTARES (19.6 ACRES) MORE OR LESS  
 EXCEPTING THEREOUT:

|                             | HECTARES | ACRES | MORE OR LESS |
|-----------------------------|----------|-------|--------------|
| A) PLAN 9913138 SUBDIVISION | 1.84     | 4.55  |              |

EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK SAME

The Faissal Mortgage was registered as against this property.

- e. The property owned solely by Faissal municipally described as 52-26534 Township Road 384, Red Deer County, Alberta and legally described as:

PLAN 0120803  
BLOCK 3  
LOT 2A  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 1.13 HECTARES (2.79 ACRES) MORE OR LESS

This property is the primary residence of Faissal and is the property-managed and constructed by Mahmoud, and for which Mahmoud accepted 50% equity in the DeWinton Lands as partial payment for his services and investment related to the development.

- f. The property owned solely by Faissal municipally described as 243190 Rainbow Road, Chestermere, Alberta and legally described as:

MERIDIAN 4 RANGE 28 TOWNSHIP 24  
SECTION 22  
ALL THAT PORTION OF THE NORTH WEST QUARTER  
LYING TO THE SOUTH OF PLAN 7510158, TO THE  
WEST OF BLOCK 3, PLAN 2078 JK, AND TO THE NORTH  
OF THE WESTERLY PRODUCTION OF THE SOUTH BOUNDARY  
OF BLOCK 3, PLAN 2078 J.K.,  
CONTAINING 8.09 HECTARES (20 ACRES) MORE OR LESS  
EXCEPTING THEREOUT:  
A) PLAN NUMBER HECTARES (ACRES) MORE OR LESS  
SUBDIVISION 9012376 2.03 (5.01)

EXCEPTING THEREOUT ALL MINES AND MINERALS

This property was purchased by Faissal for \$2.05 million pursuant to a transfer of land registered at land titles as instrument number 151 010 609 on 14 January 2015.

The Faissal Mortgage was registered as against this property.

- g. The property owned solely by 985 Corp in Drayton Valley, Alberta and legally described as:

PLAN 0721291  
BLOCK 102  
LOT 14  
EXCEPTING THEREOUT ALL MINES AND MINERALS

- h. The property owned solely by MDM Corp in Red Deer, Alberta and legally described as:

PLAN 2223KS  
BLOCK 1  
LOT 4A  
EXCEPTING THEREOUT ALL MINES AND MINERALS

**AREA: 0.291 HECTARES (0.72 ACRES) MORE OR LESS**

This property was purchased by MDM Corp. for \$1.1 million from a third party pursuant to a transfer of land registered at land titles as instrument number 162 262 370 on 21 September 2016.

(collectively, the "Real Property").

47. The Real Property was purchased by Faissal, directly or through closely held corporations including the Defendants, with some or all the funds advanced from the TD Mortgage, and/or the RBC Mortgage on the DeWinton Lands.
48. The Plaintiff claims that the Real Property set out above was acquired, improved, and mortgages were serviced by, funds paid by Faissal or one of the Corporate Defendants.
49. The Plaintiff claims to be entitled to a proprietary interest in all assets and property, including the Real Property set out above, currently in the possession of one or more of the Defendants. This claim and property right arises by virtue of constructive trust, resulting trust, the law of tracing or any of these concepts.
50. The Plaintiff expressly claims an ownership interest in the Real Property.
51. The Plaintiff also claims rights to a constructive trust over any personal property acquired directly or indirectly from proceeds derived from the DeWinton Lands Scheme and the Oppressive Actions, and located anywhere in Canada or to the proceeds from the sale of any of the personal property, including any property or equipment acquired by FMPC in relation to its operations as a dental office.

**Conspiracy**

52. Further, or in the alternative, Faissal and the other Defendants, together or each individually, acted pursuant to a common design, the predominant purpose of which was to cause harm to the Plaintiff. The Plaintiff has suffered loss and damage as a result in an amount to be proven at the trial of this action.
53. Each of Faissal and the Corporate Defendants unlawfully conspired to carry out the DeWinton Lands Scheme and the Oppressive Actions, for the predominate purpose of causing injury to the Plaintiff and benefit themselves, which resulted in the Plaintiff suffering loss and damage. In so doing, the Defendants acted jointly knowing that injury to the Plaintiff was likely to occur and that the means being used to carry out the DeWinton Lands Scheme and the Oppressive Actions, were unlawful.
54. Alternatively, Faissal and the other defendants together with other unknown parties, acted jointly, their conduct was directed at the Plaintiff, and they knew or ought to have known that the Plaintiff would suffer harm as a result of these actions.

55. In doing any of the foregoing activities and by participating in the DeWinton Lands Scheme and the Oppressive Actions, Faissal has misused corporate authority and abused his power as an officer and director of the Corporate Defendants and 171 Corp. In doing so, Faissal breached his obligation to manage the Plaintiff's funds and instead acted in his own best interest and for his own benefit or the benefit of the other Defendants.

#### **Knowing Assistance / Knowing Receipt**

56. The Corporate Defendants, and each of them, knew or were reckless or willfully blind to the fact that Faissal was acting unlawfully and in breach of trust and in breach of his fiduciary duties to the Plaintiff and 171 Corp in orchestrating the DeWinton Lands Scheme and other actions set out herein against the Plaintiff. The Corporate Defendants received and accepted the proceeds arising from this scheme when each knew or ought to have known that such proceeds arose from, and were made to each of them, in breach of the duties owed by Faissal to the Plaintiff and 171 Corp.
57. Further, or in the alternative, the corporate Defendants ought to have known that receipt and acceptance of the proceeds from the wrongful acts constituted the knowing receipt of the proceeds of unlawful conduct or were generated in breach of the fiduciary obligations owed by Faissal to the Plaintiff. As a result, the Defendants hold any proceeds received by the Defendants (whether directly or indirectly) as a result of the actions of Faissal as constructive trustees for the Plaintiff.

#### **Waiver of Tort**

58. In light of the wrongful and unlawful conduct of the Defendants, this is an appropriate case under which the Plaintiff may elect to waive compensation as a remedy and receive the disgorgement of any gains received by the Defendants as a result of their misconduct, along with an accounting of any profits received by the Defendants.
59. The Plaintiff claims return of those funds in whatever form to which they can be traced, and damages to the extent such funds have been dissipated.

#### **Tracing and Preservation Orders**

60. As a result of the Defendants' wrongful conduct as set out above, the Plaintiff is entitled to trace all amounts received or disbursed by the Defendants, directly or indirectly, as part of or as a result of the the DeWinton Lands Scheme and the Oppressive Actions, including the Real Property, and any other assets as part of the constructive trust claim, and the right to recover same (the "Traced Assets").
61. The Plaintiff is also entitled to an accounting of the monies belonging to the Plaintiff that have come into the possession of any of the Defendants, and to an accounting of any

benefit received by any of the Defendants as a result of the DeWinton Lands Scheme and the Oppressive Actions.

62. The Plaintiff is also entitled to interim and permanent injunctions restraining the Defendants from disposing of any of their assets wherever located and an accounting of all of these Defendants' assets, effects, and property, including any trust account or jointly held assets, any improper disposition thereof, and all money had or received by the Defendants or anyone on their behalf.
63. The Plaintiff is also entitled to a preservation order preventing the Defendants from diminishing the value of any of their assets, wherever located, and requiring the Defendants to take all necessary steps to preserve the value of any such property along with any evidence in their power, possession, or control relating to the matters at issue in this Action.
64. The Defendants are liable to make restitution to the Plaintiff and to disgorge any benefits received from the DeWinton Lands Scheme and the Oppressive Actions, to the Plaintiff.

