

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

C&K MORTGAGE SERVICES INC. and 975393 ONTARIO INC.

Applicants

and

AXESS PICKERING LTD.

Respondent

**MOTION RECORD
(Returnable June 15, 2022)**

June 2, 2022

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capacity as Court-Appointed Receiver

TO: **THE SERVICE LIST**

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TAB 1

Court File No. CV-21-00669408-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

C&K MORTGAGE SERVICES INC. and 975393 ONTARIO INC.

Applicants

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Respondent

NOTICE OF MOTION

The Receiver will make a Motion to a Judge presiding over the Commercial List on
 Wednesday, June 15, 2022 at 12:00 p.m., or as soon after that time as the Motion can be heard.

PROPOSED METHOD OF HEARING: The Motion is to be heard:

☐ In writing under subrule 37.12.1(1) because it is
 [insert on consent, unopposed or made without notice];

☐ In writing as an opposed motion under subrule 37.12.1(4);

☐ In person;

☐ By telephone conference;

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[X] By video conference.

at the following location

<https://lolg-ca.zoom.us/j/85205728704?pwd=R01SWTIDNHRzdnZxalNnQWkySldIdz09>

THE MOTION IS FOR

1. An order (the “**Discharge Order**”) substantially in the form of the draft order attached at Tab 3 of the Motion Record, among other things:

- (a) Abridging and validating the time and manner of service of the Notice of Motion and the Motion Record so that this Motion is properly returnable on the date scheduled for the hearing thereof, and dispensing with further service thereof;
- (b) Approving the Fourth Report of the Receiver dated May 31, 2022 (the “**Fourth Report**”), including the actions and activities of the Receiver referred to therein;
- (c) Approving the fees and disbursements of the Receiver, the fees and disbursements of the Receiver’s counsel, Lax O’Sullivan Lisus Gottlieb LLP (“**Lax O’Sullivan**”), and the fees and disbursements of the Receiver’s real estate counsel, Dickinson Wright LLP (“**Dickinson Wright**”), as described in the Fourth Report and accompanying affidavits (the “**Fee Affidavits**”);
- (d) Terminating the Receivership and discharging Alvarez & Marsal Canada Inc. (“**A&M**” or the “**Receiver**”) as Receiver of the property of Axess Pickering Ltd. (“**Axess Pickering**” or the “**Company**”) as of the date of the requested Discharge

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Order, and releasing A&M as Receiver of the undertakings, property and assets Axess Pickering Ltd. upon the Receiver filing a Receiver's Certificate in the form set out as Appendix "E" of the Fourth Report confirming compliance with the conditions for discharge;

- (e) Dismissing the claim against Axess Pickering Ltd. brought by the Liberty Creditors, as those parties are defined below, and dismissing the action bearing Court File No. CV-21-00671739-0000 as against Axess Pickering Ltd. on a with prejudice basis;
- (f) Releasing A&M from any and all liability arising by reason of, or in any way arising out of, the acts or omissions of A&M while acting in its capacity as Receiver, save and except for any gross negligence or wilful misconduct on the Receiver's part;
- (g) Authorizing but not obligating the Receiver to file an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* on behalf of the Company, and authorizing but not obligating A&M to act as trustee in bankruptcy in respect of any such bankruptcy proceedings;
- (h) Partial indemnity costs as against the Liberty Creditors on account of the relief sought in connection with the claim against the Company;
- (i) Such further and other Relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE

A. PROCEDURAL BACKGROUND

2. Axess Pickering is a single purpose entity whose only asset was the real property located at 1525 Pickering Parkway, Pickering, Ontario (the “**Property**”).
3. Pursuant to an Order of this Court made on October 12, 2021 (the “**Appointment Order**”), upon application by C&K Mortgage Services Inc. and 975393 Ontario Inc., A&M was appointed Receiver of Axess Pickering.
4. The Appointment Order authorized the Receiver to market the property of Axess Pickering, including advertising and soliciting offers in respect of the Property or any part of parts thereof, and negotiating such terms and conditions of sale as the Receiver in its discretion deemed appropriate. It further authorized the Receiver to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis to assist with the exercise of the Receiver’s powers and duties. On November 8, 2021, this Court made an Order which, among other things, approved the marketing and sales process for the Property as described in Section 7 of the First Report of the Receiver.
5. Following the marketing and sales process, the Receiver executed a sale agreement with a successful bidder for the Property on December 22, 2021.
6. On January 20, 2022, this Court made an Order approving the transaction for the sale of the Property and authorizing the Receiver to make the first Interim Distributions (as defined in the Second Report).

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7. On February 10, 2022, the Transaction closed for gross proceeds of \$15.25 million.
8. On February 14, 2022, the Receiver made the first Interim Distributions to the Applicants, as further described in the Third Report.
9. On February 25, 2022, this Court made an order approving the Second Interim Distributions (as defined in the Third Report). The Second Interim Distributions were subsequently paid to the holders of the second and third ranking mortgages.
10. The Receiver is now holding the surplus funds obtained from the Transaction following the above interim distributions. It has since engaged with the Company's remaining stakeholders to review and assess remaining claims in anticipation of a final distribution. There is currently only one remaining identified creditor of the Company, Pine Ridge Management Inc. ("**Pine Ridge**").

B. APPROVAL OF THE FOURTH REPORT AND THE RECEIVER'S ACTIONS AND ACTIVITIES

11. The Receiver is filing its Fourth Report herewith to support the relief sought on this Motion, and to inform the Court of the Receiver's actions and activities since the date of the Third Report.
12. Among other things, the Fourth Report provides details regarding the following:
 - (a) A disputed claim by the Liberty Creditors;
 - (b) Steps that the Receiver has taken in anticipation of the termination of the Receivership and the discharge of Alvarez & Marsal as Receiver; and

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(c) The Receiver's request to assign the Company into bankruptcy.

13. The Receiver respectfully requests approval of the Fourth Report including the actions and activities of the Receiver described therein.

C. APPROVAL OF THE INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

14. The Receiver's statement of receipts and disbursements for the period October 12, 2021 to May 25, 2022 (the "**Interim Statement of Receipts and Disbursements**") is included in paragraph 4 of the Fourth Report.

15. The Receiver respectfully requests that the Court approve the Interim Statement of Receipts and Disbursements.

D. FEES AND DISBURSEMENTS OF THE RECEIVER AND ITS COUNSEL

16. Pursuant to the Appointment Order, the Receiver and its legal counsel are to be paid their reasonable fees and disbursements, and shall pass their accounts from time to time.

17. As set out in the Fee Affidavits, the Receiver has for the period from October 12, 2021 to May 24, 2022, incurred reasonable costs in the amount of \$200,133.41 (including fees, disbursements and HST). The Receiver's independent counsel, Lax O'Sullivan, has for the period from October 12, 2021 to May 23, 2022, incurred reasonable costs in the amount of \$52,305.99 (including fees, disbursements and HST). The Receiver's real estate counsel, Dickinson Wright, has for the period of November 19, 2021 to May 17, 2022, incurred reasonable costs in the amount of \$45,257.87 (including fees, disbursements, and HST).

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18. The fees and disbursements incurred by the Receiver, Lax O’Sullivan, and Dickinson Wright were necessary and appropriate to carry out the Receiver’s duties and responsibilities under the Appointment Order. The Receiver respectfully requests that the Court approve the fees and disbursements set out in the Fee Affidavits.

19. In addition to the fees incurred by the Receiver, Lax O’Sullivan, and Dickinson Wright noted above, the Receiver has estimated that the remaining fees and disbursements of the Receiver and Lax O’Sullivan will not exceed the aggregate amount of \$30,000, inclusive of the costs of this motion (the “**Remaining Fees**”).

20. The Receiver respectfully requests that the Court approve the Remaining Fees and direct that the Receiver and Lax O’Sullivan shall not be required to pass their accounts in respect of any further activities in connection with completing the administration of this receivership proceeding. The Receiver further requests authorization to pay any professional fees and disbursements of the Receiver and Lax O’Sullivan that exceed the aggregate amount of \$30,000 pursuant to a further Order of the Court.

E. CLAIM BROUGHT BY THE LIBERTY CREDITORS

21. As described above, the Company is a single purpose entity whose only asset was the Property. The Company is wholly owned by Liberty Hamlets Incorporated (“**Liberty**”), a real estate developer and the sole shareholder of Axess Pickering.

22. On February 4, 2022, the Receiver received notice from counsel to a group of creditors of Liberty who had commenced a claim against Axess Pickering, Liberty, Axess Developments Inc. and others. The creditors are: Atlas Dewatering Corporation; BDP Quadrangle; Fieldgate

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Construction Management Ltd.; Husson Limited; Madhouse Advertising Inc.; Paradigm Transportation Solutions Limited; Trace Engineering Ltd.; and Sutherland Law (together, the “**Liberty Creditors**”).

23. The Liberty Creditors commenced their action against Axess Pickering on November 9, 2021, approximately one month after this court granted the Receivership Order, which included a stay of proceedings against Axess Pickering. The Receivership Order was registered on title to the Property on or about October 21, 2021, more than two weeks before the Liberty Creditors commenced their action.

24. In their Statement of Claim, the Liberty Creditors seek to hold the defendants, including Axess Pickering, jointly and severally liable for damages for breach of contract, restitution, unjust enrichment and/or *quantum meruit*, and additionally sought various relief under the oppression remedies of the Ontario *Business Corporations Act*, R.S.O. 1990, C. B.16 and the Canada *Business Corporations Act*, R.S.C., 1985m c. C-44. The Liberty Creditors also sought a declaration that all amounts paid to the defendants in respect of the Property constituted trust funds for the benefit of the plaintiffs, as well as various other heads of relief.

25. The Liberty Creditors did not file a notice of appearance in the receivership proceedings. The Receiver and Lax O’Sullivan communicated to counsel to the Liberty Creditors, reminding the Liberty Creditors that paragraph 8 of the Appointment Order provides that no proceeding against or in respect of the Company shall be commenced or continued except with written consent of the Receiver or leave of the Court.

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26. The Receiver had no knowledge of this claim prior to these communications. The books and records of Axess Pickering do not include any record of amounts owed to, or contracts with, the Liberty Creditors. Nor was the Receiver aware of the existence of Axess Developments Inc.

27. Counsel for the Liberty Creditors informed the Receiver that they had already obtained default judgment against Liberty for the claimed amount. As such, the Receiver inquired whether they intended to bring a further claim against Axess Pickering. Counsel for the Liberty Creditors confirmed that the Liberty Creditors intend to continue their claim against Axess Pickering.

28. There is no basis for any claim by the Liberty Creditors against Axess Pickering. The claims advanced by the Liberty Creditors against the defendants arise from services provided to Liberty. These services were rendered under contracts made exclusively between the Liberty Creditors and Liberty.

29. The Receiver has determined that the Liberty Creditors' claim against Axess Pickering is without merit.

30. But for this claim, there is only one known creditor of the Company. The Receiver believes that it is in the interests of the Company's stakeholders that a bankruptcy proceeding not be burdened by the Liberty Creditors' claim. Dismissing the claim brought by the Liberty Creditors in this proceeding will permit a bankruptcy trustee to expeditiously and efficiently deal with the Company's sole remaining known creditor.

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F. MISCELLANEOUS AND ADMINISTRATIVE

31. The Receiver requests authority to assign the Company into bankruptcy. This will provide a cost-effective and efficient process to complete the administration of the Company's estate.

32. For the reasons set out above, and in details in the Fourth Report, the Receiver respectfully requests that the Court terminate the Receivership, and discharge and release A&M as Receiver of the Property of the Company, effective as of the date the filing of the Receiver's Certificate, without any further act or formality.

33. In addition to the above, the Receiver pleads and relies upon:

- (a) The terms of the Appointment Order.
- (b) The provisions of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, as amended.
- (c) The provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, and the inherent and equitable jurisdiction of this Honourable Court.
- (d) Rules 1.04, 1.05, 2.01, 2.03, 3.02, 16, 20, and 37 of the *Rules of Civil Procedure*, R.R.O. 1990 Reg. 194; and
- (e) Such further and other grounds as the lawyers may advise and this Court may permit.

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THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

34. The Fourth Report and the appendices attached thereto;
35. The Fee Affidavits (attached to the Fourth Report); and
36. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

June 2, 2022

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TO: **THE SERVICE LIST**

C&K MORTGAGE SERVICES INC. et al.
Applicants

-and- AXESS PICKERING LTD.
Respondent

Court File No. CV-21-00669408-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION

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TAB 2

Court File No. CV-21-00669408-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

C&K MORTGAGE SERVICE INC.

and 975393 ONTARIO INC.

APPLICANTS

- and -

AXESS PICKERING LTD.

RESPONDENT

**FOURTH REPORT TO COURT
OF ALVAREZ & MARSAL CANADA INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER
OF AXESS PICKERING LTD.**

MAY 31, 2022

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Appendix B	First Report to Court of the Receiver dated November 3, 2021 (without appendices)
Appendix C	Second Report to Court of the Receiver dated January 14, 2022 (without appendices)
Appendix D	Third Report to Court of the Receiver dated February 17, 2022 (without appendices)
Appendix E	Proposed Form of Receiver's Certificate
Appendix F	Liberty Creditors' Statement of Claim
Appendix G	Affidavit of Stephen Ferguson Sworn May 30, 2022
Appendix H	Affidavit of Matthew Gottlieb Sworn May 30, 2022
Appendix I	Affidavit of David Preger Sworn May 18, 2022

1.0 INTRODUCTION

- 1.1 This report (the “**Fourth Report**”) is filed by Alvarez & Marsal Canada Inc. (“**A&M**”) in its capacity as Court-appointed receiver and manager (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Axess Pickering Ltd. (“**Axess**” or the “**Company**”), including the lands and premises located at 1525 Pickering Parkway, Pickering, Ontario (the “**Property**”).
- 1.2 Pursuant to an order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (the “**Court**”) made on October 12, 2021 (the “**Receivership Date**”) upon application by C&K Mortgage Service Inc. and 975393 Ontario Inc. (the “**Applicants**”), A&M was appointed Receiver of Axess. A copy of the Appointment Order is attached hereto as **Appendix “A”**. A copy of the First Report to Court of the Receiver dated November 3, 2021 (the “**First Report**”), without appendices, is attached hereto as **Appendix “B”**; the Second Report to Court of the Receiver dated January 14, 2022 (the “**Second Report**”), without appendices, is attached hereto as **Appendix “C”**; and the Third Report to Court of the Receiver dated February 17, 2022 (the “**Third Report**”), without appendices, is attached hereto as **Appendix “D”**.
- 1.3 Background information with respect to Axess and the circumstances leading to the appointment of the Receiver are as described in the First Report.
- 1.4 On January 20, 2022, this Court made an Order (the “**Approval and Vesting Order**”), which, among other things:

- (i) approved the transaction (the “**Transaction**”) for the sale of the Property as contemplated by an agreement of purchase and sale between the Receiver and Pickering Valley Developments Limited (the “**Purchaser**”); and
- (ii) authorized the Receiver to make the Interim Distributions (as defined in the Second Report) to the Applicants.

1.5 On February 25, 2022, this Court made an Order (the “**Second Interim Distribution Order**”), which, among other things authorized the Receiver to make the Second Interim Distributions (as defined in the Third Report) to Sagewise Capital Corporation (the “**Second Mortgage**”), and to Gina Batista & RNV Investments LLC (the “**Third Mortgage**”).

2.0 TERMS OF REFERENCE AND DISCLAIMER

2.1 In preparing this Fourth Report, the Receiver has relied upon unaudited financial information, books and records and other documents provided by, and discussions with, certain former management of Axess and current management of the Company’s sole shareholder Liberty Hamlets Inc (“**Liberty**”) (collectively, the “**Information**”).

2.2 The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly,

the Receiver expresses no opinion or other form of assurance contemplated under CASs in respect of the Information.

- 2.3 This Fourth Report has been prepared for the use of this Court and Axess' stakeholders as general information relating to these receivership proceedings (the "**Receivership Proceedings**") and to assist the Court in making a determination of whether to approve the relief sought herein. Accordingly, the reader is cautioned that this Fourth Report may not be appropriate for any other purpose. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Fourth Report different than the provisions of this paragraph.
- 2.4 Unless otherwise stated, all monetary amounts contained in this Fourth Report are expressed in Canadian dollars.
- 2.5 Further information about Axess and copies of materials filed in the Proceedings are available on the Receiver's website at: www.alvarezandmarsal.com/axess (the "**Case Website**").

3.0 PURPOSE OF THIS REPORT

- 3.1 The purpose of this Fourth Report is to:
- (a) support the Receiver's motion for an order, among other things:
 - (i) terminating the Receivership and approving the discharge of the Receiver upon the filing of a Discharge Certificate in the form substantially as set out

as **Appendix “E”**, certifying that the remaining receivership tasks described herein have been completed by the Receiver;

- (ii) releasing A&M from any and all liability arising by reason of, or in any way arising out of, the acts or omissions of A&M while acting in its capacity as Receiver, save and except for any gross negligence or willful misconduct on the Receiver’s part;
 - (iii) dismissing the claim against Axxess brought by the Liberty Creditors, (as defined below), and dismissing the action bearing Court File No. CV-21-00671739-0000 as against Axxess, on a with prejudice basis;
 - (iv) authorizing but not obligating the Receiver to file an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* on behalf of the Company, and authorizing but not obligating A&M to act as trustee in bankruptcy in respect of any such bankruptcy proceedings;
 - (v) approving the fees and disbursements of the Receiver, the fees and disbursements of the Receiver’s independent counsel, Lax O’Sullivan Lisus Gottlieb LLP (“**LOLG**”), and the fees and disbursements of the Receiver’s real estate counsel, Dickinson Wright LLP (“**Dickinson Wright**”); and
 - (vi) approving this Fourth Report and the activities of the Receiver described herein; and
- (b) report to the Court on the Receiver’s activities since the date of the Third Report.

4.0 RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

4.1 A summary of the Receiver's Statement of Receipts and Disbursements for the period October 12, 2021 to May 25, 2022 (the "Reporting Period") is provided below:

Receipts & Disbursements	
<i>For the period 10/12/2021 through 05/25/2022</i>	
<i>Figures in CAD \$</i>	
Receipts	
Sale Proceeds	\$ 15,250,000
Receiver's Certificate Advances	150,000
Deposit Interest	490
Total Receipts	\$ 15,400,489
Disbursements	
Professional Fees and Disbursements	\$ 292,813
Property Sale Commission	266,875
HST Paid	78,997
Property Tax	19,498
Consultants Fees	16,815
Receiver's Certificate Interest	5,518
Property Insurance Costs	4,838
Other	90
Total Disbursements	\$ 685,445
Net Cash Flow	\$ 14,715,044
Opening Cash Balance	-
Net Cash Flow	14,715,044
Less: Receiver's Certificate Distribution	(150,000)
Less: First Mortgage Distribution	(8,747,884)
Less: Second Mortgage Distribution	(1,896,953)
Less: Third Mortgage Distribution	(925,018)
Ending Cash Balance	\$ 2,995,190

- 4.2 Receipts for the period totaled \$15.4 million, comprised primarily of sale proceeds in respect of the Property and advances made under Receiver's Certificates.
- 4.3 Disbursements for the period totaled \$14.7 million, comprised primarily of:
- (a) Professional Fees of \$292,813 (including fees paid to the Receiver, LOLG, and Dickinson Wright);
 - (b) Property Sale Commission of \$266,875;
 - (c) HST paid on fees and costs of \$78,997;
 - (d) Property taxes of \$19,498;
 - (e) Property and tax consultant's fees of \$16,815; and
 - (f) Interest, Insurance, and other costs of \$10,447.
- 4.4 As further described in the Third Report, on February 14, 2022, the Receiver made Interim Distributions to the Applicants: (i) in the amount of \$152,212 to fully repay amounts owing under the Receiver's Borrowings, including interest; and (ii) in the amount of \$8,747,884 to fully repay amounts owing under the First Mortgage, including interest, fees and legal costs.
- 4.5 As approved by the Second Interim Distribution Order, on March 1 and March 2, 2022, the Receiver distributed amounts owing under the Second Mortgage and the Third Mortgage, including legal fees and costs, of \$1,896,953 and \$925,018, respectively (the "**Second Distribution**").

5.0 IDENTIFIED UNSECURED CREDITORS OF AXESS

- 5.1 Following the Second Distribution, all secured creditors of the Company have been repaid in full. As of the date of this Report, the Receiver is only aware of two potential unsecured creditors of Axess; Pine Ridge Management Inc. (“**Pine Ridge**”) and Liberty.

The Pine Ridge Claim

- 5.2 As further described in the First Report and the Second Report, Liberty purchased the Property from Pine Ridge by way of an agreement of purchase and sale dated January 31, 2019, as amended several times, including on February 26, 2021, whereby the parties agreed to final additional consideration payable to Pine Ridge and its principal Tom Oldman in the form of ten (10) condominium units to be available for purchase by Tom Oldman, the principal of Pine Ridge, for \$2.00 each, as well as 16 additional parking spaces and lockers at no additional charge (the “**Condominium Sales Agreement**”). Pine Ridge’s and/or Mr. Oldman’s rights under the Condominium Sales Agreement were registered as a notice on title to the Property on April 1, 2021.
- 5.3 While LOLG’s security review concluded that the Condominium Sales Agreement did not grant a security interest to Pine Ridge or Mr. Oldman, Pine Ridge has an unsecured claim against Axess (the “**Pine Ridge Claim**”), which Pine Ridge values in excess of \$11.7 million. As of the date of this Report the Receiver has not assessed the value of the Pine Ridge Claim.

The Liberty Claim

- 5.4 As further described in the First Report, Axess is a single purpose entity whose only asset was the Property. Since incorporation, the Company had no employees or operations and its only transactions related to the acquisition of the Property and payment of related closing costs. All development activities and related costs in respect of the Property were coordinated by Liberty and were to be charged to Axess by way of related party payables.
- 5.5 Based on the books and records of Axess (as received from Liberty and updated by the Receiver), as of the date of this Report, Axess is indebted to Liberty for approximately \$3.6 million (the “**Liberty Claim**”) in respect of costs paid by Liberty on closing of the acquisition of the Property of approximately \$2.0 million and costs paid directly by Liberty in respect of development and marketing of the Property¹ of approximately \$1.6 million.
- 5.6 The Receiver has confirmed with both Pine Ridge and Liberty that Liberty has assigned the Liberty Claim to Pine Ridge.

6.0 CLAIM BROUGHT BY LIBERTY CREDITORS

- 6.1 On February 4, 2022, the Receiver received notice from counsel to a group of creditors of Liberty who had commenced a claim against Axess. The creditors are: Atlas Dewatering Corporation; BDP Quadrangle; Fieldgate Construction Management Ltd.; Husson Limited;

¹ The Receiver understands that costs paid directly by Liberty in respect of development and marketing of the Property and invoiced to Axess only include costs which were cash paid and expressly exclude any amounts owing to the Liberty Creditors (as defined below).

Madhouse Advertising Inc.; and Paradigm (collectively the “**Liberty Creditors**”). A copy of the statement of claim filed by the Liberty Creditors is attached here as **Appendix “F”**.

- 6.2 The Liberty Creditors seek to hold the defendants, including Axess, jointly and severally liable for damages for breach of contract, restitution, unjust enrichment and/or *quantum meruit*, and additionally seek various relief under the oppression remedies of the Ontario *Business Corporations Act*, R.S.O. 1990, C. B.16 and the Canada *Business Corporations Act*, R.S.C., 1985m c. C-44. The Liberty Creditors also seek a declaration that all amounts paid to the defendants in respect of the Property constituted trust funds for the benefit of the plaintiffs, as well as various other heads of relief.
- 6.3 The Liberty Creditors commenced their action against Axess Pickering on November 9, 2021, approximately one month after the Court granted the Appointment Order, which included a stay of proceedings against Axess Pickering. The Appointment Order was registered on title to the Property on or about October 21, 2021, more than two weeks before the Liberty Creditors commenced their action.
- 6.4 The Liberty Creditors did not file a notice of appearance in the Receivership Proceedings. The Receiver and LOLG communicated to counsel to the Liberty Creditors, reminding the Liberty Creditors that the Appointment Order provides that no proceeding against or in respect of the Company shall be commenced or continued except with written consent of the Receiver or leave of the Court

- 6.5 The Receiver had no knowledge of this claim prior to February 4, 2022. The books and records of Axess do not include any record of amounts owed to, or contracts with, the Liberty Creditors, nor was the Receiver aware of the existence of Axess Developments Inc.
- 6.6 Counsel for the Liberty Creditors informed the Receiver that they had already obtained default judgment against Liberty for the claimed amount. The claims advanced by the Liberty Creditors against the defendants arise from services provided to Liberty. Such services were rendered under contracts made exclusively between the Liberty Creditors and Liberty. As of the date of this Report, despite requests from the Receiver and/or its counsel, counsel to the Liberty Creditors has not provided the Receiver with evidence supporting an allegation that Axess owes any contractual obligation or other obligation to the Liberty Creditors. Therefore, the Receiver, in consultation with its counsel, has determined that the Liberty Creditors' claim against Axess is without merit.
- 6.7 But for the claim advanced by the Liberty Creditors, at this time Pine Ridge is the only known creditor of the Company. As further described below, the Receiver believes that it is in the interests of the Company's stakeholders that a bankruptcy proceeding bring an efficient end to the process and not be burdened by the Liberty Creditors' claim. Dismissing the claim brought by the Liberty Creditors in this proceeding will permit a bankruptcy trustee to expeditiously and efficiently deal with the Company's remaining assets.

7.0 PROPOSED BANKRUPTCY ASSIGNMENT

- 7.1 The Appointment Order does not specifically authorize the Receiver to assign Axess into bankruptcy.

- 7.2 The Receiver is of the view that a bankruptcy of the Company is appropriate to identify any other potential creditors of the Company complete the administration of the estate, including a distribution to Axess' unsecured creditors in an efficient manner. The Receiver currently holds slightly less than \$3 million cash on hand, which is not sufficient to fully repay all remaining claims outstanding against Axess. Cash on hand (less costs to complete the Receivership Proceedings and subsequent bankruptcy) will be made available for the benefit of Axess' estate in the proposed bankruptcy proceedings.
- 7.3 Therefore the Receiver is seeking the authority (but not the obligation) from the Court to assign Axess into bankruptcy, in order to facilitate a final distribution to creditors based on priorities provided for pursuant to the BIA.

8.0 FEES OF THE RECEIVER AND ITS LEGAL COUNSEL

- 8.1 Pursuant to paragraphs 16 to 18 of the Appointment Order, the Receiver, LOLG and Dickinson Wright are entitled to be paid their reasonable fees and disbursements at their standard rates and charges, and are required to pass their accounts from time to time.
- 8.2 During the period from October 12, 2021 to May 21, 2022 (the "**A&M Application Period**"), the Receiver expended a total of 263.6 hours in connection with this matter, giving rise to fees and disbursements totalling \$200,133.41 (inclusive of disbursements of \$666.70 and HST of \$23,024.21). The Receiver estimates that its fees and expenses from May 22, 2022 to its discharge will be \$20,000, plus HST. Details of the hours spent, the hourly rates and total fees and disbursements for the Receiver for the Application Period,

are included in the Affidavit of Stephen J. Ferguson sworn on May 30, 2022 and attached hereto as **Appendix “G”** (the “**Ferguson Affidavit**”).

- 8.3 The Receiver believes that the invoices attached to the Ferguson Affidavit accurately reflect the work that was done in connection with this matter and that all of the time spent by the Receiver was reasonable and necessary.
- 8.4 During the period from October 12, 2021 to May 23, 2022 (the “**LOLG Application Period**”), LOLG expended a total of 72.10 hours in connection with this matter, giving rise to fees and disbursements of \$52,305.99 (inclusive of costs and HST). LOLG estimates that its fees and expenses from May 23 to the Receiver’s discharge will be \$10,000 plus HST. Details of the hours spent, the hourly rates, and the total fees and disbursements of LOLG for the LOLG Application Period are included in the affidavit of Matthew Gottlieb sworn on May 30, 2022 and attached hereto as **Appendix “H”** (the “**Gottlieb Affidavit**”).
- 8.5 During the period from November 18, 2021 to May 17, 2022 (the “**Dickinson Wright Application Period**”), Dickinson Wright expended a total of 50 hours in connection with this matter, giving rise to fees and disbursements of \$45,257.87 (inclusive of costs and HST). Details of the hours spent, the hourly rates, and the total fees and disbursements of Dickinson Wright for the Dickinson Wright Application Period are included in the affidavit of David Preger sworn on May 18, 2022, and attached hereto as **Appendix “I”** (the “**Preger Affidavit**”).
- 8.6 The Receiver confirms that the fees and disbursements set out in Gottlieb Affidavit and Preger Affidavit relate to advice and assistance sought by the Receiver. It is the Receiver’s

view that the fees and disbursements of LOLG and Dickinson Wright are reasonable and appropriate in the circumstances.

- 8.7 Assuming no unforeseen expenses, the Receiver estimates that there are approximately \$30,000 in total fees and disbursements to conclude the Receivership Estate, including the fees and disbursements of the Receiver and LOLG from the date of this Fourth Report to the date of discharge, including bank charges, and miscellaneous other costs (“**Final Fees and Disbursements**”).
- 8.8 The Receiver therefore seeks an order of this Court approving the fees and disbursements of the Receiver during the A&M Application Period, the fees and disbursements of LOLG during the LOLG Application period, the fees and disbursement of Dickinson Wright during the Dickinson Wright Application Period and the Final Fees and Disbursements.

