

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE PROPOSAL TO CREDITORS
PROCEEDINGS OF DREXLER CONSTRUCTION LIMITED,
FOLMUR CONSTRUCTION (2004) LIMITED, AND DOWN
UNDER PIPE AND CABLE LOCATING LIMITED,
CORPORATIONS INCORPORATED UNDER THE
ONTARIO *BUSINESS CORPORATIONS ACT***

MOTION RECORD

**(increased DIP facility, approval of long-term financing, approval of proposal trustee's
fees and activities, withdrawal of one notice of intention and proposal)**

(returnable September 10, 2021)

September 1, 2021

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Folmur Construction (2004) Limited, and Down
Under Pipe and Cable Locating Limited

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE NOTICES OF INTENTION TO
MAKE A PROPOSAL PROCEEDINGS OF DREXLER
CONSTRUCTION LIMITED, FOLMUR CONSTRUCTION
(2004) LIMITED, AND DOWN UNDER PIPE AND CABLE
LOCATING LIMITED, CORPORATIONS INCORPORATED
UNDER THE ONTARIO *BUSINESS CORPORATIONS ACT***

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TAB 1

Notice of motion returnable September 10, 2021

Estate No. 35-2721716

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE PROPOSAL TO CREDITORS
PROCEEDINGS OF DREXLER CONSTRUCTION LIMITED,
FOLMUR CONSTRUCTION (2004) LIMITED AND DOWN
UNDER PIPE AND CABLE LOCATING LIMITED,
CORPORATIONS INCORPORATED UNDER THE
ONTARIO *BUSINESS CORPORATIONS ACT***

NOTICE OF MOTION

(increased DIP facility, approval of long-term financing, approval of proposal trustee's fees and activities, withdrawal of one notice of intention and proposal)

(returnable September 10, 2021)

Drexler Construction Limited (“**Drexler**”), Folmur Construction (2004) (“**Folmur**”) Limited and Down Under Pipe and Cable Locating Limited (“**Down Under**” and, together, the “**Companies**”) will make a motion to a judge of the Ontario Superior Court of Justice on Friday, September 10, 2021 at 10:00 a.m. or as soon thereafter as the motion can be heard, via teleconference, the details for which will be posted on The Middlesex Law Association website at www.middlaw.on.ca at 4:30 p.m. the day prior to the return date of this motion.

PROPOSED METHOD OF HEARING: orally.

THE MOTION IS FOR: orders in suggested accordance with the draft in the motion record:

- a. approving a \$1,000,000 debtor-in-possession (DIP) facility (the “**Increased DIP Facility**”) with the same lender and collateral as the existing, \$1,500,000 DIP facility (the “**Initial DIP Facility**”) approved by this court by order dated April 16, 2021 (the “**April 16 Order**”).

- b. allowing Down Under to withdraw its notice of intention to make a proposal to creditors (“**NOI**”) filed on March 18, 2021 and its proposal to creditors filed on August 30, 2021 or alternatively, allowing parties related to Down Under to vote, if they so choose, in favour of Down Under’s proposal.
- c. approving a long-term refinancing that the Companies propose to enter into (the “**CEFL Facility**”) with a new lender, Canadian Equipment Finance & Leasing (“**CEFL**”).
- d. approving the fourth report of Albert Gelman Inc. in its capacity as trustee (in such capacity, the “**Proposal Trustee**”), to be served and filed separately (the “**Fourth Report**”), and the Proposal Trustee’s fees and activities described therein.

THE GROUND FOR THE MOTION ARE:

A. Background

1. The facts are more fully set out in the affidavit of Jerome Drexler sworn September 1, 2021, filed at tab 2 of the motion record (the “**Drexler September Affidavit**”).
2. The Proposal Trustee recommends the relief sought as more fully appears from the Fourth Report.
3. Each of the Companies filed an NOI under the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) on March 18, 2021. The Companies have now also each filed a proposal to creditors as of August 30, 2021. The Proposal Trustee is the proposal trustee to each NOI and proposal. The proceedings have been administratively consolidated in this court file through the April 16 Order.

4. To streamline the proposal proceedings, the Companies' first-ranking and largest creditor, Royal Bank of Canada ("RBC"), has now been repaid, using, *inter alia*, the totality of the funds available under the Initial DIP Facility.

B. Increased DIP Facility

5. The increased borrowing amount is necessary to bridge the Companies' financing needs from the RBC payout to the finalization and implementation of the CEFL Facility, so as to enable the Companies to make proposals and return to solvent, normal course operations with their new long-term lender, CEFL.
6. The Increased DIP Facility would be in addition to the Initial DIP Facility, but with the same lender and with the same collateral.
7. The existing and sought DIP charges only encumber the Properties (as defined in the April 16 Order), which are pieces of real estate that are owned in fee simple by Drexler and that are unencumbered but for an RBC charge on one of the Properties (which will be vacated due to the RBC payout) and the initial DIP charge.
8. The orders sought in respect of the Increased DIP Facility are practically identical to those granted in the April 16 Order.
9. The statutory criteria for approval of DIP financing are met.

C. Approval of CEFL Facility

10. Approval of the CEFL Facility is required because it involves the granting of security interests over Drexler's assets (and only assets of Drexler).
11. The terms of the CEFL Facility are "market" and are fair and reasonable in the circumstances. The approval of the CEFL Facility and the implementation of the same will be a significant landmark in the Companies' return to "normal" operations, as was part of

their restructuring plan from the outset of these proceedings. This court may approve the CEFL Facility.

D. Withdrawal of Down Under’s NOI and proposal, or alternatively, allowing related parties to vote in favour of the Down Under proposal

12. With the repayment of RBC:
 - a. Down Under is solvent (i.e., is no longer insolvent), and
 - b. the only known remaining creditor of Down Under is 26002763 Ontario Ltd. (“**260’ Inc.**”), who is “related” to Down Under within the meaning of the BIA because its sole shareholder, Peter Drexler, is the brother of the sole shareholders of Down Under’s parent company, Drexler.

13. The sought orders are therefore necessary and appropriate to prevent the bankruptcy of a solvent company, to the detriment of all its stakeholders. 260’ Inc. has consented in writing to both forms of relief sought. The orders sought are also within the court’s jurisdiction to make.

E. Approval of Proposal Trustee’s and its independent counsel’s fees and activities

14. The activities and fees of the Proposal Trustee and its counsel were reported to the court and stakeholders including in the Fourth Report. In particular, the fees are supported by Fee Affidavits (as defined in the Fourth Report). The Companies believe those are appropriate, commercially reasonable, and in the best interest of the Companies and their stakeholders. Material in this regard is the fact that this court approved all the Proposal Trustee’s prior reports and fees as well as the activities described therein.

MAIN STATUTORY PROVISIONS

- a. BIA s. 50.6, 66, 107, 115.1 and 183.
- b. Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, rules 2.03 and 3.02.
- c. Such other and further grounds as counsel may advise and the court permit.

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

- a. the Drexler September Affidavit,
- b. the Fourth Report,
- c. the Fee Affidavits, and
- d. such further and other materials as counsel may advise and the court may permit.

September 1, 2021

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TO: THE SERVICE LIST

**IN THE MATTER OF THE PROPOSAL TO CREDITORS PROCEEDINGS OF
DREXLER CONSTRUCTION LIMITED, FOLMUR CONSTRUCTION (2004)
LIMITED AND DOWN UNDER PIPE AND CABLE LOCATING LIMITED,
CORPORATIONS INCORPORATED UNDER THE ONTARIO *BUSINESS
CORPORATIONS ACT***

**ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced in LONDON**

**NOTICE OF MOTION
(increased DIP facility, approval of long-term
financing, approval of proposal trustee's fees and
activities, withdrawal of one notice of intention and
proposal)
(returnable September 10, 2021)**

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Lawyers for the moving parties and debtor
companies, Drexler Construction Limited, Folmur
Construction (2004) Limited, and Down Under Pipe
and Cable Locating Limited

TAB 2

Affidavit of Jerome Drexler sworn September 1, 2021

Estate No. 35-2721716

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE PROPOSAL TO CREDITORS
PROCEEDINGS OF DREXLER CONSTRUCTION LIMITED,
FOLMUR CONSTRUCTION (2004) LIMITED AND DOWN
UNDER PIPE AND CABLE LOCATING LIMITED,
CORPORATIONS INCORPORATED UNDER THE
ONTARIO *BUSINESS CORPORATIONS ACT***

**AFFIDAVIT OF JEROME DREXLER
(sworn September 1, 2021)**

I, Jerome Drexler of Rockwood in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a director and officer of Drexler Construction Ltd. (“**Drexler**”), which is the parent company of Folmur Construction (2004) Ltd. (“**Folmur**”) and Down Under Pipe and Cable Locating Ltd. (“**Down Under**” and, together with Drexler and Folmur, the “**Companies**”). As such I have knowledge of the matters to which I refer. In preparing this affidavit, I consulted with legal, financial and other advisors of the Companies and other members of the Companies’ management. Where this affidavit is on information and belief, I have stated the source of that information and believe it to be true.

I. OVERVIEW

2. The affidavit is in support of the Companies’ motion for orders:
 - a. approving a \$1,000,000 debtor-in-possession (DIP) facility (the “**Increased DIP Facility**”) with the same lender and collateral as the existing, \$1,500,000 DIP facility (the “**Initial DIP Facility**”) approved by this court by order dated April 16, 2021 (the “**April 16 Order**”).

- b. allowing Down Under to withdraw its notice of intention to make a proposal to creditors (“**NOI**”) filed on March 18, 2021 and its proposal to creditors filed on August 30, 2021 or alternatively, allowing parties related to Down Under to vote, if they so choose, in favour of the Down Under’s proposal.
 - c. approving a long-term refinancing that the Companies propose to enter into (the “**CEFL Facility**”) with a new lender, Canadian Equipment Finance & Leasing (“**CEFL**”).
 - d. approving the fourth report of Albert Gelman Inc. in its capacity as trustee (in such capacity, the “**Proposal Trustee**”), to be served and filed separately (the “**Fourth Report**”), and the Proposal Trustee’s fees and activities described therein.
3. The Proposal Trustee recommends the relief sought. Leading counsel for the Companies, Brendan Bissell, informs me that he is not aware of opposition from any person to the relief sought.
4. Royal Bank of Canada (“**RBC**”), which was the ranking creditor and the creditor that made demand leading to the Companies entering into these proceedings, has been repaid all amounts owing and will be discharging its security over the Companies’ assets save for a cash collateral amount to address any final amounts that may become payable.
5. As I explain further below:
 - a. the Increased DIP Facility is to bridge the Companies’ financing needs from the RBC payout to the finalization and implementation of the CEFL Facility.
 - b. the order sought with respect to Down Under’s proposals are necessary because following the repayment of RBC, Down Under is solvent and has only one creditor

that is a related party, with the result that its proposal is doomed to fail despite solvent, ongoing operations. This would result in an unnecessary bankruptcy, to the detriment of all stakeholders.

- c. I am advised that court approval of the CEFL Facility is required due to it contemplating *inter alia* the granting of security interests over the Drexler's assets.
- d. the Companies believe the approval of the Proposal Trustee's fees and activities is appropriate.