**Remedy sought:**

65. The Plaintiff claims jointly and severally against the Defendants:
  - a. Damages in the amount of \$3,000,000.00 or such further and other amount as may be proven at trial;
  - b. A Declaration that the Caveat is valid and the Plaintiff is the beneficial owner of at least one half the DeWinton Lands, or alternatively has a valid and subsisting beneficial interest in, or enforceable charge, or equitable mortgage in relation to the DeWinton Lands, with a corresponding Order directing that the Plaintiff be at least 50% owner of the DeWinton Lands;
  - c. A Declaration that the Faissal Mortgage is invalid and was wrongfully registered, with a corresponding Order discharging the Faissal Mortgage from the DeWinton Lands and the corresponding Real Property;
  - d. Further or in the alternative, a Declaration that the Faissal Mortgage was not funded and a corresponding Order discharging the Faissal Mortgage;
  - e. Further, or in the alternative, an Order postponing the Faissal Mortgage to the Caveat;
  - f. Further, or in the alternative, an Order to reduce the amount secured by the Faissal Mortgage to the reflect the amount advanced at the time the Caveat was registered;
  - g. An accounting of all assets, effects and property of the Defendants, including interest in any accounts and of all money had or received by the Defendants, or any person on their behalf and all dealings and transactions between the Defendants;

- h. A full accounting from Faissal and Mclvor, include the dealings with the other Defendants or other corporations or individuals, their subsidiaries and affiliates;
- i. An Order that Faissal and Mclvor disgorge all profits made and all assets acquired as a result of their breaches of trust and breaches of fiduciary duty;
- j. A declaration that the Plaintiff is an owner, and holder of a proprietary interest, in each of parcels identified as the Real Property above;
- k. A declaration that the Plaintiff is entitled to trace all amounts wrongfully received or disbursed by the Defendants in, to and through any financial institution, accounts or deposit facilities in the name of the Defendants and in, to or through any assets purchased by the Defendants with the Plaintiff's funds and to recover same;
- l. An Order directing rectification of the registers or other records of all corporations in which the Plaintiff has proved his interest and directing compensation to the Plaintiff under section 244 of the *Business Corporations Act*;
- m. A declaration that the corporate veil of the corporate Defendants be pierced so that judgment may be granted against Faissal personally;
- n. An Order to compensate the Plaintiff, as a complainant under Part 19 of the *Business Corporations Act*, and such further and other relief to which the Plaintiff is entitled, as determined by the Court;
- o. An Order, pursuant to section 118(5) and 118(6)(a) of the *Business Corporations Act*, directing the repayment and restoration of Mahmoud and 171 Corp's funds and property;
- p. An Order pursuant to section 240 and 242(3)(g) of the *Business Corporations Act*, granting leave to Mahmoud to commence a derivative action in the name of 171 Corp, if necessary and a corresponding Order, pursuant to section 241 of the *Business Corporations Act*, (a) authorizing Mahmoud to control the conduct of this Action on behalf of 171 Corp (b) for the Court's directions regarding the conduct of this Action, and (c) requiring that any amount adjudged payable by the Defendants in this Action shall be paid, in whole or in part, to Mahmoud;
- q. An interim and permanent injunction restraining the Defendants from disposing of any of their assets, wherever located, including those held by any other person on their behalf;
- r. A preservation order restraining the Defendants from any conduct that would diminish the value of any of their assets, wherever located, and requiring the Defendants to take all necessary steps to preserve the value of any such property along with any evidence in their power, possession, or control relating to the matters at issue in this Action;
- s. An order appointing a receiver or receiver-manager over the assets and undertakings of Faissal and Mclvor on such terms as this Court may deem just;

- t. Damages for breach of trust and breach of fiduciary duty in an amount to be proven at trial;
- u. Special damages arising out of the detection, investigation and quantification, and recovery of the losses, and consequential losses suffered by the Plaintiff in an amount to be proven at trial;
- v. Punitive and exemplary damages in the amount of \$250,000.00 against Faissal;
- w. Pre-judgment and post-judgment interest in accordance with the Plaintiff's costs of funds, or alternatively, the *Judgment Interest Act*;
- x. Costs of this action on a solicitor and client basis; and
- y. Such further and other relief as this Honourable Court deems just.

**NOTICE TO THE DEFENDANTS**

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at 601 – 5<sup>th</sup> Street, Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's address for service.

**WARNING**

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff against you.



# EXHIBIT J

HIS EXHIBIT "J" REFERRED TO IN THE  
AFFIDAVIT OF

*Mahmoud Mohamed*

SWORN BEFORE ME THIS 5 DAY

OF April A.D. 2023

COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA

**CHRISTOPHER LEWIS KOZORIZ**

A Commissioner for Oaths  
in and for Alberta

My Commission expires June 21, 2024  
Appointee No. 0735825

MEETING OF THE DIRECTOR OF  
MCIVOR DEVELOPMENTS LTD.

held at Red Deer, Alberta on January 15, 2014.

PRESENT: **FAISSAL MOUHAMAD**

UPON PRESENTATION of the Application for Shares, the same was approved and the following were issued Shares in the Company with the corresponding number and class of Shares as follows:

**MAHMOUD MOHAMAD 100 CLASS "C" NON-VOTING SHARES CERTIFICATE #2**

The signature at the conclusion hereof constitutes consent to the business herein and a waiver of any irregularities in the holding of the Meeting.



FAISSAL MOUHAMAD

MEETING OF THE DIRECTOR OF  
MCIVOR DEVELOPMENTS LTD.

held at Red Deer, Alberta on June 10, 2011.

PRESENT: **FAISSAL MOUHAMAD**

UPON PRESENTATION of the Application for Shares, the same was approved and the following were issued Shares in the Company with the corresponding number and class of Shares as follows:

**FAISSAL MOUHAMAD    100 CLASS "A" SHARES    CERTIFICATE #1**

The signature at the conclusion hereof constitutes consent to the business herein and a waiver of any irregularities in the holding of the Meeting.



FAISSAL MOUHAMAD

# EXHIBIT K

THIS EXHIBIT "K" REFERRED TO IN THE  
AFFIDAVIT OF

*Mahmoud Mohamed*

SWORN BEFORE ME THIS.....DAY

OF.....*April*.....A.D. 20*23*

.....  
COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA

**CHRISTOPHER LEWIS KOZORIZ**

A Commissioner for Oaths  
in and for Alberta

My Commission expires June 21, 20*24*  
Appointee No. 0735825

I/WE, MCIVOR DEVELOPMENTS LTD.  
of 101, 5018 - 45 Street, Red Deer, Alberta T4N 1K9  
being registered owner(s) of an estate in fee simple, subject however to  
registered encumbrances, liens and interests if any, in all that piece  
of land situate in the Province of Alberta, being composed of:

PLAN M.D. OF ROCKY VIEW 7410941  
LOT TWO (2)  
CONTAINING EIGHTEEN AND SIXTEEN HUNDREDTHS (18.16) ACRES MORE  
OR LESS  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK THE SAME

do hereby in consideration of the sum of -----  
----- NIL ----- (\$ nil ) DOLLARS  
paid to me/us/it by the Transferee(s) hereunder, the receipt of which  
sum I/we/it hereby acknowledge(s) transfer to the said Transferee(s),

FAISSAL MOUHAMAD  
of: Suite 101, 5018 - 45 Street, Red Deer, Alberta T4N 1K9

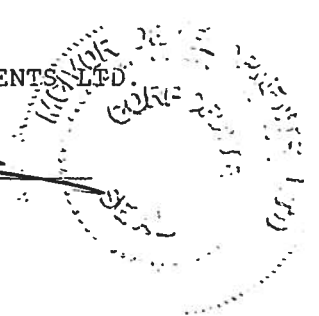
all my/our/its/ estate and interest in the piece of land.

The undersigned certify that I/we are resident(s) of Canada for  
all purposes arising under the Income Tax Act of Canada including but  
not limited to Section 116(5).

IN WITNESS WHEREOF I/we/it has/have hereunto subscribed (affixed)  
my/our/its name(s) (and corporate seal by its proper officers) this  
24<sup>th</sup> day of February, 2015.

MCIVOR DEVELOPMENTS LTD.

Per: FAISSAL MOUHAMAD



AFFIDAVIT OF TRANSFEREE

CANADA )  
PROVINCE OF ALBERTA )  
TO WIT )

I, FAISSAL MOUHAMAD of the City of Red Deer, in the Province of Alberta,

MAKE OATH AND SAY:

1. I am ~~(one of) the transferees/ agent~~ of the transferee named in the within transfer and I know the lands therein described.
2. I know the circumstances of the said transfer and the true consideration paid by me/us /the transferee is as follows:  
\$Nil
3. The transferor named in the said transfer is the person from whom I/we /the transferees acquired the said lands.
4. The current\* value of the land\*\* in my opinion is  
\$ 3,000,000.00 .