9.0 ACTIVITIES OF THE RECEIVER TO DATE

- 9.1 In addition to the activities described in detail in this Fourth Report, the Receiver has conducted the following activities since the date of the Third Report:
- (a) attended to matters related to the Transaction closing;
 - (b) maintained the Case Website;
 - (c) prepared financial statements and filed outstanding tax returns in respect of the Company for the 2019, 2020 and 2021 fiscal years;
 - (d) managed the Receiver’s trust account;

- (e) corresponded extensively with stakeholders regarding the claims dispute noted herein;
- (f) maintained communication with key stakeholders in these proceedings; and
- (g) prepared this Fourth Report, and brought this motion.

10.0 REMAINING RECEIVERSHIP MATTERS

10.1 There are only minor matters to be completed in connection with the administration of the Receivership proceeding including, but not limited to, the following:

- (a) attending at Court in respect of the distribution, fee approval and discharge motion;
- (b) collecting final HST refunds;
- (c) responding to information requests from creditors and other stakeholders;
- (d) preparing the Receiver's final report and statement of accounts as required by s.246(3) of the BIA; and
- (e) other administrative matters related to the Receiver's appointment.

11.0 CONCLUSIONS AND RECOMMENDATIONS

Based on the foregoing, the Receiver respectfully requests that the Court make an order granting the relief sought in the Receiver's Notice of Motion and described in paragraph 3.1(a) of this Fourth Report.

All of which is respectfully submitted this 31 th day of May 2022.

**Alvarez & Marsal Canada Inc., in its capacity as Receiver of
Axess Pickering Ltd., and not in its personal capacity**



Per: Stephen Ferguson
Senior Vice-President

Court File No. CV-21-669408-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE*
ACT, R.S.O. 1990 C. C.43, AS AMENDED**

THE HONOURABLE)	TUESDAY, THE 12TH
)	
JUSTICE KOEHNEN)	DAY OF OCTOBER, 2021

B E T W E E N:

**C & K MORTGAGE SERVICES INC.
and 975393 ONTARIO INC.**

Applicants

- and -

AXESS PICKERING LTD.

Respondent

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicants for an Order appointing Alvarez & Marsal Canada Inc. Inc. as receiver and manager (in such capacities, the “Receiver”), without security, of all of the assets, undertakings and properties of the Respondent Axess Pickering Ltd. (the “Debtor”), was heard this day by Zoom judicial videoconference.

ON READING the affidavit of Gary Gruneir sworn September 30, 2021 and the Exhibits thereto, the affidavit of Janet Nairne sworn October 12, 2021 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicants, counsel for Gina Batista and RNV Investments LLC, and Blair Gagnon and Daniel Hughes, both appearing for the Debtor and Liberty Hamlets Inc. (“Liberty”), no one else appearing although duly served as appears from the affidavit of service of Janet Nairne sworn October 7, 2021, and on reading the consent of Alvarez & Marsal Canada Inc. Inc. to act as the Receiver,

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, Alvarez & Marsal Canada Inc. Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor, including the lands and premises legally described in Schedule “A” hereto, and all proceeds thereof (the “Property”).

RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the

relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed

shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in each such case, notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the Receiver's administration, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and

- (q) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor, (ii) Liberty, (iii) all of the Debtor's and Liberty's current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor and Liberty, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to access make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure. For greater certainty, and without limiting the generality of the foregoing, the Receiver is authorized and empowered to access and make, retain and take away copies of the Records of the Debtor and Records of Liberty in respect of the Property located at

the offices of Liberty and Liberty shall cooperate and shall provide reasonable assistance to the Receiver with respect to such Records and information contained in such Records.

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

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtor, Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in

respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

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

RECEIVER TO HOLD FUNDS

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this

Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “Post Appointment Accounts”) and the monies standing to the credit of such Post Appointment Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

LIMITATION ON ENVIRONMENTAL LIABILITIES

14. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “Possession”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “Environmental Legislation”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

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

RECEIVER'S ACCOUNTS

16. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

FUNDING OF THE RECEIVERSHIP

19. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed

\$500,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “Receiver’s Borrowings Charge”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

21. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “B” hereto (the “Receiver’s Certificates”) for any amount borrowed by it pursuant to this Order.

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

SERVICE AND NOTICE

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

orders that a Case Website shall be established in accordance with the Protocol with the following URL: www.alvarezandmarsal.com/axess.

24. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

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

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

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

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

29. THIS COURT ORDERS that the Applicants shall have their costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicants' security or, if not so provided by the Applicants' security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

31. THIS COURT ORDERS that this Order is effective from today's date and is not required to be entered.



SCHEDULE “A”
LANDS AND PREMISES

PIN: 26330 - 0016 LT

PT LT 20 CON 1 PICKERING AS IN D42810 EXCEPT PT 1, 40R7449 & 40R12400; S/T
D127632, D133802, D50967 PICKERING

Municipal Address: 1525 PICKERING PARKWAY, PICKERING

SCHEDULE “B”

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Alvarez & Marsal Canada Inc., the Receiver (the “Receiver”) of all of the assets, undertakings and properties of Axess Pickering Ltd. (the “Debtor”), including the lands and premises municipally known as 1525 Pickering Parkway, in Pickering, Ontario (the “Property”) appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the “Court”) dated the [DATE] (the “Order”) made in an application having Court file number CV-21-669408-00CL, has received as such Receiver from the holder of this certificate (the “Lender”) the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the _____ day of each month after the date hereof at a notional rate per annum equal to the rate of _____ per cent.

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

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

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

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

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

DATED the ____ day of _____, 2021.

Alvarez & Marsal Canada Inc., solely in its
capacity as Receiver of the Property, and not in
its personal capacity

Per: _____

Name:

Title:

C & K MORTGAGE SERVICES INC. et al
Applicants

-and- AXESS PICKERING LTD.
Respondent

Court File No. CV-21-669408-00CL

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

ORDER
(Appointing Receiver)

DICKINSON WRIGHT LLP

Barristers & Solicitors
199 Bay Street
Suite 2200, Box 447
Commerce Court Postal Station
Toronto, ON M5L 1G4

David P. Preger (36870L)

Email: DPreger@dickinsonwright.com
Tel: (416) 646-4606

David Z. Seifer (77474F)

Email: DSeifer@dickinsonwright.com
Tel: 416-646-6867

Lawyers for the Applicants

Court File No. CV-21-00669408-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

C & K MORTGAGE SERVICE INC.
and 975393 ONTARIO INC.

APPLICANTS

- and -

AXESS PICKERING LTD.

RESPONDENT

FIRST REPORT TO COURT
OF ALVAREZ & MARSAL CANADA INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER
OF AXESS PICKERING LTD.

NOVEMBER 3, 2021

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1.0 INTRODUCTION

- 1.1 This report (the “**First Report**”) is filed by Alvarez & Marsal Canada Inc. (“**A&M**”) in its capacity as Court-appointed receiver and manager (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Axess Pickering Ltd. (“**Axess**” or the “**Company**”), including the lands and premises located at 1525 Pickering Parkway, Pickering, Ontario (the “**Property**”).
- 1.2 Pursuant to an order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (the “**Court**”) made on October 12, 2021 (the “**Receivership Date**”) upon application (the “**Receivership Application**”) by C & K Mortgage Services Inc. and 975393 Ontario Inc. (the “**Applicants**”), A&M was appointed Receiver of Axess. A copy of the Appointment Order is attached hereto as **Appendix “A”**.

2.0 PURPOSE OF THIS REPORT

- 2.1 The purpose of this First Report is to:
- (a) provide background information regarding Axess and the Property;
 - (b) describe the Receiver’s activities since the Receivership Date and the Receiver’s intended course of action in respect of these receivership proceedings (the “**Receivership Proceedings**”);
 - (c) support the Receiver’s motion for an order (the “**Sale Process Order**”), among other things:

- (i) authorizing and directing the Receiver to conduct the Sale Process (as described hereafter) for the Property, including engagement of Cushman & Wakefield ULC. (“C&W”); and
- (ii) approving this First Report and the activities of the Receiver described herein.

3.0 TERMS OF REFERENCE AND DISCLAIMER

- 3.1 In preparing this First Report, the Receiver has relied upon unaudited financial information, books and records and other documents provided by, and discussions with, certain former management of Axess and current management of Liberty Hamlets Inc. (collectively, the “**Information**”).
- 3.2 The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CASs in respect of the Information.
- 3.3 This First Report has been prepared for the use of this Court and Axess’ stakeholders as general information relating to the Receivership Proceedings and to assist the Court in making a determination of whether to approve the relief sought herein. Accordingly, the reader is cautioned that this First Report may not be appropriate for any other purpose. The Receiver will not assume responsibility or liability for losses incurred by the reader as a

result of the circulation, publication, reproduction or use of this First Report different than the provisions of this paragraph.

- 3.4 The information contained in this First Report is not intended to be relied upon by any investor or purchaser in any transaction with the Receiver.
- 3.5 Unless otherwise stated, all monetary amounts contained in this First Report are expressed in Canadian dollars.
- 3.6 Further information about Axess, its background and copies of materials filed in the Receivership Proceedings are available on the Receiver's website at: www.alvarezandmarsal.com/axess (the "**Case Website**").

4.0 BACKGROUND

- 4.1 Further background with respect to Axess, as well as a description of the circumstances leading to the appointment of the Receiver, are contained in the application record (the "**Application Record**") filed by the Applicants which has been posted to the Case Website.
- 4.2 Axess was incorporated on February 22, 2019 and is a wholly owned subsidiary of Liberty Hamlets Inc. ("**Liberty**"). On March 1, 2021, Axess acquired the Property from Pine Ridge Management Inc. ("**Pine Ridge**") in exchange for \$10 million (the "**Cash Consideration**") plus, an agreement dated February 26, 2021 whereby Axess agrees sell 10 condo units for \$2 per unit and 16 parking spaces and lockers at no cost, to Tom Oldman, the President of Pine Ridge (the "**Condominium Sale Agreement**"). The Condominium Sale Agreement was registered on title to the Property.

- 4.3 The Cash Consideration was funded by way of: i) a first ranking mortgage of \$8.2 million, registered by the Applicants on March 1, 2021 (the “**First Mortgage**”), (ii) a second ranking mortgage of \$1.5 million, registered by Sagewise Capital Corporation (“**Sagewise**”) on March 1, 2021 (the “**Second Mortgage**”), and (iii) funding from Liberty of \$300,000.
- 4.4 Closing costs in respect of the transfer of the Property, including prepaid interest, lender and referral fees, and tax and insurance amounts totaled \$2,580,130, and were funded by Liberty in the amount of \$1,696,500, and by a third ranking charge on the property in the amount of \$883,630, registered by RNV Investments and Gina Batista on June 15, 2021 (the “**Third Mortgage**”).
- 4.5 Axxess is a single purpose entity whose only asset is the Property. It has no and has never had any employees or operations since incorporation. Based on the books and records of the Company, to date, Axxess’ only transaction was the acquisition of the Property and payment of related closing costs. All development activities and related costs in respect of the Property (as described hereafter) have been orchestrated by Liberty.

Proposed Development of the Property

- 4.6 Liberty and Pine Ridge began informally discussing a joint venture or sale of the Property in August 2017. Between 2017 and 2019, Liberty funded all necessary technical and feasibility reports in respect of a development plan related to the Property. On March 3,

2019, Liberty entered into an Agreement of Purchase and Sale (the “**Liberty APS**”)¹ with Pine Ridge to purchase the property for \$10 million. The Liberty APS was originally intended to close on April 4, 2019, but due to a series of extensions which required Liberty to provide additional deposits and consideration, including the Condominium Sale Agreement, the sale of the Property closed on March 1, 2021. In November 2019, Liberty constructed a showroom and began marketing ‘Axess Condominiums’, a proposed mixed-use development including a three storey podium and two point towers. The Axess Condominiums development envisions 22 storeys, including 320 residential units and 4 retail/commercial units, for total commercial gross floor area (“**GFA**”) of 16,490 square feet and residential GFA of 355,554 square feet.

- 4.7 Liberty was forced to pause marketing efforts in March 2020 due to Covid-19 restrictions. No condominium sale agreements were entered into by Liberty or Axess, and the Axess Condominiums showroom was closed on August 13, 2021.
- 4.8 The Property is currently vacant and unimproved. The Property is a development site measuring 1.27 acres; zoned as City Centre 1 (CC1); designated as a Mixed-Use Area under the City of Pickering Official Plan; and located within 1 kilometer of Pickering Town Centre and Pickering GO Train Station. Based on the site area and current FSI limits, the Property is limited to net floor area (“**NFA**”) of 319,396 square feet. The proposed site plan

¹ On September 12, 2019, the Liberty APS was assigned to Axess by way of an Assignment of Agreement of Purchase and Sale.

application for 355,554 square feet GFA (316,379 square feet NFA) is currently under review by the City of Pickering.

- 4.9 As further described in the Application Record, as a result of to the Company's failure to repay the First Mortgage upon maturity on September 1, 2021, and the Company's failure to meet the financial terms of a forbearance agreement, on September 3, 2021, the Applicants issued notices under Section 244(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B-3 (the "BIA") to the Company as well as to Liberty and Mr. Dan Hughes as guarantors.

5.0 ACTIVITIES OF THE RECEIVER TO DATE

- 5.1 Following the issuance of the Appointment Order, the Receiver:

- (a) attended at and photographed the Property, and secured the fence providing access to the Property;
- (b) opened a trust bank account;
- (c) obtained information regarding the Property, including books and records relating to Axess;
- (d) held discussions with the management of Liberty and obtained information from Liberty in respect of the proposed development of the Property;
- (e) confirmed insurance coverage, after consulting with the Receiver's insurance advisors and the existing insurance provider;
- (f) reviewed the OBG Offer (as defined below) and discussed it with management;

- (g) engaged independent counsel, Lax O’Sullivan Lisus Gottlieb LLP;
- (h) solicited proposals for an independent appraisal of the Property and engaged Avison Young in respect of same;
- (i) solicited proposals from prospective sales agents in respect of the Sale Process (as further described below);
- (j) arranged for interim funding from the Applicants (through a Receiver’s Certificate) in the amount of \$50,000 to fund appraisal, legal and other costs in respect of the Receivership Proceedings;
- (k) registered a copy of the Appointment Order against title to the Property;
- (l) established the Case Website for the Receivership Proceedings and updated accordingly;
- (m) requested and obtained information from secured creditors and other stakeholders in respect of Property;
- (n) issued the notice required pursuant to Sections 245 and 246 of the BIA to known creditors of the Property, a copy of which is attached as **Appendix B**; and
- (o) prepared the Sale Process, this First Report, and brought this motion.

6.0 OBG AXESS OFFER

- 6.1 On October 12, 2021, at the hearing of the Receivership Application, Mr. Dan Hughes, the president of both Liberty and Axess, opposed the Receivership Application on the basis of an executed agreement of purchase and sale (the “**OBG Axess APS**”) between Axess,

Liberty and OBG Axess Limited Partnership (“**OBG Axess**”). In connection with the issuance of the Appointment Order, the endorsement of Justice Koehnen, attached as **Appendix C**, identified concerns in respect of the OBG Axess APS.

- 6.2 On October 19, 2021, the Receiver wrote to Mr. Hughes (the “**October 19th Letter**”), to detail the Receiver’s concerns in respect of the OBG Axess APS. A copy of the October 19th Letter is attached as **Appendix D**. As of the date of this Report, the concerns identified by the Receiver in the October 19th Letter have not been addressed by management or OBG Axess.

7.0 SALE OF THE PROPERTY

- 7.1 Paragraph 3(j) of the Appointment Order authorizes the Receiver to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate.
- 7.2 To assist in marketing the Property, the Receiver requested and received listing proposals from four leading commercial real estate brokerages, including CBRE Limited, Institutional Property Advisors, Lee & Associates and C&W.
- 7.3 After review of the listing proposals and consultation with the Applicants, the Receiver selected C&W to assist in development and implementation of a Property sale process.

7.4 The Receiver seeks the approval of the Court in respect of a process for the submission of bids and ultimate sale of the Property (the “**Sale Process**”). A summary of the proposed Sale Process is as follows:

- the Receiver and C&W will finalize a Confidentiality Agreement (“**CA**”) and confidential information memorandum in respect of the Property;
- formal marketing of the Property will commence on November 9, 2021. C&W will target prospective purchasers through a combination of email solicitations, advertisements, MLS Listing, and signage;
- the Receiver and C&W will establish an electronic data room (the “**Data Room**”) to provide access to confidential information pertaining to the Property (including the Liberty Information as defined below) to parties who execute the CA;
- interested parties who have executed the CA will be provided access to the Data Room and the Receiver and C&W will coordinate due diligence;
- a template form of agreement of purchase and sale will be provided to prospective purchasers to facilitate a proper comparison of offers that may be received and to minimize the time required to negotiate separate forms of offers with multiple parties, in order to determine the highest and best overall offer;
- bids in the form of a marked up APS will be required to be submitted to the C&W and the Receiver no later than 5:00 p.m. (Eastern Time) on Tuesday, December 14, 2021, or such other date or time as may be agreed by the Receiver and C&W (the “**Bid Deadline**”);

- the Receiver and C&W will evaluate any and all bids on various grounds, including, but not limited to, purchase price and certainty of closing; and
- upon selection of a successful bidder, the Receiver will bring a motion to the Court to obtain approval of the successful bid, including approval of the APS and vesting order in respect of same.

7.5 The Receiver, in consultation with C&W, will have the right to modify and/or adopt such other rules for the Sale Process as it considers appropriate. Should material modification or a termination of the Sale Process be warranted, the Receiver will seek further approval of the Court.

7.6 A copy of the C&W listing agreement (the “**Listing Agreement**”) is attached hereto as **Appendix E**. The Listing Agreement provides that upon the successful completion of sale of the Property, a commission equivalent to 1.75% will be payable to C&W. In the event a cooperating brokerage represents the purchaser (a “**Cooperating Brokerage**”), the commission shall be increased to 2.75% and C&W will pay the Cooperating Brokerage a fee of 1.00%.

7.7 In addition to terms and conditions customary in similar receivership proceedings, the Listing Agreement also contains a specific provision in respect of OBG Axess, whereby if, within 21 days of Court approval of the Sale Process, OBG Axess submits an offer to purchase the Property in a form acceptable to the Receiver then C&W shall not be entitled to a commission but shall only be entitled to a reimbursement of its expenses to a maximum amount of \$10,000.

7.8 The Appointment Order provides that the Receiver is authorized and empowered to access, and make, retain and take away copies of the Records of the Debtor and Records of Liberty in respect of the Property. As of the date of this Report, management of Liberty has provided the Receiver with substantial information in respect of the Property's history and proposed development, including but not limited to environmental, wind, traffic, and geotechnical studies, architectural drawings, site plan application details and other information (the "**Liberty Information**"). It is the intent of the Receiver to include the Liberty Information in the Data Room for prospective purchasers (subject to prospective purchasers executing the CA).

8.0 CONCLUSIONS AND RECOMMENDATIONS

Based on the foregoing, the Receiver respectfully requests that the Court make an order granting the relief sought in the Receiver's Notice of Motion and described in paragraph 2.1(c) of this First Report.

All of which is respectfully submitted this 3 day of November 2021.

**Alvarez & Marsal Canada Inc., in its capacity as Receiver of
Axess Pickering Ltd., and not in its personal capacity**



Per: Stephen Ferguson
Senior Vice-President

Court File No. CV-21-00669408-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

C&K MORTGAGE SERVICE INC.

and 975393 ONTARIO INC.

APPLICANTS

- and -

AXESS PICKERING LTD.

RESPONDENT

**SECOND REPORT TO COURT
OF ALVAREZ & MARSAL CANADA INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER
OF AXESS PICKERING LTD.**

JANUARY 14, 2022

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Appendix B	First Report to Court of the Receiver dated November 3, 2021 (without appendices)
Appendix C	Sale Process Order and Endorsement of Justice McEwen dated November 8, 2021
Appendix D	Sample Marketing Materials
Confidential Appendix E	Sale Process Summary Prepared by C&W
Confidential Appendix F	Sale Agreement
Confidential Appendix G	Unsolicited Email From Real Estate Agent
Appendix H	Email from Counsel to Pine Ridge
Appendix I	Preliminary Payout Statement from C&K Mortgage Services Inc.

1.0 INTRODUCTION

- 1.1 This report (the “**Second Report**”) is filed by Alvarez & Marsal Canada Inc. (“**A&M**”) in its capacity as Court-appointed receiver and manager (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Axess Pickering Ltd. (“**Axess**” or the “**Company**”), including the lands and premises located at 1525 Pickering Parkway, Pickering, Ontario (the “**Property**”).
- 1.2 Pursuant to an order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (the “**Court**”) made on October 12, 2021 (the “**Receivership Date**”) upon application (the “**Receivership Application**”) by C&K Mortgage Service Inc. and 975393 Ontario Inc. (the “**Applicants**”), A&M was appointed Receiver of Axess. A copy of the Appointment Order is attached hereto as **Appendix “A”**. A copy of the First Report to Court of the Receiver dated November 3, 2021 (the “**First Report**”), without appendices, is attached hereto as **Appendix “B”**.
- 1.3 Background information with respect to Axess and the circumstances leading to the appointment of the Receiver are provided in the First Report.
- 1.4 On November 8, 2021, this Court made an Order (the “**Sale Process Order**”), which, among other things, approved the marketing and sale process for the assets of the Company as described in Section 7 of the First Report, subject to such amendments to the sale process as deemed necessary or appropriate by the Receiver (the “**Sale Process**”), including the engagement of Cushman & Wakefield Inc. (“**C&W**”) to assist in development and

implementation of the Sale Process. Copies of the Sale Process Order and Endorsement of Justice McEwen are attached hereto as **Appendix “C”**.

2.0 TERMS OF REFERENCE AND DISCLAIMER

- 2.1 In preparing this Second Report, the Receiver has relied upon unaudited financial information, books and records and other documents provided by, and discussions with, certain former management of Axess and current management of the Company’s sole shareholder Liberty Hamlets Inc (“**Liberty**”) (collectively, the “**Information**”).
- 2.2 The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CASs in respect of the Information.
- 2.3 This Second Report has been prepared for the use of this Court and Axess’ stakeholders as general information relating to the receivership proceedings and to assist the Court in making a determination of whether to approve the relief sought herein. Accordingly, the reader is cautioned that this Second Report may not be appropriate for any other purpose. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Second Report different than the provisions of this paragraph.

- 2.4 The information contained in this Second Report is not intended to be relied upon by any investor or purchaser in any transaction with the Receiver.
- 2.5 Unless otherwise stated, all monetary amounts contained in this Second Report are expressed in Canadian dollars.
- 2.6 Further information about Axess, its background and copies of materials filed in the Proceedings are available on the Receiver's website at: www.alvarezandmarsal.com/axess (the "**Case Website**").

3.0 PURPOSE OF THIS REPORT

- 3.1 The purpose of this Second Report is to:

- (a) support the Receiver's motion for orders, among other things:
 - (i) approving the transaction (the "**Transaction**") contemplated by an agreement of purchase and sale between the Receiver and 1000059279 Ontario Inc. or assignee thereof¹ (the "**Purchaser**") dated December 22, 2021, together with any further minor amendments thereto which may be deemed necessary by the Receiver in its sole opinion (the "**Sale Agreement**");
 - (ii) vesting title to the Property in the Purchaser, free and clear of claims and encumbrances, other than claims and encumbrances specifically provided for

¹ The Receiver understands that 1000059279 Ontario Inc. intends to assign the agreement to Pickering Valley Developments Limited.

in the Sale Agreement, upon closing of the Transaction and the delivery of a Receiver's certificate to the Purchaser (the "**Vesting Order**");

- (iii) sealing Confidential Appendices "E-G" to the Second Report until the closing of the sale of the Property (in the case of Confidential Appendix "F") or further order of the Court (in the case of Confidential Appendices "E" and "G");
 - (iv) authorizing the Receiver to make the Interim Distribution (as defined herein) to the Applicants; and
 - (v) approving this Second Report and the activities of the Receiver described herein;
- (b) report to the Court on the results of the Sale Process;
 - (c) provide a general update on key aspects of the receivership proceedings (the "**Receivership Proceedings**"), including the Receiver's review of the respective claims of interests registered on title to the Property; and
 - (d) report to the Court on the Receiver's activities since the date of the First Report.

4.0 SALE PROCESS SUMMARY

- 4.1 In accordance with the Sale Process Order, marketing of the Property commenced on November 8, 2021. Interested parties were informed that the deadline for submission of offers for the Property was 5:00 p.m. on Tuesday, December 14, 2021 (the "**Bid Deadline**").

4.2 Steps taken by the Receiver and C&W in connection with the administration of the Sale Process and marketing of the Property included the following:

- (a) providing email notification of the acquisition opportunity to approximately 9,300 investors / developers on November 9, 2021, November 16, 2021, November 23, 2021, November 29, 2021 and December 7, 2021 and to approximately 2,000 real estate agents on November 23, 2021;
- (b) placing an advertisement of the acquisition opportunity in the Globe and Mail newspaper on Thursday, November 18, 2021 and Tuesday, November 23, 2021 (the **“Globe Advertisement”**);
- (c) posting the acquisition opportunity on the MLS system (the **“MLS Listing”**);
- (d) placing “For Sale” signs with frontage onto both Highway 401 and Pickering Parkway;
- (e) advertising the Property for sale in the Novae Res Urbis, Greater Toronto & Hamilton Area publication on November 17, 2021 and November 19, 2021 (the **“Novae Res Urbis Advertisement”**), and in the Insolvency Insider on November 22, 2021, November 29, 2021, December 6, 2021, and December 13, 2021 (the **“Insolvency Insider Advertisement”**);
- (f) preparing a Confidential Information Memorandum (**“CIM”**) to provide to interested parties who entered into a Confidentiality Agreement (**“CA”**) with the Receiver;
- (g) with the assistance of the Receiver’s real estate counsel, Dickinson Wright LLP, (**“DW”**) preparing both “conditional” and “unconditional” template agreements of

purchase and sale (the “**Template APSs**”) to provide to parties who intended to make an offer to purchase the Property;

- (h) engaging Pottinger Gaherty Environmental Consultants Ltd. to prepare an updated Phase I Environmental Site Assessment (the “**Updated Phase I ESA**”) for the Property; and
- (i) establishing an online data room (the “**Data Room**”) to provide substantial diligence information to parties that signed a CA.

Copies of the Globe Advertisement, the Novae Res Urbis Advertisement, the Insolvency Insider Advertisement, the “For Sale” signage, and the MLS Listing are attached collectively to this as **Appendix “D”**.

- 4.3 Throughout the Sale Process, 52 groups executed CAs and were provided access to the Data Room.
- 4.4 Eight offers were submitted (the “**First Round Offers**”) by the Bid Deadline. The Receiver reviewed the First Round Offers, including a summary prepared by C&W and the form of marked-up Template APSs. All of the First Round Offers required the Property to be conveyed free and clear of the notice on title to the Property of Pine Ridge Management Inc. (the “**Pine Ridge Interest**”) in respect of ten (10) condominium units to be available for purchase by Tom Oldman, the principal of Pine Ridge, for \$2.00 each, as well as 16 additional parking spaces and lockers at no additional charge (the “**Condominium Sales Agreement**”), as further described below.

- 4.5 After consultation with the Receiver and the Applicants, C&W provided all parties who submitted First Round Offers with the opportunity to resubmit improved offers by 5:00 p.m. on Monday, December 20, 2021 (the “**Second Round Bid Submission Deadline**”).
- 4.6 By the Second Round Bid Submission Deadline, eight offers were submitted (the “**Second Round Offers**”) in the form of further marked-up Template APSs. As with the First Round Offers, all of the Second Round Offers required the Property to be conveyed free and clear of the Pine Ridge Interest. Included in the Second Round Offers were offers from two parties, including 258 (as defined below), who did not submit offers by the Bid Deadline, while the remaining six bids were resubmissions of First Round Offers with alternative bid terms.
- 4.7 In reviewing the Second Round Offers, the Receiver noted two superior offers: one bid which offered the highest total value for the Property but included open diligence conditions to close (“**Offer 1**”), and one bid which offered a marginally lower value but contained no conditions to close, other than receipt of a Vesting Order (“**Offer 2**”). After consultation with the Receiver, C&W held further discussions in respect of Offer 2 in an effort to increase the value of the unconditional offer. Based on subsequent negotiations, a revised Offer 2 (“**Revised Offer 2**”) was submitted with an increased value.
- 4.8 As the Revised Offer 2 (i) included a purchase price that was similar in value to Offer 1; (ii) was provided by an affiliate of a well-respected developer with a history of closing similar size transactions; (iii) had no further diligence conditions, and (iv) contained a substantial deposit, the Receiver selected the Revised Offer 2 as the successful bid (the

“**Successful Bid**”) and the Sale Agreement was executed by the Receiver on December 22, 2021.

4.9 A detailed report of the steps taken by C&W and specific results of the Sale Process, including a summary of First Round Offers and Second Round Offers is attached hereto as **Confidential Appendix “E”**.