II. BACKGROUND

a. The Companies and their business

- 6. I provided the full background in my prior affidavit sworn April 12, 2021 filed in this proceeding, of which I attach a copy without exhibits as **Exhibit "A"** for reference.
- 7. To summarize, the business was initially set up by myself and my 7 brothers, of which 4 remain involved as the sole shareholders of Drexler, which is itself the sole shareholder of Folmur and Down Under, making the latter fully-owned subsidiaries. All the Companies operate in the construction industry, offering a wide spectrum of services including excavating, hydro, and concrete. The Companies attract notable clients including municipalities throughout Ontario. For reference, Drexler made a gross profit of approximately \$4,483,355 in 2018 and \$5,113,471 in 2019 and employs between 50 and 110 non-unionized employees depending on the season. Folmur made a gross profit of approximately \$1,689,684 in 2018 and \$2,233,232 in 2019 and has 25 non-unionized employees. Down Under made a gross profit of approximately \$316,813 in 2018 and \$217,259 in 2019 and has 2 non-unionized employees.

b. Causes of insolvency, creditors

8. Each of the Companies filed an NOI under the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) on March 18, 2021. The Companies have now also each filed a proposal to creditors as of August 30, 2021, of which I attach copies as **Exhibits “B”** (Drexler), “**C**” (Folmur) and “**D**” (Down Under). The Proposal Trustee is the proposal trustee to each NOI and proposal. The proceedings have been administratively consolidated in this court file through the April 16 Order, of which a copy is attached as **Exhibit “E”**.
9. The causes of the Companies’ insolvency are more fully set out in my April 12 affidavit (Exhibit “A”) and chiefly include having been unable to repay their indebtedness, each as borrower under a number of credit facilities and as guarantor of the other two Companies’ obligations, to RBC, the Companies’ first-ranking secured creditor. The Companies and RBC have now agreed on the terms of RBC’s full repayment, as discussed below.
10. Drexler and Folmur’s remaining known creditors are listed in the documents accompanying their proposals to creditors (included Exhibits “B” and “C” respectively). Those include *Personal Property Security Act* registrants (mostly in respect of equipment and motor vehicles) and related companies.
11. All of the Companies’ outstanding debt to the Canada Revenue Agency (“**CRA**”) relating to employee source deductions have been repaid during the proceeding. All amounts owing to CRA by the Companies for HST post-filing have been reported and paid when due.
12. With the repayment of RBC, the only known remaining creditor of Down Under is 2602763 Ontario Ltd. (“**260’ Inc.**”). I am advised that 260’ Inc. may probably be considered

“related” to Down Under within the meaning of the BIA due its sole shareholder, Peter Drexler, being my brother. 260’ Inc. holds a claim against Down Under for \$47,058.40.

c. Restructuring approach, prior-ranking creditor repayments

13. The Companies’ prior restructuring efforts were thoroughly detailed in my April 12 affidavit as well as my other prior affidavits filed in this proceeding and sworn May 22 and July 12, of which I respectively attach copies without exhibits as **Exhibit “F”** and **“G”**.
14. As more fully set out in my April 12 affidavit (Exhibit “A”), the restructuring approach undertaken by the Companies was centered around locating a new source of financing to repay RBC, making a viable proposal to creditors, and returning to solvency.
15. The first step of this plan has been completed:
 - a. the Companies have entered into the CEFL Facility, in respect of which I attach a copy of an equipment finance proposal dated August 25, 2021 as **Exhibit “H”**, and
 - b. in order to streamline the proposal proceedings, the Companies and RBC have agreed on RBC’s repayment on the terms set out in the payout letter dated August 30, 2021, of which I attach a copy as **Exhibit “I”** (the **“Payout Letter”**), and RBC has been paid all the amounts set out in the Payout Letter.
16. In order to pay out RBC, the Companies used most of their available working capital and also drew down the full amount of the Initial DIP Facility, being \$1.5 million. The latter was done with RBC’s consent, as required in the April 16 Order.
17. As a result of the RBC payout, the Companies’ cash flow until the proposed financing with CEFL closes is expected to require an additional \$1 million. The Companies approached their existing DIP lender under the Initial DIP Facility, Corwin Mortgage Capital Inc.

(“**Corwin**”), about their financing needs. Corwin arranged for the required financing as set out in a commitment letter dated August 26, 2021, of which I attach a copy as **Exhibit “J”**.

d. Proposals

18. The Companies have now filed their respective proposals to creditors as of August 30, 2021 (Exhibits “B” to “D”).
19. Each of the proposals provides for a pool of funds made available for distribution through 24 equal consecutive monthly payments to Ordinary Creditors with Proven Claims (terms defined in the proposals). In the case of Drexler and Folmur, this excludes known related party claimants who have agreed not to file proofs of claims. The amount of the pool is \$1,640,220.72 under the Drexler proposal, \$574,589.30 under the Folmur proposal, and \$20,000 under the Down Under proposal. Those amounts are expected to cover the full quantum owing to such Ordinary Creditors save in the case of Down Under which is only subject to the 260’ Inc. claim, as discussed. I am otherwise advised that the proposals are on terms commonly found in “template” proposals and do not include extraordinary terms.
20. As stated above, with the repayment of RBC, the only known remaining creditor of Down Under is 260’ Inc., which may likely be considered “related” to Down Under within the meaning of the BIA due its sole shareholder being my brother, Peter Drexler. I am advised that parties related to a debtor who makes a proposal can only vote against a proposal, not in favour of it. I am further advised this means that without the relief sought on this motion to either (i) allow the withdrawal of Down Under’s NOI and proposal, or (ii) allow parties related to Down Under (such as 260’ Inc.) to vote, if they so choose, in favour of the proposal made by Down Under, Down Under’s proposal is certain to fail, with the result that Down Under would be bankrupt.

21. I have spoken with Peter Drexler about the proposal of Down Under and he has advised on behalf of 260' Inc. that 260' Inc. consents to both forms of relief sought. On one hand, 260' Inc. would not oppose the withdrawal of Down Under's Proposal and NOI, because Down Under is solvent at this point, and because he believes 260' Inc. can reach a mutually acceptable arrangement with Down Under for payment of its claim outside of the proposal process. On the other hand, he believes that the Down Under proposal is fair and reasonable and, if allowed by the court, he would cause 260' Inc. to vote in favour of the proposal. A letter from him to that effect is attached as **Exhibit "K"**.

III. RELIEF SOUGHT

a. Increased DIP Facility

22. The April 16 Order (Exhibit "E") approved a debtor-in-possession (DIP) financing facility with a maximum borrowing amount of \$1,500,000 (the "**Initial DIP Facility**") with Corwing and created a DIP charge on the Properties (as defined in the April 16 Order), subordinate to RBC's position. The Properties do not include property of Down Under.
23. Drexler and Folmur have agreed on a term sheet for a further \$1,000,000 DIP facility contemplating a second mortgage on the Properties, i.e. the Increased DIP Facility. Like under the Initial DIP Facility, Drexler and Folmur (not Down Under) are the borrowers under the Increased DIP Facility.
24. For clarity, the relief sought on this motion does not affect the Initial DIP Facility which remains in accordance with its terms. The Increased DIP Facility would be in addition to the Initial DIP Facility, albeit with the same lender and with the same collateral. The Increased DIP Facility's \$1,000,000 is subject to a slightly higher interest rate of 10% per

annum and provides for \$10,000 in brokerage fees and all lender's legal fees being payable to Corwin.

25. As noted, the existing and sought DIP charges only encumber the Properties, which, as more fully set out in my April 12 affidavit (Exhibit "A"), are pieces of real estate that are owned in fee simple by Drexler and that are unencumbered but for an RBC charge (which will be vacated following the RBC payout) on one of the Properties and the initial DIP charge. As noted, this motion does not seek to extend the collateral covered by the increased DIP charge. I attach as **Exhibit "L"** a recent parcel register for the Properties.
26. I am advised that the Increased DIP Facility's terms are "market" and I believe they are fair and reasonable in the circumstances. Also, the orders sought in respect of the Increased DIP Facility are largely the same as those granted in the April 16 Order.
27. The increased borrowing amount is necessary to bridge the Companies' financing needs from the RBC payout to the finalization and implementation of the CEFL Facility, so as to enable the Companies to make proposals and return to solvent, normal course operations with their new long-term lender, CEFL.

b. Approval of CEFL Facility

28. I am advised that court approval of the CEFL Facility is required because it involves the granting of security interests over Drexler's assets (and only assets of Drexler).
29. The main terms of the CEFL Facility are as follows:
 - a. borrower/mortgagor: Drexler (not any of the other two Companies).

- b. security: mortgages over three properties owned by Drexler and a general security agreement from Drexler.¹
 - c. loan amount: contemplated to be up to the total of 75% loan-to-value for two mortgaged properties and 50% loan-to-value for the third mortgaged property.
 - d. loan rate: contemplated to be between 4.5% and 6.25%, subject to further review from the lender.
 - e. administration fee: \$50,000, plus a 0.5% fee upon closing of each mortgage, and lender's legal expenses.
30. Upon consulting with the Proposal Trustee and legal counsel for the Companies, as well as the broker hired by the Companies for this purpose (as further described in my prior affidavits (Exhibits "F" and "G"), I believe the terms of the CEFL Facility are "market" and are fair and reasonable in the circumstances. I believe the approval of the CEFL Facility and the implementation of the same will be a significant landmark in the Companies' return to "normal" operations, as was part of their restructuring plan all along.
- c. Withdrawal of Down Under's NOI and proposal, or alternatively, allowing related parties to vote in favour of the Down Under proposal**
31. As explained above, due to the repayment of RBC and without such relief, Down Under's proposal is certain to fail, with the result that Down Under would be bankrupt.

¹ Note: no prior-ranking, court-ordered charge is sought. I am advised the security contemplated in the CEFL Facility will rank in accordance with applicable provincial law. To the extent the CEFL Facility contemplates a first-ranking security that is not possible to obtain under provincial law, the Companies may make a later motion to court, but that is not something before the court at this time, nor is it anticipated to ever constitute an issue requiring relief from the court.

32. Upon consulting with the professionals involved in the Companies' restructuring, following the repayment of RBC, I can report that Down Under is solvent (i.e., it is not insolvent anymore).
33. Down Under has an ongoing business in the construction industry, with gross profits of approximately \$201,474 in 2020 and \$90,126 in 2021. Down Under has 2 non-unionized employees. Down Under focuses on smaller jobs in support of larger projects typically handled by the other group companies. Orangeville Hydro and Township of Mapleton were the two largest clients in 2021 representing 54% of total revenues. Down Under is expected to see revenues return to pre-COVID19 levels in the near future.
34. While its operation is not the largest of the Companies, I believe that a bankruptcy of Down Under would be detrimental to its stakeholders, including employees, suppliers, clients and shareholders, as opposed to continued operations. I believe the facts show that Down Under has valuable operations that will grow further, as they have been in the past, if they are allowed to continue.
35. As further explained in my April 12 affidavit (Exhibit "A"), the Companies each have a speciality within the group. Down Under's services described above are an integral part of the group's services generally, and a Down Under bankruptcy would effectively "cut" this "arm" of the Companies' business, to the detriment of their existing clients and their ability to attract new ones.
36. A Down Under bankruptcy would also be publicly known and negatively reflect on Drexler and Folmur as well as myself and my brothers, the principals of the parent company, Drexler. This could further negatively affect the entire group's credit, ability to attract

clients, and ability to negotiate with suppliers and contractors, among other things. As noted above, the Companies' clients typically include sophisticated parties such as municipalities who answer to a broad range of stakeholders and operate within stringent guidelines. I believe the bankruptcy of a company closely related to Drexler and Folmur is likely to represent a negative factor in such a sophisticated party's choice of with whom to do business.

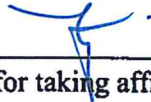
37. As more fully appears from the Exhibit "K" letter from 260' Inc., 260' Inc. consents to both forms of relief sought.
38. Considering the above, I believe that if this court allows either (i) the withdrawal of Down Under's NOI and proposal, or (ii) parties related to Down Under (such as 260' Inc.) to vote, if they so choose, in favour of Down Under's proposal, then Down Under's operations will be back to normal, will be profitable in themselves, and will significantly contribute to the soon-to-be solvent business of the Companies' group as a whole, as it historically has.

d. Approval of Proposal Trustee's Fourth Report, fees and activities

39. The activities and fees of the Proposal Trustee and its counsel were reported to the court and stakeholders including in the Fourth Report. The Companies believe those are appropriate, commercially reasonable, and in the best interest of the Companies and their stakeholders. Material in this regard is the fact that this court approved all the Proposal Trustee's prior reports and fees as well as the activities described therein.

[12]

SWORN BEFORE ME via Zoom at the City of Toronto, in the Province of Ontario, this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



Commissioner for taking affidavits
(present at Toronto at the time of swearing)

JOËL TURGEON



Jerome Drexler

(present at Rockwood at the time of swearing)

This is **Exhibit "A"** to the affidavit of Jerome Drexler sworn before me via Zoom this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

JOEL TURGEON

Estate No. 35-2721716

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL PROCEEDINGS OF DREXLER
CONSTRUCTION LIMITED, A CORPORATION
INCORPORATED UNDER THE ONTARIO *BUSINESS
CORPORATIONS ACT***

**AFFIDAVIT OF JEROME DREXLER
(sworn April 12, 2021)**

I, Jerome Drexler of Rockwood in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a director and officer of Drexler Construction Ltd. (“**Drexler**”), which is the parent company of Folmur Construction (2004) Ltd. (“**Folmur**”) and Down Under Pipe and Cable Locating Ltd. (“**Down Under**”, and together with Drexler and Folmur, the “**Companies**”). As such I have knowledge of the matters to which I refer. In preparing this affidavit, I consulted with legal, financial and other advisors of the Companies and other members of the Companies’ management. Where this affidavit is on information and belief, I have stated the source of that information and believe it to be true.

I. OVERVIEW

2. The affidavit is in support of the Companies’ motion for orders:
 - a. administratively consolidating the notice of intention to make a proposal (“**NOI**”) proceedings of the Companies in one court file, to streamline administration and allow economies of scale on costs.