\* "value" means the dollar amount that the land might be expected to realize if it were sold on the open market by a willing seller to a willing buyer.  
\*\* "land" includes buildings and all other improvements affixed to the land.

SWORN BEFORE ME at the City of Red Deer, in the Province of Alberta, this 24 day of February, 2015.

Maureen Y. Belland  
A Commissioner For Oaths in and For the Province of Alberta.

Faissal Mouhamad  
Faissal Mouhamad

**MAUREEN Y. BELLAND**  
My Commission Expires Dec. 18, 2017

# EXHIBIT L

THIS EXHIBIT "L" REFERRED TO IN THE  
AFFIDAVIT OF

*Mahmoud Mohamad*

SWORN BEFORE ME THIS 5 DAY

OF April A.D. 2023

COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA

**CHRISTOPHER LEWIS KOZORIZ**

A Commissioner for Oaths  
in and for Alberta

My Commission expires June 21, 2024.  
Appointee No. 0735825



I/WE, MCIVOR DEVELOPMENTS LTD.  
of 101, 5018 - 45 Street, Red Deer, Alberta T4N 1K9  
being registered owner(s) of an estate in fee simple, subject however to  
registered encumbrances, liens and interests if any, in all that piece  
of land situate in the Province of Alberta, being composed of:

PLAN 7410941  
LOT 3  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK THE SAME

do hereby in consideration of the sum of -----  
----- NIL ----- (\$ nil ) DOLLARS  
paid to me/us/it by the Transferee(s) hereunder, the receipt of which  
sum I/we/it hereby acknowledge(s) transfer to the said Transferee(s),

FAISSAL MOUHAMAD  
of: Suite 101, 5018 - 45 Street, Red Deer, Alberta T4N 1K9

all my/our/its/ estate and interest in the piece of land.

The undersigned certify that I/we are resident(s) of Canada for  
all purposes arising under the Income Tax Act of Canada including but  
not limited to Section 116(5).

IN WITNESS WHEREOF I/we/it has/have hereunto subscribed (affixed)  
my/our/its name(s) (and corporate seal by its proper officers) this  
12 day of July, 2016.

MCIVOR DEVELOPMENTS LTD.

Per: FAISSAL MOUHAMAD

AFFIDAVIT OF TRANSFEREE

CANADA )  
PROVINCE OF ALBERTA )  
TO WIT )

I, FAISSAL MOUHAMAD of the City of Red Deer, in the Province of Alberta,

MAKE OATH AND SAY:

1. I am ~~(one of) the transferees/ agent of~~ the transferee named in the within transfer and I know the lands therein described.
2. I know the circumstances of the said transfer and the true consideration paid by me/us /the transferee is as follows:  
✓ \$ nil
3. The transferor named in the said transfer is the person from whom I/we /the transferees acquired the said lands.
4. The current\* value of the land\*\* in my opinion is  
✓ \$ 3,000,000.00 .

\* "value" means the dollar amount that the land might be expected to realize if it were sold on the open market by a willing seller to a willing buyer.

\*\* "land" includes buildings and all other improvements affixed to the land.

SWORN BEFORE ME at the City of Red Deer, in the Province of Alberta, this 12 day of July, 2016.

~~FAISSAL MOUHAMAD~~  
Faissal Mouhamad

A Commissioner For Oaths in and For the Province of Alberta.

✓  
GARRY MICHAEL BORE  
LAWYER AND COMMISSIONER  
FOR OATHS IN AND FOR ALBERTA

# EXHIBIT M

HIS EXHIBIT "M" REFERRED TO IN THE  
AFFIDAVIT OF

*Mahmud Mohamed*

SWORN BEFORE ME THIS.....DAY

OF.....*April*.....A.D. 20*23*

.....  
COMMISSIONER FOR OATHS IN AND FOR  
THE PROVINCE OF ALBERTA

**CHRISTOPHER LEWIS KOZORIZ**  
A Commissioner for Oaths  
in and for Alberta  
My Commission expires June 21, 20*24*  
Appointee No. 0735825

Court File No

2201-06421

Court

Court of Queen's Bench of Alberta

Judicial Centre

Calgary

Plaintiff

Mahmoud Mohamad

Defendants

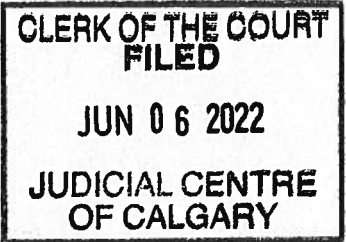
Faissal Mouhamad, McIvor Developments Ltd., Paradise McIvor Developments Ltd., Michael Dave Management Ltd., Faissal Mouhamad Professional Corporation, 52 Wellness Centre Inc. and 985842 Alberta Ltd.

Document

**STATEMENT OF CLAIM**

Address for service and contact information of party filing this document

Attention: Mahmoud Mohamad  
52 Erin Green Mews SE  
Calgary, Alberta T2B 3C3  
Phone: 403-903-1069  
Email: mmohamad@ualberta.ca



#### **NOTICE TO DEFENDANTS**

You are being sued. You are a defendant. Go to the end of this document to see what you can do and when you must do it.

#### **The Parties**

1. The Plaintiff, Mahmoud Mohamad ("**Mahmoud**") is an individual residing in Calgary, Alberta.
2. The Defendant, Faissal Mouhamad ("**Faissal**"), is an individual residing in Red Deer, Alberta. Faissal and Mahmoud are brothers.
3. The Defendant, McIvor Developments Ltd. ("**McIvor**"), is an Alberta corporation with a registered office at 7151 50 Avenue, Red Deer, Alberta T4N 4E4. At all material times, Faissal was a Director and Shareholder of McIvor.
4. The Defendant, Paradise McIvor Developments Ltd. ("**Paradise**"), is an Alberta corporation with a registered office at 7151 50 Avenue, Red Deer, Alberta T4N 4E4. At all material times, Faissal was a Director and Shareholder of Paradise.
5. The Defendant, Michael Dave Management Ltd. ("**MDM Corp**"), is an Alberta corporation with a registered office at 7151 50 Avenue, Red Deer, Alberta T4N 4E4. At all material times, Faissal was a Director and Shareholder of MDM Corp.

6. The Defendant, Faissal Mouhamad Professional Corporation (“**FMPC**”), is to the best of Mahmoud’s knowledge, a professional corporation with an office in Red Deer, Alberta, which to the best of Mahmoud’s knowledge, at all material times, Faissal was the sole practitioner.
7. The Defendant, 985842 Alberta Ltd. (“**985 Corp**”), is an is an Alberta corporation with a registered office at 7151 50 Avenue, Red Deer, Alberta T4N 4E4. At all material times, Faissal was a Director and Shareholder of 985 Corp.
8. The Defendant, 52 Wellness Centre Inc. (“**Wellness**”), is an is an Alberta corporation with a registered office at 7151 50 Avenue, Red Deer, Alberta T4N 4E4. At all material times, Faissal was a Director and Shareholder of Wellness.
9. The Defendants McIvor, Paradise, MDM Corp, FMPC, Wellness and 985 Corp are referred to collectively as the “**Corporate Defendants**”.
10. At all material times, the Corporate Defendants were the *alter egos* of, and were dominated by Faissal. As such, Faissal is personally liable for the wrongful conduct of the Corporate Defendants set out below.
11. Faissal was, at all material times hereto, the directing mind of the Corporate Defendants and was authorized by and procured the acts and omissions of McIvor, Paradise, MDM Corp, FMPC, Wellness and 985 Corp. The Defendants are alter egos of each other, and are used and treated interchangeably to the benefit of Faissal. As such, the liability of the Defendants, or combination thereof, should be imposed on Faissal personally.