4.10 An unredacted copy of the Sale Agreement is attached hereto as **Confidential Appendix “F”**. Key Aspects of the Sale Agreement are summarized in the following table (capitalized terms have the meanings ascribed to them in the Sale Agreement):

Purchase Price	The purchase price for the Property shall be payable in lawful money of Canada (the “ Purchase Price ”), subject to the adjustments as outlined below.
Deposits	<p>(a) a deposit equivalent to Five Percent (5%) of the Purchase Price (the “First Deposit”), shall be delivered within two (2) Business Days following mutual execution the Offer by irrevocable wire transfer drawn on an account at a Canadian chartered bank or trust company payable to the Vendor’s solicitor;</p> <p>(b) a further deposit equivalent to Five Percent (5%) of the Purchase Price (the “Second Deposit”), shall be delivered within ten (10) Business Days following delivery of the First Deposit by irrevocable wire transfer, payable to the Vendor’s solicitor;</p> <p>(c) the balance of the Purchase Price for the Property shall be paid, subject to the adjustments hereinafter referred to, to the Vendor’s solicitor on the Closing Date by irrevocable wire transfer to the Vendor’s solicitor (or as the Vendor may further direct).</p>
Purchase Price Adjustments	The Purchase Price for the Property shall be adjusted as of the Closing Date in respect of realty taxes, flat/fixed water and sewer rates and charges, utility deposits, if any, and all other items usually adjusted with respect to properties similar to the Property that apply. Such adjustments shall be pro-rated where appropriate for the relevant period on the basis of the actual number of days elapsed during such period prior to the Closing Date itself to be apportioned to the Purchaser.
Closing Date	Closing shall take place on the date which is fifteen (15) Business Days following the later of the granting of Approval of the

	Agreement by the Court and issuance of the Vesting Order, or such other date as the parties or their respective solicitors may mutually agree upon in writing (the “ Closing Date ” or “ Closing ”).
Closing Conditions	The Vendor shall bring a motion to the Court for Approval of the Agreement and an order vesting title to the Property in the Purchaser within thirty days of the Vendor’s acceptance of the Offer (the “ Approval Date ”). The Vesting Order shall be granted, and the Vendor shall deliver title to the Property free and clear of all encumbrances other than permitted encumbrances, but specifically free and clear of the Condominium Sale Agreement.

- 4.11 An initial deposit of 5% of the Purchase Price was delivered by the Purchaser to DW on December 23, 2021. A further 5% deposit was delivered by the Purchaser to DW on January 12, 2022.
- 4.12 As noted above, it is a requirement of the Sale Agreement that the Property is conveyed to the Purchaser free and clear of existing mortgages, charges and notices registered against title to the Property, including the Pine Ridge Interest.
- 4.13 In addition, the Sale Agreement requires that a Vesting Order be granted and contemplates the usual mechanism requiring the Receiver to deliver to the Purchaser a Certificate of the Receiver (in the form attached to the proposed Approval and Vesting Order sought in this motion), which will certify that all of the conditions in the Sale Agreement have been satisfied or waived, and that the balance of the Purchase Price (as defined in the Sale Agreement), has been paid in full by the Purchaser.

The Sale Process was reasonable and the Sale Agreement should be approved

4.14 The Receiver recommends the Court approve the Sale Agreement for the following reasons:

- (a) the Property was marketed by the Receiver and C&W in accordance with the Sale Process Order;
- (b) the Sale Process was robust and appropriately exposed the Property to the market on a broad basis to obtain the best transaction capable of being completed;
- (c) the Purchaser is an affiliate of a multi-generational development company with a strong reputation in the industry and a long-standing history in residential development, who currently manages over 6,000 units in the GTA in various stages of development including planning, under construction and market sales. The Purchaser has provided a substantial deposit and has demonstrated its financial ability to close transactions of similar size and nature;
- (d) the Purchaser completed substantial due diligence on the Property and demonstrated a keen understanding of the issues related to future development through significant conversations with both C&W and the City of Pickering;
- (e) no further diligence is required by the Purchaser to complete the Transaction and the only substantial remaining condition to closing is receipt of the Vesting Order;
- (f) the Purchase Price is in excess of the value ascribed to the Property in both an appraisal completed by Cushman & Wakefield in February 2021 on behalf of Liberty

and an appraisal commissioned by the Receiver and completed by Avison Young in November 2021;

- (g) the proceeds realizable through the Transaction are meaningful, will be sufficient to discharge the amounts owing to the Secured Creditors (as defined below), and are materially consistent with the highest bid received during the Sale Process; and
- (h) the Sale Agreement is supported by the Applicants.

Unsolicited email received after execution of the Sale Agreement

- 4.15 As noted above, as part of the Second Round Offers, C&W received an unconditional offer (the “**Initial 258 Offer**”) from a party (“**258**”) representing a purchase price substantially less than the Successful Bid. Given the low purchase price and the fact that the Initial 258 Offer was received after the Bid Deadline established in the Sale Process, limited consideration was given to the Initial 258 Offer in evaluation of Second Round Offers.
- 4.16 On January 4, 2022, after execution of the Sale Agreement, the real estate agent representing 258 provided an unsolicited email to C&W, attached as **Confidential Appendix “G”**, seemingly increasing 258’s offer to a purchase price in excess of the Purchase Price pursuant to the Sale Agreement (the “**Revised 258 Offer**”).
- 4.17 In consultation with C&W, the Receiver noted that 258 had (i) limited access to the Data Room (access granted immediately prior to the Bid Deadline) and (ii) minimal discussion with C&W, and therefore appeared to not have conducted substantial diligence on the Property. In addition, C&W’s only contact with 258 was through 258’s agent and therefore C&W was unable to comment on 258’s potential ability to close a transaction. Moreover,

the Revised 258 Offer was received almost two weeks after the Receiver had accepted the Successful Bid, entered into the Sale Agreement with the Purchaser, and scheduled this sale approval motion. Pursuant to the Sale Agreement, the Receiver is required to bring the Sale Agreement to the Court for approval, and as such has not engaged with 258 in respect of the Revised 258 Offer.

5.0 RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

5.1 A summary of the Receiver's Interim Statement of Receipts and Disbursements for the period October 12, 2021 to January 7, 2022 (the "**Reporting Period**") is provided below:

Receipts & Disbursements	
<i>For the period 10/12/2021 through 01/07/2022</i>	
<i>Figures in CAD</i>	
Receipts	
Receiver's Certificate Advances	\$ 150,000
Total Receipts	\$ 150,000
Disbursements	
Professional Fees and Disbursements	\$ 107,452
HST Paid	12,831
Property Consultants Fees	11,250
Receiver's Certificate Interest	3,306
Property Insurance Costs	2,419
Other	73
Total Disbursements	\$ 137,331
Net Cash Flow	\$ 12,669
Opening Cash Balance	-
Net Cash Flow	12,669
Ending Cash Balance	\$ 12,669

5.2 Pursuant to the Appointment Order, the Receiver was authorized to borrow up to \$500,000 by way of Receiver's Certificates. As of the date of this Report, the Receiver has issued three Receiver's Certificates, totaling \$150,000. The Receiver's Certificates bear interest at 12% per annum and are subject to a 1% commitment fee (the "**Receiver's Borrowings**"). Pursuant to the Appointment Order, the Receiver's Borrowings are secured by the Receiver's Borrowings Charge which ranks in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, but subordinate in priority to the Receiver's Charge and certain other charges as set out in the BIA.

5.3 Disbursements for the period totaled \$137,331 and comprised primarily of:

- (a) Professional Fees of \$107,452 (including fees paid to the Receiver and the Receiver's independent counsel, Lax O'Sullivan Lisus Gottlieb LLP ("**LOLG**"));
- (b) HST paid on fees and costs of \$12,831;
- (c) Property consultant's fees of \$11,250; and
- (d) Receiver's Certificate interest, and property insurance and other costs of \$5,798.

6.0 PRELIMINARY SECURITY REVIEW SUMMARY

6.1 As further described in the First Report, the Property is subject to a first ranking mortgage, registered by the Applicants on March 1, 2021 (the "**First Mortgage**"), (ii) a second ranking mortgage, registered by Sagewise Capital Corporation ("**Sagewise**") on March 1, 2021 (the "**Second Mortgage**") and a third ranking charge on the Property registered by RNV Investments and Gina Batista on June 15, 2021 (the "**Third Mortgage**") (the First

Mortgage, the Second Mortgage and the Third Mortgage collectively the “**Secured Creditors**”). In addition to the Secured Creditors, Pine Ridge Management Inc. (“**Pine Ridge**”) registered a notice on title to the Property. Subject to usual and customary qualifications and assumptions, LOLG has confirmed to the Receiver that the security held by the Secured Creditors is valid and enforceable in respect of the collateral covered by their respective security.

Pine Ridge

- 6.2 As further described in the First Report, Liberty Hamlets purchased the Property from Pine Ridge by way of an agreement of purchase and sale dated January 31, 2019, as amended several times, including on February 26, 2021, whereby the parties agreed to final additional consideration payable to Pine Ridge and its principal Tom Oldman in the form of the Condominium Sales Agreement.
- 6.3 Pine Ridge’s and/or Mr. Oldman’s rights under the Condominium Sales Agreement were expressly subordinated to the Applicants’ security on March 1, 2021, and were registered as a notice on title to the Property on April 1, 2021.
- 6.4 LOLG’s security review concluded that the Condominium Sales Agreement did not grant a security interest to Pine Ridge or Mr. Oldman. However, on January 12, 2022, Pine Ridge’s outside counsel wrote to the Receiver and stated that, while Pine Ridge does not take issue with approval of the Sale Agreement or distribution to the Applicants in respect of the First Mortgage, it is the position of Pine Ridge that the Pine Ridge Interest ranks in

priority to both the Second Mortgage and the Third Mortgage. A copy of this email is attached as **Appendix “H”**.

7.0 PROPOSED INTERIM DISTRIBUTIONS

- 7.1 The Receiver anticipates that the projected Transaction Proceeds will be sufficient to repay the amounts outstanding to the Secured Creditors and fund the remainder of the Receivership Proceedings. However, as of the date of this Second Report, the value and priority of any claim by Pine Ridge or Mr. Oldman in connection with the Condominium Sales Agreement has not been confirmed or determined.
- 7.2 In light of the communication from Pine Ridge’s counsel, the Receiver believes it would be appropriate for the parties to review and consider their respective positions concerning priorities. Therefore, at this time, if the Sale Agreement is approved and the sale of the Property to the Purchaser closes, the Receiver only seeks the Court’s approval to make an interim distribution or distributions upon closing of the Transaction to repay the Receiver’s Borrowings plus interest and other chargeable amounts, and the amounts owing to the Applicants under the First Mortgage including interest, fees and other associated chargeable amounts, as none of the parties oppose a distribution to the Applicants (the **“Interim Distribution”**).
- 7.3 The below table summarizes amounts owing in respect of the First Mortgage estimated as of January 20, 2022. A draft payout statement, provided by the Applicants is attached as **Appendix “I”**. Per-diem interest after January 20, 2022 and the Applicants’ legal fees in connection with these Receivership Proceedings will be in addition to the below summary.

C&K Mortgage Services Payout Statement Summary	
Estimated balance at 01/20/2022	
<i>Figures in CAD \$</i>	
Principal	\$ 8,200,000.00
Interest	379,221.91
Late Interest	8,782.41
Fees	41,166.90
Estimated Legal Fees	5,000.00
Balance Due	\$ 8,634,171.22

7.4 After or pending the closing of the Transaction and the Interim Distribution, the Receiver intends to engage with the parties regarding the disputed relative priorities with the Company's remaining stakeholders. The Receiver will retain surplus funds pending further Order of this Court.

8.0 SEALING ORDER

8.1 The Receiver requests that certain confidential and commercially sensitive information related to the Sale Process and the Transaction for which approval is sought, including information regarding the bids received through the Sale Process, should be sealed pending closing of the Transaction or further order of the Court. Such confidential information is contained in **Confidential Appendices "E-G"** to this Second Report.

8.2 In the view of the Receiver, information about the value of bids received and the amount of the consideration to be paid by the Purchaser for the Transaction could, if disclosed, be harmful and materially prejudicial to the Receivership estate and Axess' stakeholders. With respect to the estate, significant and specific prejudice could arise in the event of any further marketing of the Property if the Transaction does not close as anticipated.

9.0 ACTIVITIES OF THE RECEIVER TO DATE

9.1 In addition to the activities described in detail in this Second Report, the Receiver has conducted the following activities since the date of the First Report:

- (a) arranged for a property appraisal and the Updated Phase 1 ESA;
- (b) maintained the Case Website;
- (c) managed the Receiver's trust account;
- (d) corresponded with C&W concerning the Sale Process;
- (e) reviewed information provided by the Company and the Applicants regarding the Property;
- (f) corresponded extensively with key stakeholders in these proceedings, including the Applicants;
- (g) carried out the Sale Process in accordance with the Sale Process Order including:
 - (i) reviewed and commented on the Template APSs prepared by DW;
 - (ii) reviewed and commented on the investment summary and CIM prepared by C&W;
 - (iii) assisted in compilation of and reviewed the contents the Data Room prepared by C&W;
 - (iv) reviewed and commented on the Globe Advertisement;

- (v) reviewed all offers submitted in the Sale Process and consulted with C&W regarding same;
- (vi) negotiated and executed the APS;
- (h) attended at Court in connection with obtaining the Sale Process Order;
- (i) arranged for appropriate insurance coverage for the Property;
- (j) filed the necessary outstanding GST returns for Axess; and
- (k) prepared this Second Report, and brought this motion.

10.0 CONCLUSIONS AND RECOMMENDATIONS

Based on the foregoing, the Receiver respectfully requests that the Court make an order granting the relief sought in the Receiver's Notice of Motion and described in paragraph 3.1(a) of this Second Report.

All of which is respectfully submitted this 14th day of January 2022.

**Alvarez & Marsal Canada Inc., in its capacity as Receiver of
Axess Pickering Ltd., and not in its personal capacity**



Per: Stephen Ferguson
Senior Vice-President

Court File No. CV-21-00669408-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

C&K MORTGAGE SERVICE INC.

and 975393 ONTARIO INC.

APPLICANTS

- and -

AXESS PICKERING LTD.

RESPONDENT

THIRD REPORT TO COURT
OF ALVAREZ & MARSAL CANADA INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER
OF AXESS PICKERING LTD.

FEBRUARY 17, 2022

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Appendix A	Appointment Order dated October 12, 2021
Appendix B	First Report to Court of the Receiver dated November 3, 2021 (without appendices)
Appendix C	Second Report to Court of the Receiver dated January 14, 2022 (without appendices)
Appendix D	Receiver's Certificate
Appendix E	Irrevocable Confirmation Re: Limited Claim Amount

1.0 INTRODUCTION

- 1.1 This report (the “**Third Report**”) is filed by Alvarez & Marsal Canada Inc. (“**A&M**”) in its capacity as Court-appointed receiver and manager (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Axess Pickering Ltd. (“**Axess**” or the “**Company**”), including the lands and premises located at 1525 Pickering Parkway, Pickering, Ontario (the “**Property**”).
- 1.2 Pursuant to an order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (the “**Court**”) made on October 12, 2021 (the “**Receivership Date**”) upon application (the “**Receivership Application**”) by C&K Mortgage Service Inc. and 975393 Ontario Inc. (the “**Applicants**”), A&M was appointed Receiver of Axess. A copy of the Appointment Order is attached hereto as **Appendix “A”**. A copy of the First Report to Court of the Receiver dated November 3, 2021 (the “**First Report**”), without appendices, is attached hereto as **Appendix “B”**, and the Second Report to Court of the Receiver dated January 14, 2022 (the “**Second Report**”), without appendices is attached hereto as **Appendix “C”**.
- 1.3 Background information with respect to Axess and the circumstances leading to the appointment of the Receiver are as described in the First Report.
- 1.4 On January 20, 2022, this Court made an Order (the “**Approval and Vesting Order**”), which, among other things:
- (i) approved the transaction (the “**Transaction**”) for the sale of the Property as contemplated by an agreement of purchase and sale between the Receiver and Pickering Valley Developments Limited (the “**Purchaser**”); and

- (ii) authorized the Receiver to make the Interim Distributions (as defined in the Second Report) to the Applicants.

2.0 TERMS OF REFERENCE AND DISCLAIMER

- 2.1 In preparing this Third Report, the Receiver has relied upon unaudited financial information, books and records and other documents provided by, and discussions with, certain former management of Axess and current management of the Company's sole shareholder Liberty Hamlets Inc ("**Liberty**") (collectively, the "**Information**").
- 2.2 The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CASs**") pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CASs in respect of the Information.
- 2.3 This Third Report has been prepared for the use of this Court and Axess' stakeholders as general information relating to the receivership proceedings and to assist the Court in making a determination of whether to approve the relief sought herein. Accordingly, the reader is cautioned that this Third Report may not be appropriate for any other purpose. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Third Report different than the provisions of this paragraph.

2.4 Unless otherwise stated, all monetary amounts contained in this Third Report are expressed in Canadian dollars.

2.5 Further information about Axxess and copies of materials filed in the Proceedings are available on the Receiver's website at: www.alvarezandmarsal.com/axess (the "**Case Website**").

3.0 PURPOSE OF THIS REPORT

3.1 The purpose of this Third Report is to:

- (a) support the Receiver's motion for an order, among other things:
 - (i) authorizing the Receiver to make the Second Interim Distributions (as defined herein); and
 - (ii) approving this Third Report and the activities of the Receiver described herein;
- (b) report to the Court on the completion of the Transaction;
- (c) provide an update on key aspects of the receivership proceedings (the "**Receivership Proceedings**"), including the potential claims to the remaining proceeds from the Transaction; and
- (d) report to the Court on the Receiver's activities since the date of the Second Report.

4.0 SALE OF THE PROPERTY AND INTERIM DISTRIBUTIONS

- 4.1 As previously described, the Approval and Vesting Order authorized the Receiver to complete the Transaction and the Interim Distributions. On February 10, 2022 (the “**Closing Date**”), the Transaction closed for gross proceeds of \$15.25 million. A copy of the Receiver’s Certificate in respect of the Transaction is attached as **Appendix “D”**.
- 4.2 On February 14, 2022, the Receiver made Interim Distributions to the Applicants: (i) in the amount of \$152,212 to fully repay amounts owing under the Receiver’s Borrowings, including interest, and (ii) in the amount of \$8,747,884 to fully repay amounts owing under the First Mortgage, including interest, fees and legal costs¹.

¹ To simplify flow of funds, legal costs of the Applicants were paid directly from Receiver to Applicants’ counsel.

5.0 RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

5.1 A summary of the Receiver's Interim Statement of Receipts and Disbursements for the period January 8, 2022 to February 15, 2022 (the "Reporting Period") is provided below:

Receipts & Disbursements	
<i>For the period 01/08/2022 through 02/15/2022</i>	
<i>Figures in CAD \$</i>	
Receipts	
Sale Proceeds	\$ 15,250,000
Total Receipts	\$ 15,250,000
Disbursements	
Property Sale Commission	\$ 266,875
Professional Fees and Disbursements	89,875
HST Paid	53,071
Property Tax	19,307
Property Insurance Costs	2,419
Receiver's Certificate Interest	2,212
Other	17
Total Disbursements	\$ 433,776
Net Cash Flow	\$ 14,816,224
Opening Cash Balance	12,669
Net Cash Flow	14,816,224
Less: Receiver's Certificate repayment	(150,000)
Less: First Mortgage repayment	(8,747,884)
Ending Cash Balance	\$ 5,931,009

5.2 Proceeds from the sale of the Property were realized by the Receiver on February 10, 2022, upon closing of the Transaction.

5.3 Disbursements for the period totaled \$433,776 and comprised primarily of:

- (a) Commission payable to Cushman & Wakefield ULC in respect of the Transaction;
- (b) Professional Fees of \$89,875 (including fees paid to the Receiver, the Receiver's independent counsel, Lax O'Sullivan Lisus Gottlieb LLP ("**LOLG**") and the Receiver's real estate counsel);
- (c) HST paid on fees and costs of \$53,071;
- (d) Property tax of \$19,307 relating to unpaid 2021 property tax and accrued 2022 property tax to the Closing Date; and
- (e) Property insurance cost, Receiver's Certificate interest, and other costs of \$4,649.

6.0 SECURITY REVIEW SUMMARY AND SECOND INTERIM DISTRIBUTIONS

- 6.1 As further described in the Second Report, following distribution the Applicants, the net proceeds from the sale of the Property are still subject to (i) a second ranking mortgage, registered by Sagewise Capital Corporation ("**Sagewise**") on March 1, 2021 (the "**Second Mortgage**") and a third ranking charge on the Property (the "**Third Mortgage**") registered by RNV Investments and Gina Batista (collectively the "**Third Mortgagees**") on June 15, 2021 (the Second Mortgage and the Third Mortgage collectively the "**Remaining Secured Creditors**"). In addition to the Remaining Secured Creditors, Pine Ridge Management Inc. ("**Pine Ridge**") registered a notice on title to the Property in respect of the Condominium Sales Agreement. Subject to usual and customary qualifications and assumptions, LOLG has confirmed to the Receiver that the security held by the Remaining Secured Creditors is valid and enforceable in respect of the collateral covered by their respective security.

- 6.2 Also as further described in the Second Report, LOLG's security review concluded that the Condominium Sales Agreement did not grant a security interest to Pine Ridge or Mr. Oldman. However, on January 12, 2022, Pine Ridge's outside counsel wrote to the Receiver and stated that, it was the position of Pine Ridge that the Pine Ridge Interest ranks in priority to both the Second Mortgage and the Third Mortgage. As such, as part of the Sale Approval and Vesting Order, the Receiver only sought interim distributions to the Applicants.
- 6.3 Since the date of the Second Report, the Receiver understands that Pine Ridge, Sagewise and the Third Mortgagees have continued discussions and have resolved outstanding issues related to priority. The Receiver understands that, while Pine Ridge intends to assert a substantial claim against the Company in respect of the Condominium Sales Agreement, Pine Ridge no longer asserts priority over the Second Mortgage. In addition, the Receiver understands that, subject to the Irrevocable Confirmation Re: Limited Claim Amount attached as **Appendix "E"** which limits the claim in respect of the Third Mortgage to \$922,500, Pine Ridge no longer asserts priority over the Third Mortgage.
- 6.4 Following the closing of the Transaction and payment of the Interim Distributions, the Receiver is holding in excess of \$5.9 million, which is sufficient to repay the amounts outstanding to the Remaining Secured Creditors and fund the Receivership Proceedings. As the Receiver has confirmed the priority of the Remaining Secured Creditors and disputes between the stakeholders over priority of the Company's secured creditors have been resolved, the Receiver seeks the Court's approval to make interim distributions in

respect of the Second Mortgage and Third Mortgage (the “**Second Interim Distributions**”).

- 6.5 The Receiver consulted with known stakeholders concerning the Second Interim Distributions and is unaware of any opposition to the distribution.
- 6.6 The below table summarizes amounts owing in respect of the Second Mortgage estimated as of February 11, 2022. Per-diem interest after February 11, 2022, and additional legal costs in connection with these Receivership Proceedings will be in addition to the below summary.

Sagewise Capital Corporation Payout Statement Summary	
Estimated balance at 02/11/2022	
<i>Figures in CAD \$</i>	
Principal	\$1,500,000.00
Interest	336,000.00
Late Fees	1,800.00
Default and Other Fees	5,423.75
Legal Fees	4,647.12
Balance Due	\$1,847,870.87

- 6.7 As noted above, the Irrevocable Confirmation Re: Limited Claim Amount limits the claim in respect of the Third Mortgage to \$922,500 (the “**Third Mortgage Amount**”). The Receiver has been provided sufficient evidence to support the quantum of Third Mortgage Amount.

Liberty Hamlets Creditors

- 6.8 On February 4, 2022, the Receiver received notice from counsel to a group of creditors of Liberty (the “**Liberty Creditors**”) asserting claims against Axess. The Receiver and LOLG have communicated to counsel to the Liberty Creditors, reminding the Liberty Creditors that paragraph 8 of the Appointment Order provides that no proceeding against or in respect of the Company shall be commenced or continued except with written consent of the Receiver or leave of the Court.
- 6.9 The Liberty Creditors have obtained judgment against Liberty, and the Receiver understands that the Liberty Creditors are considering pursuing a further claim against Axess. The Receiver will continue to review information provided in respect of the Liberty Creditors, and will report to the Court the outcome of this review at a future date. The Receiver understands that the Liberty Creditors either consent to or do not oppose the Second Interim Distributions.
- 6.10 After the Second Interim Distributions, the Receiver intends to finalize tax matters related to the Company and engage with the Company’s remaining stakeholders to review and assess remaining claims in anticipation of a final distribution. The Receiver will retain surplus funds pending further Order of this Court.

7.0 ACTIVITIES OF THE RECEIVER TO DATE

- 7.1 In addition to the activities described in detail in this Third Report, the Receiver has conducted the following activities since the date of the Second Report:

- (a) attending to matters related to the Transaction closing;
- (b) maintained the Case Website;
- (c) managed the Receiver's trust account;
- (d) corresponded extensively with key stakeholders in these proceedings;
- (e) arranged for cancellation of insurance coverage for the Property upon completion of the sale transaction; and
- (f) prepared this Third Report, and brought this motion.

8.0 CONCLUSIONS AND RECOMMENDATIONS

Based on the foregoing, the Receiver respectfully requests that the Court make an order granting the relief sought in the Receiver's Notice of Motion and described in paragraph 3.1(a) of this Third Report.

All of which is respectfully submitted this 17th day of February 2022.

**Alvarez & Marsal Canada Inc., in its capacity as Receiver of
Axess Pickering Ltd., and not in its personal capacity**



Per: Stephen Ferguson
Senior Vice-President

Court File No. CV-21-00669408-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

C&K MORTGAGE SERVICES INC. and 975393 ONTARIO INC.

Applicants

and

AXESS PICKERING LTD.

Respondent

RECEIVER'S DISCHARGE CERTIFICATE

RECITALS

A. By Order of the Court dated October 12, 2021, Alvarez & Marsal Canada Inc. (the “**Receiver**”) was appointed Receiver, without security, of all of the assets, undertakings and properties of the Respondent, Axess Pickering Ltd. (the “**Debtor**”).

B. Pursuant to an Order of this Court dated _____, 2022, the Receiver was discharged effective upon its filing a Certificate with this Court certifying (a) the final amount of funds distributed to the Bankruptcy Trustee ; and (b) that all matters to be attended to in connection with the within proceedings have been completed to the satisfaction of the Receiver.

-2-

THE RECEIVER CERTIFIES that

1. The Receiver has distributed the amount of \$_____ to the Bankruptcy Trustee herein;
and,
2. All matters to be attended to in connection with the within proceedings have been
completed to the satisfaction of the Receiver.

DATED AT _____, this _____ day of _____, 2022

ALVAREZ & MARSAL CANADA INC. IN ITS
CAPACITY AS RECEIVER OF AXESS
PICKERING LTD.

And with no personal or corporate liability.

Per:
Name:
Title:

C&K MORTGAGE SERVICES INC. et al.
Applicants

-and- AXESS PICKERING LTD.
Respondent

Court File No. CV-21-00669408-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

RECEIVER'S DISCHARGE CERTIFICATE

LAX O'SULLIVAN LISUS GOTTLIEB LLP

Suite 2750, 145 King Street West
Toronto ON M5H 1J8

Andrew Winton LSO#: 54473I

awinton@lolg.ca

Tel: 416 644 5342

Patrick M. Wodhams LSO#: 82991W

pwodhams@lolg.ca

Tel: 416 956 0116

Lawyers for Alvarez & Marsal Canada Inc.
in its capacity as Court-Appointed Receiver



Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Electronically issued : 09-Nov-2021
Délivré par voie électronique : 09-Nov-2021
Toronto

**ATLAS DEWATERING CORPORATION, QUADRANGLE ARCHITECTS LIMITED o/a
BDP QUADRANGLE, FIELDGATE CONSTRUCTION MANAGEMENT LTD.,
HUSSON LIMITED, MADHOUSE ADVERTISING INC., PARADIGM
TRANSPORTATION SOLUTIONS LIMITED, SUTHERLAND LAW and TRACE
ENGINEERING LTD.**

Plaintiffs

- and -

**LIBERTY HAMLETS INCORPORATED, AXESS PICKERING LTD., AXESS
DEVELOPMENTS INC.,
DANIEL HUGHES, a.k.a. DANIEL ROBERTS HUGHES, a.k.a. DAN HUGHES, AKHIA
HUGHES, a.k.a. AKHIA KHAN, and BLAIR GAGNON**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT(S)

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5,000.00 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL BE AUTOMATICALLY DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise directed by the court.

Date _____ Issued by _____
Local registrar

Address of
court office _____

TO:

LIBERTY HAMLETS INCORPORATED

973 Brock Road
Unit 12
Pickering ON L1W 3A4

AXESS PICKERING LTD.

973 Brock Road
Unit 12
Pickering Ontario L1W 3A4

AXESS DEVELOPMENTS INC.