- b. extending to Tuesday, June 1, 2021, the time for Albert Gelman Inc. in its capacity as trustee (in such capacity, the “**Proposal Trustee**”) to the NOI proceeding of each of the Companies, to file, on behalf of the Companies (individually or collectively, as the case may be), a proposal to creditors under the *Bankruptcy and Insolvency Act* (Canada) (“**BIA**”). The extension is *inter alia* to allow the Companies to explore the viable restructuring path identified below, towards a proposal.
- c. approving the Companies’ entering into a debtor-in-possession (“**DIP**”) lending facility (the “**DIP Facility**”) with Corwin Mortgage Capital Inc. (the “**DIP Lender**”) up to a maximum borrowing amount of \$1,500,000, which during the extension period sought may be accessed to the limit of (i) up to \$750,000, (ii) a further \$250,000 with the written consent of the Proposal Trustee in consultation with Royal Bank of Canada (“**RBC**”), the ranking secured creditor as discussed below, and (iii) any further amounts with the written consent of RBC or further court order. As seen below, the Companies are in the “investment” phase of certain construction projects, meaning that their cashflow is negative. To allow, *inter alia*, completion and monetization of the projects, and considering that the Companies’ credit facilities with RBC are unavailable as discussed below, interim financing by way of the DIP Facility, in the initial amounts applied for, is required to maintain the going concern nature of the Companies’ operations.
- d. creating a DIP financing charge, to secure the Companies’ obligations to the DIP Lender under the DIP Facility, on the Companies’ interest in and to the real estate properties municipally known as 5274 Wellington Road 27, Rockwood, Ontario (PIN #71180-0203 (LT)) (the “**HQ Property**”) and 183 Catherine Street,

Rockwood, Ontario (PIN #71180-0052(LT)) (the “**Catherine Property**”), which DIP Financing charge is to rank in priority to any “**Encumbrance**” (as defined in the draft order) encumbering either or both of the HQ and Catherine Properties save and except any Encumbrance in favour of RBC and any Encumbrance that primes such RBC’s Encumbrance. This collateralization and priority scheme was discussed among and is acceptable to the Companies, the DIP Lender and RBC.

- e. creating an “**Administration Charge**” to secure the Companies’ payment of the reasonable accounts and invoices of counsel for the Companies, the Proposal Trustee, and counsel to the Proposal Trustee up to a maximum of \$100,000, which charge is to rank in priority to all Encumbrances on either or both of the HQ and Catherine Properties save and except (i) any Encumbrance in favour of RBC and any Encumbrance ranking in priority to RBC’s Encumbrance, and (ii) the DIP Lender’s Charge.
- f. authorizing the Companies to sell out of the ordinary course of business the “**Redundant Equipment**” (defined in the draft order), provided that each sale is for no less than the appraised amount for that piece of equipment as set out in Confidential Exhibit “3”, discussed below, either through Canam-Appraiz Inc. or privately. The orders sought provide that if an item sold is subject only to the secured claim of RBC as the first-ranking secured creditor generally, then the proceeds of sale are to be paid to RBC immediately and without further court order in repayment of the Companies’ obligations to RBC. It is understood that RBC would allow vacating title to the item from its claim. If the item sold is subject to two or more possible secured claims as determined by the Proposal Trustee, then

save agreement among the secured claimants, a motion for advice and directions would be made to the court as to entitlement to the proceeds.

- g. approving the first report of the Proposal Trustee, to be served and filed separately (the “**First Report**”), and its activities.
 - h. sealing Confidential Exhibit “1”, “2”, and “3” to this affidavit, being various appraisals, pending the earlier of a court order approving a proposal to creditors in respect of all of the Companies, or further court order. This is to protect the integrity of any sale process should that become necessary.
 - i. ordering the Companies to pay the reasonable accounts, fees and disbursements of the Proposal Trustee, counsel to Proposal Trustee and counsel to the Companies, as they become due, as part of the costs of these proceedings and post-filing obligations, it being understood that in the case of the Proposal Trustee and counsel to the Proposal Trustee, such payments are to constitute advances applicable on account of such amounts as may be approved by this court through taxation or under the BIA.
3. The Proposal Trustee supports and recommends the relief sought. Leading counsel for the Companies, Brendan Bissell, informs me that RBC has been consulted about the relief sought and does not oppose it.

II. THE COMPANIES AND THEIR BUSINESS

4. The business was initially set up by myself and my 7 brothers, of which 4 remain involved: myself (Jerome), Martin, Kevin and Alfred. All the Companies operate in the construction industry. My brothers and I started our business operations back in 1972, originally through

Drexler, then through Folmur, which was purchased in 2004, and then Down Under as a new company in 2001. The Companies now offer a wide spectrum of construction services, including excavating, hydro, and concrete, and attract notable clients including municipalities throughout Ontario, as more fully explored below.

a. Drexler

5. Drexler was the first of the Corporations to be incorporated and remains the one with the most assets and activities. Its head office is located at the HQ Property.
6. Drexler is a general construction company specializing in excavation, sewer/water works, concrete works and utility installation projects throughout southwestern Ontario. Its clients principally include residential and commercial builders as well as municipalities. Drexler made a gross profit of approximately \$4,483,355 in 2018 and \$5,113,471 in 2019.
7. Drexler employs between 50 and 110 employees depending on the season, with more employees employed during the spring, summer and fall months. Drexler's employees are not unionized.
8. Myself and my brothers Martin, Kevin and Alfred are the sole shareholders of Drexler, which is the sole shareholder of Folmur and Down Under, making the latter fully-owned subsidiaries.
9. I attach a corporation profile report for Drexler as **Exhibit "A"**.

b. Folmur

10. Folmur's head office and yard are operated from leased premises located at 7000 Wellington Road 124, Guelph, Ontario.

11. Folmur is principally involved in electrical works for new residential and commercial construction developments throughout southwestern Ontario. Folmur made a gross profit of approximately \$1,689,684 in 2018 and \$2,233,232 in 2019.
12. Folmur has approximately 25 employees, who are not unionized.
13. As stated above, Folmur is a fully-owned subsidiary of Drexler.
14. I attach a corporation profile report for Folmur as **Exhibit “B”**.

c. Down Under

15. Down Under’s head office is located at the Duplex Property (defined below), which is owned by Drexler and further described below.
16. Down Under is principally involved in the construction industry as a locator of gas lines, electrical lines and water lines in the ground and buildings. Some of its notable clients include the town of Orangeville and the township of Mapleton. Down Under made a gross profit of approximately \$316,813 in 2018 and \$217,259 in 2019.
17. Down Under has 2 employees, who are not unionized.
18. As stated above, Down Under is a fully-owned subsidiary of Drexler.
19. I attach a corporation profile report for Down Under as **Exhibit “C”**.

III. CAUSES OF INSOLVENCY

20. The Companies are all indebted to RBC, each as borrower under a number of credit facilities and as guarantor of the other two Companies’ obligations to RBC. The loan

facilities with RBC include a credit agreement among RBC and Drexler dated November 1, 2013, a credit agreement among RBC and Folmur dated January 3, 2019, and a credit agreement among RBC and Down Under dated June 19, 2008, each as amended and supplemented from time to time, and as secured through the guarantees and collateral charges/mortgages described below. The banking and loan relationship with RBC dates back to 1984.

21. Based on RBC's demand letters and notices to enforce security dated March 8, 2021, of which I attach copies in **Exhibits "D"** (borrower demands) and **"E"** (guarantor demands), (i) Drexler's obligation to RBC as borrower is approximately \$2,050,000, Folmur's is approximately \$35,550, and Down Under's is approximately \$750, (ii) each of the Companies, as guarantor, is further indebted to RBC for corresponding amounts, and (iii) the Companies are in default towards RBC and liable to repay their obligations to RBC in full immediately.
22. RBC holds (i) collateral charges/mortgages over the Catherine Property respectively registered in 1992 (registration number RO663164) and 1993 (registration number RO686143) and totalling \$435,000 (together, the **"RBC Charges"**), as shown in the copy of the parcel register for the Catherine Property which I attach as **Exhibit "F"** together with copies of the parcel register for the HQ and Duplex Properties, and (ii) general security agreements from each of the Companies (together, the **"RBC GSAs"**). As set out in the First Report, the Proposal Trustee has obtained a legal opinion from independent counsel on the validity and enforceability of the RBC Charges and the RBC GSAs which,

subject to standard assumptions and qualifications, concludes that they are valid and enforceable in accordance with their terms.

23. The Companies do not contest that there were defaults under the various loan agreements that entitled RBC to make demand. Before filing the NOIs, the Companies were in discussions (through counsel) with RBC about possible arrangements to forbear on the demands, but, despite significant effort by both the Companies and the bank, a mutually agreeable arrangement was not possible.
24. At present, each of the Companies is insolvent, and the immediate cause of insolvency is the RBC demands described above. The Companies are unable to repay the amounts owing to RBC at this point in time. I believe, however, that the Companies' assets greatly exceed their liabilities, which is supported by the available appraisal information on the real property owned by Drexler and the equipment owned by the Companies as noted below, as well as the accounts receivable of the Companies in the approximate amount of \$3.5 million.
25. The COVID-19 crisis has also had a general adverse impact on the Companies' costs, timelines to complete projects, and viability of actual and potential jobs, which also contributes to the Companies' insolvency. Notably, the COVID-19 crisis resulted in many municipal jobs being delayed or deferred, causing lower earnings.

26. The Companies also suffered two unusual and isolated financial setbacks in 2020, being a loss on a job due to an estimator's error, and a Canada Revenue Agency interest charge:
- a. the first resulted in a line item on a tender being listed as \$142 per cube-meter instead of \$250 per cube-meter. Drexler had to honour the listed price, resulting in a negative difference of \$324,000.
 - b. the second was caused by cashflow issues in the summer of 2020. Unfortunately, sufficient revenues could not be generated in time to avoid the Canada Revenue Agency calculating interest charges for \$299,000.
 - c. I am advised by RLB, the Companies' accountants, that but for those two items, Drexler would have generated positive income in 2020, i.e. approximately \$430,800, instead of a net loss of approximately \$192,000.

IV. NOI FILINGS

27. Each of the Companies filed an NOI under the BIA on March 18, 2021 as follows:
- a. in estate/court file number 35-2721716 for Drexler, a copy of which NOI, together with the creditors listing, is attached as **Exhibit "G"**,
 - b. in estate/court file number 35-2721875 for Folmur, a copy of which NOI, together with the creditors listing, is attached as **Exhibit "H"**, and
 - c. in estate/court file number 35-2721896 for Down Under, a copy of which NOI, with the creditors listing, is attached as **Exhibit "I"**.
- (collectively, the "**NOI Proceedings**")
28. The Proposal Trustee is the proposal trustee in each of the NOI Proceedings.

V. CREDITOR OVERVIEW

a. RBC: ranking creditor of the Companies

29. Apart from the brothers' equity investments, the Companies' business operations and other capital needs were principally financed through intercompany loans as well as the RBC loan facilities described above.

30. As more fully set out above, the debt RBC claims against the Companies, as borrowers and guarantors, totals approximately \$2,086,300, and the Proposal Trustee has obtained an independent legal opinion confirming the validity and enforceability of the RBC Charges and the RBC GSAs, constituting RBC as the ranking and most sizeable creditor of the Companies.

b. Other potential secured creditors

31. As more fully appears from copies of *Personal Property Security Act* (Ontario ("PPSA")) reports in respect of each of Drexler, Folmur and Down Under which I respectively attach as **Exhibits "J", "K" and "L"**:

a. the following chattel security registrations are disclosed in respect of Drexler.

Registration Date	Creditor	Collateral Classification
June 10, 2014	Royal Bank of Canada	Inventory, Equipment, Accounts, Other
May 1, 2017	Bank of Montreal	Equipment, Motor Vehicle
October 16, 2017	John Deere Financial Inc.	Equipment, Other, Motor Vehicle
December 7, 2017	The Bank of Nova Scotia	Equipment, Other, Motor Vehicle
June 5, 2018	John Deere Financial Inc.	Equipment, Other, Motor Vehicle
June 19, 2018	Wells Fargo Equipment Finance Company	Equipment, Motor Vehicle
October 22, 2018	John Deere Financial Inc.	Equipment, Other, Motor Vehicle
January 16, 2020	The Bank of Nova Scotia	Equipment, Other, Motor Vehicle
July 6, 2020	TD Auto Finance (Canada) Inc.	Equipment, Other, Motor Vehicle
July 10, 2020	TD Auto Finance (Canada) Inc.	Equipment, Other, Motor Vehicle
August 14, 2020	Canadian Equipment Finance & Leasing Inc.	Equipment, Motor Vehicle
September 30, 2020	John Deere Financial Inc.	Equipment, Other, Motor Vehicle
May 18, 1984	Royal Bank of Canada	Inventory, Equipment, Book Debts, Other, Motor Vehicle

b. the following chattel security registrations are disclosed in respect of Folmur.