#### **Lands Acquisitions**

12. Mahmoud and Faissal are brothers who have historically done numerous land development projects and other investments together.
13. Mahmoud is the owner of 50% of all issued and outstanding shares in McIvor.
14. During the course of McIvor’s business, McIvor purchased and acquired real property in the Province of Alberta as set out below:
  - a. Real Property in Cochrane, Alberta and legally described as:

PLAN M.D. OF ROCKY VIEW 7410941  
LOT TWO (2)  
CONTAINING EIGHTEEN AND SIXTEEN HUNDREDTHS (18.16)  
ACRES MORE OR LESS  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK SAME

This property was purchased by McIvor from a third party for \$3,000,000.00 cash, pursuant to a transfer of land dated January 19, 2015 as instrument number 151 016 043.

Referred to as the **Initial Cochrane Lands**

- b. Real Property in Cochrane, Alberta and legally described as:

PLAN 7410941  
 LOT 3  
 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK SAME  
 AREA: 7.6 HECTARES (18.77 ACRES) MORE OR LESS

This property was purchased by McIvor from a third party for \$3,000,000.00 cash, pursuant to a transfer of land dated May 19, 2015, as instrument number 151 126 016.

Referred to as the **Second Cochrane Lands**

- c) Real Property in Chestermere, Alberta and legally described as:

PLAN 1089 JK  
 BLOCK (1)  
 CONTAINING 6.61 HECTARES (16.34 ACRES) MORE OR LESS

This property was purchased by McIvor from a third party for \$1,924,400.00 cash, pursuant to a transfer of land dated December 9, 2014 as instrument number 141 333 999.

Referred to as the **Chestermere Lands**

### **The Lands Scheme**

15. Notwithstanding the joint ownership of the Initial Cochrane Lands, Second Cochrane Lands, and the Chestermere Lands via McIvor, Faissal treated the Initial Cochrane Lands, Second Cochrane Lands, and the Chestermere Lands as his own as set out below (the "**McIvor Lands Scheme**").
16. On or about August 18, 2016, Faissal executed a transfer of land on behalf of McIvor, transferring the Chestermere Lands from McIvor to Paradise for \$NIL DOLLARS. The transfer was registered at land titles on August 18, 2016, as instrument number 161 194 126. At that time, Mahmoud and Faissal as shareholders of McIvor were taking steps to subdivide and sell the Chestermere Lands to third party buyers.
17. The Corporate Defendants have caused any equity interest in the Chestermere Lands to be dissipated by registering encumbrances on the Chestermere Lands.

17. The Corporate Defendants have caused any equity interest in the Chestermere Lands to be dissipated by registering encumbrances on the Chestermere Lands.
18. On or about February 2015 Faissal executed a transfer of land on behalf of McIvor, transferring the Initial Cochrane Lands from McIvor to himself personally for \$NIL DOLLARS. The transfer was registered at land titles on 26 February 2015 as instrument number 151 056 838. The transfer of the Initial Cochrane Lands was executed by Faissal without the knowledge or consent of Mahmoud. Mahmoud did not become aware that the Initial Cochrane Lands were transferred out of the name of McIvor until July 2020.
19. On or about July 2016 Faissal executed a transfer of land on behalf of McIvor, transferring the Second Cochrane Lands from McIvor to himself personally for \$NIL DOLLARS. The transfer was registered at land titles on July 27 2016 as instrument number 161 176 636. The transfer of the Second Cochrane Lands was executed by Faissal without the knowledge or consent of Mahmoud. Mahmoud did not become aware that the Second Cochrane Lands were transferred out of the name of McIvor until July 2020.
20. After legal proceedings were taken against Faissal, Faissal created a forged "**Assignment of Shares**" document. The forged Assignment of Shares document purports that Mahmoud transferred his shares in McIvor to Faissal on April, 8 2020 for \$1.00. Faissal forged Mahmoud's signature on the Assignment of Shares. Mahmoud never transferred his shares in McIvor to Faissal. Mahmoud learned of the forged Assignment of Shares document while being questioned in relation to action number 2001-09035.
21. After Faissal and the Corporate Defendant's execution of the McIvor Lands Scheme, the Defendants colluded to cause the following:
  - a) On or about June 16, 2020, Paradise improperly provided an interest in the Chestermere Lands to Michael Dave Management Ltd. pursuant to an Agreement Charging Land for the sum of \$2,200,000.00 which has been secured against the Lands as Instrument No. 201 107 751.
  - b) On or about June 16, 2020, Paradise improperly provided an interest in the Chestermere Lands to FMPC pursuant to an Agreement Charging Land for the sum of \$2,000,000.00 which has been secured against the Lands as Instrument No. 201 107 752.
  - c) On or about June 16, 2020, Paradise improperly provided an interest in the Chestermere Lands to 985842 pursuant to an Agreement Charging Land for the



sum of \$2,000,000.00 which has been secured against the Lands as Instrument No. 201 107 753.

- d) On or about July 23, 2020, McIvor and Faissal improperly provided an interest in the Initial Cochrane Lands, Second Cochrane Lands and real property held by them to 985842 and FMPC pursuant to a Mortgage for the sum of \$6,500,000.00 (the “**Faissal Mortgage**”) which has been secured against the real property set out below as Instrument No. 201 128 323. All such interests, as stated herein, were provided to thwart the claim of Mahmoud.

All such interests, as stated herein, were provided to thwart the claim of Mahmoud in and to the Initial Cochrane Lands, Second Cochrane Lands and the Chestermere Lands.

22. The Defendants, or any one or more of them, colluded to register the Agreements Charging Land and Faissal Mortgage referenced in paragraph 21 for the purposes of intentionally minimizing the equity in the Initial Cochrane Lands, Second Cochrane Lands and the Chestermere Lands to thwart Mahmoud’s claims.
23. The Faissal Mortgage was also registered as against several other properties that are included and particularized at paragraphs 49 below and defined as the ‘Real Property’.
24. As a result of the transfer of the Initial Cochrane Lands and Second Cochrane Lands from McIvor to Faissal, and the Faissal Mortgage and other encumbrances caused by Faissal, Faissal and the other Defendants have removed all or most of the equity of the Initial Cochrane Lands and Second Cochrane Lands, for the sole benefit of Faissal and any one or more of the Corporate Defendants.
25. At all material times Faissal acted in ways that significantly affected the interests of Mahmoud who was vulnerable as a shareholder of McIvor and to which Faissal owed a fiduciary duty to Mahmoud.
26. At all material times, Faissal was the director of McIvor, and owed Mahmoud and McIvor statutory and common law duties, including but not limited to:
- a. to serve McIvor faithfully and loyally, and perform his duties and responsibilities in a competent and diligent manner, with due regard to the interests of Mahmoud;

- b. to act honestly and in good faith in the performance of his duties and responsibilities;
  - c. to obey all lawful direction of McIvor, including the implied directions to perform the duties and responsibilities he was tasked with performing;
  - d. to not intentionally or recklessly perform any tasks in a manner detrimental to the interests or well-being of Mahmoud, or in a manner for which harm or loss was reasonably foreseeable;
  - e. to not misuse or misappropriate the funds, property or opportunities of the corporation;
  - f. to exercise reasonable care, diligence and skill in the performance and discharge of their duties to carry out the affairs of McIvor having regard to the best interests of McIvor, and to put those interests ahead of his own personal interests;
  - g. to perform his duties as director in an honest, diligent and competent manner; and
  - h. to keep the other shareholder of McIvor, being Mahmoud, properly informed of the financial affairs and business dealings of McIvor, and to not conceal facts or information from him about the financial affairs and business dealings of McIvor.
27. Faissal has mismanaged the affairs of McIvor, has breached his statutory and common law duties of care to Mahmoud and McIvor, and has acted in a manner that is oppressive and prejudicial to Mahmoud, which includes the following:
- a. concealed the financial and business affairs of McIvor, the specifics of which are still being discovered, including selling or disposing all or substantially all its assets;
  - b. redirected the corporate opportunities of McIvor to himself, Paradise or the other Defendants;
  - c. is or was using the property of McIvor for his own personal use, without authorization, and has converted the property of McIvor to his own use, directly or indirectly;
  - d. has misappropriated assets from McIvor, the full specifics of which are still being discovered due to the intentional or reckless concealment of corporate information by Faissal;
  - e. has wrongfully diverted corporate opportunities of McIvor by transferring the Initial Cochrane Lands and Second Cochrane Lands and causing mortgages to be taken out against all, or substantially all, of the equity in the said lands;