973 Brock Road
Unit 12
Pickering ON L1W 3A4

DANIEL HUGHES, a.k.a. DANIEL ROBERTS HUGHES, and a.k.a. DAN HUGHES

973 Brock Road
Unit 12
Pickering ON L1W 3A4

AKHIA HUGHES, a.k.a. AKHIA KHAN

973 Brock Road

Unit 12

Pickering ON L1W 3A4

BLAIR GAGNON

973 Brock Road

Unit 12

Pickering ON L1W 3A4

CLAIM

1. The plaintiffs claim from the defendants, jointly and severally:
 - (a) Damages for breach of contract in the amounts particularized at paragraph 2;
 - (b) In the alternative, restitution, unjust enrichment and/or *quantum meruit* in the amounts particularized at paragraph 2;
 - (c) A declaration that the plaintiffs are complainants pursuant to section 245 of the *Business Corporations Act*, R.S.O. 1990, c. B.16, as amended (the “OBCA”) and section 238 of *Canada Business Corporations Act*, R.S.C., 1985, c. C.44, as amended (the “CBCA”).
 - (d) A declaration that the defendants have conducted themselves in a manner that is oppressive, unfairly prejudicial, or that unfairly disregards the plaintiffs’ interests, contrary to s. 248 of the OBCA and s. 241 of the CBCA;
 - (e) Further, or in the alternative damages in the amount of \$480,556.22, jointly and severally against the defendants, arising out of conduct that is oppressive, unfairly prejudicial or that unfairly disregards the plaintiffs’ interests, contrary to s. 248 of the OBCA, and s.241 of the CBCA for breach of contract, breach of trust and/or unjust enrichment and/or *quantum meruit*;
 - (f) A declaration that all amounts paid to, received by, or owing to, the defendants or any of them on account or in respect of the Project Property, (defined *infra*) constitute trust funds for the benefit of the plaintiffs pursuant to Part II of the *Construction Act*, R.S.O. 1990, c.C.30 as amended (the “Construction Act”).
 - (g) An Order that the defendants are the trustees of the said trust fund for the benefit of the plaintiffs;

- (h) A declaration that the defendants are jointly and severally liable to the plaintiffs for breach of trust pursuant to Part II of the Construction Act for the amounts claimed herein;
- (i) An accounting for all monies received by the defendants or any of them that are subject to the aforesaid trust;
- (j) Further, or in the alternative, an order tracing all of the monies received by the defendants or any of them that are subject to the aforesaid trust;
- (k) An Order directing the defendants and each of them to pay to the plaintiffs all amounts (up to \$480,556.22) appropriated or converted by the defendants, or any of them, to their own use or to a use inconsistent with the trust;
- (l) A declaration that the orders herein against the defendants shall survive bankruptcy of any of the defendants pursuant to ss.178(1)(d) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B3, as amended.
- (m) An interlocutory injunction restraining the defendants from selling, disposing of, removing, dissipating, transferring, assigning, encumbering and/or dealing with any and all Project Property (defined *infra*), pending the outcome of this action;
- (n) An Order that the defendants repay to the plaintiffs any and all Project Property (defined *infra*) that has been transferred, conveyed and/or otherwise distributed by the defendants and/or their respective legal counsel on account of this action and/or any other legal proceeding;
- (o) An interim Order for the preservation of any and all Project Property, pending the outcome of this action;

- (p) An interlocutory, interim and/or permanent Order prohibiting the defendants, and/or any other employee, agent or third party who is employed by or who works on behalf of the defendants, from removing or destroying any financial, electronic or any other records;
- (q) Aggravated, exemplary and punitive damages in the amount of \$100,000.00 given that the conduct of the defendants was high-handed, deceptive and malicious and amounted to bad faith with the sole intent of prejudicing the rights of the plaintiffs;
- (r) Costs of this action on a substantial indemnity scale or, in the alternative, on a partial indemnity scale;
- (s) Any applicable taxes, including but not limited to Harmonized Sales Tax payable pursuant to the *Excise Act*, RSC 1985, c E-14;
- (t) Prejudgment and post judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c.C43 as may be determined by this Court pursuant thereto; and
- (u) Such further and other relief as this Honourable Court deems just.

2. The plaintiffs claim damages and/or restitution as follows:

Atlas Dewatering Corporation	\$12,995.00
BDP Quadrangle	\$228,085.97
Fieldgate Construction Management Ltd.	\$69,356.00
Husson Limited	\$37,641.29
Madhouse Advertising Inc.	\$37,151.00
Paradigm Transportation Solutions Limited	\$6,560.50
Sutherland Law	\$84,216.46

Trace Engineering Ltd.	\$4,520.00
TOTAL	\$480,556.22

THE PARTIES

3. The plaintiff, Atlas Dewatering Corporation (“**Atlas**”), is a corporation incorporated pursuant to the laws of Ontario. Atlas carries on business in Ontario providing services in the field of construction dewatering and environmental groundwater / surface water management.

4. The plaintiff, Quadrangle Architects Limited operating as BDP Quadrangle (“**BDP Quadrangle**”), is a corporation incorporated pursuant to the laws of Ontario. BDP Quadrangle is a professional services architectural firm whose service offerings include architecture and urban design, interior design, and accessibility consulting through Human Space.

5. The plaintiff, Fieldgate Construction Management Ltd. (“**Fieldgate**”), is a corporation incorporated pursuant to the laws of Ontario. Fieldgate provides pre-construction planning, general contracting, project and construction management, and post-construction services.

6. The plaintiff, Husson Limited (“**Husson**”), is a corporation incorporated pursuant to the laws of Ontario. Husson conducts site investigations, stormwater management, project management, engineering design, construction administration, and cost-sharing services.

7. The plaintiff, Madhouse Advertising Inc. (“**Madhouse**”), is a corporation incorporated pursuant to the laws of Ontario. Madhouse provides marketing and branding services, specializing in real estate and digital experiences.

8. The plaintiff, Paradigm Transportation Solutions Limited (“**Paradigm**”), is a corporation incorporated pursuant to the laws of Ontario. Paradigm provides transportation planning and traffic engineering services.

9. The plaintiff, Sutherland Law “**Sutherland**”), is a professional corporation incorporated pursuant to the laws of Ontario. Sutherland provides legal services, including in the areas of real estate development and condominium law.

10. The plaintiff, Trace Engineering Ltd. (“**Trace**”), is a corporation incorporated pursuant to the laws of Ontario. Trace is a mechanical and electrical consulting engineering firm specializing in high/low rise residential, retirement/long term care, commercial, and tenant design areas.

11. The defendant, Axess Pickering Ltd. (“**Axess Pickering**”) is a corporation incorporated pursuant to the laws of Ontario. Axess Pickering owns the lands of the Project (defined *infra*) and is affiliated with Liberty Hamlets Incorporated.

12. The defendant, Liberty Hamlets Incorporated (“**Liberty Hamlets**”) is a corporation incorporated pursuant to the laws of Canada. Liberty Hamlets is a real estate developer in the Greater Toronto Area and is the developer of the Project Property (described *infra*).

13. The defendant, Axess Developments Inc. (“**Axess Developments**”) is a corporation incorporated pursuant to the laws of Canada. Axess Developments is affiliated with Liberty Hamlets.

14. Collectively, Axess Pickering, Liberty Hamlets and Axess Developments are hereinafter referred to as the “**Corporate Defendants**”.

15. The defendant, Daniel Hughes, a.k.a. Daniel Roberts Hughes, and a.k.a. Dan Hughes (“**Dan Hughes**”), is an individual residing in Ontario. Dan Hughes was at all material times an officer and/or director of the Corporate Defendants and was their controlling mind.

16. The defendant, Akhia Hughes, a.k.a. Akhia Khan (“**Akhia Hughes**”), is an individual residing in Ontario and is and was at all material times, to the best of the Plaintiffs’ knowledge,

the spouse of the defendant, Dan Hughes. Akhia Hughes was at all material times an officer and/or director of the Corporate Defendants and was a directing mind.

17. The defendant, Blair Gagnon (“**Gagnon**”), is an individual residing in Ontario. Gagnon was at all materials times an officer and/or employee of the Corporate Defendants and was a directing mind.

18. Collectively and interchangeably, Dan Hughes, Akhia Hughes and Gagnon are hereinafter referred to as the “**Director Defendants**” and the “**Presidents/Officers, Directors/Controlling Minds**”.

BACKGROUND

19. Dan Hughes planned to develop and construct a 22-storey, 308-unit, two-tower condominium development (the “**Project**”) at 1525 Pickering Parkway in the City of Pickering (the “**Project Property**”) since approximately 2015-2016.

20. Dan Hughes incorporated the Corporate Defendants for the purpose of facilitating the development and construction of the Project and brought Gagnon in on the Project to aid him.

21. Liberty Hamlets was incorporated on March 19, 2018.

22. Axess Pickering was incorporated on February 22, 2019.

23. Axess Developments was incorporated on April 22, 2021.

24. Dan Hughes was, at all times, the sole registered director of the Corporate Defendants, with the exception of Akhia Hughes, who, while removed as a director of Liberty Hamlets on the date of its incorporation, continued as Liberty Hamlets’ Chief Operating Officer.

25. Akhia Hughes did at all material times and continues to hold herself out as an officer and as having authority to act on behalf of the Corporate Defendants or any of them.

26. Gagnon did at all material times and continues to hold himself out as having the authority to act on behalf of the Corporate Defendants or any of them.

27. The Project was approved by the City of Pickering in or around late 2018 or early 2019.

28. Originally, general sales of units were planned to commence on or about February 8, 2019 and groundbreaking was planned for June 2019. Units were to be ready for occupancy in early 2021.

THE CONTRACTS

29. The plaintiffs contracted to provide services to the Corporate Defendants, in accordance with their areas of expertise.

Atlas

30. Atlas entered into an agreement with Liberty Hamlets on or about January 7, 2020.

31. Atlas provided a detailed quote and budget breakdown for the various tasks it was contracted to perform, based on the reports and drawings provided by the defendants.

32. It was a term of the contract that payments were due 30 days from the date of invoice.

33. Interest applied at the rate of 2% on any unpaid balance.

34. The contract with Atlas was signed by Dan Hughes on or about January 6, 2020.

BDP Quadrangle

35. BDP Quadrangle provided services under three agreements with Liberty Hamlets.

36. The first agreement (the “**Architectural Design Contract**”), dated February 26, 2019, was for architectural design services. The total estimate for the architectural design scope of work was \$1,490,000.00, exclusive of disbursements and HST, plus two items to be billed on an hourly basis.

37. The proposal was based on work commencing in the first quarter of 2019.

38. It was a term of the Architectural Design Contract that invoices would be issued monthly and would be due when rendered. The contract further stipulated that overdue accounts may be charged interest at a rate of 1.0% per month on invoices outstanding after 30 days.

39. The Architectural Design Contract was addressed to Dan Hughes and Liberty Hamlets. BDP rendered services pursuant to the Architectural Design Contract, invoiced for those services and received partial payments.

40. The second agreement (the “**Universal Design Contract**”), also dated February 26, 2019, was for universal design services to be provided through Human Space, a division of BDP Quadrangle.

41. The total estimated fee for BDP Quadrangle’s scope of work under the Universal Design Contract was \$18,150.00 plus disbursements and HST.

42. It was a term of the contract that invoices would be issued monthly and would be due when rendered. The contract further stipulated that overdue accounts may be charged interest at a rate of 1.0% per month on invoices outstanding after 30 days.

43. The contract provided that payments were to be made payable to Quadrangle Architects Limited.

44. The agreement was signed by Dan Hughes on behalf of Liberty Hamlets on or about July 2, 2019. BDP/Human Space rendered services pursuant to the Universal Design Contract, invoiced for those services and received partial payments.

45. The third agreement (the “**Interior Design Contract**”), dated June 19, 2019, was for professional interior design services to be provided for the Project.

46. The total estimated fee for BDP Quadrangle's scope of work under the Interior Design Contract was \$293,000.00 exclusive of HST and disbursements, plus Contract Administration on an hourly basis.

47. It was a term of the Interior Design Contract that invoices would be issued monthly and would be due when rendered. The contract further stipulated that overdue accounts may be charged interest at a rate of 1.0% per month on invoices outstanding after 30 days.

48. The Interior Design Contract was addressed to Blair Gagnon and Liberty Hamlets and was signed by Dan Hughes on behalf of Liberty Hamlets on or about June 26, 2019. BDP rendered services pursuant to the Interior Design Contract, invoiced for those services and received partial payments.

Fieldgate

49. Fieldgate entered into an agreement with Liberty Hamlets on or about November 16, 2018.

50. The contract was a Canadian Construction Documents Committee ("CCDC") 5B – 2010 standard contract (the "CCDC Contract"). Liberty Hamlets was the "Owner" under the CCDC Contract while Fieldgate was the "Construction Manager".

51. The work under the CCDC Contract was to commence on November 26, 2018.

52. The CCDC Contract stipulated that Fieldgate would be paid \$60,000.00, plus time-based rates for personnel in accordance with Schedule "B" to the CCDC Contract, for the provision of "Services" (as defined in the CCDC Contract) and 3.0% of the Cost of the Work as it accrued (with "Cost of Work" likewise being defined in the CCDC Contract).

53. Fieldgate was also entitled to recover an administrative charge of 5% for actual expenses incurred by it in providing the Services under the CCDC Contract.

54. The CCDC Contract provided that applications for payment on account could be made on a monthly basis as the Work progressed.

55. It was a term of the contract that interest on unpaid accounts would become and payable at a rate of 2% per annum above the Royal Bank prime rate for the first 60 days and 4% per annum above said prime rate after the first 60 days, with interest compounded monthly.

56. The CCDC was to be signed by Dan Hughes on behalf of Liberty Hamlets and Ezra Jakubovic on behalf of Fieldgate. Fieldgate rendered services pursuant to the CCDC and invoiced for those services.

Husson

57. Husson entered into an agreement with Liberty Hamlets on or about February 15, 2019.

58. The total estimated fee for Husson's scope of work, excluding provisional work, HST and disbursements, was \$49,800.00.

59. It was a term of the contract that invoices for either time-based or percentage-fee-based work would be issued at four-week intervals.

60. It was a further term of the contract that prices would increase with inflation for any portion of work carried out beyond the current calendar year.

61. The contract stipulated that invoices would be payable within 30 days of their issuance.

62. The contract further stated that overdue accounts would be subject to a 2% per month / 24% per annum carrying charge.

63. The contract with Husson was signed by Dan Hughes.

Madhouse

64. Madhouse entered into an agreement with Liberty Hamlets on or about August 20, 2019.

65. Madhouse provided a detailed quote and budget breakdown for the various tasks it was contracted to perform, which related to acting as Liberty Hamlets marketing agency.

66. The total estimated fees for Madhouse's scope of work, exclusive of tax and disbursements, was \$124,800.00, plus production costs.

67. The contract with Madhouse was signed by Dan Hughes on or about August 20, 2019.

Paradigm

68. Paradigm entered into an agreement with Liberty Hamlets on or about September 26, 2019.

69. The total estimated fee for Paradigm's scope of work, exclusive of tax and disbursements, was \$6,200.00.

70. The initial payment of \$3,100.00 plus HST was to be paid before work was commenced. The final balance, plus HST and any additional work authorized by the client, was due before release of the final deliverables.

71. It was a term of the contract that invoices were payable upon receipt and that interest would accrue at the rate of 1.5% for any accounts outstanding beyond 30 days.

72. The contract with Paradigm was signed by Dan Hughes on or about September 26, 2019.

73. There was a subsequent expansion to Paradigm's scope of work which was agreed to on or about December 23, 2019.

74. The expected costs of the additional work was \$2,500.00 plus HST.

75. Dan Hughes consented to the additional work on behalf of Liberty Hamlets on December 23, 2019.

Sutherland Law

76. Sutherland Law was at all material times retained to provide legal services for the benefit of the Defendants with respect to, *inter alia*, preparing agreements of purchase and sale and drafting condo declaration and by-laws.

77. This work commenced in or around November 13, 2019.

78. Pursuant to its retainer agreement Sutherland Law has rendered invoices to Dan Hughes in the total amount of \$84,216.46.

79. The invoices rendered by Sutherland Law included courtesy discounts in excess of \$10,000.00.

80. The invoices rendered by Sutherland Law were addressed to Dan Hughes and state that 12% interest per month would be charged on past due accounts pursuant to the retainer agreement.

Trace

81. Trace entered into an agreement with Liberty Hamlets on or about February 15, 2019.

82. The total estimated fee for Trace's scope of work, exclusive of tax, was \$213,000.00.

83. It was a term of the contract that fees would become due and payable at intervals relating to equivalent completion of Design and Construction.

84. The contract further stated that in the event the subject property is canceled, sold or transferred, all appropriated costs would become due and payable and 10% of all remaining design fees would be paid.

85. It was also a term of the contract that for any work not completed within 12 months of the date of the contract, the fee for that heading of work would be increased by 5% per year.

86. The contract with Trace was signed by Dan Hughes on or about February 15, 2019.

THE WORK PERFORMED WAS INVOICED BUT NOT PAID IN FULL OR AT ALL

87. The plaintiffs have rendered goods and services worth the amounts listed in paragraph 2.

88. The plaintiffs have demanded payment, which remains outstanding.

Atlas

89. Atlas issued an invoice on March 25, 2020, in the amount of \$11,500.00 plus HST for a total of \$12,995.00.

90. The invoice was addressed to Liberty Hamlets and stated that 2% interest per month would be charged on past due accounts.

91. To date, Atlas has received no payment for this invoice, despite the services having been rendered.

BDP Quadrangle

92. BDP Quadrangle issued invoices, pursuant to the three contracts entered into with the Defendants, and for which partial payment was received in the amount \$150,000.00 on February 20, 2020, however, the following invoices have not been paid:

- a) October 16, 2019, in the amount of \$30,305.31;
- b) October 18, 2019, in the amount of \$20,331.91;
- c) November 14, 2019, in the amount of \$15,108.50;
- d) November 18, 2019, in the amount of \$32,205.00;
- e) November 18, 2019, in the amount of \$3,495.09;
- f) November 18, 2019, in the amount of \$213.29;
- g) December 10, 2019, in the amount of \$10,057.00;
- h) December 11, 2019, in the amount of \$43,537.04;
- i) January 15, 2020, in the amount of \$25,536.19;

- j) January 16, 2020, in the amount of \$1,005.70; and
- k) February 10, 2020, in the amount of \$46,022.00.

Total: \$228,085.97

93. No payments have been subsequently received by BDP Quadrangle, despite the services referred to in the invoices having been rendered.

Fieldgate

94. Fieldgate issued invoices on a monthly basis.
95. Invoiced amounts have been outstanding since September 2019. The last invoice issued was in February 2020.
96. No payments have been received by Fieldgate, despite the services having been rendered.

Husson

97. Husson issued three invoices, dated as follows:
- (a) November 27, 2019 in the amount of \$10,321.72;
 - (b) December 20, 2019 in the amount of \$13,291.70; and
 - (c) February 10, 2020 in the amount of \$14,027.87.
98. The total amount invoiced to-date is \$37,641.29.
99. No payments have been received by Husson for the invoices, despite the services having been rendered.

Madhouse

100. Madhouse issued four invoices that have gone unpaid, dated as follows:
- (a) November 15, 2019 in the amount of \$2,825.00;
 - (b) January 27, 2020 in the amount of \$25,512.00;
 - (c) February 28, 2020 in the amount of \$339.00; and

(d) February 28, 2020 in the amount of \$8,475.00.

101. The total amount invoiced to date is \$37,151.00.

102. No payments have been received by Madhouse for the above-noted invoices, despite the services having been rendered.

Paradigm

103. Paradigm did not issue invoices as the contract work was to be paid in two instalments, before and after the completion of the contract work.

104. Paradigm was likewise to be paid the additional amounts after completion of the work.

105. Paradigm has completed its scope of work under its contract.

106. The amount of \$6,560.50 remains outstanding, despite the services having been rendered.

Sutherland Law

107. Sutherland Law issued four invoices, dated as follows:

(a) December 16, 2019 in the amount of \$53,471.50;

(b) February 6, 2020 in the amount of \$27,619.35;

(c) April 7, 2020 in the amount of \$1,390.18; and

(d) June 8, 2020 in the amount of \$1,735.43.

108. The total amount invoiced to date is \$84,216.46.

109. Interest has accrued at a rate of 12.00% per year since the date of each invoice.

110. No payments have been received by Sutherland Law for the invoices, despite the services having been rendered.

Trace

111. Trace issued an invoice on or about October 31, 2019, in the amount of \$4,000.00 plus HST for a total of \$4,520.00.

112. The invoice was addressed to Liberty Hamlets and stated that it was due upon receipt.

113. To date, Trace has received no payment for this invoice, despite the services having been rendered.

THE PLAINTIFFS HAVE BEEN MORE THAN ACCOMODATING TO THE DEFENDANTS

114. In response to the plaintiffs' repeated demands for payment, the defendants have continually given the following excuses:

- (a) the Director Defendants have maintained that there have been various delays to obtaining financing but that they were hopeful financing would soon be obtained;
- (b) the Director Defendants would subsequently advise that the Corporate Defendants have obtained financing and that the invoices would be paid shortly;
- (c) the payments would not materialize and the Director Defendants would not respond to the plaintiffs' requests for clarification; and
- (d) the Director Defendants would eventually surface and advise that for some reason or another the Project financing did not end up proceeding as expected and asked for patience while reassuring the plaintiffs that their Invoices would be paid.

115. This cycle continues to the present day, while the Project remains at an early stage.

116. On or about March 1, 2021, Axess Pickering became the registered owner of the Project Property. The face value of the transfer was \$10,000,000.00.

117. On or about the same day, Axess Pickering registered two charges in the amount of \$8,200,000.00 and \$1,500,000.00, respectively.

118. On June 15, 2021, Axess Pickering registered a further charge in the amount of \$883,630.00.

Nonetheless, the defendants continue to maintain that they have no funds and that more time is needed for them to finalize their deals.

119. The defendants have not paid the amounts owed to the plaintiffs in a reasonable period of time or as otherwise required by the contracts detailed *supra*.

120. Furthermore, the defendants continue to advise that it is not clear when they will be able to pay their outstanding accounts.

121. As a result, Liberty Hamlets and/or Dan Hughes are in breach of their contracts with the plaintiffs.

122. In the alternative, the plaintiffs have supplied goods and services for the benefit of the defendants and at the request of the defendants and are entitled to payment on a *quantum meruit* basis.

123. The plaintiffs claim that the defendants requested from the plaintiffs and accordingly that the plaintiffs provided services as requested to the construction of the Project and rendered invoices to the defendants for same. Full particulars of the services provided to the defendants by the plaintiffs for the furtherance of the Project are within the knowledge of the defendants.

124. The plaintiffs claim that to date they have not received payment towards their accounts receivable with the defendants for the Project, despite the plaintiffs' repeated demands for full payment of the invoices and the Defendants numerous promises to pay. As a result, the defendants have failed or refused to pay the plaintiffs, in breach of the various contracts and the invoices in the amounts particularized above, which are due and owing on account of the services duly provided by the plaintiffs to the Project Property.

125. Numerous demands for payment of the outstanding accounts have been made upon the defendants however, to date the defendants have refused or neglected to pay any amount upon account of their indebtedness despite the Defendants numerous promises to pay.

126. The plaintiffs claim that the defendants have received funds on account of the services supplied by the plaintiffs to the Project Property, the particulars of which are within the exclusive knowledge of the defendants, which funds severally, and in the aggregate, constitute monies of trust funds for the use and benefit of the plaintiffs as a statutory and proper beneficiary of the said trusts. The plaintiffs plead and rely upon the Construction Act and without limiting the generality of the foregoing, specifically plead and rely upon sections 7, 8 and 13.

127. The plaintiffs claim that they were ready, willing and able to perform the contracts and did perform the contracts for the Project Property, however, the Corporate Defendants, under the direction of the Director Defendants as President, Principal, Officers and Directors, breached the contracts and caused the plaintiffs to incur significant losses arising from but not limited to, loss of profits and loss of business opportunity to contract with other potential customers for other jobs and/or projects.

The plaintiffs further state that the Corporate Defendants are owned and/or operated by the same Presidents/Officers, Directors/Controlling Minds behind the scenes, including but not limited to the Director Defendants. As such, the relationship of the Presidents/Officers and Directors/Controlling Minds to the Corporate Defendants is that they are the controlling minds of the Corporate Defendants and that they are their alter egos. Under the circumstances, the plaintiffs claim that the duties owed to them by the Corporate Defendants were equally owed to them by the Director Defendants. Accordingly, the plaintiffs seek a declaration lifting the corporate veil of the Corporate Defendants and holding the Director Defendants liable for the plaintiffs' losses.

128. The plaintiffs are complainants pursuant to Sections 245 and 248 of the OBCA and Sections 238 and 241 of the CBCA. The plaintiffs state that the actions of the Director Defendants were oppressive, unfairly prejudicial or unfairly disregarded the plaintiffs' interests as creditors of the Corporate Defendants.

129. The plaintiffs state that the Director Defendants, as Presidents/Officers and Directors/Controlling Minds of the Corporate Defendants, owed the plaintiffs a fiduciary duty to ensure that the Corporate Defendants would be able to fulfil their obligations to the plaintiffs as trustee of its funds. The plaintiffs further state that in neglecting to safeguard the plaintiffs' interests, the Presidents/Officers and Directors/Controlling Minds of the Corporate Defendants failed to exercise the care, diligence and skill of reasonably prudent persons, resulting in loss to the plaintiffs.

130. The plaintiffs further claim and rely upon the provisions of the OBCA, and all applicable legislation, more particularly, but not limited to Sections 247 and 248 and upon provisions of the CBCA, and all applicable legislation, more particularly, but not limited to Sections 238 and 241 as well as the Oppression Remedy, the plaintiffs claim that the defendants have committed a breach of any and all fiduciary obligations owed to the plaintiffs by the defendants. In particular, the plaintiffs plead that the Director Defendants, conducted themselves in a manner that resulted in one or more of the following:

- i) acts or omissions that effected an oppressive result against the interest of the plaintiffs;
- ii) the conducting of the business or affairs of the Corporate Defendants in a manner that effected an oppressive result as against the interest of the plaintiffs; and

iii) exercise of director's and/or officer's powers in a manner that effected an oppressive result as against the interests of the plaintiffs.

131. The plaintiffs are complainants, and creditors whose interests are subject to protection, for the purposes of subsection 248 of the OBCA and section 241 of the CBCA.

132. The plaintiffs further claim that by reason of the conduct of the defendants in failing to pay the plaintiffs, and utilizing the services provided by the plaintiffs to their benefit and enrichment, and in breaching their fiduciary obligations to the plaintiffs, through actions that were oppressive, highhanded and which blatantly ignored the rights of the plaintiffs, the plaintiffs claim they are entitled to an award of punitive, aggravated and/or exemplary damages.

133. At a time, or times, unknown to the plaintiffs, but within the knowledge of the Corporate Defendants and its Presidents/Officers and Directors/Controlling Minds, these said defendants misappropriated and converted to their own use, or uses, inconsistent with the trust, the sum of \$480,556.22.

134. The plaintiffs claim that the Individual defendants and/or the Presidents/Officers and Directors/Controlling Minds of the Corporate Defendants, assented to, and or acquiesced in, conduct that they knew, or reasonably ought to have known, amounted to a breach of trust by the Corporate Defendants and are responsible for causing the Corporate Defendants to transfer, convert, or misappropriate the trust funds that the Corporate Defendants received on account of the Project or Project Property, to uses inconsistent with the trust and in contravention of sections 7 and 8 of the Construction Act.

135. The plaintiffs also plead and rely on Section 13 of the Construction Act, that the Director Defendants and/or the Presidents/Officers, Directors/Controlling Minds of the Corporate Defendants are individuals with effective control of the Corporate Defendants, are trustees and

fiduciaries of the plaintiffs in regard to any funds received by the Corporate Defendants in respect of the Project Property, and are therefore liable for any particular breach of trust by the Corporate Defendants with respect to the Project Property.

136. In the alternative, the plaintiffs claim that the Director Defendants and/or the Presidents/Officers and Directors/Controlling Minds of the Corporate Defendants misappropriated and/or converted to their own use or a use not authorized by the trust provisions of the Act, monies received by the Corporate Defendants in respect of the Project or Project Property and committed a defalcation with respect of any monies received which were due and owing to the plaintiffs.

137. The plaintiffs further claim that the Director Defendants and/or the Presidents/Officers and Directors/Controlling Minds of the Corporate Defendants are liable for all amounts due to the Plaintiffs pursuant to the contracts.

138. The plaintiffs further claim that with respect to the Project Property, the Director Defendants and/or the Presidents/Officers and Directors/Controlling Minds of the Corporate Defendants are trustees of trust funds, including but not limited to, the holdback monies, for the benefit of contractors, subcontractors, designers, consultants, and material suppliers on the Project Property, including the plaintiffs.

139. The plaintiffs claim that as a trustee, it was the defendants' obligation to not appropriate or convert any part of the funds to their own use or any use inconsistent with the trusts until all subcontractors, among others and including the plaintiffs who supplied services or materials, were paid in full.

140. The plaintiffs claim that the defendants appropriated or converted monies imposed with a trust including but not limited to the holdback monies to their own personal uses and/or uses inconsistent with the trusts.

141. The plaintiffs claim therefore that the defendants have breached their trust obligations pursuant to the provisions of the Construction Act.

142. The plaintiffs claim that the Director Defendants, as Principals, Presidents, Directors, Officers and/or employees with effective control of the Corporate Defendants and their relevant activities, assented to, acquiesced in conduct that they knew or reasonably ought to have known, amounted to a breach of trust of the Corporate Defendants and are liable for said breach of trust pursuant to s.13(2) of the Construction Act.

143. The plaintiffs further claim that the defendants, are trustees of the holdback monies received by them at common law and/or equity and have breached their trust obligation by failing to pay the holdback monies to whom they are owed, namely the plaintiffs.

144. The plaintiffs therefore claim that due to the breach of trust of the defendants and failure of the defendants to comply with the responsibilities and obligations pursuant to the Construction Act, the plaintiffs have suffered damages in the amount of \$480,556.22.

145. The plaintiffs claim that to the extent that the defendants have breached their trust obligations pursuant to the Act, the plaintiffs and all persons who are beneficiaries of said trusts are also entitled to an accounting of all trust funds received, deemed to have been received and dispersed by said defendants in relation to the Project Property, improvements and the following, tracing and restitution of any and all such amounts is warranted. The Plaintiffs claim an accounting from the defendants.