Registration Date	Creditor	Collateral Classification
October 30, 2006	Royal Bank of Canada	Inventory, Equipment, Accounts, Other, Motor Vehicle
May 12, 2016	Royal Bank of Canada	Consumer goods, Other, Motor Vehicle
November 9, 2016	Xerox Canada Ltd.	Equipment, Other
November 15, 2017	Royal Bank of Canada	Consumer goods, Other, Motor Vehicle
December 20, 2017	GM Financial Canada Leasing Ltd.	Consumer goods, Equipment, Other, Motor Vehicle
March 13, 2018	John Deere Financial Inc.	Equipment, Other, Motor Vehicle
October 30, 2018	John Deere Financial Inc.	Equipment, Other, Motor Vehicle
June 3, 2019	John Deere Financial Inc.	Equipment, Other, Motor Vehicle
October 14, 2020	The Bank of Nova Scotia	Equipment, Other, Motor Vehicle
October 27, 2020	Royal Bank of Canada	Consumer goods, Other, Motor Vehicle
November 19, 2020	The Bank of Nova Scotia	Equipment, Other, Motor Vehicle
March 12, 2021	John Deere Financial Inc.	Equipment, Other, Motor Vehicle

c. and the following chattel security registration is disclosed in respect of Down Under.

Registration Date	Creditor	Collateral Classification
October 30, 2006	Royal Bank of Canada	Inventory, Equipment, Accounts, Other, Motor Vehicle

32. I note that all of these PPSA registrations, except two (the one by RBC against Drexler in 2014 and the one by Xerox against Folmur in 2016), include motor vehicles in the collateral classification and most include vehicle identification numbers. I understand that the Proposal Trustee believes those registration may indicate purchase-money security interests (PMSIs) under the PPSA, but has not yet obtained any legal opinion in that regard.

c. Other creditors

33. The balance of the Companies' known creditors, including related corporations, are unsecured and as set out in the Exhibit "G", "H" and "I" creditor mailing packages. Drexler lists approximately \$1,000,000 arms' length unsecured claims, Folmur approximately \$400,000, and Down Under approximately \$47,000.

34. As further discussed in the First Report, based on the Proposal Trustee's review of Folmur and Drexler's book and records, Drexler could be indebted to the Canada Revenue Agency for HST and unremitted source deductions in the respective approximate amounts of \$133,567 and \$21,845, and for Folmur, those approximate amounts are \$193,151 and \$50,485.

VI. ASSET OVERVIEW

a. Drexler

i. *Real estate interests*

35. Drexler's most valuable assets are the Catherine Property, the HQ Property, and the property municipally known as 5278 Wellington County Road 27, Rockwood, Ontario (PIN #71180-0204 (LT)) (the "**Duplex Property**" and, together with the Catherine Property and the HQ Property, the "**Properties**").
36. The HQ Property and the Duplex Property are portions of farmlands owned by the Drexler family dating back to the 1950s. The HQ Property includes a yard and buildings. The Duplex Property is adjacent to the HQ Property and is a duplex building development where the old farmhouse used to be. The Catherine Property was acquired in 1987, and recently developed to include a house. The Companies believe the further development potential of the Properties is substantial.
37. As more fully appears from the Exhibit "F" parcel registers, Drexler holds an unencumbered fee simple interest in the HQ Property and the Duplex Property, and, but for the RBC Charges, would hold an unencumbered fee simple interest in the Catherine Property.

38. The Proposal Trustee obtained professional appraisals from a licensed commercial real estate appraiser for each of the Properties. Those appraisals are included as **Confidential Exhibit “1”** to this affidavit. For the reasons discussed below, the Companies request an order sealing Confidential Exhibit “1” from the public record.

ii. Other assets

39. Drexler’s other notable assets include:

- a. inventories, including construction materials, with a book value of \$806,416 as at March 31, 2021.
- b. capital assets, including (i) machinery and other equipment (including backhoes, excavators, rollers, bulldozers, and other heavy construction equipment) (the “**Drexler M&E**”) with a book value of \$1,936,220, and (ii) vehicles (including dump trucks, pickup trucks and passenger vehicles) with a book value of \$650,800, the whole net of accumulated amortization and as at March 31, 2021.
- c. as at March 31, 2020, related company loans due and payable, as follows:
 - i. from 970743 Ontario Inc., in the amount of \$117,189,
 - ii. from IAD Investments Inc. in the amount of \$316,906,
 - iii. from Drexcon III Ltd. in the amount of \$97,052, and
 - iv. from Milldrex Investments Inc., in the amount of \$5,333.
- d. accounts receivable in the aggregate amount of \$2,826,440 as at March 31, 2021.

40. RBC recently obtained appraisals for the Drexler M&E. Those appraisals were provided to the Companies and are included as **Confidential Exhibit “2”** to this affidavit. For the

reasons discussed below, the Companies request an order sealing Confidential Exhibit “2” from the public record.

b. Folmur

41. Folmur’s notable assets include:

- a. client accounts receivable in the aggregate amount of \$1,523,947 as at March 31, 2021.
- b. capital assets, including (i) machinery and other equipment (including backhoes, excavators, rollers, bulldozers, and other heavy construction equipment) (the “**Folmur M&E**”) with a book value of \$373,367, and (ii) vehicles (including one dump trucks and several pickup trucks) with a book value of \$180,707, the whole net of accumulated amortization and as at March 31, 2021.
- c. inventories mostly including construction supplies with a book value of \$222,793 as at March 31, 2021.
- d. a loan due and payable from Drexler in the amount of approximately \$3.8 million.

42. The appraisal obtained by RBC (Confidential Exhibit “2”) also applies to the Folmur M&E.

c. Down Under

43. Down Under’s notable assets include:

- a. client accounts receivable in the aggregate amount of \$22,516 as at March 31, 2021, and
- b. capital assets, including equipment with a book value of \$81,848 net of accumulated amortization as at March 31, 2021.

VII. CASHFLOW AND DIP TERM SHEET

44. The Companies filed 15-week cashflow forecasts for the period from March 21 to July 3, 2021 (the “**Cashflow Forecasts**”), which are attached hereto together as **Exhibit “M”**. Those show that the Companies expect to require, over that period, approximately \$1,000,000, being \$600,000 for Drexler and \$400,000 for Folmur, to cover the amounts by which projected expenses will exceed revenues. The principal reasons for this are:
- a. the nature of larger scale construction work of the type performed by the Companies is that a substantial investment is typically required at the outset of a job for labour and materials, with monetization and revenues being achieved on completion or later in the project.
 - b. related to item a., the timing of the expected receipt of the Companies’ accounts receivable is in many cases after expenditures are going to be required.
 - c. the Companies are incurring professional costs in the NOI Proceedings, including for legal counsel, the Proposal Trustee and counsel to the Proposal Trustee, which are additional expenses, albeit temporary.
45. To fund the required amount, the Companies negotiated a DIP term sheet with the DIP Lender, which contains the materials terms that would form the basis of the DIP Facility were it approved by the court on this motion. A copy of the DIP term sheet is attached as **Exhibit “N”**.

46. The material terms of the DIP term sheet include:
- a. Loan amount: up to \$1,500,000.
 - b. Interest: 6.99% per annum, calculated and payable monthly
 - c. Term: 1 year. Right to repay in full at any time upon 45 days' notice.
 - d. Fees: \$15,000 brokerage fee and \$1,200 administration fee, plus lender's legal fees.
 - e. Security: DIP Charge as sought on this motion.
 - f. Conditions: the only condition of materiality is this court's granting the relief sought on this motion.
47. As seen above, pursuant to the Cashflows, the Companies' additional funding requirements over the next 15 weeks is \$1,000,000, but the current projections suggest that much of that funding will be required after the first extension period in the NOI Proceedings, which will be June 1, 2021. In discussions with RBC, the Companies have agreed that the order sought on this first motion would limit the maximum borrowing amount under the DIP Loan Facility to (i) \$750,000, (ii) a further \$250,000 with the written consent of the Proposal Trustee in consultation with RBC, and (iii) any further amounts with the written consent of RBC or further court order. The DIP term sheet allowing for a loan amount up to \$1,500,000 ensures its continued usability should the Companies require additional DIP financing in the course of the restructuring.
48. I am informed by the Proposal Trustee and counsel for the Companies that the terms of the DIP term sheet compare favourably to DIP financing terms approved by the courts in restructurings involving similar situations to that of the Companies.

VIII. INTENDED RESTRUCTURING APPROACH AND COMPANIES' ACTIVITIES SINCE THE START OF THE NOI PROCEEDINGS TOWARDS THE SAME

49. The Companies intend to preserve their business as going concerns, which will benefit their clients, suppliers, employees, equity holders, and creditors. Towards that goal, the filing of NOIs was required to (i) stabilize operations, (ii) avoid the appointment of a receiver by RBC or other enforcement steps, and (iii) allow the necessary breathing room to define viable restructuring options. Accordingly, on March 18, 2021, the Proposal Trustee filed the Companies' NOIs as set out above.
50. Other than a possible sale of the Redundant Equipment, as discussed below, no liquidation of assets is currently contemplated. At present, the Companies' restructuring plans are to: (i) locate, with the assistance of the Proposal Trustee and counsel for the Companies, alternative financing to take out the RBC loans, and (ii) thereafter making a proposal to the balance of the Companies' creditors. Efforts to seek refinancing commenced prior to the NOI Proceedings and are ongoing.
51. I am confident that viable refinancing options can be located, considering, among other things, that the Properties are largely unencumbered and hold substantial equity, as more fully appears from the above discussion and the appraisals attached as Confidential Exhibits "1".
52. Although not a core component of the restructuring plans, the Companies have also considered whether all of their equipment is being used or productively used, with a view to possibly selling the Redundant Equipment, a list of which is attached as

Confidential Exhibit “3” consisting in checkmarks marking the Redundant Equipment on a copy of the Confidential Exhibit “2” appraisal for the Drexler/Folmur M&E.

53. Otherwise, since the filing of the NOIs, the Companies have worked with the Proposal Trustee with transparency, diligence and good faith, including towards the Cash Flow Forecasts, discussions with stakeholders, and defining restructuring options.

IX. RELIEF SOUGHT

a. Consolidation

54. The Companies are largely integrated, including at the management and shareholder level, and have the same major creditor, RBC, which holds intersecting claims against all the Companies. I understand that each entity had to commence a separate proceeding, but the restructuring is principally in respect of the RBC debt, at least in the initial stages. Administrative consolidation is intended to streamline costs, including with respect to court attendances, creditor reporting and general file administration. It would facilitate the handling of this restructuring as a unified case, which it factually is.

b. Extension of time

55. As discussed above, the Companies have, among other things, defined their cashflow needs, identified all known creditors and assets, and determined the preferred restructuring path. The Companies have been working in good faith and with due diligence with the Proposal Trustee, and keeping transparent communications with all stakeholders, including RBC, throughout.

56. The extension of time is principally to continue seeking take-out financing for RBC, after which the Companies intend to make a proposal to their remaining creditors. I believe that following the one-time restructuring expenses, a viable proposal to creditors can be made to allow the Companies to remain going concerns, to the benefit of all their stakeholders including clients, suppliers, employees, shareholders and creditors.

c. DIP Financing and Charge

57. As set out in detail above, the Companies require financing to allow continued operations and a restructuring, considering the unavailability of the RBC credit facilities in the circumstances. The DIP term sheet with the DIP Lender is “market” and I believe its terms are fair and reasonable. Further, the orders sought limit the DIP loan amounts to the current best estimate of the true financing needs of the Companies over the next 15-week period, while allowing flexibility should these needs prove to have been underestimated.

58. On the subject of the DIP financing charge, the order sought would constitute the charge against the HQ Property and the Catherine Property, with a rank prior to any Encumbrance on those properties save and except any Encumbrance in favour of RBC and any Encumbrance that primes such RBC’s Encumbrance. This collateralization and priority scheme was discussed among and is acceptable to the Companies, the DIP Lender and RBC.

59. The orders sought also allow the parties to draft, execute and register all necessary and attendant documentations to effect the DIP charge, including by way of mortgage, etc.

d. Administration Charge

60. The Companies' restructuring is complex and entirely dependent on the involvement of the Proposal Trustee and professional assistance from legal counsel, including for court appearances. While it is intended that the Companies pay the restructuring professionals' fees on a current basis during the NOI Proceedings, the Administration Charge is intended to operate as a backstop in case there are any unforeseen problems. It is therefore limited to a maximum of \$100,000, and is to rank in priority to all Encumbrances on either or both of the HQ or Catherine Properties, save and except (i) any Encumbrance in favour of RBC and any Encumbrance ranking in priority to RBC's Encumbrance, and (ii) the DIP Lender's Charge. Such amount, collateral and rank for the Administration Charge strikes a balance between the interests of the Companies, the professionals, and RBC.