- g.** Such further breaches as may be discovered and proven at trial.
28. Further or in the alternative, Faissal as the Director of McIvor, having regard to the specific responsibilities of his respective position within McIvor, was privy to financial and proprietary business information of McIvor, and acted in ways that adversely affected the interests of McIvor and Mahmoud. As a shareholder of McIvor, Mahmoud was vulnerable to Faissal's actions. Faissal accordingly owed McIvor and Mahmoud fiduciary duties, including but not limited to a duty to perform his tasks and exercise his power and authority within McIvor in good faith, with a view to the best interests of McIvor and Mahmoud, and in such a manner as to safeguard the interests of McIvor and Mahmoud and its financial and proprietary business information.
29. As a result of Mahmoud's interest in the Chestermere Lands and the subsequent improper transfer of the Initial Cochrane Lands and Second Cochrane Lands to Faissal, Faissal was the Trustee of Mahmoud's equity interest in McIvor and/or his funds and as a result owed Mahmoud a fiduciary duty. This duty required, at minimum, for Faissal to report to Mahmoud regarding the business and affairs of both Faissal and McIvor.
30. As a result, Mahmoud was and is a beneficial owner of no less than 50% of the Initial Cochrane Lands.
31. As a result, Mahmoud was and is a beneficial owner of no less than 50% of the Second Cochrane Lands
32. Furthermore, as a result, Mahmoud was and is a beneficial owner of no less than 50% of the Chestermere Lands.

#### **Shareholder Oppression and Dissipation of Equity**

33. Further, Faissal as the sole director of McIvor, as sole director of Paradise, and as a director of various subsidiaries, partnerships, and/or affiliated corporations, breached the duty of care owed to the shareholders of each, and the beneficial owners thereof, including Mahmoud. Faissal did so by failing to act in accordance with the best interests of the beneficial owners thereof, and by failing to exercise the care, diligence and skill of a reasonably prudent person in Faissal's position.
34. Further, Faissal in his personal capacity and as the sole director of McIvor, Paradise, MDM, 985 Corp and FMPC improperly dissipated assets of McIvor to thwart Mahmoud's claims.

34. Further, Faissal in his personal capacity and as the sole director of McIvor, Paradise, MDM, 985 Corp and FMPC improperly dissipated assets of McIvor to thwart Mahmoud's claims.
35. Mahmoud states that Faissal in his capacity as director of McIvor, breached his fiduciary obligations owed to Mahmoud and acted in a manner which is prejudicial to, or unfairly disregards the interests of, or is oppressive to Mahmoud, the particulars of which include:
- a. Secretly and imprudently advancing and stripping the equity of all, or substantively all, of the assets of McIvor to Faissal and related companies operated or controlled by Faissal, some of which are other Defendants herein, without adequate or any security, without any written documentation, and without the knowledge, consent or approval of Mahmoud;
  - b. Improperly transferring amounts between shareholder loan accounts in such a way as to misrepresent amounts due and owing to Mahmoud;
  - c. Inappropriately withdrawing excessive amounts in management fees, salary, bonuses, benefits and/or other remuneration without knowledge, consent and approval of Mahmoud, the particulars of which are still being discovered;
  - d. Registering the Agreements Charging Land and Faissal Mortgage referenced in paragraph 20 against the Initial Cochrane Lands, Second Cochrane Lands, Chestermere Lands and several other properties (as set out below), when the Faissal Mortgage and Agreements Charging Land were never funded, and further or in the alternative, for the sole purpose of attempting to strip the equity of the real property owned by one or more of the Defendants;
  - e. Failing to follow generally accepted accounting principles and practices; and
  - f. Such further and other particulars of oppression or breach of the various obligations as may be proven at the trial of this action,
- (collectively, the "**Fraudulent and Oppressive Actions**").
36. Mahmoud specifically pleads and relies on section 242 of the *Business Corporations Act*, RSA 2000, c B-9.
37. As a result of the Fraudulent and Oppressive Actions, and other wrongful acts set out herein, Mahmoud has suffered and will continue to suffer damages and irreparable harm, particulars of which include, *inter alia* the following:

- a. Loss of the value of the Initial Cochrane Lands;
  - b. Loss of the Value of the Second Cochrane Lands;
  - c. Loss of business opportunity, including the ability to develop the Initial Cochrane Lands and the Second Cochrane Lands;
  - d. Loss of share value;
  - e. Diminution of share value;
  - f. Loss of investment opportunity;
  - g. Loss of interest; and
  - h. Such further and other damages as may be proven at the trial of this action.
38. As a result of the foregoing, the corporate veil should be pierced and liability should be imposed on the director, Faissal, personally, for the wrongful acts of McIvor.

#### **Breach of Trust**

39. At all material times, Faissal was the Trustee for Mahmoud. As all acts of Faissal as trustee were carried out by Faissal and Faissal possessed and administered the trust property, Faissal was a Trustee *de son tort* for Mahmoud.
40. As Trustees, each of Faissal and McIvor were in a fiduciary relationship with Mahmoud and owed to Mahmoud,
- a. A duty to act honestly and with that level of skill and prudence which would be expected of the reasonable person;
  - b. A duty to not place their personal interests ahead of the interests of Mahmoud;
  - c. A duty not to appropriate for other purposes the business and corporate opportunities arising from the trust relationship;
  - d. A duty to protect the assets standing in the name of McIvor and not to transfer any such assets without the express knowledge and approval of Mahmoud, as beneficiary of this trust; and
  - e. A duty not to profit personally from its dealings with the trust property or with the beneficiary of the trust.



41. Mahmoud states that Faissal, McIvor or both or either of them acted in breach of trust and in breach of their fiduciary duties to Mahmoud, the particulars of which include:
- a. Failing to meet the standard of care of an ordinary trustee including failing to be honest to Mahmoud as the beneficiary of the trust, and failing to administer the trust in the way an ordinary prudent person would conduct his affairs;
  - b. Transferring the Initial Cochrane Lands and the Second Cochrane Lands from the jointly owned company of McIvor to Faissal's personal name, without the knowledge or consent of Mahmoud;
  - c. Procuring the Faissal Mortgage against the Initial Cochrane Lands and the Second Chestermere for the principal amount of \$6.5 million, without the knowledge and consent of Mahmoud, for the benefit of the Defendants, and for an improper purpose;
  - d. Procuring the Agreements Charging Land referenced in paragraph 20 against the Chestermere Lands for the collective principal amount of \$6.2 million, without the knowledge and consent of Mahmoud, for the benefit of the Defendants, and for an improper purpose;
  - e. Failing to provide an accurate accounting to Mahmoud or intentionally providing a misleading accounting to Mahmoud including, failing or refusing to provide any financial information from McIvor or back up records in respect to Mahmoud's investments notwithstanding the obligation of a Trustee to do so;
  - f. Carrying out self-dealing transactions, including but not necessarily limited to, the McIvor Lands Scheme, and taking numerous business and corporate opportunities, for Faissal's personal benefit or for the benefit of his related corporations or unknown third parties;
  - g. Failing to disclose or otherwise misrepresenting his conduct to Mahmoud; and
  - h. Such further and other breaches as may be proven at the trial of this action.
42. As a result of the breaches of trust by Faissal and McIvor, Mahmoud has suffered and will continue to suffer damages and losses, particulars of which include:
- a. Loss of equity in the Initial Cochrane Lands
  - b. Loss of equity in the Second Cochrane Lands
  - c. Loss of equity of the Chestermere Lands

- d. Loss of investment opportunity;
- e. Loss of business opportunity, including the ability to develop the Initial Cochrane Lands and the Second Cochrane Lands;
- f. Loss of share value;
- g. Loss of interest; and
- h. Such further and other damages as may be proven at the trial of this action.