146. The plaintiffs claim that by reason of supplying their services and material to the Project Property, it has enhanced the value of the Project Property with the respective amounts for each contract as claimed herein and the defendants received the benefit of same with respect to the Project Property, and the defendants with respect to the Project Property have breached the

contracts and have been unjustly enriched, for no juristic reason, in the applicable amount as claimed herein for said contracts, at the expense and detriment of the plaintiffs. The plaintiffs plead and rely upon the doctrine of unjust enrichment.

LIFTING THE CORPORATE VEIL

147. The conduct of the defendants justifies piercing the corporate veil.

148. The Director Defendants, jointly or severally, completely dominate and control Liberty Hamlets and the other Corporate Defendants.

149. The Corporate Defendants therefore do not function independently of the Director Defendants.

150. Further and in the alternative, Liberty Hamlets does not function independently of the Director Defendants and the other Corporate Defendants do not function independently of Liberty Hamlets.

151. In the further alternative, failing to lift the corporate veil would yield a result flagrantly opposed to justice or convenience.

152. The Project is the only development undertaken by the defendants. The Corporate Defendants are being used to shield their shareholders from liabilities owed to the plaintiffs, in an improper and egregious manner.

153. The plaintiffs plead that Liberty Hamlets and Dan Hughes had a duty of good faith to comply with their contractual obligations and failed to do so by improperly redirecting funds or assets received for the Project to other parties, including Axess Pickering and Axess Developments, knowing or having ought to have known that Liberty Hamlets and Dan Hughes would remain unable to fulfil their contractual obligations as a result.

154. As a result, all of the Corporate Defendants, as well as the Director Defendants personally, are responsible for the plaintiffs' losses.

155. The plaintiffs plead and rely upon the *Courts of Justice Act*, RSO 1990, c. C.43, the *Construction Act*, RSO 1990, c. C.30 and the *Business Corporations Act*, RSO 1990, c. B.16.

156. The plaintiffs propose that this action be tried at Toronto, Ontario.

November 9, 2021

SUTHERLAND LAW

Litigation Lawyers
3300 Highway 7, Suite 904
Vaughan ON L4K 4M3

Rob Y. Moubarak

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ATLAS DEWATERING
CORPORATION, QUADRANGLE
ARCHITECTS LIMITED o/a BDP
QUADRANGLE, FIELDGATE
CONSTRUCTION
MANAGEMENT LTD., HUSSON
LIMITED, MADHOUSE
ADVERTISING INC., PARADIGM
TRANSPORTATION SOLUTIONS
LIMITED, SUTHERLAND LAW
and TRACE ENGINEERING LTD.

Plaintiffs

- and -

LIBERTY

Defendants

Court File No./N° du dossier du greffe: CV-21-00671739-0000

136

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
TORONTO

STATEMENT OF CLAIM

SUTHERLAND LAW

Litigation Lawyers
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Vaughan ON L4K 4M3

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Lawyers for the Plaintiffs,
Atlas Dewatering Corporation et al.

Court File No. CV-21-00669408-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

**C&K MORTGAGE SERVICE INC.
and 975393 ONTARIO INC.**

APPLICANTS

- and -

AXESS PICKERING LTD.

RESPONDENT

**AFFIDAVIT OF STEPHEN J. FERGUSON
(Sworn May 30, 2022)**

I, STEPHEN J. FERGUSON, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Senior Vice-President of the financial advisory firm Alvarez & Marsal Canada Inc. (“**A&M**”), the Court appointed receiver and manager (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Axess Pickering Ltd. (“**Axess**”). As such, I have knowledge of the matters hereinafter deposed to.
2. A&M was appointed as Receiver pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated October 12, 2021 (the “**Appointment Order**”). The Receiver retained Lax O’Sullivan Lisus Gottlieb LLP (“**LOLG**”) as its independent counsel and Dickinson Wright LLP (“**Dickinson Wright**”) as its real estate counsel in these proceedings.

- 2 -

3. Pursuant to paragraphs 17 and 18 of the Appointment Order, the Receiver and its legal counsel are entitled to be paid their reasonable fees and disbursements at their standard rates and charges, and are required to pass their accounts from time to time.

4. The efforts and activities of the Receiver are described in the Third Report that the Receiver has filed with the Court prior to the date hereof in these proceedings, as well as the Receiver's Fourth Report to be filed in respect of the within motion for the passing of accounts.

5. Attached hereto and marked as **Exhibit "1"** to this my Affidavit is a summary (the "**A&M Accounts Summary**") of the invoices rendered by A&M (the "**A&M Accounts**", and collectively, the "**A&M Fees and Disbursements**") in respect of these proceedings for the period October 12, 2021 to May 24, 2022 (the "**A&M Application Period**"). The A&M Accounts include itemization and totals for services rendered by A&M personnel, a summary of which personnel and their hourly rates is attached hereto and marked as **Exhibit "2"** to this my Affidavit. Copies of the A&M Accounts, redacted for privileged, confidential and commercially sensitive information are attached hereto and marked as **Exhibit "3"**.

6. A&M expended a total of 263.6 hours in connection with this matter during the A&M Application Period, giving rise to fees and disbursements totalling \$200,133.41, comprised of fees of \$176,442.50 disbursements of \$666.70 and HST of \$23,024.21, all of which are outlined in the A&M Accounts Summary.

7. LOLG and Dickinson Wright, counsel to the Receiver have rendered services throughout these proceedings in a manner consistent with the instructions of the Receiver.

8. The total fees for services and disbursements provided by LOLG during the period October 12, 2021 to May 23, 2022 are \$52,305.99 ("**LOLG's Fees and Disbursements**"). The services rendered by LOLG are more particularly described in the affidavit of Matthew Gottlieb (and the Exhibits thereto) sworn May 30, 2022 in support of the Receiver's request for approval of LOLG's Fees and Disbursements.

9. The total fees for services and disbursements provided by Dickinson Wright during the period November 19, 2021 to May 17, 2022 are \$45,257.87 including HST (the "**Dickinson**

- 3 -

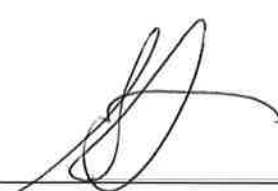
Wright's Fees and Disbursements"), The services rendered by Dickinson Wright are more particularly described in the affidavit of David Preger (and the Exhibits thereto) sworn May 18, 2022 in support of the Receiver's request for approval of Dickinson Wright's Fees and Disbursements.

10. In addition to the foregoing, each of A&M and LOLG estimate that their fees and disbursements through to conclusion of these proceedings, beyond the Application Periods described above, will not exceed \$30,000 respectively, excluding disbursements and HST.

11. To the best of my knowledge, the rates charged by the Receiver, LOLG and Dickinson Wright are comparable to the rates charged for the provision of similar services by other large restructuring firms and law firms, and are fair and reasonable.

12. This Affidavit is sworn in connection with a motion by the Receiver to the have the Receiver's Fees and Disbursements in relation to these proceedings approved by this Court.

AFFIRMED by Stephen J. Ferguson of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on May 30, 2022, in accordance with O. Reg. 431/20, Administering an Oath or Declaration Remotely.

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

Commissioner for taking affidavits
(or as may be)

PATRICK WODHAMS
LSO#92881W

STEPHEN J. FERGUSON

This is Exhibit “1” referred to in the Affidavit of Stephen J. Ferguson sworn by Stephen J. Ferguson at the City of Toronto, in the Province of Ontario, before me on May 30, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

PATRICK M. WODHAMS

EXHIBIT "1"
ALVAREZ & MARSAL CANADA INC. COURT-APPOINTED RECEIVER OF
AXESS PICKERING LTD.
(October 12, 2021 to May 1 to 21, 2022)

Invoice No.	Invoice Date	Invoice Period / Description	Total Hours		Disbursements	HST	Invoice Total (\$CAD)
Inv #1	November 25, 2021	October 12 to 31, 2021	73.5	\$45,948.00	\$0.00	\$5,973.24	\$51,921.24
		Ferguson, Stephen	22.7	19,295.00			
		Fennema, Nate	46.6	24,931.00			
		Ip, J-L	4.2	1,722.00			
Inv #2	December 20, 2021	November 1 to 30, 2021	46.9	\$30,730.00	\$440.52	\$4,052.17	\$35,222.69
		Ferguson, Stephen	17.9	15,215.00			
		Fennema, Nate	29.0	15,515.00			
		Ip, J-L	-	-			
Inv #3	January 18, 2022	December 1 to 31, 2021	20.0	\$14,448.50	\$26.18	\$1,881.71	\$16,356.39
		Ferguson, Stephen	11.9	10,115.00			
		Fennema, Nate	8.1	4,333.50			
		Ip, J-L	-	-			
Inv #4	February 7, 2022	January 1 to 31, 2022	53.1	\$36,976.50	\$50.00	\$4,813.45	\$41,839.95
		Ferguson, Stephen	27.2	23,120.00			
		Fennema, Nate	25.9	13,856.50			
		Ip, J-L	-	-			
Inv #5	March 9, 2022	February 1 to 28, 2022	36.2	\$25,068.50	\$25.00	\$3,262.16	\$28,355.66
		Ferguson, Stephen	18.1	15,385.00			
		Fennema, Nate	18.1	9,683.50			
		Ip, J-L	-	-			
Inv #6	April 13, 2022	March 1 to 31, 2022	15.4	\$9,625.00	-	\$1,251.25	\$10,876.25
		Ferguson, Stephen	4.4	3,740.00			
		Fennema, Nate	4.2	2,247.00			
		Mann, Esther	6.8	3,638.00			
		Ip, J-L	-	-			
Inv #7	May 6, 2022	April 1 to 30, 2022	4.3	\$3,088.00	125.00	\$417.69	\$3,630.69
		Ferguson, Stephen	2.5	2,125.00			
		Fennema, Nate	-	-			
		Mann, Esther	1.8	963.00			
		Ip, J-L	-	-			
Inv #8	May 24, 2022	May 1 to 21, 2022	14.2	\$10,558.00	-	\$1,372.54	\$11,930.54
		Ferguson, Stephen	9.4	7,990.00			
		Fennema, Nate	4.8	2,568.00			
		Mann, Esther	-	-			
		Ip, J-L	-	-			
TOTAL			263.6	\$176,442.50	\$666.70	\$23,024.21	\$200,133.41

This is Exhibit “2” referred to in the Affidavit of Stephen J. Ferguson sworn by Stephen J. Ferguson at the City of Toronto, in the Province of Ontario, before me on May 30, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

PATRICK M. WODHAMS

EXHIBIT "2"
ALVAREZ & MARSAL CANADA INC. COURT-APPOINTED RECEIVER OF
AXESS PICKERING LTD.
(October 12, 2021 to May 21, 2022)

Staff Member	Title	Total Hours	Rate (\$CAD)	Amount Billed (\$CAD)
Ferguson, Stephen	Managing Director	114.1	\$850	\$96,985.00
Fennema, Nate	Director	136.7	\$535	73,134.50
Mann, Esther	Senior Associate	8.6	\$535	4,601.00
Ip, J-L	Associate	4.2	\$410	1,722.00
			Avg Rate	
Total Fees (excl. Disbursements and HST)		263.6	\$669	\$176,442.50

This is Exhibit “3” referred to in the Affidavit of Stephen J. Ferguson sworn by Stephen J. Ferguson at the City of Toronto, in the Province of Ontario, before me on May 30, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

PATRICK M. WODHAMS



November 25, 2021

Axess Pickering Ltd.
c/o Alvarez & Marsal Canada Inc.
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
PO Box 22
Toronto, ON M5J 2J1

AXESS PICKERING LTD. (the "Company")
INVOICE #1 – 834450

For professional services rendered in connection with our appointment as Receiver and Manager of the Company pursuant to the Order granted by the Ontario Superior Court of Justice (Commercial List) on October 12, 2021, for the period to October 31, 2021.

BILING SUMMARY

	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
S. Ferguson, Managing Director	22.7	\$850	\$19,295.00
N. Fennema, Senior Associate	46.6	\$535	24,931.00
J-L Ip, Associate	4.2	\$410	1,722.00
	<u>73.5</u>		<u>\$45,948.00</u>
Add: HST @ 13%			<u>5,973.24</u>
TOTAL INVOICE			<u>\$51,921.24</u>

Mailing Instructions:

Alvarez & Marsal Canada Inc.
Attn: Audrey Singels-Ludvik
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22
Toronto, ON M5J 2J1

Wiring Instructions:

Bank: TD Canada Trust
Account Name: Alvarez & Marsal Canada ULC
Swiftcode: TDOMCATTOR
Bank Address: 55 King Street West
Toronto, ON
Bank Transit #: 10202
Institution #: 0004
Account #: 5519970
Reference #: Axess Pickering – Inv #1 (834450)
HST#: 83158 2127 RT0001

Axess Pickering Ltd. – 834450**DETAILED SUMMARY – to October 31, 2021**

<u>S. Ferguson</u>		<u>Hrs.</u>
Oct 4	Review of Initial Application materials prepared by Dickson Wright.	0.6
Oct 6	Call with D. Preger (Dickson Wright) and G. Gruneir (Rescom) regarding Initial Application materials; review of Initial Order and comments thereon.	0.8
Oct 11	Review of revised Initial Application materials; review of Receiver's consent to act and [REDACTED]	0.9
Oct 12	Preparation for and attendance on Receivership application hearing; call with G. Gruneir regarding background information; internal meetings and discussion regarding first day matters; attending to matters related to Receiver's bank account; physical review of property; multiple calls with management to Liberty Hamlets; discussion regarding property insurance; calls with potential property appraisers.	4.3
Oct 13	Review of further background information; internal calls regarding same; preparation for meeting with Company management.	1.0
Oct 14	Meeting with N. Fennema, D. Hughes and B. Gagnon regarding project background; preparation of NDA and initial contact with potential real estate brokers; call with N. Fennema and P. Michelin regarding proposed sale agreement put forward by Maxion Group; [REDACTED] review of creditor listing.	3.5
Oct 15	[REDACTED] review of background information provided by debtor.	1.9
Oct 18	Preparation of Receiver's Certificate draw; attending to banking matters.	0.8
Oct 19	Preparation of communication to D. Hughes and B. Gagnon regarding OBG Axess offer; attending to Receiver's statutory notices; call with D. Preger; call with G. Gruneir.	2.0
Oct 20	Attending to engagement of appraiser; internal update with team.	0.8
Oct 25	Review of proposals submitted by potential listing brokerages; attending to Receiver's banking matters.	1.0
Oct 26	Calls with potential listing brokers to review and assess proposals; call with G. Gruneir; internal update regarding same.	2.1

Axess Pickering Ltd. – 834450**DETAILED SUMMARY – to October 31, 2021**

Oct 28	Drafting of Receiver's First Report to Court (the "First Report"); consultation with G. Gruneir regarding proposed path forward.	1.5
Oct 29	Further review of the First Report; call with LOLG [REDACTED] internal calls regarding same.	1.5
TOTAL – S. Ferguson		22.7 hrs.

N. Fennema**Hrs.**

Oct 12	Drive to and from site in Pickering; review site and secure access to site with a new lock; review books and records of Axess Pickering Ltd., Liberty Hamlets, and related parties; correspond with existing insurance brokers regarding adding Receiver as named insured; correspond with A&M team regarding banking and cash controls; correspond with insurance advisors regarding adequacy of existing insurance.	8.4
Oct 13	Review sale process data room and draft information request list for discussion with debtors; prepare draft initial debtor meeting agenda; discuss insurance adequacy with FCA Insurance Brokers; review flow of funds regarding asset purchase agreement.	4.5
Oct 14	Call with S. Ferguson, D. Hughes and B. Gagnon to discuss project history and forecasts, as well as proposed sale agreement and next steps; review materials provided by B. Gagnon regarding project and update creditor listing; call with S. Ferguson and P. Michelin regarding proposed sale agreement put forward by Maxion Group; prepare RFP details and request for listing agents.	4.1
Oct 15	Review and compare appraisal proposals received; coordinate RFP for sales listing agents regarding potential sale of the property; coordinate creditor listing and accounting records preparation with debtor.	1.9
Oct 18	Prepare data rooms for appraiser and each potential listing agent and invite each to review contents; review materials provided by B. Gagnon and update creditor listing, accordingly; prepare draft cash flow forecast for Receivership; call with potential purchaser.	4.4
Oct 19	Prepare creditor listing and Notice to Creditors for website and mailing to Creditors; coordinate next steps with B. Gagnon regarding offer to purchase property from OBG Axess LP; prepare notice to D. Hughes and B. Gagnon regarding OBG Axess LP offer.	3.4



Axess Pickering Ltd. – 834450**DETAILED SUMMARY – to October 31, 2021**

Oct 20	Coordinate posting of Receivership Order, creditor listing and notice to creditors to the Receiver's website; correspond with B. Gagnon regarding offer to purchase property from OBG Axess LP	0.8
Oct 21	Review and summarize listing agent proposals.	1.1
Oct 22	Discuss RFP process with one additional listing agent; review NDA and prepare data room and provide access to listing agent team.	1.1
Oct 25	Review and summarize listing agent proposal; coordinate proposal review meetings with each potential listing agent.	0.9
Oct 26	Review and discuss listing agent proposals with each party; internal discussion regarding same; review and summarize one additional listing agent proposal received.	5.1
Oct 27	Correspond with B. Gagnon regarding books and records of Liberty Hamlets and review files provided; begin drafting the First Report.	1.6
Oct 28	Further drafting of First Report; call with G. Gruneir to discuss Receivership strategy.	3.5
Oct 29	Revise First Report; correspond with interested parties regarding Receivership proceedings; correspond with B. Gagnon regarding property history and site plan application.	4.8
Oct 30	Review and revise draft First Report.	0.7
Oct 31	Review and revise draft First Report.	0.3
TOTAL – N. Fennema		46.6 hrs.

J-L. Ip**Hrs.**

Oct 12	Arrange for creation of case site and email inbox; draft initial notice to creditors; arrange for upload of documents to case site.	1.2
Oct 18	Review case site; arrange for updates and upload of various documents to case site.	0.2
Oct 19	Prepare documents for creditor mailing and mailing of same via post; arrange for upload of notice to creditors and list of creditors to case site.	2.8

TOTAL – J-L. Ip**4.2 hrs.**



December 20, 2021

Axess Pickering Ltd.
c/o Alvarez & Marsal Canada Inc.
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
PO Box 22
Toronto, ON M5J 2J1

AXESS PICKERING LTD. (the "Company")
INVOICE #2 – 834450

For professional services rendered in connection with our appointment as Receiver and Manager of the Company pursuant to the Order granted by the Ontario Superior Court of Justice (Commercial List) on October 12, 2021, for the period November 1 to 30, 2021.

BILLING SUMMARY

	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
S. Ferguson, Managing Director	17.9	\$850	\$15,215.00
N. Fennema, Director	29.0	\$535	15,515.00
	<u>46.9</u>		<u>\$30,730.00</u>
Add: Out of pocket expenses including case website charges and postage			<u>440.52</u>
			\$31,170.52
Add: HST @ 13%			<u>4,052.17</u>
TOTAL INVOICE			<u>\$35,222.69</u>

Mailing Instructions:

Alvarez & Marsal Canada Inc.
Attn: Audrey Singels-Ludvik
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22
Toronto, ON M5J 2J1

Wiring Instructions:

Bank:	TD Canada Trust
Account Name:	Alvarez & Marsal Canada ULC
Swiftcode:	TDOMCATTTOR
Bank Address:	55 King Street West Toronto, ON
Bank Transit #:	10202
Institution #:	0004
Account #:	5519970
Reference #:	Axess Pickering – Inv #2 (834450)
HST#:	83158 2127 RT0001

Axess Pickering Ltd. – 834450**DETAILED SUMMARY – November 1 to 30, 2021**

<u>S. Ferguson</u>	<u>Hrs.</u>
Nov 1 Review draft motion materials in respect of Receiver's Sale Approval Motion ("Sale Process Approval Motion"); consultation with Applicant regarding proposed sale process.	1.2
Nov 2 Call with Cushman & Wakefield ("C&W"); [REDACTED] final review of Sale Process Approval Motion material; update of Receiver's First Report to Court (the "First Report"); review of C&W draft engagement letter; review of documents in respect of proposed Sale Process.	2.0
Nov 3 Finalizing and attending to service of First Report; [REDACTED] attending to C&W engagement letter; [REDACTED]	4.0
Nov 8 [REDACTED] preparation for and attendance at Court hearing in respect of Sale Approval motion; call with potential purchaser.	1.8
Nov 9 Review of draft materials in respect of the Sale Process; internal calls regarding same.	0.4
Nov 10 Call with Applicant; review of documents in respect of the Sale Process including advertisements and CIM.	0.6
Nov 12 Review of Sale Process materials including data room and CIM.	1.1
Nov 16 Final review of Sale Process materials; call with various creditors; attending to banking matters.	1.5
Nov 19 Correspond with C&W regarding marketing process to date and potential purchaser interest and upcoming milestones.	0.4
Nov 22 Review of draft template asset purchase agreement ("APA") and providing comments thereon.	1.3
Nov 23 Further review of draft APA; [REDACTED] call with Avison Young regarding appraisal.	1.9
Nov 26 Further review of draft APA [REDACTED]	0.3
Nov 29 Review of materials provided by Liberty Hamlets and OBG Axess.	0.3

Axess Pickering Ltd. – 834450**DETAILED SUMMARY – November 1 to 30, 2021**

Nov 30	Call with Liberty Hamlets and OBG Axess; internal follow-up calls regarding same.	1.1
TOTAL – S. Ferguson		17.9 hrs.

N. Fennema**Hrs.**

Nov 1	[REDACTED] attending to banking matters; correspond with Northbridge Insurance regarding insurance coverage at 1525 Pickering Parkway; correspond with C&W regarding listing agent engagement.	1.8
Nov 2	Review and revise draft listing agreement provided by C&W; correspond with BMO regarding Axess Pickering bank accounts; correspond with C&W regarding listing agent engagement and next steps.	5.2
Nov 3	Prepare confidentiality agreement for potential interested parties in sale process; correspond with C&W regarding listing agreement and sale process; finalize and attend to service of First Report and appendices.	5.4
Nov 4	Review and comment on proposed phase 1 environmental study engagement terms; correspond with C&W regarding sale process requirements and preparation; coordinate posting of motion materials and First Report to the Receiver's website.	2.1
Nov 5	Correspond with third parties regarding development site work to be completed.	0.7
Nov 8	Further correspondence with third parties regarding development site work to be completed; attend at Court hearing regarding Sale Process approval; correspond with C&W regarding sale process kickoff and marketing materials; coordinate posting of Court Order to Receiver's website.	1.9
Nov 9	Correspond with C&W regarding sale process marketing materials, data room, and development potential messaging; internal correspondence and correspondence with secured creditors and Respondents regarding next steps.	1.7
Nov 10	Review and approve of sale process data room; coordinate insurance coverage with FCA Insurance Brokers.	0.9
Nov 12	Review draft marketing materials and provide feedback to C&W; coordinate logistics regarding Phase 1 environmental report.	1.1



Axess Pickering Ltd. – 834450**DETAILED SUMMARY – November 1 to 30, 2021**

Nov 15	[REDACTED] continued coordination logistics for Phase 1 environmental report.	0.9
Nov 19	Correspond with C&W regarding marketing process to date and potential purchaser interest and upcoming milestones.	0.4
Nov 22	Review and provide comments on draft APA; correspond with CRA regarding outstanding GST filings; review and provide comments on appraisal report.	1.5
Nov 23	Correspond with Avison Young regarding draft appraisal related information; call with Avison Young regarding same.	0.9
Nov 24	Further correspondence with Avison Young regarding draft appraisal and valuation methodology; provide Avison Young with supporting documentation as requested.	0.4
Nov 26	Correspond with C&W regarding sale process status; [REDACTED]	0.5
Nov 29	Correspond with C&W regarding template APA and finalize APA to be used; correspond with environmental phase 1 report providers and complete questionnaire regarding property; attending to Receiver's borrowing matters; review OBG Axess revised offer and addendums.	2.2
Nov 30	Review proposed OBG Axess offer and discuss next steps with S. Ferguson; call with OBG Axess regarding proposed offer and requirements for a potential transaction; review revised appraisal and coordinate finalization of such.	1.4
TOTAL – N. Fennema .		29.0 hrs.



January 18, 2022

Axess Pickering Ltd.
c/o Alvarez & Marsal Canada Inc.
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
PO Box 22
Toronto, ON M5J 2J1

AXESS PICKERING LTD. (the "Company")
INVOICE #3 – 834450

For professional services rendered in connection with our appointment as Receiver and Manager of the Company pursuant to the Order granted by the Ontario Superior Court of Justice (Commercial List) on October 12, 2021, for the period December 1 to 31, 2021.

BILLING SUMMARY

	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
S. Ferguson, Managing Director	11.9	\$850	\$10,115.00
N. Fennema, Director	8.1	\$535	4,333.50
	<u>20.0</u>		\$14,448.50
Add: Out of pocket expenses			26.18
			\$14,474.68
Add: HST @ 13%			1,881.71
TOTAL INVOICE			<u>\$16,356.39</u>

Mailing Instructions:

Alvarez & Marsal Canada Inc.
Attn: Audrey Singels-Ludvik
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22
Toronto, ON M5J 2J1

Wiring Instructions:

Bank: TD Canada Trust
Account Name: Alvarez & Marsal Canada ULC
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Bank Address: 55 King Street West
Toronto, ON
Bank Transit #: 10202
Institution #: 0004
Account #: 5519970
Reference #: Axess Pickering – Inv #3 (834450)
HST#: 83158 2127 RT0001

*Axess Pickering Ltd. – 834450***DETAILED SUMMARY – December 1 to 31, 2021**

<u><i>S. Ferguson</i></u>	<u>Hrs.</u>
Dec 3 Update with C&W regarding Sale Process status.	0.4
Dec 10 Discuss Sale Process status and progress to date, and next steps regarding bid deadline with C&W; call with potential purchaser.	0.9
Dec 13 Communication with C&W regarding sale process; communication with potential purchaser.	0.6
Dec 14 [REDACTED] call with G. Gruneir (Applicant); call with B. Gagnon (Liberty Hamlets); update with C&W.	1.3
Dec 15 Review of Sale Process round one offers; call with C&W regarding same; internal discussion regarding next steps.	2.1
Dec 20 Call with D. Rogers (C&W); discussion regarding second round bid activity; communication with potential bidder.	1.3
Dec 21 Review of Sale Process round two offers; call with C&W regarding same; consultation with Applicants; [REDACTED] review of purchaser's draft of Asset Purchase Agreement ("APA").	2.7
Dec 22 Attending to signatures on APA; internal status update call and planning regarding next steps; call with B. Gagnon (Liberty Hamlets).	2.3
Dec 23 Communication regarding deposit required pursuant to the APA with counsel and Purchaser.	0.3
TOTAL – S. Ferguson	11.9 hrs.

<u><i>N. Fennema</i></u>	<u>Hrs.</u>
Dec 1 Review proposed APS; further review OBG Axess proposed APS; review revised appraisal and coordinate finalization of such.	1.3
Dec 2 Review of template unconditional APS and coordinate posting of such to data room; correspond with C&W regarding easements on title to property; coordinate completion of Phase 1 environmental report and posting of such to data room.	1.2
Dec 8 File GST returns for pre-filing period per information obtained from Liberty Hamlets owners and CRA.	0.6
Dec 10 Discuss Sale Process status, progress to date, and next steps regarding bid deadline with C&W.	0.4



*Axess Pickering Ltd. – 834450***DETAILED SUMMARY – December 1 to 31, 2021**

Dec 15	Review of Sale Process round one offers; call with C&W regarding same; internal discussion regarding next steps.	1.1
Dec 21	Review of Sale Process round two offers; call with C&W regarding same; consultation with Applicants; review of purchaser's draft APA.	1.7
Dec 30	Coordinate payment of insurance balances due; prepare initial draft of Receiver's Second Report.	1.8
TOTAL – N. Fennema		8.1 hrs.





February 7, 2022

Axess Pickering Ltd.
c/o Alvarez & Marsal Canada Inc.
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
PO Box 22
Toronto, ON M5J 2J1

AXESS PICKERING LTD. (the "Company")
INVOICE #4 – 834450

For professional services rendered in connection with our appointment as Receiver and Manager of the Company pursuant to the Order granted by the Ontario Superior Court of Justice (Commercial List) on October 12, 2021, for the period January 1 to 31, 2022.