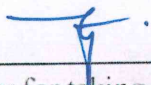
e. Sale of Redundant Equipment

61. As noted above, the Companies have identified that some of their equipment is not being used and could be sold. The Companies therefore seek authorization to sell the Redundant Equipment, provided that each sale is for no less than the appraised amount for that piece of equipment as set out in Confidential Exhibit "2", either through Canam-Appraiz Inc. or privately. I am advised by counsel that the draft order sought provides for a mechanism allowing the resolution of any priority issues, notwithstanding that RBC is anticipated to possibly be the only creditor with security on most of the Redundant Equipment by virtue of the RBC GSAs.

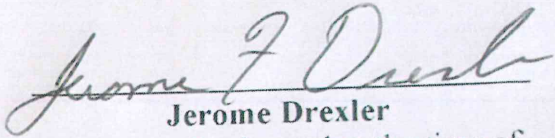
f. Sealing orders

62. Confidential Exhibits "1", "2" and "3, being appraisals, contain information that would "pollute" and affect the integrity of any future sale or liquidation process with respect to those assets if the information were accessible to bidders and the market generally. The Companies therefore seek orders sealing those exhibits from the public record pending the earlier or court approval of a proposal in respect of all the Companies or further court order.

SWORN BEFORE ME via ~~Zoom~~ ^{FaceTime} at the City of Toronto, in the Province of Ontario, this 12th day of April, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



Commissioner for taking affidavits
(present at Toronto at the time of swearing)



Jerome Drexler
(present at Rockwood at the time of swearing)

JOËL TURGEON

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
PROCEEDINGS OF DREXLER CONSTRUCTION LIMITED, A
CORPORATION INCORPORATED UNDER THE ONTARIO *BUSINESS
CORPORATIONS ACT***

Estate No. 35-2721716

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**AFFIDAVIT OF JEROME DREXLER
(sworn April 12, 2021)**

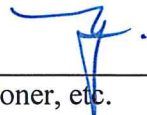
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Tel: (416) 597-6486
Email: turgeon@gsnh.com

Lawyers for the moving parties and debtor companies,
Drexler Construction Limited, Folmur Construction
(2004) Limited, and Down Under Pipe and Cable
Locating Limited

This is **Exhibit "B"** to the affidavit of Jerome Drexler sworn before me via Zoom this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

Soek TULGEOW

District of Ontario
Division No.: 08 - Waterloo
Estate No.: 35-2721716
Court No.: 35-2721716

ONTARIO
SUPERIOR COURT OF JUSTICE
(In Bankruptcy and Insolvency)

In the matter of the proposal of
Drexler Construction Limited
of the Town of Rockwood, in the Province of Ontario

PROPOSAL
(Dated August 30, 2021)

Drexler Construction Limited, the above named Debtor, hereby submits the following Proposal under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. (1985), c.B-3, as amended (the “BIA”).

1. DEFINITIONS

In this Proposal, the following terms have the meaning herein set out:

- (a) **Claim.** Any right of any person against the Debtor in connection with any indebtedness, liability or obligation of the Debtor of any kind which was in existence at the NOI Date, whether or not reduced to judgement, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, surety or otherwise, and whether or not such a right is executory in nature, including, without limitation, any claim referred to in this Proposal in respect of the termination or disclaimer by the Debtor of a lease, any product warranty liability and the right or ability of any person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause of action or chose in action, whether existing at present or commenced in the future based in whole or in part on facts which existed prior the NOI Date;
- (b) **Debtor.** Drexler Construction Limited;
- (c) **Final Approval.** Approval of the Proposal by the Creditors and the Court and any appeal period with respect to the Court Approval having expired;
- (d) **NOI Date.** Date of the filing of the Notice of Intention to Make a Proposal with the Official Receiver being March 18, 2021;

- (e) **Ordinary Creditors.** Unsecured Creditors, excluding the Preferred Creditors;
- (f) **Preferred Creditors.** Creditors with proven claims for which the BIA prescribes payment in priority to claims of Ordinary Creditors;
- (g) **Proposal.** This Proposal, as it may be amended from time to time;
- (h) **Proposal Date.** Date of the filing of the Proposal with the Official Receiver;
- (i) **Proven Claim.** Any claim which was the subject of a proof of claim in accordance with the BIA, filed with the Trustee and considered admissible by it;
- (j) **Real Property.** Collectively the following:
 - i. 5270 Wellington Rd 27, Township of Guelph/Eramosa (Commercial),
 - ii. 5270 Wellington Rd 27, Township of Guelph/Eramosa (Residential),
 - iii. 183 Catherine St, Township of Guelph/Eramosa (Development Land)
- (k) **Secured Creditors.** Those creditors with a security interest in the assets of the Debtor;
- (l) **Trustee.** Albert Gelman Inc., as Trustee to the Proposal of the Debtor;
- (m) **Trustee' Fees and Disbursements.** The Trustee's Fees and Disbursements are comprised of all fees and out of pocket disbursements, including legal fees, of Albert Gelman Inc. incidental to the Proposal. The Trustee's fees shall be billed on a time and hourly rate basis and shall include HST. The Trustee shall be at liberty to withdraw and pay its fees and disbursements from the Proposal Fund, from time to time. The Trustee's hourly billing rates for its professional and administrative staff are subject to change without notice.
- (n) **Unsecured Creditors.** Collectively, the Preferred Creditors, the Ordinary Creditors;

2. DEBTS OWED TO THE CROWN

- (a) Proven claims of Her Majesty in right of Canada or a province of all amounts of a kind that could be subject to a demand under subsection 224(1.2) of the Income Tax Act or under any substantially similar provision of provincial legislation that were outstanding on the NOI Date shall be paid in full within six (6) months of Court approval of this Proposal unless Her Majesty in Right of Canada or a province consents to some other arrangement. The amount payable pursuant to this section of the Proposal will be paid directly by the Debtor to the CRA. The Trustee will not be responsible to monitor payment of this provision of the Proposal.

3. SECURED CREDITORS

- (a) This Proposal is not made to Secured Creditors. Payment of the claims of Secured Creditors shall be made in the usual manner or as may be agreed between the Debtor and the Secured Creditors.

4. PREFERRED CREDITORS

- (a) Proven Claims of Preferred Creditors, without interest, shall be paid in full in priority to all Unsecured Creditors;
- (b) Claims of employees and former employees of amounts equal to the amounts that they would be qualified to receive under paragraph 136(1)(d) of the BIA as well as wages, salaries, commissions or compensation for services rendered after the NOI Date and before Final Approval of this Proposal, together with, in the case of travelling salesmen, disbursements properly incurred by those salesmen in and about the Debtor's business during the same period shall be paid by the Debtor immediately after Final Approval of this Proposal.

5. UNSECURED CREDITORS

- (a) The Debtor shall remit to the Trustee the total sum of \$1,640,220.72 (the "**Proposal Fund**"), to be remitted in 24 consecutive monthly payments of \$68,342.53 each commencing in the month following Final Approval.
- (b) The Trustee shall distribute the Proposal Fund in the following order:
 - i. Proven Claims of Preferred Creditors;
 - ii. To Ordinary Creditors with Proven Claims under the Proposal on a *pro rata pari passu* basis, less the required levy payable to the Office of the Superintendent of Bankruptcy.
- (c) Creditors shall accept these payments as full, final and complete satisfaction of their claims.
- (d) The Debtor shall have the right to prepay the balance due under the Proposal prior to the expiration of the scheduled payment terms.

6. TRUSTEE'S FEES AND DISBURSEMENTS

- (a) In addition to the Proposal Fund, the Debtor has agreed to fund the Trustee's Fees and Disbursements. The funds paid by the Debtor to fund the Trustee's Fees and Disbursements are in addition to the Proposal Fund. The Debtor shall fund the entirety of the Trustee's Fees and Disbursements before the Trustee issues a certificate of full completion.

7. REAL PROPERTY

- (a) The Debtor owns the Real Property, which is comprised of three parcels of land:
 - i. commercial the land and building which it operates from;
 - ii. a residential dwelling located adjacent to the commercial land and building; and,
 - iii. a parcel of undeveloped residential development land.
- (b) Subsequent to the filing of the NOI, the Debtor applied to the Court and obtained an order authorizing it to proceed with mortgage financing, secured against the Real Property, through its lender Corwin Mortgage Capital Inc. for \$1.5 million (“**Corwin Facility**”). The Corwin Facility was needed to fund the Debtor’s operating cash flow and ultimately used to payout debts owing to RBC, totaling approximately \$1.4 million, secured against the Debtor’s assets.
- (c) As of the date of the filing of the Proposal, the RBC has been paid out in full and the Debtor will be applying to the Court on September 10, 2021 seeking an increase in the Corwin Facility to \$2.5 million. The additional funds are needed to replace the working capital used by the Debtor to payout RBC.
- (d) The Debtor is in the process of finalizing long-term financing through Canadian Equipment Finance & Leasing Inc. (“**CEFL**”) in the amount of \$3.5 million, in order to payout the Corwin Facility and provide sufficient working capital. This transaction will be subject to Court approval and is expected to close in October 2021.

8. GENERAL PROVISIONS

- (a) The Trustee is acting in its capacity as trustee under this Proposal and shall not be responsible or liable for any obligations of the Debtor. The Trustee shall have the powers granted to it by the Proposal, by the BIA, and by any order of the Court. The Trustee will be exempt from all personal liability in fulfilling any duties or exercising any powers conferred upon it by the Proposal or generally in carrying out the terms of this Proposal unless such acts have been carried out in bad faith and constitute a wilful or wrongful act or default. Sections 91 to 101 of the BIA (with the exception of Section 97(3)) shall not apply in connection with this Proposal or any dealing by the Debtor prior to the NOI Date, and the Trustee shall have no responsibility, liability or authority whatsoever in connection therewith. The Trustee shall not monitor or in any way manage the Debtor’s business or financial affairs.
- (b) The Trustee under this Proposal is acting solely as Trustee and not in its personal capacity and shall not be responsible or liable for any obligations of the Debtor.
- (c) All monies payable under the terms of this Proposal, unless otherwise stated herein, shall be paid over to the Trustee who shall make all payments in accordance with the terms of this Proposal.

- (d) The Creditors, at the meeting of creditors to consider this Proposal, may appoint up to five Inspectors who will have, in addition to any powers of Inspectors under the BIA, the power to:
- i. receive any notice of default in the performance of the Proposal and waive any such default;
 - ii. advise the Trustee in respect of such matters as may be referred to the inspectors by the Trustee; and,
 - iii. extend the time for any payment due under this Proposal provided that any such extension does not lengthen the total term of the Proposal.
- (e) Upon the issuance of the Certificate of Full Performance by the Trustee to the Debtor, the Directors shall be released and discharged by all Creditors from all Claims, which any Preferred Creditors or Ordinary Creditors may have or have been entitled to assert against any of the directors for which they would be, by law, liable in their capacity as directors for the payment of such claims which arose prior to the NOI Date, provided that nothing herein shall release or discharge any of the directors from Claims that:
- i. Relate to contractual right of one or more of the Ordinary Creditors arising from contract with one or more of the directors; or
 - ii. Are based on allegations of misrepresentation made by the directors to the Ordinary Creditors or of wrongful or oppressive conduct by the directors.
- (f) All proper claims against the Debtor arising with respect to goods supplied, services rendered, or other consideration given or provided after the NOI Date, up to the date of approval of this Proposal by the Superior Court of Justice in Bankruptcy, and not otherwise dealt with pursuant to this Proposal, shall be paid in full by the Debtor in the ordinary course, in priority to the claims of all other Creditors.
- (g) The provisions of this Proposal will be binding on the creditors with Claims and the Debtor, and their respective heirs, executors, administrators, successors and assigns, upon issuance of the Final Approval.
- (h) The following creditor(s) have agreed not to file a Claim in this Proposal and will not participate in distributions to Unsecured Creditors under this Proposal:
- Folmur Construction (2004) Ltd.
 - 2602763 Ontario Ltd.
 - Drexcon III Ltd.
- (i) Any notices or communication to be made or given in this Proposal shall be in writing and shall refer to this Proposal and may, subject as hereinafter provided, be made or given by personal delivery, by prepaid mail or by e-mail.

- i. if addressed to the Debtor use the following address:

Goldman, Sloan, Nash and Haber LLP, counsel to the Debtor
480 University Ave Suite 1600
Toronto, Ontario M5G 1V2
Attention: Brendan Bissell
E-mail: bissell@gsnh.com

- ii. if addressed to the Trustee use the following address:

Albert Gelman Inc.
100 Simcoe St. Suite 125
Toronto, Ontario M5H 3G2
Attention: Bryan Gelman
E-mail: bgelman@albertgelman.com

- (j) For purposes of this Proposal, Claims denominated in a currency other than Canadian funds will be converted to Canadian Dollars at the closing spot rate of exchange of the Bank of Canada on the NOI Date.

Dated at Toronto, Ontario, this 30th day of August, 2021,

Drexler Construction Limited


Per: _____
Anthony Alfred Drexler

I have the authority to bind the corporation.