### **Conversion**

- 43. By means of the McIvor Lands Scheme, Faissal has converted Mahmoud's interest in the Initial Cochrane Lands and Second Cochrane Lands for his own use by causing mortgages to be registered against the Initial Cochrane Lands and Second Cochrane Lands via Faissal, and thereby depriving Mahmoud of the benefit of his interest in the Initial Cochrane Lands and Second Cochrane Lands and the business opportunities associated with the Initial Cochrane Lands and Second Cochrane Lands.
- 44. By means of the McIvor Lands Scheme, Faissal has converted Mahmoud's interest in the Chestermere Lands for his own use by causing mortgages to be registered against the Chestermere Lands via MDM, 985 Corp, FMPC and thereby depriving Mahmoud of the benefit of his interest in the Chestermere Lands and the business opportunities associated with the Chestermere Lands.

### **Unjust Enrichment**

- 45. Further, and without any juristic reason, the Defendants have received the benefit of the proceeds of the McIvor Lands Scheme to the detriment of Mahmoud. Mahmoud seeks a declaration of a constructive trust or restitution and damages as a result of such unjust enrichment. The quantum of such damages is no less than half the fair market value of the Initial Cochrane Lands.
- 46. Further, and without any juristic reason, the Defendants have received the benefit of the proceeds of the McIvor Lands Scheme to the detriment of Mahmoud. Mahmoud seeks a declaration of a constructive trust or restitution and damages as a result of such unjust enrichment. The quantum of such damages is no less than half the fair market value of the Second Cochrane Lands.
- 47. Further, and without any juristic reason, the Defendants have received the benefit of the proceeds of the McIvor Lands Scheme to the detriment of Mahmoud. Mahmoud seeks a declaration of a constructive trust or restitution and damages as a result of such unjust



48. The Defendants are the constructive trustees of any and all funds, property, or other benefits any or all of them received, either directly or indirectly, from the McIvor Lands Scheme and the Fraudulent and Oppressive Actions, set out herein and therefore hold any such funds, property or other benefits in trust for the benefit of Mahmoud to the extent of his interest. To the extent that any of the Defendants have dissipated any of the funds, property, or other benefits so held on behalf of Mahmoud, they are in breach of trust and liable to account for and make restitution to Mahmoud arising from any such breach of trust.
49. Without limiting the generality of the foregoing, Mahmoud claims the right to a constructive trust over the following real property acquired or improved, directly or indirectly, from proceeds derived from the McIvor Lands Scheme and the Fraudulent and Oppressive Actions, or to the proceeds from the sale of any of the real property, including:

- a. The property in the name of Paradise in Chestermere, Alberta and legally described as:

Plan 1910205  
Block 1  
Lot 8  
EXCEPTING THEREOUT ALL MINES AND MINERALS

- b. The property in the name of Faissal in Cochrane, Alberta and legally described as:

PLAN 7410941  
LOT 4  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK SAME  
AREA: 8.13 HECTARES (20.1 ACRES) MORE OR LESS

The Faissal Mortgage was registered as against this property

- c. The property in the name of Faissal in Cochrane, Alberta and legally described as:

PLAN 7410941  
 LOT 3  
 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK SAME  
 AREA: 7.6 HECTARES (18.77 ACRES) MORE OR LESS

The Faissal Mortgage was registered as against this property.

- d. The property in the name of Faissal in Cochrane, Alberta and legally described as:

PLAN M.D. OF ROCKY VIEW 7410941  
 LOT TWO (2)  
 CONTAINING EIGHTEEN AND SIXTEEN HUNDREDTHS (18.16)  
 ACRES MORE OR LESS  
 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK SAME

The Faissal Mortgage was registered as against this property.

- e. The property registered in the name of Faissal in Foothills County, Alberta and legally described as:

PLAN 731581  
 BLOCK 6  
 CONTAINING 7.93 HECTARES (19.6 ACRES) MORE OR LESS  
 EXCEPTING THEREOUT:

|                             | HECTARES | ACRES | MORE OR LESS |
|-----------------------------|----------|-------|--------------|
| A) PLAN 9913138 SUBDIVISION | 1.84     | 4.55  |              |

EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK SAME

The Faissal Mortgage was registered as against this property.

- f. The property in the name of Faissal municipally described as 52-26534 Township Road 384, Red Deer County, Alberta and legally described as:

PLAN 0120803  
 BLOCK 3  
 LOT 2A  
 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AREA: 1.13 HECTARES (2.79 ACRES) MORE OR LESS

- g. The property in the name of Faissal municipally described as 243190 Rainbow Road, Chestermere, Alberta and legally described as:

MERIDIAN 4 RANGE 28 TOWNSHIP 24  
 SECTION 22  
 ALL THAT PORTION OF THE NORTH WEST QUARTER  
 LYING TO THE SOUTH OF PLAN 7510158, TO THE  
 WEST OF BLOCK 3, PLAN 2078 JK, AND TO THE NORTH  
 OF THE WESTERLY PRODUCTION OF THE SOUTH BOUNDARY  
 OF BLOCK 3, PLAN 2078 J.K.,  
 CONTAINING 8.09 HECTARES (20 ACRES) MORE OR LESS  
 EXCEPTING THEREOUT:  
 A) PLAN NUMBER HECTARES (ACRES) MORE OR LESS  
 SUBDIVISION 9012376 2.03 (5.01)

EXCEPTING THEREOUT ALL MINES AND MINERALS

The Faissal Mortgage was registered as against this property.

- h. The property registered in the name of 985 Corp in Drayton Valley, Alberta and legally described as:

PLAN 0721291  
 BLOCK 102  
 LOT 14  
 EXCEPTING THEREOUT ALL MINES AND MINERALS

- i. The property registered in the name of MDM Corp in Red Deer, Alberta and legally described as:

PLAN 2223KS  
 BLOCK 1  
 LOT 4A  
 EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AREA: 0.291 HECTARES (0.72 ACRES) MORE OR LESS

This property was purchased by MDM Corp. for \$1.1 million from a third party pursuant to a transfer of land registered at land titles as instrument number 162 262 370 on 21 September 2016.

- j. The property registered in the name of Wellness in Calgary, Alberta and legally described as:

PLAN 9910835  
 BLOCK 39  
 LOT 1  
 EXCEPTING THEREOUT ALL MINES AND MINERALS

- k. The property registered in the name of McIvor in Calgary, Alberta and legally described as:

MERIDIAN 4 RANGE 29 TOWNSHIP 21  
 SECTION 32  
 THAT PORTION OF THE SOUTH WEST QUARTER  
 WHICH LIES NORTH EAST OF ROAD PLAN 8210125  
 CONTAINING 44.2 HECTARES (109.2 ACRES) MORE OR LESS  
 EXCEPTING THEREOUT

| PLAN        | NUMBER  | HECTARES | (ACRES) | MORE OR LESS |
|-------------|---------|----------|---------|--------------|
| ROAD        | 0210206 | 0.860    | 2.13    |              |
| ROAD        | 0211040 | 3.66     | 9.04    |              |
| SUBDIVISION | 0211003 | 7.40     | 18.29   |              |

EXCEPTING THEREOUT ALL MINES AND MINERALS  
 AND THE RIGHT TO WORK THE SAME

The Faissal Mortgage was registered as against this property.

(collectively, the “**Real Property**”).

50. The Real Property was purchased by Faissal, directly or through closely held corporations including the Corporate Defendants, with some or all the funds advanced from the McIvor Lands Scheme and the Fraudulent and Oppressive Actions.
51. Mahmoud claims that the Real Property set out above was acquired, improved, and mortgages were serviced by, funds paid by Faissal or one of the Corporate Defendants.
52. Mahmoud claims to be entitled to a proprietary interest in all assets and property, including the Real Property set out above and any and all sale proceeds derived therefrom. This claim and property right arises by virtue of constructive trust, resulting trust, the law of tracing or any of these concepts.

53. Mahmoud expressly claims an ownership interest in the Real Property and any and all of the sale proceeds derived therefrom.
54. Mahmoud also claims rights to a constructive trust over any personal property acquired directly or indirectly from proceeds derived from the McIvor Lands Scheme and the Fraudulent and Oppressive Actions and located anywhere in Canada or to the proceeds from the sale of any of the personal property, including but not limited to, any property or equipment acquired by FMPC in relation to its operations as a dental office.