BILLING SUMMARY

	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
S. Ferguson, Managing Director	27.2	\$850	\$23,120.00
N. Fennema, Director	25.9	\$535	13,856.50
	<u>53.1</u>		\$36,976.50
Add: Out of pocket expenses – case website maintenance charges			50.00
			\$37,026.50
Add: HST @ 13%			4,813.45
TOTAL INVOICE			<u>\$41,839.95</u>

Mailing Instructions:

Alvarez & Marsal Canada Inc.
Attn: Audrey Singels-Ludvik
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22
Toronto, ON M5J 2J1

Wiring Instructions:

Bank: TD Canada Trust
Account Name: Alvarez & Marsal Canada ULC
Swiftcode: TDOMCATTOR
Bank Address: 55 King Street West
Toronto, ON
Bank Transit #: 10202
Institution #: 0004
Account #: 5519970
Reference #: Axess Pickering – Inv #4 (834450)
HST#: 83158 2127 RT0001

Axess Pickering Ltd. – 834450

DETAILED SUMMARY – January 1 to 31, 2022

<u><i>S. Ferguson</i></u>	<u>Hrs.</u>
Jan 3 Review of documents related to Pine Ridge interest.	0.5
Jan 4 Communication with Purchaser; update call with counsel; call with T. Oldham (Pine Ridge); [REDACTED] update call with Applicants.	1.6
Jan 7 Call with T. Oldham; review of draft security opinion; [REDACTED] call with Purchaser; review of first draft of Receiver's Second Report to Court in respect of the Sale Approval Motion (the "Second Report").	2.9
Jan 10 Multiple calls with T. Oldham (Pine Ridge); review of Pine Ridge documents.	1.4
Jan 11 Further review of the draft Second Report; multiple calls with T. Oldham; calls with B. Gagnon (Liberty Hamlets); [REDACTED]	4.2
Jan 12 Further update of Second Report; call with counsel to Pine Ridge; review of documents regarding same; call with Applicants; review of draft First Mortgage payout statement.	3.1
Jan 13 Update of Second Report; communication with counsel to Applicant; review of draft Sale Approval Order; [REDACTED]	1.1
Jan 14 Finalize Second Report; review of revised draft Order in respect of Receiver's Motion for Sale Approval; attending to matters related to service of Second Report.	2.3
Jan 17 [REDACTED] Sagewise Capital ("Sagewise"); call with counsel to Pine Ridge; review of Sagewise draft payout statement.	1.5
Jan 19 Preparation of Receiver's supplemental Second Report; call with counsel to Applicants.	1.8
Jan 20 Preparation for and attendance at Receiver's Sale Approval Motion hearing; follow-up call with Purchaser; follow-up call with Applicants; [REDACTED]	2.3
Jan 21 Call with counsel to Pine Ridge; [REDACTED]	0.4



Axess Pickering Ltd. – 834450**DETAILED SUMMARY – January 1 to 31, 2022**

Jan 24	[REDACTED] review of communication with Liberty regarding funds advanced in respect of Third Mortgage; review of draft closing documents in respect of the Property.	1.9
Jan 25	[REDACTED] call with counsel to Pine Ridge.	0.7
Jan 28	Call with counsel to Pine Ridge.	0.3
Jan 31	Call with counsel to Pine Ridge; review of documentation from RNV Investments; [REDACTED] call with MNP regarding potential tax assistance.	1.2
TOTAL – S. Ferguson		27.2 hrs.

N. Fennema**Hrs.**

Jan 3	[REDACTED] draft Second Report of the Receiver regarding Receivership update and progress to date.	0.6
Jan 5	Initial drafting of Second Report in respect of Sale Approval Motion; correspond with sale agent regarding additional bid details.	2.2
Jan 6	Further drafting of Second Report.	3.1
Jan 7	Further drafting of Second Report; review of comments from S. Ferguson regarding same.	1.9
Jan 10	Revise Second Report per comments from S. Ferguson and C&W, and inclusion of preliminary details from security opinion; prepare preliminary sources and uses table for transaction.	3.9
Jan 11	Review security document details provided by management of Liberty Hamlets; incorporate security opinion language and update sources and uses estimate for Second Report.	1.5
Jan 12	[REDACTED] correspond with legal counsel to Pine Ridge Management regarding potential security interest; correspond with Applicants regarding payout statement; prepare summary schedule of balance due to Applicants for Second Report.	1.4



Axess Pickering Ltd. – 834450**DETAILED SUMMARY – January 1 to 31, 2022**

Jan 13	Revise Second Report for appendices to be included and payout statement received from Applicants; prepare appendices to Second Report; [REDACTED]	3.9
Jan 14	Finalize Second Report including final edits and appendices alignment.	0.8
Jan 17	Review payout statement provided by second ranking mortgagee and provide comments on same.	0.6
Jan 19	Prepare Receiver's Supplemental Second Report including correspondence with legal counsel to Sagewise.	1.4
Jan 20	Attend at Court regarding hearing for Receiver's Notice of Motion; correspond with listing agent regarding next steps; coordinate posting of Court Order and endorsement to case website.	1.3
Jan 23	[REDACTED] correspond with Liberty Hamlets regarding transaction details.	0.3
Jan 24	Correspond with Liberty Hamlets regarding third mortgage transaction details; review details provided and reconcile with charges registered.	1.0
Jan 26	Prepare sources and uses for transaction tax review.	0.4
Jan 27	Prepare closing items and correspond with insurance provider regarding potential closing of the sale transaction.	0.4
Jan 28	Correspond with unsecured creditors regarding the Receivership process and potential claims.	0.3
Jan 31	Call with MNP regarding potential tax implications of Property sale; correspond with Liberty Hamlets regarding costs incurred developing the Property to date.	0.9
TOTAL – N. Fennema		25.9 hrs.





March 9, 2022

Axess Pickering Ltd.
c/o Alvarez & Marsal Canada Inc.
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
PO Box 22
Toronto, ON M5J 2J1

AXESS PICKERING LTD. (the "Company")
INVOICE #5 – 834450

For professional services rendered in connection with our appointment as Receiver and Manager of the Company pursuant to the Order granted by the Ontario Superior Court of Justice (Commercial List) on October 12, 2021, for the period February 1 to 28, 2022.

BILLING SUMMARY

	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
S. Ferguson, Managing Director	18.1	\$850	\$15,385.00
N. Fennema, Director	18.1	\$535	9,683.50
	<u>36.2</u>		\$25,068.50
Add: Out of pocket expenses – case website maintenance charges			25.00
			\$25,093.50
Add: HST @ 13%			3,262.16
TOTAL INVOICE			<u>\$28,355.66</u>

Mailing Instructions:

Alvarez & Marsal Canada Inc.
Attn: Audrey Singels-Ludvik
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22
Toronto, ON M5J 2J1

Wiring Instructions:

Bank:	TD Canada Trust
Account Name:	Alvarez & Marsal Canada ULC
Swiftcode:	TDOMCATTOR
Bank Address:	55 King Street West Toronto, ON
Bank Transit #:	10202
Institution #:	0004
Account #:	5519970
Reference #:	Axess Pickering – Inv #5 (834450)
HST#:	83158 2127 RT0001

Axess Pickering Ltd. – 834450**DETAILED SUMMARY – February 1 to 28, 2022**

<u>S. Ferguson</u>	<u>Hrs.</u>
Feb 3 Call with Counsel to Pine Ridge; review of updated calculation in respect of RNV Investments claim; review of documentation in respect of Property closing.	1.1
Feb 4 Call with Counsel to Pine Ridge; call with DW regarding Property Sale closing documentation.	0.8
Feb 7 [REDACTED] call with Counsel to Pine Ridge.	0.9
Feb 8 Call with Applicants regarding payout statement; update with Dickinson Wright LLP ("DW") regarding Property Sale closing process; review of alternative Pine Ridge claim amounts with N. Fennema.	1.2
Feb 9 Call with Counsel to Pine Ridge; update with N. Fennema regarding same; attending to matters related to closing.	0.8
Feb 10 Attending to Property sale closing matters; communication with DW regarding same; review of Applicant's updated payout statement; attending to banking matters; [REDACTED]	2.8
Feb 14 Attending to matters related to closing including review of payments and banking information; [REDACTED] call with N. Fennema regarding same; call with Liberty Hamlets.	1.8
Feb 15 [REDACTED] call with T. Oldman (Pine Ridge); review of revised Second Mortgage payout statement.	1.7
Feb 16 [REDACTED] preparation of Receiver's Third Report to Court (the "Third Report").	2.0
Feb 17 Attending to finalization of the Third Report; review of Motion Record.	1.4
Feb 22 Call with Pine Ridge investments; call with Liberty Hamlets; internal update regarding Company tax status and next steps in respect of same.	1.5
Feb 24 Follow-up with Pine Ridge.	0.2
Feb 25 Communication with stakeholders regarding file next steps; review of Motion materials in respect of the Third Report.	1.1

Axess Pickering Ltd. – 834450**DETAILED SUMMARY – February 1 to 28, 2022**

Feb 28	Review of entered Order; communication with Second and Third Mortgagees regarding payout; call with N. Fennema regarding accounting issues.	0.8
TOTAL – S. Ferguson		18.1 hrs.

N. Fennema**Hrs.**

Feb 1	Review payout statements provided by third ranking mortgagees and provide comments on same; correspond with third ranking mortgagees regarding claim balance; review claim supporting documents and update claim calculations.	1.6
Feb 3	Correspond with third ranking mortgagees regarding claim balance and review claim supporting documents provided; revise transaction sources and uses summary for updated balances.	0.8
Feb 4	Correspond with creditors of Liberty Hamlets regarding potential claims and status of the Receivership; [REDACTED]	0.5
Feb 7	[REDACTED] correspond with potential claimants.	0.5
Feb 8	Prepare valuation estimate for Pine Ridge Investments' interest in the property and evaluate impact this estimate may have on transaction sources and uses; call with S. Ferguson regarding same.	1.5
Feb 9	Discuss balance of potential claims with S. Ferguson; contact various claimants to confirm balance due at expected payout date; correspond with claimants against Liberty Hamlets regarding their asserted interest in the Receivership.	1.3
Feb 10	Prepare valuation analysis for Pine Ridge Investments claim including various sources of real estate prices received during Receivership process; review of Property sale closing documents and update sources and uses per exact amounts received; review final payout statements for each Secured Creditor to confirm balances; review and revise letter to creditors of Liberty Hamlets.	2.9

Axess Pickering Ltd. – 834450**DETAILED SUMMARY – February 1 to 28, 2022**

Feb 11	Correspond with second mortgagee regarding payout statement and updated balance of same; review details provided by second mortgagee and legal counsel to same; correspond with first mortgagee to obtain revised payout statement and wire details; review R&D and sources and uses to confirm remaining funds available in the Receivership; coordinate cancellation of insurance at property due to completed sale.	1.3
Feb 14	Review and confirm payout statements for second mortgagee based on mortgage commitment letter provided; call with S. Ferguson.	0.6
Feb 15	Prepare draft Third Report outlining further interim distribution to be made and next steps with remaining proceeds from sale of the Property.	2.9
Feb 16	Prepare revised Third Report including updated R&D and payout calculations.	1.3
Feb 17	Prepare revised Third Report and appendices; coordinate posting of updated service list to Receiver's website.	0.9
Feb 24	Prepare financial statements for Axess Pickering for F2021 and F2022.	1.0
Feb 28	Prepare financial statements for Axess Pickering for F2021 and F2022.	1.0
TOTAL – N. Fennema		18.1 hrs.



April 13, 2022

Axess Pickering Ltd.
c/o Alvarez & Marsal Canada Inc.
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
PO Box 22
Toronto, ON M5J 2J1

AXESS PICKERING LTD. (the "Company")
INVOICE #6 – 834450

For professional services rendered in connection with our appointment as Receiver and Manager of the Company pursuant to the Order granted by the Ontario Superior Court of Justice (Commercial List) on October 12, 2021, for the period March 1 to 31, 2022.

BILLING SUMMARY:

	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
S. Ferguson, Managing Director	4.4	\$850	\$3,740.00
N. Fennema, Director	4.2	\$535	2,247.00
E. Mann, Senior Associate	6.8	\$535	3,638.00
	<u>15.4</u>		<u>\$9,625.00</u>
Add: HST @ 13%			<u>1,251.25</u>
TOTAL INVOICE			<u>\$10,876.25</u>

Mailing Instructions:

Alvarez & Marsal Canada Inc.
Attn: Audrey Singels-Ludvik
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22
Toronto, ON M5J 2J1

Wiring Instructions:

Bank: TD Canada Trust
Account Name: Alvarez & Marsal Canada ULC
Swiftcode: TDOMCATTOR
Bank Address: 55 King Street West
Toronto, ON
Bank Transit #: 10202
Institution #: 0004
Account #: 5519970
Reference #: Axess Pickering – Inv #6 (834450)
HST#: 83158 2127 RT0001

Axess Pickering Ltd. – 834450**DETAILED SUMMARY – March 1 to 31, 2022**

<u>S. Ferguson</u>		<u>Hrs.</u>
Mar 1	Attend to payment of Third Mortgage; update call with N. Fennema.	0.4
Mar 2	Review of draft financial statements; call with N. Fennema regarding same; attend to payment of Second Mortgage.	0.4
Mar 8	Call with MNP regarding tax status of Debtor; review of draft financial statements; call with Pine Ridge; [REDACTED]	1.7
Mar 14	Internal update regarding financial statements; call with counsel to Pine Ridge.	0.4
Mar 15	Review of draft financial statements.	0.3
Mar 16	Review of draft financial statements; update with E. Mann regarding same.	0.5
Mar 22	Call with T. Oldham; update regarding tax status.	0.3
Mar 28	Call with Counsel to Pine Ridge; [REDACTED] communication with MNP on tax related issues.	0.4
TOTAL – S. Ferguson		4.4 hrs.

<u>N. Fennema</u>		<u>Hrs.</u>
Mar 1	Prepare financial statements for F2021 and F2022; confirm payout value for Third mortgage; call with S. Ferguson.	1.0
Mar 2	Confirm payout figures with second mortgagee and coordinate payment of same; revise financial statements; call with S. Ferguson.	0.7
Mar 3	Prepare financial statements for tax filing; reconcile R&D after payment of second and third mortgage amounts.	1.2
Mar 8	Call with MNP regarding tax status of Debtor; revise tax calculations per discussion.	0.8
Mar 15	Call with E. Mann regarding financial statement preparation.	0.5
TOTAL – N. Fennema		4.2 hrs.



Axess Pickering Ltd. – 834450**DETAILED SUMMARY – March 1 to 31, 2022**

<u>E. Mann</u>		<u>Hrs.</u>
Mar 15	Prepare draft financial statements; call with N. Fennema regarding same.	4.2
Mar 16	Update draft financial statements; call with S. Ferguson regarding same.	1.5
Mar 17	Communications with MNP regarding tax filing; providing supporting documents regarding same.	0.8
Mar 28	Communication with MNP on tax status.	0.2
Mar 31	Communication with MNP on tax status.	0.1
TOTAL – E. Mann		6.8 hrs.





May 6, 2022

Axess Pickering Ltd.
c/o Alvarez & Marsal Canada Inc.
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
PO Box 22
Toronto, ON M5J 2J1

AXESS PICKERING LTD. (the "Company")
INVOICE #7 – 834450

For professional services rendered in connection with our appointment as Receiver and Manager of the Company pursuant to the Order granted by the Ontario Superior Court of Justice (Commercial List) on October 12, 2021, for the period April 1 to 30, 2022.

BILLING SUMMARY

	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
S. Ferguson, Managing Director	2.5	\$850	\$2,125.00
E. Mann, Senior Associate	1.8	\$535	963.00
	<u>4.3</u>		<u>\$3,088.00</u>
Add: Out of pocket expenses – web site maintenance charges			<u>125.00</u>
			<u>\$3,213.00</u>
Add: HST @ 13%			<u>417.69</u>
TOTAL INVOICE			<u>\$3,630.69</u>

Mailing Instructions:

Alvarez & Marsal Canada Inc.
Attn: Audrey Singels-Ludvik
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22
Toronto, ON M5J 2J1

Wiring Instructions:

Bank: TD Canada Trust
Account Name: Alvarez & Marsal Canada ULC
Swiftcode: TDOMCATTOR
Bank Address: 55 King Street West
Toronto, ON
Bank Transit #: 10202
Institution #: 0004
Account #: 5519970
Reference #: Axess Pickering – Inv #7 (834450)
HST#: 83158 2127 RT0001

*Axess Pickering Ltd. – 834450***DETAILED SUMMARY – April 1 to 30, 2022****S. Ferguson****Hrs.**

Apr 1	Call with counsel to Pine Ridge; [REDACTED] [REDACTED]	0.2
Apr 4	[REDACTED]	0.1
Apr 5	[REDACTED] communication with Counsel to Pine Ridge.	0.3
Apr 6	Communication with MNP regarding tax returns.	0.2
Apr 7	Attending to finalization of tax returns for 2019, 2020 and 2021.	0.6
Apr 13	Update call with Counsel to Pine Ridge; [REDACTED]	0.4
Apr 21	Addressing scheduling matters in respect of advice and direction hearing; communication in respect of Liberty site plan approval deposit.	0.2
Apr 28	Call with Counsel to Pine Ridge; communication with Liberty Hamlets.	0.5

TOTAL – S. Ferguson**2.5 hrs.****E. Mann****Hrs.**

Apr 6	Providing MNP with additional information regarding tax filings.	0.5
Apr 10	Reviewing draft returns for fiscal years 2019-2021.	1.0
Apr 11	Communications with MNP regarding finalization of tax filings.	0.3

TOTAL – E. Mann**1.8 hrs.**



May 24, 2022

Axess Pickering Ltd.
c/o Alvarez & Marsal Canada Inc.
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
PO Box 22
Toronto, ON M5J 2J1

AXESS PICKERING LTD. (the "Company")
INVOICE #8 – 834450

For professional services rendered in connection with our appointment as Receiver and Manager of the Company pursuant to the Order granted by the Ontario Superior Court of Justice (Commercial List) on October 12, 2021, for the period May 1 to 21, 2022.

BILLING SUMMARY

	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
S. Ferguson, Managing Director	9.4	\$850	\$7,990.00
N. Fennema, Director	4.8	\$535	2,568.00
	<u>14.2</u>		\$10,558.00
Add: HST @ 13%			1,372.54
TOTAL INVOICE			<u>\$11,930.54</u>

Mailing Instructions:

Alvarez & Marsal Canada Inc.
Attn: Audrey Singels-Ludvik
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22
Toronto, ON M5J 2J1

Wiring Instructions:

Bank:	TD Canada Trust
Account Name:	Alvarez & Marsal Canada ULC
Swiftcode:	TDOMCATTOR
Bank Address:	55 King Street West Toronto, ON
Bank Transit #:	10202
Institution #:	0004
Account #:	5519970
Reference #:	Axess Pickering – Inv #8 (834450)
HST#:	83158 2127 RT0001

Axess Pickering Ltd. – 834450
DETAILED SUMMARY – May 1 to 21, 2022

<u>S. Ferguson</u>		<u>Hrs.</u>
May 3	[REDACTED]	0.9
May 5	Review of documents in respect of claims process.	0.8
May 11	[REDACTED]	0.2
May 13	Internal call regarding HST status; review of CRA forms regarding same.	0.3
May 15	Review of Receiver's draft Fourth Report to Court the ("Fourth Report").	0.6
May 17	Preparation of Fourth Report; call with counsel to Pine Ridge; call with N. Fennema.	4.0
May 18	Further review of Fourth Report.	1.1
May 19	Preparation of Appendices for Fourth Report; attending to banking matters.	1.2
May 20	[REDACTED] attending to banking matters.	0.3
TOTAL – S. Ferguson		9.4 hrs.
<u>N. Fennema</u>		<u>Hrs.</u>
May 13	Prepare Fourth Report; update R&D and respective notes.	1.9
May 16	Edit and review Fourth Report; update R&D and Notes.	1.3
May 17	Revise Fourth Report; update R&D and respective Notes.	0.5
May 19	Prepare Receiver's statutory OSB Report for six month period recently completed.	1.1
TOTAL – N. Fennema		4.8 hrs.

Court File No. CV-21-00669408-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

C&K MORTGAGE SERVICES INC. and 975393 ONTARIO INC.

Applicants

and

AXESS PICKERING LTD.

Respondent

AFFIDAVIT OF MATTHEW P. GOTTLIEB

I, Matthew P. Gottlieb, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am a partner with the law firm of Lax O'Sullivan Lisus Gottlieb LLP ("**LOLG**"), lawyers for Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as Court-Appointed Receiver of Axess Pickering Ltd. (the "**Receiver**"), and, as such, have knowledge of the matters contained in this Affidavit.
2. A&M was appointed as Receiver pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated October 12, 2021 (the "**Appointment Order**"). The Receiver retained LOLG as its independent counsel.

-2-

3. Pursuant to paragraphs 17 and 18 of the Appointment Order, the Receiver and its legal counsel are entitled to be paid their reasonable fees and disbursements at their standard rates and charges, and are required to pass their accounts from time to time.

4. The efforts and activities of the Receiver are described in the Third Report that the Receiver has filed with the Court prior to the date hereof in these proceedings, as well as the Receiver's Fourth Report to be filed in respect of the within motion for the passing of accounts.

5. The LOLG invoices, which are for the period from October 12, 2021, to May 23, 2022 (the "**Billing Summary Period**"), disclose in detail: (i) the dates on which the services were rendered; (ii) the time expended by each person and their hourly rates; and (iii) the total charges for the services rendered and disbursements incurred for the relevant time period. The LOLG billing summary is attached hereto as **Exhibit "A"** and copies of the actual invoices, redacted for privilege, confidential and commercially sensitive information are attached hereto as **Exhibit "B"**.


6. LOLG expended a total of 72.10 hours in connection with this matter during the Billing Summary Period, giving rise to fees and disbursements totalling \$52,305.99, comprised of fees of \$45,115 and disbursements of \$1,210.29 and HST of \$5,980.70, all of which are outlined in the LOLG billing summary.

7. To the best of my knowledge, the rates charged by LOLG are comparable to the rates charged for the provision of similar services by other restructuring law firms located in downtown Toronto, and are fair and reasonable.

-3-

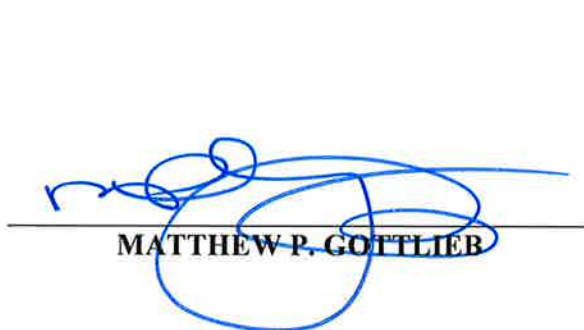
8. This affidavit is sworn in support of a motion to be made in these proceedings by the Receiver seeking, among other things, approval of the fees and disbursements of LOLG in its capacity as counsel for the Receiver.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario on May
30, 2022.

A handwritten signature in black ink, appearing to read 'P. Wodhams', written over a horizontal line.

Commissioner for Taking Affidavits
(or as may be)

PATRICK M. WODHAMS
LSO#82991W

A handwritten signature in blue ink, appearing to read 'Matthew P. Gottlieb', written over a horizontal line.

MATTHEW P. GOTTLIEB

This is Exhibit "A" referred to in the Affidavit of Matthew P. Gottlieb sworn May 30, 2022.



Commissioner for Taking Affidavits (or as may be)

PATRICK M. WODHAMS

LOLG BILLING SUMMARY
MATTER #15415

Date	Timekeeper	Hours	Rate	Amount
Oct. 12, 2021	Andrew Winton	1.20	725.00	\$870.00
Oct. 14, 2021	Andrew Winton	1.00	725.00	\$725.00
Oct. 18, 2021	Andrew Winton	0.10	725.00	\$72.50
Oct. 19, 2021	Andrew Winton	0.30	725.00	\$217.50
Oct. 22, 2021	Andrew Winton	0.20	725.00	\$145.00
Oct. 24, 2021	Andrew Winton	0.10	725.00	\$72.50
Oct. 26, 2021	Andrew Winton	0.20	725.00	\$145.00
Oct. 29, 2021	Andrew Winton	0.60	725.00	\$435.00
Oct. 31, 2021	Andrew Winton	0.60	725.00	\$435.00
Nov. 1, 2021	Andrew Winton	0.80	725.00	\$580.00
	Patrick Wodhams	1.10	380.00	\$418.00
	Patrick Wodhams	1.80	380.00	\$684.00
Nov. 2, 2021	Andrew Winton	0.80	725.00	\$580.00
	Patrick Wodhams	2.10	380.00	\$798.00
Nov. 3, 2021	Andrew Winton	1.30	725.00	\$942.50
	Patrick Wodhams	0.30	380.00	\$114.00
	Patrick Wodhams	1.20	380.00	\$456.00
Nov. 8, 2021	Rahool Agarwal	1.50	725.00	\$1,087.50
	Patrick Wodhams	1.00	380.00	\$380.00
Nov. 22, 2021	Andrew Winton	0.40	725.00	\$290.00
Nov. 26, 2021	Andrew Winton	0.30	725.00	\$217.50
Nov. 29, 2021	Andrew Winton	0.20	725.00	\$145.00
Nov. 30, 2021	Andrew Winton	0.40	725.00	\$290.00
Dec. 14, 2021	Andrew Winton	0.30	725.00	\$217.50
Dec. 21, 2021	Andrew Winton	0.30	725.00	\$217.50
Dec. 23, 2021	Andrew Winton	0.30	725.00	\$217.50
Dec. 24, 2021	Andrew Winton	0.40	725.00	\$290.00
Dec. 30, 2021	Andrew Winton	0.20	725.00	\$145.00
Dec. 31, 2021	Andrew Winton	0.40	725.00	\$290.00
Jan. 1, 2022	Andrew Winton	0.20	800.00	\$160.00
Jan. 3, 2022	Andrew Winton	0.10	800.00	\$80.00
Jan. 4, 2022	Andrew Winton	0.50	800.00	\$400.00
Jan. 5, 2022	Andrew Winton	0.70	800.00	\$560.00
Jan. 6, 2022	Andrew Winton	0.30	800.00	\$240.00
Jan. 7, 2022	Andrew Winton	0.70	800.00	\$560.00
	Patrick Wodhams	0.90	435.00	\$391.00

Date	Timekeeper	Hours	Rate	Amount
Jan. 9, 2022	Andrew Winton	0.30	800.00	\$240.00
	Patrick Wodhams	0.70	435.00	\$304.50
Jan. 10, 2022	Andrew Winton	0.40	800.00	\$320.00
	Patrick Wodhams	1.20	435.00	\$522.00
Jan. 11, 2022	Andrew Winton	1.80	800.00	\$1,440.00
Jan. 12, 2022	Andrew Winton	1.80	800.00	\$1,440.00
	Patrick Wodhams	2.70	435.00	\$1,174.50
Jan. 13, 2022	Patrick Wodhams	1.20	435.00	\$522.00
Jan. 14, 2022	Andrew Winton	2.00	800.00	\$1,600.00
	Patrick Wodhams	1.90	435.00	\$826.50
Jan. 15, 2022	Andrew Winton	0.20	800.00	\$160.00
Jan. 16, 2022	Andrew Winton	0.90	800.00	\$720.00
Jan. 17, 2022	Andrew Winton	1.50	800.00	\$1,200.00
Jan. 19, 2022	Andrew Winton	0.80	800.00	\$640.00
Jan. 20, 2022	Andrew Winton	2.00	800.00	\$1,600.00
	Patrick Wodhams	1.50	435.00	\$652.50
Jan. 21, 2022	Andrew Winton	0.30	800.00	\$240.00
Jan. 23, 2022	Andrew Winton	0.60	800.00	\$480.00
Jan. 25, 2022	Andrew Winton	0.50	800.00	\$400.00
Jan. 26, 2022	Andrew Winton	0.20	800.00	\$160.00
Jan. 31, 2022	Andrew Winton	0.50	800.00	\$400.00
Feb. 01, 2022	Andrew Winton	0.20	800.00	\$160.00
Feb. 07, 2022	Andrew Winton	0.60	800.00	\$480.00
Feb. 10, 2022	Andrew Winton	0.70	800.00	\$560.00
	Stephanie Conte	0.20	350.00	\$70.00
Feb. 11, 2022	Andrew Winton	0.40	800.00	\$320.00
Feb. 14, 2022	Andrew Winton	0.20	800.00	\$160.00
Feb. 15, 2022	Andrew Winton	0.80	800.00	\$640.00
Feb. 16, 2022	Andrew Winton	0.60	800.00	\$480.00
	Patrick Wodhams	0.50	435.00	\$217.50
Feb. 17, 2022	Andrew Winton	0.80	800.00	\$640.00
	Patrick Wodhams	0.60	435.00	\$261.00
Feb. 18, 2022	Patrick Wodhams	0.90	435.00	\$391.50
	Patrick Wodhams	0.30	435.00	\$130.50
Feb. 22, 2022	Andrew Winton	0.40	800.00	\$320.00
	Patrick Wodhams	0.70	435.00	\$304.50
Feb. 28, 2022	Andrew Winton	0.30	800.00	\$240.00
Mar. 8, 2022	Andrew Winton	0.30	800.00	\$240.00
Mar. 9, 2022	Andrew Winton	0.20	800.00	\$160.00

Date	Timekeeper	Hours	Rate	Amount
Mar. 14, 2022	Andrew Winton	0.40	800.00	\$320.00
Mar. 15, 2022	Andrew Winton	0.70	800.00	\$560.00
Mar. 16, 2022	Andrew Winton	1.00	800.00	\$800.00
Mar. 17, 2022	Andrew Winton	0.50	800.00	\$400.00
Mar. 18, 2022	Andrew Winton	0.30	800.00	\$240.00
Mar. 28, 2022	Andrew Winton	0.20	800.00	\$160.00
Mar. 30, 2022	Andrew Winton	0.30	800.00	\$160.00
Mar. 31, 2022	Andrew Winton	0.10	800.00	\$80.00
Apr. 1, 2022	Andrew Winton	0.10	800.00	\$80.00
Apr. 4, 2022	Andrew Winton	0.10	800.00	\$80.00
Apr. 5, 2022	Andrew Winton	0.50	800.00	\$400.00
Apr. 8, 2022	Andrew Winton	0.20	800.00	\$160.00
Apr. 11, 2022	Andrew Winton	0.20	800.00	\$160.00
Apr. 12, 2022	Andrew Winton	0.30	800.00	\$240.00
Apr. 13, 2022	Andrew Winton	0.10	800.00	\$80.00
Apr. 20, 2022	Andrew Winton	0.40	800.00	\$320.00
Apr. 22, 2022	Andrew Winton	0.10	800.00	\$80.00
Apr. 26, 2022	Andrew Winton	0.30	800.00	\$240.00
	Patrick Wodhams	0.40	800.00	\$174.00
Apr. 27, 2022	Patrick Wodhams	0.70	435.00	\$304.50
Apr. 28, 2022	Andrew Winton	0.20	800.00	\$160.00
	Patrick Wodhams	4.10	435.00	\$1,783.50
Apr. 29, 2022	Andrew Winton	1.00	800.00	\$800.00
	Patrick Wodhams	1.20	435.00	\$522.00
May 2, 2022	Andrew Winton	0.20	800.00	\$160.00
	Patrick Wodhams	1.00	435.00	\$435.00
May 3, 2022	Andrew Winton	0.20	800.00	\$160.00
May 13, 2022	Andrew Winton	0.40	800.00	\$320.00
	Stephanie Conte	0.30	350.00	\$105.00
May 20, 2022	Andrew Winton	0.10	800.00	\$80.00
May 22, 2022	Andrew Winton	0.50	800.00	\$400.00

This is Exhibit "B" referred to in the Affidavit of Matthew P. Gottlieb sworn May 30, 2022.