District of Ontario
Division No.: 08 - Waterloo
Estate No.: 35-2721716
Court No.: 35-2721716

**ONTARIO
SUPERIOR COURT OF JUSTICE
(In Bankruptcy and Insolvency)**

In the matter of the proposal of
Drexler Construction Limited
of the Town of Rockwood, in the Province of Ontario

CREDITOR ACKNOWLEDGEMENT


Pursuant to the Debtor's Proposal, the following creditors hereby confirm that they will not file a Claim in this Proposal and will not participate in any distributions to Unsecured Creditors under this Proposal.

Folmur Construction (2004) Ltd.

Per: 
Anthony Alfred Drexler


I have authority to bind the corporation.

2602763 Ontario Ltd.

Per: 
Peter Drexler

I have authority to bind the corporation

Drexcon III Ltd.

Per: 
Jerome Drexler

I have authority to bind the corporation.

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721716
 Estate No. 35-2721716

Form 78
 Statement of Affairs (Business Proposal) made by an entity
 (Subsection 49(2) and Paragraph 158(d) of the Act / Subsections 50(2) and 62(1) of the Act)

In the matter of the proposal of
 Drexler Construction Limited
 of the Town of Rockwood, in the Province of Ontario

To the debtor:

You are required to carefully and accurately complete this form and the applicable attachments showing the state of your affairs on the date of the filing of your proposal (or notice of intention, if applicable), on the 18th day of March 2021. When completed, this form and the applicable attachments will constitute the Statement of Affairs and must be verified by oath or solemn declaration.

LIABILITIES (as stated and estimated by the officer)		ASSETS (as stated and estimated by the officer)	
1. Unsecured creditors as per list "A"	4,758,989.10	1. Inventory	0.00
Balance of secured claims as per list "B"	0.00	2. Trade fixtures, etc.	0.00
Total unsecured creditors	4,758,989.10	3. Accounts receivable and other receivables, as per list "E"	
		Good	1,443,449.00
2. Secured creditors as per list "B"	1,500,000.00	Doubtful	0.00
		Bad	0.00
3. Preferred creditors as per list "C"	0.00	Estimated to produce.	1,443,449.00
		4. Bills of exchange, promissory note, etc., as per list "F"	0.00
4. Contingent, trust claims or other liabilities as per list "D" estimated to be reclaimable for	0.00	5. Deposits in financial institutions	0.00
Total liabilities.	6,258,989.10	6. Cash	692,144.69
Surplus	8,938,686.40	7. Livestock.	0.00
		8. Machinery, equipment and plant.	574,720.00
		9. Real property or immovable as per list "G"	7,760,000.00
		10. Furniture	0.00
		11. RRSPs, RRIFs, life insurance, etc.	0.00
		12. Securities (shares, bonds, debentures, etc.)	0.00
		13. Interests under wills	0.00
		14. Vehicles	593,255.00
		15. Other property, as per list "H"	4,134,106.81
		If debtor is a corporation, add:	
		Amount of subscribed capital	0.00
		Amount paid on capital	0.00
		Balance subscribed and unpaid.	0.00
		Estimated to produce	0.00
		Total assets	15,197,675.50
		Deficiency	NIL

I, Anthony Alfred Drexler, of the Town of Rockwood in the Province of Ontario, do swear (or solemnly declare) that this statement and the attached lists are to the best of my knowledge, a full, true and complete statement of the affairs of the Corporation on the 30th day of August 2021 and fully disclose all property of every description that is in my possession or that may devolve on me in accordance with the Act.

SWORN (or SOLEMNLY DECLARED)
 before me at the City of Rockwood in the Province of Ontario, on this 30th day of August 2021.



Bryan Gelman, Commissioner of Oaths
 For the Province of Ontario
 Expires November 22, 2022



Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721716
 Estate No. 35-2721716

FORM 78 – Continued

List "A"
 Unsecured Creditors

Drexler Construction Limited

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
1	1477830 Ontario Inc.	155 Werlich Dr Cambridge ON N1T 1Y2	612.96	0.00	612.96
2	2602763 Ontario Ltd.	339 Elgin St. Port Elgin ON N0H 2C0	99,981.23	0.00	99,981.23
3	Action Car and Truck Accessories	. . ON .	1,268.97	0.00	1,268.97
4	Acton Precast Concrete Ltd	. . ON .	1.00	0.00	1.00
5	Alectra Utilities (formerly Enersource Hydro)	55 John St North Hamilton ON L8R 3M8	5,550.45	0.00	5,550.45
6	Altruck International Truck Centres	48 Ardelt Avenue Kitchener ON N2C 2C9	592.96	0.00	592.96
7	Ancaster Electric	1304 Fiddlers Green Road Ancaster ON L9G 3L1	8,768.80	0.00	8,768.80
8	Armtec Inc.	2976 Day Street Sunnyside Winnipeg MB R5R 0H7	557.32	0.00	557.32
9	Artic Clear 1993 Inc.	509 Dickson Drive Fergus ON N1M2W7	126.80	0.00	126.80
10	Astley Gilbert Limited	42 Carnforth Road Toronto ON M4A 2K7	304.09	0.00	304.09
11	Automated Engineerings Attn: Carolin	91A Duke Street Guelph ON N1E 5L1	566.47	0.00	566.47
12	Badger Daylighting LP	PO Box 9237 Station M Calgary AB T2P 0T4	60,131.57	0.00	60,131.57
13	Barricade Traffic Services Inc. DRE001	8672 Keele Street Concord ON L4K 2N2	6,296.64	0.00	6,296.64
14	Barry Cullen Chev Cadillac Ltd	905 Woodlawn Road W Guelph ON N1K 1B7	2,730.40	0.00	2,730.40
15	Bell Canada F-88 - Business Attn: Insolvency Department	1 Carrefour Alexandre-Graham-Bell, Aile E3 Verdun QC H3E 3B3	2,305.98	0.00	2,305.98
16	Bell Mobility c/o FCT Default Solutions	PO Box 2514, Stn B London ON N6A 4G9	8,728.05	0.00	8,728.05
17	BGL Contractors Corp.	608 Colby Drive Waterloo ON N2V 1A2	11,719.23	0.00	11,719.23
18	Bob's Towing	29 Wells Street Guelph ON N1E 6B7	446.35	0.00	446.35
19	Bolts Plus Incorporated DRE9526	8800 George Bolton Parkway Bolton ON L7E 2Y4	5,926.25	0.00	5,926.25
20	Bomar Landscaping Inc.	Po Box 25078 Stone Road Guelph ON N1G 4T4	102,180.67	0.00	102,180.67
21	Brandt Tractor Ltd	365 Industrial Road Cambridge ON N3H 5S1	1.00	0.00	1.00
22	Brydges Landscape Architecture Inc.	35 Galt Street Guelph ON N1H 3G5	4,738.95	0.00	4,738.95
23	Canadian Cutting & Coring Ltd.	77 Ward Road Brampton ON L6S 6A8	1,271.25	0.00	1,271.25
24	Canadian Linen & Uniform Service 560003294	155 Adelaide Street South London ON N5Z 3K8	871.43	0.00	871.43

30-Aug-2021

Date



Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721716
 Estate No. 35-2721716

FORM 78 – Continued

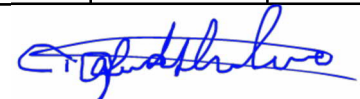
List "A"
 Unsecured Creditors

Drexler Construction Limited

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
25	Canadian Network Broadcasting Attn: Warren Quinn	200 - 456 Danforth Avenue Toronto ON M4K 1P4	5,650.00	0.00	5,650.00
26	Capital Paving Inc. ZDREX01	P.O. Box 815 Guelph ON N1H 6L8	11,773.09	0.00	11,773.09
27	Centrelinc Sanitation Ltd. DREXLER	108 Meg Drive, Unit 1 London ON N6E 3T7	2,093.33	0.00	2,093.33
28	CG Equipment	521 Michener Road Guelph ON N1K 1C8	2,761.16	0.00	2,761.16
29	Coco Paving Inc. 209194	949 Wilson Avenue Toronto ON M3K 1G2	4,353.85	0.00	4,353.85
30	Compressed Air International Inc.	60 Haist Ave. U#1 Woodbridge ON L4L 5V4	1,126.24	0.00	1,126.24
31	Con Cast Pipe Ltd Attn: Paul Crow	299 Brock road South Puslinch ON N0B 2J0	24,117.56	0.00	24,117.56
32	Construct Connect Canada Inc.	Lockbox T09510C Toronto ON M5W 2K3	339.00	0.00	339.00
33	Cooper Equipment Rentals Ltd.	C/O TX4009C P.O. Box 4590 Stn A Toronto ON M5W 7B1	9,514.41	0.00	9,514.41
34	Corix Water Services Inc. Attn: Simon Hoang	PO Box 20217 Kelowna BC V1Y 9H2	12,031.23	0.00	12,031.23
35	Cox Construction Ltd.	P.O. Box 427 Guelph ON N1H 6K5	66,550.26	0.00	66,550.26
36	CRA - Tax - Ontario 10148 7387 RT 0001	Shawinigan-Sud National Verification and Collection Centre 4695 Shawinigan-Sud Blvd Shawinigan-Sud QC G9P 5H9	127,162.87	0.00	127,162.87
37	CRS Contractors Rental Supply - Kitchener	75 Centennial Road Kitchener ON N2B 3E9	1.00	0.00	1.00
38	Deboers Equipment	0519 Wellington Road 7 Elora ON N0B 1S0	403.99	0.00	403.99
39	Dettmer Tire & Auto Service	325 Eramosa Road Guelph ON N1E 2N1	974.85	0.00	974.85
40	Drexcon III Ltd. Attn: Jake Drexler / Jerome Drexler	77 Cedarside Drv Elora ON N0B 1S0	66,450.14	0.00	66,450.14
41	Emco Distribution Ltd 8390724610	P.O. Box 5300, Stn A London ON N2R 1S1	129,203.68	0.00	129,203.68
42	Enbridge Gas Inc.	P.O. Box 4001 STN A Toronto ON M5W 0G2	5,649.94	0.00	5,649.94
43	Enerliv Insulation Attn: Maria Harrison	185 Washburn Drive Kitchener ON N2R 1S1	2,293.90	0.00	2,293.90
44	ETR- 407 Express Toll Route 769947139	P.O. Box 407, Stn D Scarborough ON M1R 5J8	224.33	0.00	224.33
45	Fergus Starter & Alternator	PO Box 187 Fergus ON N1M 2W8	2,411.98	0.00	2,411.98
46	Folmur Construction (2004) Ltd.	5274 Wellington County Road 27 R.R. #1 Rockwood ON N0B 2K0	2,952,337.11	0.00	2,952,337.11
47	Form & Build Supply Inc. - Windsor Office	5360 Brendan Lane Maidstone ON N0R 1K0	408.98	0.00	408.98

30-Aug-2021

Date



Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721716
 Estate No. 35-2721716

FORM 78 – Continued

List "A"
 Unsecured Creditors

Drexler Construction Limited

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
48	Fred E. Prior & Sons Ltd	38 Hood Street Guelph ON N1E 5W3	422.62	0.00	422.62
49	G & A Lock Services Ltd.	125 Union Street East Waterloo ON N2J 4E5	179.36	0.00	179.36
50	Go Glass & Accessories	. . ON .	664.75	0.00	664.75
51	Grand River Occupational Health And Safety Inc.	. . ON .	23,115.85	0.00	23,115.85
52	Graybar Electric Ltd. 807597	130 Hayward Ave Kitchener ON N2G 4E8	153,983.62	0.00	153,983.62
53	Greenwood Aggregates Ltd. Attn: Tracy Hughes	205467 County Road 109 Amarnath ON L9W 0V1	8,568.90	0.00	8,568.90
54	Greenwood Construction Co Ltd Attn: Tracy Hughes	205467 County Road 109 Amarnath ON L9W 0V1	5,445.23	0.00	5,445.23
55	Greenwood Ready Mix Attn: Tracy Hughes	205467 County Road 109 Amarnath ON L9W 0V1	4,959.21	0.00	4,959.21
56	Groeneveld Lubrication Solutions	8450 Lawson Road Milton ON L9T 0J8	404.61	0.00	404.61
57	Guelph Auto Parts	354 Elizabeth Street Guelph ON N1E 2X9	5,293.30	0.00	5,293.30
58	Guelph Powersweeping	7118 Wellington Road 124 Guelph ON N1H 6J3	497.20	0.00	497.20
59	Harrison Pensa LLP Lawyers for TD Auto Finance (Can)	450 Talbot St. London ON N6A 5J6	1.00	0.00	1.00
60	Highway Sterling Western Star	1021 INDUSTRIAL RD (Hwy 401 & 97) Ayr ON N0B 1E0	1,934.72	0.00	1,934.72
61	Hlb System Solutions	291 Woodlawn Road West Guelph ON N1H 7L6	1,544.40	0.00	1,544.40
62	Hose Technology Ltd.	32 Airpark Place Guelph ON N1L 1B2	1,777.35	0.00	1,777.35
63	Hunter Steel Sales	107 Arrow Road Guelph ON N1K 1S8	1.00	0.00	1.00
64	Hydro One Accts Rec.	Unit Tct13-Nt, 483 Bay St N. Tower 13th Toronto ON M5G 2P5	1,059.81	0.00	1,059.81
65	Jim's Repair Shop	105 Alma Street, PO Box 439 Rockwood ON N0B 2K0	1,272.22	0.00	1,272.22
66	JL's Home Building Centre	575 Wellington Road West Guelph ON N1H 8L8	137.96	0.00	137.96
67	John Deere Financial Inc. 1DW624KZKHD678993	3430 Superior Court Oakville ON L6L 0C4	1.00	0.00	1.00
68	Juno Electric	69 Regal Rd Unit 1 Guelph ON N1K 1B6	1.00	0.00	1.00
69	Kardtech Remote Fuel Access Technology	41 Delta Park Blvd. Brampton ON L6T 5E7	146.90	0.00	146.90
70	Krown Body Maintenance	549 Massey Road Guelph ON N1K 1B3	652.23	0.00	652.23
71	Lafarge Construction Material	C/O T10088, PO Box 1088 Stn A Toronto ON M5W 2B1	2,435.65	0.00	2,435.65