### **Conspiracy**

55. Further, or in the alternative, Faissal, McIvor, Paradise and the other Defendants, together or each individually, acted pursuant to a common design, the predominant purpose of which was to cause harm to Mahmoud. Mahmoud has suffered loss and damage as a result in an amount to be proven at the trial of this action.
56. Each of Faissal and the Corporate Defendants unlawfully conspired to carry out the McIvor Lands Scheme and the Oppressive Actions, for the predominate purpose of causing injury to Mahmoud and to benefit themselves, which resulted in Mahmoud suffering loss and damage. In so doing, the Defendants acted jointly knowing that injury to Mahmoud was likely to occur and that the means being used to carry out the McIvor Lands Scheme and the Fraudulent and Oppressive Actions, were unlawful.
57. Alternatively, Faissal and the other Defendants together with other unknown parties, acted jointly, their conduct was directed at Mahmoud, and they knew or ought to have known that Mahmoud would suffer harm as a result of these actions.
58. In doing any of the foregoing activities and by participating in the McIvor Lands Scheme and the Fraudulent and Oppressive Actions, Faissal has misused corporate authority and abused his power as an officer and director of McIvor and the Corporate Defendants. In doing so, Faissal breached his obligation to manage Mahmoud's funds and instead acted in his own best interest and for his own benefit or the benefit of the other Defendants.

### **Knowing Assistance / Knowing Receipt**

59. The Defendants, and each of them, knew or were reckless or willfully blind to the fact that Faissal was acting unlawfully and in breach of trust and in breach of his fiduciary duties to Mahmoud and McIvor in orchestrating the McIvor Lands Scheme and other actions set out herein against Mahmoud. Faissal and the Corporate Defendants received and accepted the proceeds arising from McIvor Lands Scheme when each knew or ought to have known that such proceeds arose from, and were made to each of them, in breach of the duties owed by Faissal to Mahmoud and McIvor.



60. Further, or in the alternative, the Corporate Defendants ought to have known that receipt and acceptance of the proceeds from the wrongful acts constituted the knowing receipt of the proceeds of unlawful conduct or were generated in breach of the fiduciary obligations owed by Faissal to Mahmoud. As a result, the Defendants hold any proceeds received by the Defendants (whether directly or indirectly) as a result of the actions of Faissal as constructive trustees for Mahmoud.

#### **Waiver of Tort**

61. In light of the wrongful and unlawful conduct of the Defendants, this is an appropriate case under which Mahmoud may elect to waive compensation as a remedy and receive the disgorgement of any gains received by the Defendants as a result of their misconduct, along with an accounting of any profits received by the Defendants.
62. Mahmoud claims return of those funds in whatever form to which they can be traced, and damages to the extent such funds have been dissipated.

#### **Tracing and Preservation Orders**

63. As a result of the Defendants' wrongful conduct as set out above, Mahmoud is entitled to trace all amounts received or disbursed by any one or more of the Defendants, directly or indirectly, as part of or as a result of the the McIvor Lands Scheme and the Fraudulent and Oppressive Actions, including the Real Property, and any other assets as part of the constructive trust claim, and the right to recover same (the "Traced Assets").
64. Mahmoud is also entitled to an accounting of the monies that have come into the possession of any of the Defendants, and to an accounting of any benefit received by any of the Defendants as a result of the McIvor Lands Scheme and the Fraudulent and Oppressive Actions.
65. Mahmoud is also entitled to interim and permanent injunctions restraining the Defendants from disposing of any of their assets wherever located and an accounting of all of these Defendants' assets, effects, and property, including any trust account or jointly held assets, any improper disposition thereof, and all money had or received by the Defendants or anyone on their behalf.
66. Mahmoud is also entitled to a preservation order preventing the Defendants from diminishing the value of any of their assets, wherever located, and requiring the Defendants to take all necessary steps to preserve the value of any such property along with any evidence in their power, possession, or control relating to the matters at issue in this Action.

67. The Defendants are liable to make restitution to Mahmoud and to disgorge any benefits received from the McIvor Lands Scheme and the Fraudulent and Oppressive Actions to Mahmoud.

### **REMEDY SOUGHT**

The Plaintiff claims against the Defendants, jointly and severally, as follows:

- (a) Damages in the amount of \$10,00,000.00 or such further and other amount as may be proven at trial.
- (b) A Declaration that the Plaintiff is the beneficial owner of at least one half of the Initial Cochrane Lands, or alternatively has a valid and subsisting beneficial interest in, or enforceable charge, or equitable mortgage in relation to the Initial Cochrane Lands, with a corresponding Order directing the Plaintiff be at least 50% owner of the Initial Cochrane Lands.
- (c) A Declaration that the Plaintiff is the beneficial owner of at least one half of the Second Cochrane Lands, or alternatively has a valid and subsisting beneficial interest in, or enforceable charge, or equitable mortgage in relation to the Second Cochrane Lands, with a corresponding Order directing the Plaintiff be at least 50% owner of the Second Cochrane Lands.
- (d) A Declaration that the Plaintiff is the beneficial owner of at least one half of the Chestermere Lands, or alternatively has a valid and subsisting beneficial interest in, or enforceable charge, or equitable mortgage in relation to the Chestermere Lands, with a corresponding Order directing the Plaintiff be at least 50% owner of the Chestermere Lands.
- (e) A declaration or judgment that the Defendants, or any one or more of them, are jointly and severally liable for the debts owed to Mahmoud;
- (f) Further or in the alternative, as a result of the constructive trust being claimed, a direction that all net proceeds from the sale of any of the Real Property and any monies that have or may become releasable in relation to any of the Real Property or the development thereof be paid into Court in this Action, until this Action is determined on its merits;
- (g) Further or in the alternative, a declaration or judgment that the Defendants, or any one or more of them, have been unjustly enriched, to the detriment of Mahmoud, the imposition of a constructive trust by this Honourable Court on all benefits and/or profits derived by the Defendants in relation to the unjust enrichment in a sum to be proven at a trial of this action;
- (h) A declaration that the Caveat Re: Agreement Charging Land registered as Instrument No. 201 107 751 is invalid and a corresponding order directing that it



be discharged from title to the Chestermere Lands, with damages payable by the Defendant who registered same, pursuant to Section 144 of the Land Titles Act;

- (i) Further, or in the alternative, an Order postponing the Caveat Re: Agreement Charging Land registered as Instrument No. 201 107 751 to the Certificate of Lis Pendens filed in this Action
- (j) Further, or in the alternative, an Order to reduce the amount secured by the Caveat Re: Agreement Charging Land registered as Instrument No. 201 107 751 to reflect the amount advanced at the time the Certificate of Lis Pendens filed in this Action was registered;
- (k) a declaration that the Caveat Re: Agreement Charging Land registered as Instrument No. 201 107 752 is invalid and a corresponding order directing that it be discharged from title to the Chestermere Lands, with damages payable by the Defendant who registered same, pursuant to Section 144 of the Land Titles Act;
- (l) Further, or in the alternative, an Order postponing the Caveat Re: Agreement Charging Land registered as Instrument No. 201 107 752 to the Certificate of Lis Pendens filed in this Action
- (m) Further, or in the alternative, an Order to reduce the amount secured by the Caveat Re: Agreement Charging Land registered as Instrument No. 201 107 752 to reflect the amount advanced at the time the Certificate of Lis Pendens filed in this Action was registered;
- (n) A declaration that the Caveat Re: Agreement Charging Land registered as Instrument No. 201 107 753 is invalid and a corresponding order directing that it be discharged from title to the Chestermere Lands, with damages payable by the Defendant who registered same, pursuant to Section 144 of the Land Titles Act;
- (o) Further, or in the alternative, an Order postponing the Caveat Re: Agreement Charging Land registered as Instrument No. 201 107 753 to the Certificate of Lis Pendens filed in this Action
- (p) Further, or in the alternative, an Order to reduce the amount secured by the Caveat Re: Agreement Charging Land registered as Instrument No. 201 107 753 to reflect the amount advanced at the time the Certificate of Lis Pendens filed in this Action was registered;
- (q) A declaration that the Faissal Mortgage is invalid and was wrongfully registered with a corresponding order directing that it be discharged from the corresponding