Commissioner for Taking Affidavits (or as may be)

PATRICK M. WODHAMS

October 31, 2021

Attention: Stephen Ferguson

Inv #: 39127

FOR PROFESSIONAL SERVICES RENDERED to October 31, 2021

<u>SUMMARY OF HOURS & FEES</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Andrew Winton	5.20	\$725.00	\$3,770.00
TOTAL FEES			\$3,770.00
HST			\$490.10
TOTAL FEES and HST			\$4,260.10
<u>DISBURSEMENTS</u>			
TOTAL DISBURSEMENTS			\$577.62
HST			\$75.09
TOTAL DISBURSEMENTS AND HST			\$652.71
TOTAL FEES, DISBURSEMENTS and HST			\$4,912.81

<u>DATE</u>	<u>DESCRIPTION</u>	<u>LAWYER</u>	<u>HOURS</u>	<u>AMOUNT</u>
Oct /05/21	[REDACTED]	AW	0.30	\$217.50
	[REDACTED]			
	[REDACTED]			
Oct /11/21	[REDACTED]	AW	0.40	\$290.00
	[REDACTED]			
Oct /12/21	Prepare for and attend receivership application; [REDACTED]	AW	1.20	\$870.00
	[REDACTED]			
	[REDACTED]			
Oct /14/21	Telephone calls with S. Ferguson; [REDACTED] email to court re motion date; [REDACTED]	AW	1.00	\$725.00
	[REDACTED]			
Oct /18/21	[REDACTED]	AW	0.10	\$72.50
Oct /19/21	[REDACTED]	AW	0.30	\$217.50
	[REDACTED]			
Oct /22/21	[REDACTED]	AW	0.20	\$145.00
	[REDACTED]			
	[REDACTED]			
Oct /24/21	[REDACTED]	AW	0.10	\$72.50
Oct /26/21	[REDACTED]	AW	0.20	\$145.00
	[REDACTED]			
	[REDACTED]	AW	0.20	\$145.00
	[REDACTED]			
Oct /29/21	[REDACTED]	AW	0.60	\$435.00
	[REDACTED]			
	[REDACTED]			
Oct /31/21	[REDACTED]	AW	0.60	\$435.00
	[REDACTED]			
HOURS AND FEES			5.20	\$3,770.00
HST 13%:				490.10
FEES AND HST:				\$4,260.10
<u>DISBURSEMENTS</u>				
Agency Fees - Acct. # 8477 / File # 8204				\$577.62
DISBURSEMENTS:				\$577.62
HST 13%:				75.09
TOTAL DISBURSEMENTS AND HST:				\$652.71
TOTAL FEES, DISBURSEMENTS & HST:				\$4,912.81

HST #:886788595

E & O E

Terms: Payment due upon receipt, in accordance with Section 33 of The Solicitors Act. Interest will be charged at the rate of 3% per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered. Any disbursement not posted to your account on the date of this statement will be billed later.

TRUST STATEMENT

		Disbursements	Receipts
Oct/27/21	Received From: Alvarez & Marsal Canada ULC Retainer		20,000.00
	Total Trust	\$0.00	\$20,000.00
	Trust Balance		\$20,000.00

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**Lax
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 Lisus
 Gottlieb**

November 30, 2021

Alvarez & Marsal Canada Securities ULC
 Royal Bank Plaza, South Tower
 200 Bay Street, Suite 2900, P.O. Box 22
 Toronto, ON M5J 2J1

Attention: Stephen Ferguson

File #: 15415

Inv #: 39338

RE: Axess Pickering Incorporated and Liberty Hamlets Incorporated

FOR PROFESSIONAL SERVICES RENDERED to November 30, 2021

<u>SUMMARY OF HOURS & FEES</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Andrew Winton	4.20	\$552.38	\$2,320.00
Rahool P. Agarwal	2.50 1.50	\$725.00	\$1,812.50 \$1,087.50
Patrick Wodhams	4.60	\$380.00	\$1,748.00
TOTAL FEES			\$6,605.50
<i>Less Courtesy Discount</i>			<i>-725.00</i>
HST			\$764.47
TOTAL FEES and HST			\$6,644.97
<u>DISBURSEMENTS</u>			
TOTAL DISBURSEMENTS			\$105.00
HST			\$13.65
TOTAL DISBURSEMENTS AND HST			\$118.65
TOTAL FEES, DISBURSEMENTS and HST			\$6,763.62

<u>DATE</u>	<u>DESCRIPTION</u>	<u>LAWYER</u>	<u>HOURS</u>	<u>AMOUNT</u>
Nov /01/21	[REDACTED]	AW	0.80	\$580.00
	[REDACTED]			
	[REDACTED]			
	[REDACTED]			
	[REDACTED]			
Nov /02/21	[REDACTED]	AW	0.80	\$580.00
	[REDACTED]			
	[REDACTED]	PW	2.10	\$798.00
	[REDACTED]			
	[REDACTED]			
Nov /03/21	[REDACTED]	AW	1.30	\$942.50
	[REDACTED]			
	[REDACTED]			
	[REDACTED]	PW	0.30	\$114.00
	[REDACTED]			
	[REDACTED]	PW	1.20	\$456.00
Nov /08/21	[REDACTED]	RPA	2.50	\$1,812.50
	[REDACTED]			
	Attendance at motion;	PW	1.00	\$380.00
Nov /22/21	[REDACTED]	AW	0.40	\$290.00
	[REDACTED]			
Nov /26/21	[REDACTED]	AW	0.30	\$217.50
Nov /29/21	[REDACTED]	AW	0.20	\$145.00
	[REDACTED]			
Nov /30/21	[REDACTED]	AW	0.40	\$290.00
	[REDACTED]			
HOURS AND FEES			11.30	\$6,605.50
HST 13%:				764.47
FEES AND HST:				\$6,644.97
<u>DISBURSEMENTS</u>				
On-line Research				\$105.00
DISBURSEMENTS:				\$105.00
HST 13%:				13.65
TOTAL DISBURSEMENTS AND HST:				\$118.65
TOTAL FEES, DISBURSEMENTS & HST:				\$6,763.62

HST #:886788595

E & O E

Terms: Payment due upon receipt, in accordance with Section 33 of The Solicitors Act. Interest will be charged at the rate of 3% per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered. Any disbursement not posted to your account on the date of this statement will be billed later.

TRUST STATEMENT**Disbursements****Receipts**

	Trust Balance Forward		20,000.00
Nov/17/21	Received From: Alvarez & Marsal Canada Securities ULC Client paying bill		4,912.81
Nov/19/21	Paid To: LAX O'SULLIVAN LISUS GOTTLIEB LLP Client paying bill	4,912.81	
		<hr/>	<hr/>
	Total Trust	\$4,912.81	\$24,912.81
	Trust Balance		\$20,000.00

Lax O'Sullivan Lisus Gottlieb LLP

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 Toronto ON M5H 1J8 Canada
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**Lax
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 Lisus
 Gottlieb**

December 31, 2021

Alvarez & Marsal Canada ULC
 Royal Bank Plaza, South Tower
 200 Bay Street, Suite 2900, P.O. Box 22
 Toronto, ON M5J 2J1

Attention: Stephen Ferguson

File #: 15415

Inv #: 39561

RE: Axess Pickering Incorporated and Liberty Hamlets Incorporated

FOR PROFESSIONAL SERVICES RENDERED to December 31, 2021

<u>SUMMARY OF HOURS & FEES</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Andrew Winton	1.90	\$725.00	\$1,377.50
Patrick Wodhams	2.90	\$380.00	\$1,102.00
TOTAL FEES			\$2,479.50
HST			\$322.34
TOTAL FEES and HST			\$2,801.84
<u>DISBURSEMENTS</u>			
TOTAL DISBURSEMENTS			\$60.12
HST			\$7.82
TOTAL DISBURSEMENTS AND HST			\$67.94
TOTAL FEES, DISBURSEMENTS and HST			\$2,869.78
Less monies from Trust			-2,869.78
Balance Due			NIL

<u>DATE</u>	<u>DESCRIPTION</u>	<u>LAWYER</u>	<u>HOURS</u>	<u>AMOUNT</u>
Nov /01/21	[REDACTED]	PW	1.10	\$418.00
	[REDACTED]			
	[REDACTED]			
	[REDACTED]	PW	1.80	\$684.00
	[REDACTED]			
Dec /14/21	[REDACTED]	AW	0.30	\$217.50
	[REDACTED]			
Dec /21/21	[REDACTED]	AW	0.30	\$217.50
	[REDACTED]			
Dec /23/21	[REDACTED]	AW	0.30	\$217.50
Dec /24/21	[REDACTED]	AW	0.40	\$290.00
	[REDACTED]			
Dec /30/21	[REDACTED]	AW	0.20	\$145.00
Dec /31/21	[REDACTED]	AW	0.40	\$290.00
	[REDACTED]			
	[REDACTED]			
HOURS AND FEES			4.80	\$2,479.50
HST 13%:				322.34
FEES AND HST:				\$2,801.84
<u>DISBURSEMENTS</u>				
On-line Research				\$60.12
DISBURSEMENTS:				\$60.12
HST 13%:				7.82
TOTAL DISBURSEMENTS AND HST:				\$67.94
TOTAL FEES, DISBURSEMENTS & HST:				\$2,869.78

HST #:886788595

E & O E

Terms: Payment due upon receipt, in accordance with Section 33 of The Solicitors Act. Interest will be charged at the rate of 3% per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered. Any disbursement not posted to your account on the date of this statement will be billed later.

TRUST STATEMENT**Disbursements****Receipts**

	Trust Balance Forward		20,000.00
Dec/14/21	Received From: Alvarez & Marsal Canada ULC Client paying bill		6,763.62
Dec/16/21	Paid To: LAX O'SULLIVAN LISUS GOTTLIEB LLP Client paying bill	6,763.62	
Dec/23/21	Paid To: Igenuity LLP in Trust Security opinion retainer	5,045.00	
Dec/31/21	Paid To: LAX O'SULLIVAN LISUS GOTTLIEB LLP Client paying bill	2,869.78	
		<hr/>	<hr/>
	Total Trust	\$14,678.40	\$26,763.62
	Trust Balance		\$12,085.22

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 Suite 2750, 145 King St W
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Lax
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 Gottlieb

January 31, 2022

Alvarez & Marsal Canada ULC
 Royal Bank Plaza, South Tower
 200 Bay Street, Suite 2900, P.O. Box 22
 Toronto, ON M5J 2J1

Attention: Stephen Ferguson

File #: 15415

Inv #: 39851

RE: Axess Pickering Incorporated and Liberty Hamlets Incorporated

FOR PROFESSIONAL SERVICES RENDERED to January 31, 2022

<u>SUMMARY OF HOURS & FEES</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Andrew Winton	16.70	\$800.00	\$13,360.00
Patrick Wodhams	10.10	\$435.00	\$4,393.50
		TOTAL FEES	\$17,753.50
		HST	\$2,307.96
		TOTAL FEES and HST	\$20,061.46
		TOTAL DISBURSEMENTS	\$1.50
		HST	\$0.20
		TOTAL DISBURSEMENTS AND HST	\$1.70
		TOTAL FEES, DISBURSEMENTS and HST	\$20,063.16

<u>DATE</u>	<u>DESCRIPTION</u>	<u>LAWYER</u>	<u>HOURS</u>	<u>AMOUNT</u>
Jan /01/22	[REDACTED]	AW	0.20	\$160.00
	[REDACTED]			
Jan /03/22	[REDACTED]	AW	0.10	\$80.00
Jan /04/22	[REDACTED]	AW	0.50	\$400.00
	[REDACTED]			
	[REDACTED]			
Jan /05/22	[REDACTED]	AW	0.70	\$560.00
	[REDACTED]			
Jan /06/22	[REDACTED]	AW	0.30	\$240.00
	[REDACTED]			
	[REDACTED]			
Jan /07/22	[REDACTED]	AW	0.70	\$560.00
	[REDACTED]	PW	0.90	\$391.50
Jan /09/22	[REDACTED]	AW	0.30	\$240.00
	[REDACTED]			
	[REDACTED]			
	[REDACTED]	PW	0.70	\$304.50
Jan /10/22	[REDACTED]	AW	0.40	\$320.00
	[REDACTED]			
	[REDACTED]			
	[REDACTED]	PW	1.20	\$522.00
Jan /11/22	[REDACTED]	AW	1.80	\$1,440.00
	[REDACTED]			
	[REDACTED]			
	[REDACTED]			
Jan /12/22	[REDACTED]	AW	1.80	\$1,440.00
	[REDACTED]			
	[REDACTED]			
	[REDACTED]	PW	2.70	\$1,174.50
Jan /13/22	[REDACTED]	PW	1.20	\$522.00
Jan /14/22	[REDACTED]	AW	2.00	\$1,600.00
	[REDACTED]			
	[REDACTED]	PW	1.90	\$826.50
Jan /15/22	Email to court re confidential record;	AW	0.20	\$160.00
Jan /16/22	[REDACTED]	AW	0.90	\$720.00
	[REDACTED]			
	[REDACTED]			
	[REDACTED]			
Jan /17/22	[REDACTED]	AW	1.50	\$1,200.00
	[REDACTED]			
	[REDACTED]			
	[REDACTED]			
Jan /19/22	[REDACTED]	AW	0.80	\$640.00
	[REDACTED]			

Jan /20/22	██████████ Prepare for and attend sale approval motion;	AW	2.00	\$1,600.00
	Attending motion; ██████████	PW	1.50	\$652.50
Jan /21/22	██████████ ██	AW	0.30	\$240.00
Jan /23/22	██████████ ██	AW	0.60	\$480.00
Jan /24/22	██████████ ██	AW	0.40	\$320.00
Jan /25/22	██████████ ██ ██ ██ ██	AW	0.50	\$400.00
Jan /26/22	██████████ ██	AW	0.20	\$160.00
Jan /31/22	██████████ ██ ██	AW	0.50	\$400.00

HOURS AND FEES	26.80	\$17,753.50
HST 13%:		2,307.96

FEES AND HST:	\$20,061.46
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DISBURSEMENTS

Photocopies	\$1.50
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DISBURSEMENTS:	\$1.50
HST 13%:	0.20

TOTAL DISBURSEMENTS AND HST:	\$1.70
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TOTAL FEES, DISBURSEMENTS & HST:	\$20,063.16
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HST #:886788595

E & O E

Terms: Payment due upon receipt, in accordance with Section 33 of The Solicitors Act. Interest will be charged at the rate of 3% per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered. Any disbursement not posted to your account on the date of this statement will be billed later.

TRUST STATEMENT**Disbursements****Receipts**

	Trust Balance Forward		14,955.00
Jan/17/22	Paid To: LAX O'SULLIVAN LISUS GOTTLIEB LLP Client paying bill	2,869.78	
		<hr/>	<hr/>
	Total Trust	\$2,869.78	\$14,955.00
	Trust Balance		\$12,085.22

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Lax
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 Gottlieb

February 28, 2022

Alvarez & Marsal Canada ULC
 Royal Bank Plaza, South Tower
 200 Bay Street, Suite 2900, P.O. Box 22
 Toronto, ON M5J 2J1

Attention: Stephen Ferguson

File #: 15415

Inv #: 40158

RE: Axess Pickering Incorporated and Liberty Hamlets Incorporated

FOR PROFESSIONAL SERVICES RENDERED to February 28, 2022

<u>SUMMARY OF HOURS & FEES</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Andrew Winton	5.00	\$800.00	\$4,000.00
Patrick Wodhams	3.00	\$435.00	\$1,305.00
Stephanie Conte	0.20	\$350.00	\$70.00
		TOTAL FEES	\$5,375.00
		HST	\$698.75
		TOTAL FEES and HST	\$6,073.75
<u>DISBURSEMENTS</u>			
		TOTAL DISBURSEMENTS	\$466.05
		HST	\$18.99
		TOTAL DISBURSEMENTS AND HST	\$485.04
		TOTAL FEES, DISBURSEMENTS and HST	\$6,558.79

<u>DATE</u>	<u>DESCRIPTION</u>	<u>LAWYER</u>	<u>HOURS</u>	<u>AMOUNT</u>
Feb /01/22	[REDACTED]	AW	0.20	\$160.00
	[REDACTED]			
Feb /07/22	[REDACTED]	AW	0.60	\$480.00
	[REDACTED]			
	[REDACTED]			
Feb /10/22	[REDACTED]	AW	0.70	\$560.00
	[REDACTED]			
	[REDACTED]	SC	0.20	\$70.00
	[REDACTED]			
Feb /11/22	[REDACTED]	AW	0.40	\$320.00
	[REDACTED]			
Feb /14/22	[REDACTED]	AW	0.20	\$160.00
Feb /15/22	[REDACTED]	AW	0.80	\$640.00
	[REDACTED]			
	[REDACTED]			
	[REDACTED]			
Feb /16/22	[REDACTED]	AW	0.60	\$480.00
	[REDACTED]			
	[REDACTED]			
	[REDACTED]	PW	0.50	\$217.50
	[REDACTED]			
Feb /17/22	[REDACTED]	AW	0.80	\$640.00
	[REDACTED]	PW	0.60	\$261.00
	[REDACTED] email to all parties			
	seeking consent;			
Feb /18/22	[REDACTED]	PW	0.90	\$391.50
	Reviewing emails sent by parties re consent to	PW	0.30	\$130.50
	upcoming motion; [REDACTED]			
Feb /22/22	[REDACTED]	AW	0.40	\$320.00
	[REDACTED]	PW	0.70	\$304.50
	[REDACTED]			
	[REDACTED]			
Feb /28/22	[REDACTED]	AW	0.30	\$240.00
	[REDACTED] emails			
	to creditors' counsel re payout statements and			
	authorizations;			
HOURS AND FEES			8.20	\$5,375.00
HST 13%:				698.75
FEES AND HST:				\$6,073.75
<u>DISBURSEMENTS</u>				
Process servers				\$58.50

Agency Fees - RBC Visa # 4516 0700 0899	\$320.00
8553 / 8018-MR.(MAG - CV-21-00669408	
- Motion Record)*	
Agency Fees - Inv. # 20254248	\$87.55
DISBURSEMENTS:	<hr/> \$466.05
HST 13%:	18.99
TOTAL DISBURSEMENTS AND HST:	<hr/> \$485.04
TOTAL FEES, DISBURSEMENTS & HST:	\$6,558.79

HST #:886788595

E & O E

Terms: Payment due upon receipt, in accordance with Section 33 of The Solicitors Act. Interest will be charged at the rate of 3% per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered. Any disbursement not posted to your account on the date of this statement will be billed later.

TRUST STATEMENT**Disbursements****Receipts**

	Trust Balance Forward		12,085.22
Feb/14/22	Received From: Alvarez & Marsal Canada ULC Client paying bill		20,063.16
	Paid To: LAX O'SULLIVAN LISUS GOTTLIEB LLP Client paying bill	20,063.16	
		<hr/>	<hr/>
	Total Trust	\$20,063.16	\$32,148.38
	Trust Balance		\$12,085.22

Lax O'Sullivan Lisus Gottlieb LLP

Suite 2750, 145 King St W
 Toronto ON M5H 1J8 Canada
 T 416 598 1744 F 416 598 3730
 www.lolg.ca

**Lax
 O'Sullivan
 Lisus
 Gottlieb**

March 31, 2022

Alvarez & Marsal Canada ULC
 Royal Bank Plaza, South Tower
 200 Bay Street, Suite 2900, P.O. Box 22
 Toronto, ON M5J 2J1

Attention: Stephen Ferguson

File #: 15415

Inv #: 40399

RE: Axess Pickering Incorporated and Liberty Hamlets Incorporated

FOR PROFESSIONAL SERVICES RENDERED to March 31, 2022

SUMMARY OF HOURS & FEES**HOURS****RATE****AMOUNT**

Andrew Winton	3.90	\$800.00	\$3,120.00
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TOTAL FEES			\$3,120.00
HST			\$405.60

TOTAL FEES and HST			\$3,525.60
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DISBURSEMENTS

TOTAL DISBURSEMENTS			\$0.00
HST			\$0.00

TOTAL DISBURSEMENTS AND HST			\$0.00
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TOTAL FEES, DISBURSEMENTS and HST			\$3,525.60
--	--	--	-------------------

<u>DATE</u>	<u>DESCRIPTION</u>	<u>LAWYER</u>	<u>HOURS</u>	<u>AMOUNT</u>
Mar /08/22	[REDACTED]	AW	0.30	\$240.00
	[REDACTED]			
Mar /09/22	[REDACTED]	AW	0.20	\$160.00
Mar /14/22	[REDACTED]	AW	0.40	\$320.00
	[REDACTED]			
	[REDACTED]			
Mar /15/22	[REDACTED]	AW	0.70	\$560.00
	[REDACTED]			
Mar /16/22	[REDACTED]	AW	1.00	\$800.00
	[REDACTED]			
Mar /17/22	[REDACTED]	AW	0.50	\$400.00
	[REDACTED]			
	[REDACTED]			
Mar /18/22	[REDACTED]	AW	0.30	\$240.00
	[REDACTED]			
	[REDACTED]			
	[REDACTED]			
Mar /28/22	[REDACTED]	AW	0.20	\$160.00
	[REDACTED]			
Mar /30/22	[REDACTED]	AW	0.20	\$160.00
	[REDACTED]			
Mar /31/22	[REDACTED]	AW	0.10	\$80.00
	[REDACTED]			
HOURS AND FEES			3.90	\$3,120.00
HST 13%:				405.60
FEES AND HST:				\$3,525.60
<u>DISBURSEMENTS</u>				
DISBURSEMENTS:				\$0.00
HST 13%:				0.00
TOTAL DISBURSEMENTS AND HST:				\$0.00
TOTAL FEES, DISBURSEMENTS & HST:				\$3,525.60

HST #:886788595

E & O E

Terms: Payment due upon receipt, in accordance with Section 33 of The Solicitors Act. Interest will be charged at the rate of 3% per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered. Any disbursement not posted to your account on the date of this statement will be billed later.

TRUST STATEMENT**Disbursements****Receipts**

	Trust Balance Forward		12,085.22
Mar/02/22	Received From: Alvarez & Marsal Canada ULC Client paying bill		6,558.79
Mar/03/22	Paid To: LAX O'SULLIVAN LISUS GOTTLIEB LLP Client paying bill	6,558.79	
		<hr/>	<hr/>
	Total Trust	\$6,558.79	\$18,644.01
	Trust Balance		\$12,085.22

April 30, 2022

Attention: Stephen Ferguson

Inv #: 40633

RE: Axess Pickering Incorporated and Liberty Hamlets Incorporated

FOR PROFESSIONAL SERVICES RENDERED to April 30, 2022

SUMMARY OF HOURS & FEES	HOURS	RATE	AMOUNT
Andrew Winton	3.50	\$800.00	\$2,800.00
Patrick Wodhams	6.40	\$435.02	\$2,784.00
TOTAL FEES			\$5,584.00
HST			\$725.92
TOTAL FEES and HST			\$6,309.92
DISBURSEMENTS			
TOTAL DISBURSEMENTS			\$0.00
HST			\$0.00
TOTAL DISBURSEMENTS AND HST			\$0.00
TOTAL FEES, DISBURSEMENTS and HST			\$6,309.92

<u>DATE</u>	<u>DESCRIPTION</u>	<u>LAWYER</u>	<u>HOURS</u>	<u>AMOUNT</u>
Apr /01/22		AW	0.10	\$80.00
Apr /04/22		AW	0.10	\$80.00
Apr /05/22		AW	0.50	\$400.00
Apr /08/22		AW	0.20	\$160.00
Apr /11/22		AW	0.20	\$160.00
Apr /12/22		AW	0.30	\$240.00
Apr /13/22		AW	0.10	\$80.00
Apr /20/22		AW	0.40	\$320.00
Apr /22/22		AW	0.10	\$80.00
Apr /26/22		AW	0.30	\$240.00
Apr /27/22		PW	0.40	\$174.00
Apr /27/22		PW	0.70	\$304.50
Apr /28/22		AW	0.20	\$160.00
Apr /28/22		PW	4.10	\$1,783.50
Apr /29/22		AW	1.00	\$800.00
Apr /29/22		PW	1.20	\$522.00
HOURS AND FEES			9.90	\$5,584.00
HST 13%:				725.92
FEES AND HST:				\$6,309.92
<u>DISBURSEMENTS</u>				
DISBURSEMENTS:				\$0.00
HST 13%:				0.00

TOTAL DISBURSEMENTS AND HST:	\$0.00
TOTAL FEES, DISBURSEMENTS & HST:	\$6,309.92

HST #:886788595

E & O E

Terms: Payment due upon receipt, in accordance with Section 33 of The Solicitors Act. Interest will be charged at the rate of 3% per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this statement is delivered. Any disbursement not posted to your account on the date of this statement will be billed later.

TRUST STATEMENT**Disbursements****Receipts**

	Trust Balance Forward		12,085.22
Apr/06/22	Received From: Alvarez & Marsal Canada ULC Client paying bill		3,525.60
	Paid To: LAX O'SULLIVAN LISUS GOTTLIEB LLP Client paying bill	3,525.60	
		<hr/>	<hr/>
	Total Trust	\$3,525.60	\$15,610.82
	Trust Balance		\$12,085.22

Alvarez & Marsal Canada ULC
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900, P.O. Box 22
Toronto, ON M5J 2J1

May 27, 2022

Attention: Stephen Ferguson

File #: 15415
Inv #: Sample

RE: Axess Pickering Incorporated and Liberty Hamlets Incorporated

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
May-02-22		0.20	160.00	AW
		1.00	435.00	PW
May-03-22		0.20	160.00	AW
May-13-22		0.40	320.00	AW
		0.30	105.00	SC
May-20-22		0.10	80.00	AW
May-22-22		0.50	400.00	AW
Totals		2.70	\$1,660.00	
HST on Fees			\$215.80	

FEE SUMMARY:

Lawyer	Hours	Effective Rate	Amount
Andrew Winton	1.40	\$800.00	\$1,120.00
Patrick Wodhams	1.00	\$435.00	\$435.00
Stephanie Conte	0.30	\$350.00	\$105.00

Total Fees, Disbursements & HST	\$1,875.80
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Previous Balance	\$6,309.92
------------------	------------

Previous Payments	\$6,309.92
-------------------	------------

Balance Due Now	\$1,875.80
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Total Tax:	\$215.80	AMOUNT QUOTED:	\$0.00
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HST #:	886788595
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* tax-exempt

TRUST STATEMENT

		Disbursements	Receipts
	Trust Balance Forward		12,085.22
May-04-22	Received From: Alvarez & Marsal Canada ULC Client paying bill		6,309.92
	Paid To: LAX O'SULLIVAN LISUS GOTTlieb LLP Client paying bill	6,309.92	
	Total Trust	\$6,309.92	\$18,395.14
	Trust Balance		\$12,085.22

C&K MORTGAGE SERVICES INC. et al.
Applicants

-and- AXESS PICKERING LTD.
Respondent

Court File No. CV-21-00669408-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

AFFIDAVIT OF MATTHEW P. GOTTLIEB
SWORN APRIL 29, 2022

LAX O'SULLIVAN LISUS GOTTLIEB LLP

Suite 2750, 145 King Street West
Toronto ON M5H 1J8

Andrew Winton LSO#: 54473I

awinton@lolg.ca

Tel: **416 644 5342**

Patrick M. Wodhams LSO#: 82991W

pwodhams@lolg.ca

Tel: **416 956 0116**

Lawyers for Alvarez & Marsal Canada Inc. in its capacity as
Court-Appointed Receiver

Court File No. CV-21-00669408-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O 1990 C. C.43, AS AMENDED

B E T W E E N:

C&K MORTGAGE SERVICES INC. and 975393 ONTARIO INC.

Applicants

- and -

AXESS PICKERING LTD.

Respondent

FEE AFFIDAVIT
(Sworn May 18, 2022)

I, DAVID PREGER, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY AS FOLLOWS:

1. I am a partner with the law firm of Dickinson Wright LLP (“**DW**”). I have personal knowledge of the matters to which I hereinafter depose.
2. DW has acted as counsel to Alvarez & Marsal Canada Inc., in its capacity as Court-appointed receiver and manager (the “**Receiver**”) in these proceedings.

3. DW's fees and disbursements in representing the Receiver during the period from November 19, 2021 to and including May 17, 2022 a total \$45,257.87 including disbursements and HST. Copies of DW's accounts for the period indicated are attached as **Exhibit A**.

4. Attached as **Exhibit B** is a chart which summarizes the expertise and area of practice of the lawyers involved in rendering services to the Receiver, their hourly rates charged to the Sales Officer, as well as the average hourly rate charged. The hourly rates charged are DW's normal hourly rates for matters of this nature.