30-Aug-2021

Date



Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721716
 Estate No. 35-2721716

FORM 78 – Continued

List "A"
 Unsecured Creditors

Drexler Construction Limited

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
72	Leathertown Lumber	264 Main Street North Acton ON L7H 1W9	83.53	0.00	83.53
73	Leslie Sand & Gravel	5519 6th Line Rockwood ON N0B 2K0	82,969.78	0.00	82,969.78
74	Loadstar Trailers Inc.	PO Box 104 Lakeshore Road Port Hope ON L1A 3V9	953.60	0.00	953.60
75	Maestro Technologies	. . ON .	10,380.32	0.00	10,380.32
76	Mann 2018 Limited	7367 Wellington Road 30 Guelph ON N1H 6J2	44,728.64	0.00	44,728.64
77	Maple Leaf Industrial Supplies	PO Box 638 - 30 Duke Street Arthur ON N0G 1A0	1,230.28	0.00	1,230.28
78	Messer Gasses For Life 2022788	45 Raglin Place Cambridge ON N1R 7J2	677.44	0.00	677.44
79	Millar, Andrew	. . ON .	678.00	0.00	678.00
80	Miller Mobile Offices	1732 Dundas Hwy East Mississauga ON L4X 1L8	1,559.40	0.00	1,559.40
81	Miller Thomson LLP	301 - 100 Sone Road West Guelph ON N1G 5L3	3,758.78	0.00	3,758.78
82	Mister Transmission	775 Woodlawn Road W Guelph ON N1K 1E9	3,978.99	0.00	3,978.99
83	MSC 230881-0001	2595 Skymark Avenue, Suite 202 Mississauga ON L4W 4L5	1,578.81	0.00	1,578.81
84	MTE Consultants Inc.	520 Bingemans Centre Drive Kitchener ON N2B 3X9	462.17	0.00	462.17
85	Mulmur Aggregates Inc	Po Box 427 Guelph ON N1H 6K5	21,700.65	0.00	21,700.65
86	Murtech Manufacturing Inc.	28 Commerce Cres Acton ON L7J 2X3	840.72	0.00	840.72
87	National Concrete Accessories Attn: Mike Melville	1310 Humber Place Ottawa ON K1B 3W3	4,517.06	0.00	4,517.06
88	Newlife Cabinetry	. . ON .	9,215.15	0.00	9,215.15
89	Oosterveld Heating & Air Cond.	1007 York Road Guelph ON N1E 6Y9	1,131.92	0.00	1,131.92
90	Pete Ranger Tire & Regrooving	104 Silvercreek Pkwy N. PO Box 31112 Willow W Guelph ON N1H 6J4	12,003.43	0.00	12,003.43
91	Peto MacCallum Ltd.	165 Cartwright Avenue Toronto ON M6A 2V5	8,366.41	0.00	8,366.41
92	Pipeflo Contracting Corp.	111 Frid Street Hamilton ON L8P 4M3	9,040.00	0.00	9,040.00
93	Protector Security & Locksmith	. . ON .	338.32	0.00	338.32
94	Purolator Courier Ltd 2882338	PO Box 4800 Stn Main Concord ON L4K 0K1	95.46	0.00	95.46
95	Regional Hose Guelph Ltd	. . ON .	230.86	0.00	230.86

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721716
 Estate No. 35-2721716

FORM 78 – Continued

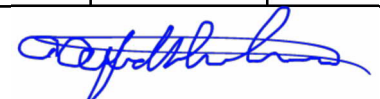
List "A"
 Unsecured Creditors

Drexler Construction Limited

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
96	Reyner Electrical Construction Inc.	835988 Hubbard Road Drumbo ON N0J 1G0	27,284.32	0.00	27,284.32
97	RLB 1000008447	197 Hanlon Creek Blvd. Unit 103 Guelph ON N1C 0A1	86,755.75	0.00	86,755.75
98	Robt Noble Ltd.	9365 Wellington Road 50 Ballinafad ON N0B 1H0	678.00	0.00	678.00
99	Rockwood Home Hardware	. . ON .	398.27	0.00	398.27
100	Rona Cashway Building Centre	55 Dawson Road Guelph ON N1H 1B1	1,507.60	0.00	1,507.60
101	Royal Bank of Canada Attn: Ian Aversa	Brookfield Place 181 Bay Street, Suite 1800 Toronto ON M5J 2T9	1.00	0.00	1.00
102	Safety-Kleen Canada Inc Attn: Mohiuddin, Syed Azeem DR10075	60 Bury Court Brantford ON N3S 7V2	909.11	0.00	909.11
103	Sandale Utility Products 8392129526	Po Box 5300, Stn A, London ON N6A 4N7	27,445.53	0.00	27,445.53
104	Selectra Inc	. . ON .	1.00	0.00	1.00
105	Signshop	. . ON .	949.20	0.00	949.20
106	Spectrum Lab Groups 9384	PO Box 77074 Martingrove PO Woodbridge ON L4L 9S3	500.39	0.00	500.39
107	Speedy Collision - Guelph	349B Elizabeth Street Guelph ON N1E 2X9	8,134.76	0.00	8,134.76
108	St Marys Cement Inc.	Canada Lockbox 917330, PO Box 4090 Stn A Toronto ON M5W 0E9	38,854.41	0.00	38,854.41
109	Star Mechanical Ltd	44 Johnston Street Guelph ON N1E 5T6	127.92	0.00	127.92
110	Sunbelt Rentals Inc. 7010376	Po Box 99257 Station Terminal PO Box 99257 Vancouver BC V6B 0N5	34,392.12	0.00	34,392.12
111	Syntec Process Equipment	. . ON .	4,820.58	0.00	4,820.58
112	Ted's Tire Discounter	. . ON .	91.38	0.00	91.38
113	The Bank of Nova Scotia 1GKS2CKJ1LR180720	10 Wright Boulevard Stratford ON N5A 7X9	1.00	0.00	1.00
114	The Murray Group Ltd.	83 McGivern St., PO Box 40 Moorefield ON N0G 2K0	176,642.10	0.00	176,642.10
115	Town & Country Fencing	Box 31119 Willow West Guelph ON N1H 8K1	141.25	0.00	141.25
116	Township of Guelph/Eramosa Tax Department	Box 700 Rockwood ON N0B 2K0	8,278.42	0.00	8,278.42
117	Treasurer of Ontario (EHT)	33 King Street W PO Box 620 Oshawa ON L1H 8E9	5,014.01	0.00	5,014.01
118	T-Rex Construction	218 17-A Silvercreek Parkway N Box 309 Guelph ON N1H 8E8	40,637.62	0.00	40,637.62

30-Aug-2021

Date



Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721716
 Estate No. 35-2721716

FORM 78 – Continued

List "A"
 Unsecured Creditors

Drexler Construction Limited

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
119	Tri County Sandblasting Inc.	. . ON .	2,260.00	0.00	2,260.00
120	Tunnel Vision Trenchless Services Inc.	127 Earl Thompson Place Ayr ON N0B 1E0	9,675.67	0.00	9,675.67
121	UPI Inc.	105 Silvercreek Pkwy N Guelph ON N1H 8M1	59,631.78	0.00	59,631.78
122	Walker Environmental Group Inc. Attn: Vanessa Ingraham	PO Box 100 Thorold ON L2V 3Y8	2,245.08	0.00	2,245.08
123	Waste Management Services	Po Box 4205 Stn A Toronto ON M5W 5L4	7,691.10	0.00	7,691.10
124	Wasteco	150 Orenda Road Brampton ON L6W 1W3	1.00	0.00	1.00
125	Wave Equipment Ltd. Attn: Jen	P.O. Box 218, 022790 Grey Road 16 Chatsworth ON N0H 1G0	4,510.39	0.00	4,510.39
126	Wayne Moore	c/o Samfiru Tumarkin LLP 275 Bank Street, Suite 402 Ottawa ON K2P 2L6	1.00	0.00	1.00
127	Wellington Dufferin Paving	8346 Wellington Country Road 19 Fergus ON N1M 2W4	4,921.35	0.00	4,921.35
128	Whitton Construction Ltd	R.R. #1 Rockwood ON N0B 2K0	4,520.00	0.00	4,520.00
129	Wm. Green Roofing Ltd.	45 Dawson Road, Unit #2 Guelph ON N1H 1B1	10,353.98	0.00	10,353.98
130	Wolseley Canada Inc. WX23135	Box 5330 Burlington ON L7R 4Z2	66.79	0.00	66.79
131	XENEX Enterprises Inc.	155 Rexdale Blvd. Suite 707 Toronto ON M9W 5Z8	135.60	0.00	135.60
132	Xerox Canada Ltd. Attn: Chantal Maillet	20 York Mills Road, Suite 500, Box 700 Toronto ON M2P 2C2	878.29	0.00	878.29
Total:			4,758,989.10	0.00	4,758,989.10

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721716
 Estate No. 35-2721716

FORM 78 – Continued

List "B"
 Secured Creditors

Drexler Construction Limited

No.	Name of creditor	Address	Amount of claim	Particulars of security	When given	Estimated value of security	Estimated surplus from security	Balance of claim
1	Bank of Montreal 3HTDTAPT1HN657832	5750 Explorer Drive Mississauga ON L4W 0A9	1.00	Motor Vehicles - Other - 2017 - International Truck - HX620 SBA 6X4 - 3HTDTAPT1HN657832	01-May-2017	0.00		1.00
2	Canadian Equipment Finance & Leasing Inc. 5KKMAXDV5MPMH0867	5-250 Woolwich St. S Breslau ON N0B 1M0	1.00	Motor Vehicles - Other - 2021 - Western Star - 4700SB - 5KKMAXDV5MPMH0867	14-Aug-2020	0.00		1.00
3	Corwin Mortgage Capital Inc. Attn: Kyle Fenwick	300-333 Wilson Avenue Toronto ON M3H 1T2	1,500,000.00	Real Property or Immovable - Land - Guelph - 183 Catherine St Real Property or Immovable - Building and Land - Guelph - 5270 Wellington Road 27 Real Property or Immovable - House - Rockwood - 5270 Wellington Road 27	10-May-2021 10-May-2021 10-May-2021	1,500,000.00 0.00 0.00	3,000,000.00 2,400,000.00 860,000.00	
4	John Deere Financial Inc. 1FF470GXVHE471498	295 Hunter Road, PO Box 1000 Grimsby ON L3M 4H5	1.00	Motor Vehicles - Other - 2018 - John Deere - 470GLFF - 1FF470GXVHE471498	05-Jun-2018	0.00		1.00
5	John Deere Financial Inc. 1T0310337672 / 1T0310SLJD337506	3430 Superior Court Oakville ON L6L 0C4	1.00	Motor Vehicles - Other - 2018 - John Deere - 310 SLT - 1T0310SLAJD337672 Motor Vehicles - Other - 2018 - John Deere - 310 SLT - 1T0310SLJD337506	22-Oct-2018 22-Oct-2018	0.00 0.00		1.00
6	John Deere Financial Inc. 1T0410LXPJD337623	3430 Superior Court Oakville ON L6L 0C4	1.00	Motor Vehicles - Other - 2018 - John Deere - 410LXT - 1T0410LXPJD337623	22-Oct-2018	0.00		1.00
7	John Deere Financial Inc. 1T0650KKCJF334720	3430 Superior Court Oakville ON L6L 0C4	1.00	Motor Vehicles - Other - 2018 - John Deere - 650K - 1T0650KKCJF334720	30-Sep-2020	0.00		1.00
8	TD Auto Finance (Canada) Inc. 1GC4YNE75LF221060	PO BOX 4086, Station A Toronto ON M5W 5K3	1.00	Motor Vehicles - Automobile - 2020 - Chevrolet - Silverado 2500 - 1GC4YNE75LF221060	06-Jul-2020	0.00		1.00
9	TD Auto Finance (Canada) Inc. 1GCPYFED0LZ270089	PO Box 4086, Station A Toronto ON M5W 5K3	1.00	Motor Vehicles - Automobile - 2020 - Chevrolet - Silverado 1500 - 1GCPYFED0LZ270089	10-Jul-2020	0.00		1.00

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721716
 Estate No. 35-2721716

FORM 78 – Continued

List "B"
 Secured Creditors

Drexler Construction Limited

No.	Name of creditor	Address	Amount of claim	Particulars of security	When given	Estimated value of security	Estimated surplus from security	Balance of claim
10	The Bank of Nova Scotia 1GC1KWEY4JF148859	4715 Tahoe Boulevard Mississauga ON L4W 0B4	1.00	Motor Vehicles - Automobile - 2018 - Chevrolet - Silverado 2500 - 1GC1KWEY4JF148859	07-Dec-2017	0.00		1.00
11	Wells Fargo Equipment Finance Company 902900-1058	1290 Central Parkway W. Suite 1100 Mississauga ON L5C 4R3	1.00	Motor Vehicles - Other - 2018 - John Deere - GO GT-3600 - 902900-1058	19-Jun-2018	0.00		1.00
Total:			1,500,010.00			1,500,000.00	6,260,000.00	10.00

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721716
Estate No. 35-2721716

FORM 78 – Continued

List "C"
Preferred Creditors for Wages, Rent, etc.