Real Property, with damages payable by the Defendant who registered same, pursuant to Section 144 of the Land Titles Act;

- (r) Further, or in the alternative, an Order postponing the Faissal Mortgage to the Certificate of Lis Pendens filed in this Action;
- (s) Further, or in the alternative, an Order to reduce the amount secured by the Faissal Mortgage to reflect the amount advanced at the time the Certificate of Lis Pendens filed in this Action was registered;
- (t) An accounting of all assets, effects and property of the Defendants, including interest in any accounts and of all money had or received by the Defendants, or any person on their behalf and all dealings and transactions between the Defendants;
- (u) A Declaration that, by virtue of a resulting trust, Mahmoud has a beneficial interest in and to the Chestermere Lands, and any proceeds generated therefrom;
- (v) A full accounting from Faissal, McIvor and Paradise include the dealings with the other Defendants or other corporations or individuals, their subsidiaries and affiliates;
- (w) An Order that the Defendants, or any one or more of them, disgorge all profits made and all assets acquired as a result of their breaches of trust and breaches of fiduciary duty;
- (x) An interim and permanent injunction restraining the Defendants from any conduct that would diminish the value of any of their assets, wherever located, and requiring the Defendants to take all necessary steps to preserve the value of any such property, along with any evidence in their power, possession or control relating to the matters at issue in this action.
- (y) A declaration that the Plaintiff is entitled to trace all amounts wrongfully received or disbursed by any one or more of the Defendants in, to and through any financial institution, accounts or deposit facilities in the name of any one or more of the Defendants and/or held by the Court of Queen's Bench of Alberta in relation to any other actions for which any one or more of the Defendants is a Defendant, and in, to or through any assets purchased by any one or more of the Defendants with the Plaintiff's funds and to recover same;
- (z) A declaration that the corporate veil of the Corporate Defendants be pierced so that judgment may be granted against Faissal personally;

- (aa) An Order to compensate the Plaintiff, as a complainant under Part 19 of the *Business Corporations Act*, and such further and other relief to which the Plaintiff is entitled, as determined by the Court;
- (bb) An Order, pursuant to section 118(5) and 118(6)(a) of the *Business Corporations Act*, directing the repayment and restoration of Mahmoud and McIvor's funds and property;
- (cc) An Order pursuant to section 240 and 242(3)(g) of the *Business Corporations Act*, granting leave to Mahmoud to commence a derivative action in the name of McIvor, if necessary and a corresponding Order, pursuant to section 241 of the *Business Corporations Act*, (a) authorizing Mahmoud to control the conduct of this Action on behalf of McIvor (b) for the Court's directions regarding the conduct of this Action, and (c) requiring that any amount adjudged payable by the Defendants in this Action shall be paid, in whole or in part, to Mahmoud;
- (dd) An interim and permanent injunction restraining each of the Defendants from disposing of any of their assets, wherever located, including those held by any other person on their behalf;
- (ee) A preservation order restraining each of the Defendants from any conduct that would diminish the value of any of their assets, wherever located, and requiring the Defendants to take all necessary steps to preserve the value of any such property along with any evidence in their power, possession, or control relating to the matters at issue in this Action;
- (ff) An order appointing a receiver or receiver-manager over the assets and undertakings of Faissal, McIvor and each of the Corporate Defendants on such terms as this Court may deem just;
- (gg) Damages for breach of trust in an amount to be proven at trial;
- (hh) Special damages arising out of the detection, investigation and quantification, and recovery of the losses, and consequential losses suffered by the Plaintiff in an amount to be proven at trial;
- (ii) Punitive and exemplary damages in the amount of \$100,000 against Faissal or such further amount that the Honourable Court deems just.
- (jj) Pre-judgment and post-judgment interest in accordance with the Plaintiff's costs of funds, or alternatively, the *Judgment Interest Act*;

(kk) Costs of this action on a solicitor and client basis; and

(ll) Such further and other relief as this Honourable Court deems just.

**NOTICE TO THE DEFENDANTS**

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at 601 – 5<sup>th</sup> Street, Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's address for service.

**WARNING**

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the lawsuit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff against you.

1993 CarswellAlta 932

Alberta Court of Queen's Bench

Peters v. Remington

1993 CarswellAlta 932, [1993] A.J. No. 1299

**Robert George Peters, Plaintiff (Applicant) and Kent Remington  
and Jeannie Ellen Remington, Defendants (Respondents)**

Chrumka J.

Judgment: July 23, 1993

Docket: 9301-00083

Counsel: *Peter J. McIntyre*, for the plaintiff

*Nancy L. Golding*, for the defendants

Subject: Property

**Headnote**

Real property --- Certificate of pending litigation (lis pendens) — Purpose and effect of certificate

Real property --- Certificate of pending litigation (lis pendens) — Practice and procedure — Pleadings

**Chrumka J.:**

1 Robert George Peters, the Plaintiff in an action commenced by Statement of Claim against Kent and Jeannie Remington, which Statement of Claim was filed on the 5th of January, 1993, appeals from an Order granted by Master Floyd on the 16th of March, 1993 wherein the learned Master ordered:

3. The Statement of Claim filed January 5, 1993 does not disclose a sufficient cause of action to allow for the filing of a Certificate of Lis Pendens.

4. As a consequence of the Statement of Claim not disclosing a sufficient cause of action, the Certificate of Lis Pendens registered against the title to the lands described as Plan Calgary 7810033, Block 19, Lot 2 is invalid and should be removed from the title.

2 The Appellant seeks an Order reversing the decision of the learned Master.

3 The Certificate of Lis Pendens was filed on the same day as the Statement of Claim issued. Registration of a Certificate of Lis Pendens is provided for in Section 146 of the *Land Titles Act*, which reads as follows:

146(1) A person claiming an interest in any land ... may in lieu of filing a caveat or after filing a caveat, proceed by way of action to enforce his claim and register a certificate of lis pendens in the prescribed form.

(2) A person who has proceeded by way of action to call into question some title or interest in any land may register a certificate of lis pendens in the prescribed form.

4 The Defendants claim that Paragraphs 7, 8 and 9 of the Statement of Claim plead insufficient facts and were really conclusions of law. Their submissions were that there were insufficient facts plead in the Statement of Claim to disclose a cause of action.

5 The Plaintiff, Robert George Peters, filed an Amended Statement of Claim on the 9th of February, 1993 and that thereby remedied any shortcomings of the original Statement of Claim.

6 The Respondents, relying on *Canadian Imperial Bank of Commerce v. Ramsay* (1973), 38 D.L.R. (3d) 618 (Sask. Q.B.), argue that the Plaintiffs' Statement of Claim was deficient in that all the ingredients necessary for the success of the action were not alleged and therefore a Certificate of Lis Pendens should not have issued. They submit that the Certificate of Lis Pendens which was filed issued in error and therefore was properly vacated. They submit that though the Amended Statement of Claim amends the pleadings retroactively, a new Certificate of Lis Pendens would be required to be filed to give notice to the world of the materially amended pleadings. In the *Canadian Imperial Bank of Commerce v. Ramsay* case, Bayda, J. (as he then was) drew an analogy between garnishment proceedings before judgment and the registration of a lis pendens. In his view, before a plaintiff could savour the fruits of a garnishee before judgment, he would have to strictly comply with the provisions of the Statute which bestows the right of a garnishee. In my view, with the greatest respect, a Certificate of Lis Pendens does not create any right and is not an extra-ordinary process such as a garnishee before judgment. A garnishee before judgment in effect results in partial satisfaction of a claim. A Certificate of Lis Pendens does no more than give notice to the world of the degree to which the title is being questioned and the basis for such questioning. It creates not rights. For this reason, I am of the view that the learned Master erred in ordering the discharge of the Certificate of Lis Pendens.

7 The Appeal is allowed and Paragraphs 3 and 4 of the learned Master's Order are set aside.