SWORN by David Preger at the City of Toronto, in the Province of Ontario, before me on May 18, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)

David Z. Seifer

}



DAVID PREGER

This is Exhibit “A” referred to in the Fee Affidavit of David Preger sworn by David Preger at the City of Toronto, in the Province of Ontario, before me on May 18, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID Z. SEIFER

INVOICE DATE: DECEMBER 20, 2021
INVOICE NO.: 1654110

ALVAREZ & MARSAL CANADA INC.
200 BAY STREET, SUITE 2900, P.O. BOX 22
TORONTO, ON M5J 2J1

CLIENT/MATTER NO.: 050364-00037

RE: RECEIVERSHIP OF 1525 PICKERING PARKWAY

PRIVILEGED AND CONFIDENTIAL

FOR PROFESSIONAL SERVICES THROUGH DECEMBER 31, 2021

		<u>CAD</u>
TOTAL FEES CURRENT INVOICE	\$	7,599.00
HST - ONTARIO	\$	987.87
TOTAL CURRENT INVOICE	\$	<u>8,586.87</u>

This statement may reflect time and professional services rendered by attorneys or other legal personnel associated with the Firm's international or other affiliate(s). Such attorneys, who are licensed in other jurisdictions, are consulted and serve as legal advisors to the Firm based on their licensed status in such jurisdictions and expertise in particular legal specialties.

CAD Remittance Instructions		
Terms: Due and Payable Upon Receipt		
Mail To:	Electronic Direct Deposits (EFT non-wire payments): (Domestic Only - Canada):	Wire Instructions:
Dickinson Wright LLP 199 Bay Street Suite 2200 Commerce Court West Toronto, ON, M5L 1G4	Royal Bank of Canada 200 Bay Street Toronto, ON Canada M5J 2J5 Bank Number: 003 Branch Number: 00002 Account#: 1056399 (Please Reference Invoice Numbers)	Royal Bank of Canada 200 Bay Street Toronto, ON Canada M5J 2J5 Bank Number: 003 Branch Number: 00002 Account#: 1056399 SWIFT CODE: ROYCCAT2 Sort Code://CC000300002 (Sort Code used only for Non-US Foreign Wires) (Please Reference Invoice Numbers)

RECEIVERSHIP OF 1525 PICKERING PARKWAY
 CLIENT/MATTER NO.:050364-00037

 INVOICE DATE: DECEMBER 20, 2021
 INVOICE NO.: 1654110
 PAGE 2
CURRENT INVOICE DETAIL

<u>DATE</u>	<u>INITIALS</u>	<u>SERVICES</u>	<u>HOURS</u>	<u>VALUE</u>
11/19/21	DPP	Prepare template form of Offer to Purchase, email to Stephen Ferguson, email to Gary Gruneir	4.5	3,352.50
11/26/21	DPP	Receive and review proposed comments and amendments from Stephen Ferguson, revise template form of Offer to Purchase, email to Stephen Ferguson	3.4	2,533.00
12/01/21	DPP	Prepare form of unconditional Offer to Purchase, email to Stephen Ferguson	2.3	1,713.50
TOTAL FEES			10.2	\$ 7,599.00
HST - ONTARIO				\$ 987.87
TOTAL CURRENT INVOICE				\$ <u>8,586.87</u>

TIMEKEEPER SUMMARY

<u>TIMEKEEPER</u>	<u>TITLE</u>	<u>RATE</u>	<u>HOURS</u>	<u>VALUE</u>
DAVID P. PREGER	PARTNER	745.00	10.20	7,599.00
TOTAL FEES CURRENT INVOICE			10.20	\$ <u>7,599.00</u>

PLEASE NOTE THAT THIS ACCOUNT IS DUE UPON RECEIPT

DICKINSON WRIGHT LLP



DAVID P. PREGER

In accordance with the Solicitors Act interest at 1.3% will be charged on all accounts outstanding over 30 days. E.&O.E.

INVOICE DATE: MAY 17, 2022
INVOICE NO.: 1694051

ALVAREZ & MARSAL CANADA INC.
200 BAY STREET, SUITE 2900, P.O. BOX 22
TORONTO, ON M5J 2J1
CANADA

ATTN: Stephen Ferguson

CLIENT/MATTER NO.: 100228-00001

RE: SALE TO 1000059279 ONTARIO INC. OF 1525 PICKERING PARKWAY

PRIVILEGED AND CONFIDENTIAL

FOR PROFESSIONAL SERVICES THROUGH MAY 17, 2022

CAD

TOTAL FEES CURRENT INVOICE	\$	32,423.00
TOTAL DISBURSEMENTS CURRENT INVOICE	\$	29.21
HST - ONTARIO	\$	4,218.79
TOTAL CURRENT INVOICE	\$	<u>36,671.00</u>

This statement may reflect time and professional services rendered by attorneys or other legal personnel associated with the Firm's international or other affiliate(s). Such attorneys, who are licensed in other jurisdictions, are consulted and serve as legal advisors to the Firm based on their licensed status in such jurisdictions and expertise in particular legal specialties.

CAD Remittance Instructions		
Terms: Due and Payable Upon Receipt		
Mail To:	Electronic Direct Deposits (EFT non-wire payments): (Domestic Only - Canada):	Wire Instructions:
Dickinson Wright LLP 199 Bay Street Suite 2200 Commerce Court West Toronto, ON, M5L 1G4	Royal Bank of Canada 200 Bay Street Toronto, ON Canada M5J 2J5 Bank Number: 003 Branch Number: 00002 Account#: 1056399 (Please Reference Invoice Numbers)	Royal Bank of Canada 200 Bay Street Toronto, ON Canada M5J 2J5 Bank Number: 003 Branch Number: 00002 Account#: 1056399 SWIFT CODE: ROYCCAT2 Sort Code://CC000300002 (Sort Code used only for Non-US Foreign Wires) (Please Reference Invoice Numbers)

SALE TO 1000059279 ONTARIO INC. OF 1525 PICKERING PARKWAY
CLIENT/MATTER NO.:100228-00001

INVOICE DATE: MAY 17, 2022
INVOICE NO.: 1694051
PAGE 2

CURRENT INVOICE DETAIL

<u>DATE</u>	<u>INITIALS</u>	<u>SERVICES</u>	<u>HOURS</u>	<u>VALUE</u>
12/23/21	DPP	Receive notice from Pam Bossin that first deposit has been received, emails to and from Steve Ferguson, instruct Janet Nairne to post deposit	0.3	223.50
12/23/21	PAM	To correspondence to and from Eli Kutner; to telephone conversations with Eli Kutner and Claudia Toste; to discussions with David Preger;	1.5	1,207.50
12/24/21	PAM	To correspondence to and from Eli Kutner; to correspondence to and from Claudia Toste; to telephone conversations with Eli Kutner and Claudia Toste;	1.5	1,207.50
01/04/22	DPP	Receive and re view email from Stephen ferguson to Dov Seidenfeld, receive and review email from Eli Kutner	0.1	79.50
01/04/22	PAM	To correspondence to and from Eli Kutner; to correspondence to and from Claudia Toste; to telephone conversation with Eli Kutner;	1.0	860.00
01/06/22	DPP	Confer with Paul Muchnik	0.2	159.00
01/06/22	PAM	To receipt and review correspondence from Nav Sandhu; to discussions with David preger; to correspondence to Nav Sandhu; to correspondence to and from Eli Kutner;	1.0	860.00
01/07/22	PAM	To correspondence from and to Eli Kutner; to correspondence from and to Nav Sandhu; to telephone conversations with Nav Sandhu and Eli Kutner;	1.0	860.00
01/11/22	PAM	To correspondence from and to Nav Sandhu; to correspondence from and to Eli Kutner; to telephone conversation with Eli Kutner;	1.0	860.00
01/12/22	DPP	Email from and to Stephen Ferguson regarding second deposit, receive and review emails from Paul Muchnik and Stephen Ferguson	0.3	238.50
01/12/22	PAM	To correspondence from and to Eli Kutner; to correspondence from and to Steve Ferguson; to receipt and review correspondence from Nav Sandhu; to review requisition letter; to respond to requisition letter; to correspondence to Nav Sandhu;	1.5	1,290.00
01/20/22	PAM	To correspondence to and from Steve ferguson; to correspondence to and from Nav Sandhu; to telephone conversation with Eli Kutner; to correspondence to and from Eli Kutner;	1.0	860.00
01/21/22	PAM	To receipt and review correspondence from Eli Kutner; to discussions with David Preger; to correspondence to and from Steve Ferguson; to correspondence to Eli Kutner; to correspondence to and from Nav Sandhu;	1.0	860.00
01/24/22	PAM	To prepare draft closing documents; to correspondence to and from Eli Kutner; to correspondence to and from Steve Ferguson; To telephone conversation with Eli Kutner;	2.0	1,720.00

SALE TO 1000059279 ONTARIO INC. OF 1525 PICKERING PARKWAY
CLIENT/MATTER NO.:100228-00001

INVOICE DATE: MAY 17, 2022
INVOICE NO.: 1694051
PAGE 3

<u>DATE</u>	<u>INITIALS</u>	<u>SERVICES</u>	<u>HOURS</u>	<u>VALUE</u>
01/25/22	PAM	To telephone conversation with Eli Kutner; to correspondence to and from Nav Sandhu; to correspondence to and from Eli Kutner;	1.0	860.00
01/26/22	PAM	To telephone conversations with Nav Sandhu and Eli Kutner; to correspondence to and from Eli Kutner	1.0	860.00
01/27/22	PAM	To correspondence from and to Nav Sandhu; to correspondence to and from Steve Ferguson; to telephone conversations with Eli Kutner;	1.0	860.00
02/02/22	PAM	To receipt and review correspondence from Nav Sandhu; to review comments on draft closing documents; to revise draft closing documents; to correspondence to and from Steve Ferguson; to correspondence to Nav Sandhu; to telephone conversation with Nav Sandhu;	2.0	1,720.00
02/04/22	PAM	To correspondence from and to Nav Sandhu; to correspondence from and to Eli Kutner; to telephone conversations with Eli Kutner and Steve ferguson; to correspondence to Steve Ferguson;	1.5	1,290.00
02/07/22	PAM	To telephone conversations with Steve Ferguson and Eli Kutner; to correspondence to and from Nav Sandhu;	1.0	860.00
02/08/22	PAM	To correspondence to and from Nav Sandhu; to telephone conversations with Nav Sandhu and Claudia Toste; to correspondence to and from Steve Ferguson;	1.0	860.00
02/09/22	PAM	To correspondence to and from Nav Sandhu; to telephone conversations with Nav Sandhu and Claudia Toste; to correspondence to and from Steve Ferguson;	1.5	1,290.00
02/09/22	DPP	Confer with Paul Muchnik, emails from and to Stephen Ferguson	0.4	318.00
02/10/22	PAM	To correspondence to and from Nav Sandhu; to telephone conversations with Nav Sandhu; to correspondence to and from Steve Ferguson; To telephone conversation with Steve Ferguson; to telephone conversations with Eli Kutner; To attend to all matters on closing;	2.0	1,720.00
03/15/22	DPP	Receive and review email from Larissa Arseneau to Navneet Sandhu, confer with Paul Muchnik, confer with David Seifer, telephone conference with Stephen Ferguson, email to Andrew Winton and Patrick Wodhams, receive and review email from Andrew Winton, confer with David Seifer	1.7	1,351.50
03/15/22	DZS	Emails with counsel for the receiver re approval and vesting order	0.3	109.50
03/15/22	PAM	To receipt and review correspondence from Nav Sandhu; to discussions with David Preger and David Seifer; to correspondence to Nav Sandhu; To telephone conversation with Nav Sandhu;	1.0	860.00
03/16/22	DZS	Revise Fresh as Amended Approval and Vesting Order to conform with requirements of Land Registry Office	1.5	547.50

SALE TO 1000059279 ONTARIO INC. OF 1525 PICKERING PARKWAY
CLIENT/MATTER NO.:100228-00001

INVOICE DATE: MAY 17, 2022

INVOICE NO.: 1694051

PAGE 4

<u>DATE</u>	<u>INITIALS</u>	<u>SERVICES</u>	<u>HOURS</u>	<u>VALUE</u>
03/16/22	DZS	Receive and review fresh as amended approval and vesting order from counsel for the receiver	0.3	109.50
03/16/22	PAM	To receipt and review correspondence from Andrew Winton; to discussions with David Preger and David Seifer; to correspondence to Andrew Winton; to correspondence from and to Nav Sandhu; to telephone conversations with Steve Ferguson and Nav Sandhu;	1.5	1,290.00
03/17/22	DZS	Emails with Andrew Winton re fresh as amended approval and vesting order; review and revise same	0.5	182.50
04/08/22	PAM	To receipt and review correspondence from Eli Kutner; to telephone conversations with Eli Kutner; to correspondence to and from Steve Ferguson; to correspondence to Director of land titles, Jeff Lem; to correspondence to Eli Kutner;	2.0	1,720.00
04/12/22	DPP	Telephone conference with Stephen Ferguson regarding refund of application fee for site plan approval, email to Eli Kutner, receive and review email from Dov Seidenfeld, emails from and to Navneet Sandhu, emails to and from Stephen Ferguson	1.2	954.00
04/12/22	DPP	Confer with Paul Muchnik	0.3	238.50
04/12/22	PAM	To receipt and review correspondence from Eli Kutner; to telephone conversation with Eli Kutner; to correspondence to Jeff Lem; to telephone conversation with Kim Rizzo of Jeff Lems office; to correspondence to Eli Kutner; to correspondence to and from Steve Ferguson;	2.0	1,720.00
04/18/22	PAM	To receipt and review correspondence from Eli Kutner; to telephone conversation with Eli Kutner; to correspondence to Eli Kutner;	1.0	860.00
05/17/22	DPP	Receive and review email from Stephen Ferguson, arrange for invoice to be issued, prepare and revise fee affidavit	0.7	556.50
TOTAL FEES			39.8	\$ 32,423.00

DISBURSEMENTS

Reproduction - Inside Firm	13.00
Delivery Expense	16.21

TOTAL DISBURSEMENTS	\$ 29.21
HST - ONTARIO	\$ 4,218.79
TOTAL CURRENT INVOICE	\$ <u>36,671.00</u>

SALE TO 1000059279 ONTARIO INC. OF 1525 PICKERING PARKWAY
CLIENT/MATTER NO.:100228-00001INVOICE DATE: MAY 17, 2022
INVOICE NO.: 1694051
PAGE 5

TIMEKEEPER SUMMARY				
<u>TIMEKEEPER</u>	<u>TITLE</u>	<u>RATE</u>	<u>HOURS</u>	<u>VALUE</u>
PAUL A. MUCHNIK	PARTNER	832.50	32.00	27,355.00
DAVID P. PREGER	PARTNER	770.00	5.20	4,119.00
DAVID Z. SEIFER	ASSOCIATE	365.00	2.60	949.00
TOTAL FEES CURRENT INVOICE			39.80	\$ 32,423.00

PLEASE NOTE THAT THIS ACCOUNT IS DUE UPON RECEIPT**DICKINSON WRIGHT LLP****DAVID P. PREGER**

In accordance with the Solicitors Act interest at 1.3% will be charged on all accounts outstanding over 30 days. E.&O.E.

This is Exhibit “B” referred to in the Fee Affidavit of David Preger sworn by David Preger at the City of Toronto, in the Province of Ontario, before me on May 18, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID Z. SEIFER

Billing Rates of Dickinson Wright LLP

For the period November 19, 2021 to May 17, 2022

	Actual Rate	Hours	Year Of Call	Area of Practice
David Preger	745 (2021 Rate)	10.2	1995	Bankruptcy and Insolvency, Litigation
	770 (2022 Rate)	5.2		
Paul Muchnik	832.50	32.0	1987	Real Estate
David Seifer	365	2.6	2019	Bankruptcy, Insolvency, Litigation
Average Hourly Rate	800.44	50.0		

C & K MORTGAGE SERVICES INC. et al.

-and- **AXESS PICKERING LTD.**

Applicants

Respondent

Court File No. CV-21-00669408-00CL

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

PROCEEDING COMMENCED AT TORONTO

FEE AFFIDAVIT

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Lawyers for the Receiver, Alvarez & Marsal Canada Inc.

TAB 3

Court File No. CV-21-00669408-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	WEDNESDAY, THE 15th
)	
JUSTICE)	DAY OF JUNE, 2022

B E T W E E N:

C&K MORTGAGE SERVICES INC. and 975393 ONTARIO INC.

Applicants

- and –

AXESS PICKERING LTD.

Respondent

DISTRIBUTION AND DISCHARGE ORDER

THIS MOTION, made by Alvarez & Marsal Canada Inc. (“**Alvarez & Marsal**”) in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of Axess Pickering Ltd. (the “**Axess Pickering**” or the “**Company**”), for an order:

1. Abridging and validating the time and manner of service of the Notice of Motion and the Motion Record so that this Motion is properly returnable on the date scheduled for the hearing thereof, and dispensing with further service thereof;
2. Approving the Fourth Report of the Receiver dated May 31, 2022 (the “**Fourth Report**”), including the actions and activities of the Receiver referred to therein;
3. Approving the fees and disbursements of the Receiver as well as its independent counsel, Lax O’Sullivan Lisus Gottlieb LLP, and its real estate counsel, Dickinson Wright LLP, as set out in the Fee Affidavits;

4. Dismissing the claim against Axess Pickering Ltd. brought by the Liberty Creditors, as defined in the Fourth Report, and dismissing the action bearing Court File No. CV-21-00671739-0000 as against Axess Pickering on a with prejudice basis;
5. Terminating the Receivership and discharging Alvarez & Marsal as Receiver of the undertaking, property and assets of Axess Pickering as of the date of the requested Discharge Order, and releasing Alvarez & Marsal of the undertakings, property and assets of Axess Pickering Ltd. upon the Receiver filing a Receiver's Certificate substantially in the form attached hereto as Schedule "A" (the "**Receiver's Discharge Certificate**");
6. Releasing Alvarez & Marsal from any and all liability arising by reason of, or in any way arising out of, the acts or omissions of Alvarez & Marsal while acting in its capacity as Receiver, save and except for any gross negligence or wilful misconduct on the Receiver's part;
7. Authorizing but not obligating the Receiver to file an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* on behalf of the Company, and authorizing but not obligating Alvarez & Marsal to act as trustee in bankruptcy in respect of any such bankruptcy proceedings;
8. Awarding partial indemnity costs as against the Liberty Creditors on account of the relief sought in connection with the claim against the Company; and
9. Such further and other grounds as counsel may advise and this Honourable Court may permit;

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Receiver dated June 2, 2022, the Fourth Report, the affidavits of the Receiver and its counsel as to fees, and on hearing the submissions of counsel;

SERVICE

1. **THIS COURT ORDERS** that the timing and method of service of the Notice of Motion and Motion Record is hereby abridged and validated and this Motion is properly returnable today.

RECEIVER'S ACTIVITIES

2. **THIS COURT ORDERS** that the Fourth Report and the activities of the Receiver as set out in the Fourth Report are hereby approved.

3. **THIS COURT ORDERS** that (i) the fees and disbursements of the Receiver and its counsel, as set out in the Fourth Report and the Fee Affidavits, are hereby approved, (ii) the Remaining Fees are hereby approved and no further approval of the fees and disbursements of the Receiver or its counsel is required in respect of the Remaining Fees unless those amounts exceed the aggregate amount of \$30,000, and (iii) the Receiver is hereby authorized to pay any unpaid fees and disbursements.

DISMISSAL OF CLAIM

4. **THIS COURT ORDERS** that the claim against Axxess Pickering brought by the Liberty Creditors, as defined in the Fourth Report, is hereby dismissed, and the action bearing Court File No. CV-21-00671739-0000 as against Axxess Pickering is hereby dismissed on a with prejudice basis, with partial indemnity costs in the amount of \$_____ to be paid to the Receiver by the Liberty Creditors on a joint and several basis.

ASSIGNMENT INTO BANKRUPTCY

5. **THIS COURT ORDERS** that the Receiver is hereby authorized, but not required, to assign the Company into bankruptcy, and if the Company is so assigned, Alvarez & Marsal is hereby appointed to act as trustee of the Company.

DISCHARGE

6. **THIS COURT ORDERS** that, after payment of the fees and disbursements herein approved and assigning the Company into bankruptcy, and upon the Receiver filing the Receiver's Discharge Certificate certifying that it has completed the remaining activities described in the Fourth Report, Alvarez & Marsal shall be discharged as Receiver, provided however, that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership proceedings, and (b) the Receiver shall continue to have the benefit of the

provisions of all Orders made in these proceedings, including all approvals, protections and stays of proceedings in favour of Alvarez & Marsal, in its capacity as Receiver.

7. **THIS COURT ORDERS** that Alvarez & Marsal is hereby released and discharged from any and all liability that Alvarez & Marsal now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Alvarez & Marsal while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, Alvarez & Marsal is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

Court File No. CV-21-00669408-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

C&K MORTGAGE SERVICES INC. and 975393 ONTARIO INC.

Applicants

and

AXESS PICKERING LTD.

Respondent

RECEIVER'S DISCHARGE CERTIFICATE

RECITALS

A. By Order of the Court dated October 12, 2021, Alvarez & Marsal Canada Inc. (the “**Receiver**”) was appointed Receiver, without security, of all of the assets, undertakings and properties of the Respondent, Axess Pickering Ltd. (the “**Debtor**”).

B. Pursuant to an Order of this Court dated _____, 2022, the Receiver was discharged effective upon its filing a Certificate with this Court certifying (a) the final amount of funds distributed to the Bankruptcy Trustee ; and (b) that all matters to be attended to in connection with the within proceedings have been completed to the satisfaction of the Receiver.

-2-

THE RECEIVER CERTIFIES that

1. The Receiver has distributed the amount of \$_____ to the Bankruptcy Trustee herein;
and,
2. All matters to be attended to in connection with the within proceedings have been
completed to the satisfaction of the Receiver.

DATED AT _____, this _____ day of _____, 2022

ALVAREZ & MARSAL CANADA INC. IN ITS
CAPACITY AS RECEIVER OF AXESS
PICKERING LTD.

And with no personal or corporate liability.

Per:
Name:
Title:

TAB 4

Court File No. ———CV-21-00669408-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE————)	WEEKDAY , <u>WEDNESDAY</u> , THE # <u>15</u> th
)	
JUSTICE————)	DAY OF MONTH, 20YR <u>JUNE</u> , 2022

B E T W E E N:

PLAINTIFF

Plaintiff

—and—

DEFENDANT

Defendant

C&K MORTGAGE SERVICES INC. and 975393 ONTARIO INC.Applicants

- and -

AXESS PICKERING LTD.Respondent**DISTRIBUTION AND DISCHARGE ORDER**

THIS MOTION, made by [~~RECEIVER'S NAME~~]Alvarez & Marsal Canada Inc. ("**Alvarez & Marsal**") in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of [~~DEBTOR~~] (the "~~Debtor~~"), Axess Pickering Ltd. (the "**Axess Pickering**" or the "**Company**"), for an order:

1. ———approving the activities of the Receiver as set out in the report of the Receiver dated [DATE] (the "**Report**");

1. ~~approving~~ Abridging and validating the time and manner of service of the Notice of Motion and the Motion Record so that this Motion is properly returnable on the date scheduled for the hearing thereof, and dispensing with further service thereof;
2. Approving the Fourth Report of the Receiver dated May 31, 2022 (the “**Fourth Report**”), including the actions and activities of the Receiver referred to therein;
- 2.3. Approving the fees and disbursements of the Receiver ~~and~~ as well as its independent counsel, Lax O’Sullivan Lisus Gottlieb LLP, and its real estate counsel, Dickinson Wright LLP, as set out in the Fee Affidavits;
3. ~~approving the distribution of the remaining proceeds available in the estate of the Debtor;~~
~~{and}~~
4. Dismissing the claim against Axxess Pickering Ltd. brought by the Liberty Creditors, as defined in the Fourth Report, and dismissing the action bearing Court File No. CV-21-00671739-0000 as against Axxess Pickering on a with prejudice basis;
4. ~~Terminating the Receivership and discharging [RECEIVER’S NAME] Alvarez & Marsal as Receiver of the undertaking, property and assets of the Debtor;~~ **and**
5. Axxess Pickering as of the date of the requested Discharge Order, and releasing [RECEIVER’S NAME] from any and all liability, as set out in paragraph 5 of this Order⁺, Alvarez & Marsal of the undertakings, property and assets of Axxess Pickering Ltd. upon the Receiver filing a Receiver’s Certificate substantially in the form attached hereto as Schedule “A” (the “**Receiver’s Discharge Certificate**”);
6. Releasing Alvarez & Marsal from any and all liability arising by reason of, or in any way arising out of, the acts or omissions of Alvarez & Marsal while acting in its capacity as Receiver, save and except for any gross negligence or wilful misconduct on the Receiver’s part;

⁺ If this relief is being sought, stakeholders should be specifically advised, and given ample notice. See also Note 4, below.

7. Authorizing but not obligating the Receiver to file an assignment in bankruptcy under the Bankruptcy and Insolvency Act on behalf of the Company, and authorizing but not obligating Alvarez & Marsal to act as trustee in bankruptcy in respect of any such bankruptcy proceedings;

8. Awarding partial indemnity costs as against the Liberty Creditors on account of the relief sought in connection with the claim against the Company; and

9. Such further and other grounds as counsel may advise and this Honourable Court may permit;

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Receiver dated June 2, 2022, the Fourth Report, the affidavits of the Receiver and its counsel as to fees (the "Fee Affidavits"),² and on hearing the submissions of counsel ~~for the Receiver, no one else appearing although served as evidenced by the Affidavit of [NAME] sworn [DATE], filed²;~~

SERVICE

1. **THIS COURT ORDERS** that the timing and method of service of the Notice of Motion and Motion Record is hereby abridged and validated and this Motion is properly returnable today.

RECEIVER'S ACTIVITIES

1.2. **THIS COURT ORDERS** that the Fourth Report and the activities of the Receiver; as set out in the Fourth Report; are hereby approved.

2.3. **THIS COURT ORDERS** that (i) the fees and disbursements of the Receiver and its counsel, as set out in the Fourth Report and the Fee Affidavits, are hereby approved, (ii) the Remaining Fees are hereby approved and no further approval of the fees and disbursements of the Receiver or its counsel is required in respect of the Remaining Fees unless those amounts

² ~~This model order assumes that the time for service does not need to be abridged.~~

exceed the aggregate amount of \$30,000, and (iii) the Receiver is hereby authorized to pay any unpaid fees and disbursements.

DISMISSAL OF CLAIM

4. **THIS COURT ORDERS** that the claim against Axxess Pickering brought by the Liberty Creditors, as defined in the Fourth Report, is hereby dismissed, and the action bearing Court File No. CV-21-00671739-0000 as against Axxess Pickering is hereby dismissed on a with prejudice basis, with partial indemnity costs in the amount of \$_____ to be paid to the Receiver by the Liberty Creditors on a joint and several basis.

ASSIGNMENT INTO BANKRUPTCY

5. **THIS COURT ORDERS** that the Receiver is hereby authorized, but not required, to assign the Company into bankruptcy, and if the Company is so assigned, Alvarez & Marsal is hereby appointed to act as trustee of the Company.

DISCHARGE

3. **THIS COURT ORDERS** that, after payment of the fees and disbursements herein approved, the Receiver shall pay the monies remaining in its hands to [NAME OF PARTY]³.

4.6. ~~THIS COURT ORDERS that upon payment of the amounts set out in paragraph 3 hereof~~ and assigning the Company into bankruptcy, and upon the Receiver filing a certificate the Receiver's Discharge Certificate certifying that it has completed the other remaining activities described in the Fourth Report, the Receiver, Alvarez & Marsal shall be discharged as Receiver of the undertaking, property and assets of the Debtor, provided however, that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership ~~herein proceedings~~, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding these proceedings, including all approvals, protections and stays of proceedings in favour of [RECEIVER'S NAME] Alvarez & Marsal, in its capacity as Receiver.

³ This model order assumes that the material filed supports a distribution to a specific secured creditor or other party.

5.7. ~~{THIS COURT ORDERS AND DECLARES that {RECEIVER'S NAME} Alvarez & Marsal~~ is hereby released and discharged from any and all liability that ~~{RECEIVER'S NAME} Alvarez & Marsal~~ now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of ~~{RECEIVER'S NAME} Alvarez & Marsal~~ while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. —Without limiting the generality of the foregoing, ~~{RECEIVER'S NAME} Alvarez & Marsal~~ is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.⁴.

⁴ The model order subcommittee was divided as to whether a general release might be appropriate. On the one hand, the Receiver has presumably reported its activities to the Court, and presumably the reported activities have been approved in prior Orders. Moreover, the Order that appointed the Receiver likely has protections in favour of the Receiver. These factors tend to indicate that a general release of the Receiver is not necessary. On the other hand, the Receiver has acted only in a representative capacity, as the Court's officer, so the Court may find that it is appropriate to insulate the Receiver from all liability, by way of a general release. Some members of the subcommittee felt that, absent a general release, Receivers might hold back funds and/or wish to conduct a claims bar process, which would unnecessarily add time and cost to the receivership. The general release language has been added to this form of model order as an option only, to be considered by the presiding Judge in each specific case. See also Note 1, above.

C&K MORTGAGE SERVICES INC. et al.
Applicants

-and- AXESS PICKERING LTD.
Respondent

Court File No. CV-21-00669408-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

MOTION RECORD

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Lawyers for Alvarez & Marsal Canada Inc. in its capacity as
Court-Appointed Receiver