Drexler Construction Limited

No.	Name of creditor	Address and occupation	Nature of claim	Period during which claim accrued	Amount of claim	Amount payable in full	Difference ranking for dividend
Total:					0.00	0.00	0.00

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
Division No. 08 - Waterloo
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FORM 78 – Continued

List "D"
Contingent or Other Liabilities

Drexler Construction Limited

No.	Name of creditor or claimant	Address and occupation	Amount of liability or claim	Amount expected to rank for dividend	Date when liability incurred	Nature of liability
Total:			0.00	0.00		

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721716
 Estate No. 35-2721716

FORM 78 – Continued

List "E"
 Debts Due to the Debtor
 Drexler Construction Limited

No.	Name of debtor	Address and occupation	Nature of debt	Amount of debt (good, doubtful, bad)	Folio of ledgers or other book where particulars to be found	When contracted	Estimated to produce	Particulars of any securities held for debt
1	Due from 970743 Ontario Inc.	Ontario ON	Unsecured	117,189.00 0.00 0.00		18-Mar-2021	117,189.00	None
2	Due from Down Under Pipe & Cable Locating Ltd.	Ontario ON	Unsecured	12,000.00 0.00 0.00		18-Mar-2021	12,000.00	None
3	Due from related parties	Ontario ON	Unsecured	827,966.00 0.00 0.00		18-Mar-2021	827,966.00	None
4	Due from Shareholders	Ontario ON	Unsecured	486,294.00 0.00 0.00		18-Mar-2021	486,294.00	None
Total:				1,443,449.00 0.00 0.00			1,443,449.00	

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721716
Estate No. 35-2721716

FORM 78 – Continued

List "F"

Bills of Exchange, Promissory Notes, Lien Notes, Chattel
Mortgages, etc., Available as Assets

Drexler Construction Limited

No.	Name of all promissory, acceptors, endorsers, mortgagors, and guarantors	Address	Occupation	Amount of bill or note, etc.	Date when due	Estimated to produce	Particulars of any property held as security for payment of bill or note, etc.
Total:				0.00		0.00	

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721716
 Estate No. 35-2721716

FORM 78 – Continued

List "G"
 Real Property or Immovables Owned by Debtor
 Drexler Construction Limited

Description of property	Nature of debtor interest	In whose name does title stand	Total value	Particulars of mortgages, hypothecs, or other encumbrances (name, address, amount)	Equity or surplus
Building and Land - Guelph - 5270 Wellington Road 27	Owned by Debtor	Drexler Construction Limited	2,400,000.00	Corwin Mortgage Capital Inc. 300-333 Wilson Avenue Toronto ON M3H 1T2 1,500,000.00	2,400,000.00
House - Rockwood - 5270 Wellington Road 27	Owned by Debtor	Drexler Construction Limited	860,000.00	Corwin Mortgage Capital Inc. 300-333 Wilson Avenue Toronto ON M3H 1T2 1,500,000.00	860,000.00
Land - Guelph - 183 Catherine St	Owned by Debtor	Drexler Construction Limited	4,500,000.00	Corwin Mortgage Capital Inc. 300-333 Wilson Avenue Toronto ON M3H 1T2 1,500,000.00	3,000,000.00
Total:			7,760,000.00		6,260,000.00

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721716
 Estate No. 35-2721716

FORM 78 – Continued

List "H"
 Property

Drexler Construction Limited
 FULL STATEMENT OF PROPERTY

Nature of property	Location	Details of property	Original cost	Estimated to produce
(a) Stock-in-trade			0.00	0.00
(b) Trade fixtures, etc.			0.00	0.00
(c) Cash in financial institutions			0.00	0.00
(d) Cash on hand			0.00	632,132.33
			0.00	60,012.36
(e) Livestock			0.00	0.00
(f) Machinery, equipment and plant		Computer Equipment	17,639.00	17,639.00
		Equipment	557,081.00	557,081.00
(g) Furniture			0.00	0.00
(h) Life insurance policies, RRSPs, etc.			0.00	0.00
(i) Securities			0.00	0.00
(j) Interests under wills, etc.			0.00	0.00
(k) Vehicles		Automobile - 2018 - Chevrolet - Silverado 2500 - 1GC1KWEY4JF148859	0.00	1.00
		Other - 2018 - John Deere - 470GLFF - 1FF470GXVHE471498	0.00	1.00
		Other - 2018 - John Deere - GO GT-3600 - 902900-1058	0.00	1.00
		Other - 2018 - John Deere - 310 SLT - 1T0310SLAJD337672	0.00	1.00
		Other - 2018 - John Deere - 310 SLT - 1T0310SLJJD337506	0.00	1.00
		Other - 2018 - John Deere - 410LXT - 1T0410LXPJD337623	0.00	1.00
		Automobile - 2020 - Chevrolet - Silverado 2500 - 1GC4YNE75LF221060	0.00	1.00
		Automobile - 2020 - Chevrolet - Silverado 1500 - 1GCPYFED0LZ270089	0.00	1.00
		Other - 2021 - Western Star - 4700SB - 5KKMAXDV5MPMH0867	0.00	1.00
		Other - 2018 - John Deere - 650K - 1T0650KKCF334720	0.00	1.00
		Other - 2017 - International Truck - HX620 SBA 6X4 - 3HTDTAPT1HN657832	0.00	1.00
		Automobile - Other Vehicles	593,244.00	593,244.00
(l) Taxes			0.00	0.00

30-Aug-2021

Date



Anthony Alfred Drexler

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721716
Estate No. 35-2721716

FORM 78 -- Concluded

List "H"
Property

Drexler Construction Limited

FULL STATEMENT OF PROPERTY

Nature of property	Location	Details of property	Original cost	Estimated to produce
(m) Other		Account Receivables	3,840,050.81	3,840,050.81
		Inventories	0.00	249,849.00
		Prepaid Expenses	0.00	9,207.00
		Deffered Income Tax Asset	35,000.00	35,000.00
			Total:	5,994,226.50

30-Aug-2021

Date

Anthony Alfred Drexler

This is **Exhibit "C"** to the affidavit of Jerome Drexler sworn before me via Zoom this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

Joël TURGEON

District of Ontario
Division No.: 08 - Waterloo
Estate No.: 35-2721875
Court No.: 35-2721875

ONTARIO
SUPERIOR COURT OF JUSTICE
(In Bankruptcy and Insolvency)

In the matter of the proposal of
Folmur Construction (2004) Limited
of the Township of Rockwood, in the Province of Ontario

PROPOSAL

(Dated August 30th, 2021)

Folmur Construction (2004) Ltd., the above named Debtor, hereby submits the following Proposal under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. (1985), c.B-3, as amended (the “BIA”).

1. DEFINITIONS

In this Proposal, the following terms have the meaning herein set out:

- (a) **Claim.** Any right of any person against the Debtor in connection with any indebtedness, liability or obligation of the Debtor of any kind which was in existence at the NOI Date, whether or not reduced to judgement, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, surety or otherwise, and whether or not such a right is executory in nature, including, without limitation, any claim referred to in this Proposal in respect of the termination or disclaimer by the Debtor of a lease, any product warranty liability and the right or ability of any person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause of action or chose in action, whether existing at present or commenced in the future based in whole or in part on facts which existed prior the NOI Date;
- (b) **Debtor.** Folmur Construction (2004) Ltd.;
- (c) **Final Approval.** Approval of the Proposal by the Creditors and the Court and any appeal period with respect to the Court Approval having expired;
- (d) **NOI Date.** Date of the filing of the Notice of Intention to Make a Proposal with the Official Receiver being March 18, 2021;

- (e) **Ordinary Creditors.** Unsecured Creditors, excluding the Preferred Creditors;
- (f) **Preferred Creditors.** Creditors with proven claims for which the BIA prescribes payment in priority to claims of Ordinary Creditors;
- (g) **Proposal.** This Proposal, as it may be amended from time to time;
- (h) **Proposal Date.** Date of the filing of the Proposal with the Official Receiver;
- (i) **Proven Claim.** Any claim which was the subject of a proof of claim in accordance with the BIA, filed with the Trustee and considered admissible by it;
- (j) **Secured Creditors.** Those creditors with a security interest in the assets of the Debtor;
- (k) **Trustee.** Albert Gelman Inc., as Trustee to the Proposal of the Debtor;
- (l) **Trustee's Fees and Disbursements.** The Trustee's Fees and Disbursements are comprised of all fees and out of pocket disbursements, including legal fees, of Albert Gelman Inc. incidental to the Proposal. The Trustee's fees shall be billed on a time and hourly rate basis and shall include HST. The Trustee shall be at liberty to withdraw and pay its fees and disbursements from the Proposal Fund, from time to time. The Trustee's hourly billing rates for its professional and administrative staff are subject to change without notice.
- (m) **Unsecured Creditors.** Collectively, the Preferred Creditors, the Ordinary Creditors;

2. DEBTS OWED TO THE CROWN

- (a) Proven claims of Her Majesty in right of Canada or a province of all amounts of a kind that could be subject to a demand under subsection 224(1.2) of the Income Tax Act or under any substantially similar provision of provincial legislation that were outstanding on the NOI Date shall be paid in full within six (6) months of Court approval of this Proposal unless Her Majesty in Right of Canada or a province consents to some other arrangement. The amount payable pursuant to this section of the Proposal will be paid directly by the Debtor to the CRA. The Trustee will not be responsible to monitor payment of this provision of the Proposal.

3. SECURED CREDITORS

- (a) This Proposal is not made to Secured Creditors. Payment of the claims of Secured Creditors shall be made in the usual manner or as may be agreed between the Debtor and the Secured Creditors.

4. PREFERRED CREDITORS

- (a) Proven Claims of Preferred Creditors, without interest, shall be paid in full in priority to all Unsecured Creditors;
- (b) Claims of employees and former employees of amounts equal to the amounts that they would be qualified to receive under paragraph 136(1)(d) of the BIA as well as wages, salaries, commissions or compensation for services rendered after the NOI Date and before Final Approval of this Proposal, together with, in the case of travelling salesmen, disbursements properly incurred by those salesmen in and about the Debtor's business during the same period shall be paid by the Debtor immediately after Final Approval of this Proposal.

5. UNSECURED CREDITORS

- (a) The Debtor shall remit to the Trustee the total sum of \$574,589.30 (the "**Proposal Fund**"), to be remitted in 24 consecutive monthly payments of \$23,941.22 each commencing in the month following Final Approval.
- (b) The Trustee shall distribute the Proposal Fund in the following order:
 - i. Proven Claims of Preferred Creditors;
 - ii. To Ordinary Creditors with Proven Claims under the Proposal on a *pro rata pari passu* basis, less the required levy payable to the Office of the Superintendent of Bankruptcy.
- (c) Creditors shall accept these payments as full, final and complete satisfaction of their claims.
- (d) The Debtor shall have the right to prepay the balance due under the Proposal prior to the expiration of the scheduled payment terms.

6. TRUSTEE'S FEES AND DISBURSEMENTS

- (a) In addition to the Proposal Fund, the Debtor has agreed to fund the Trustee's Fees and Disbursements. The funds paid by the Debtor to fund the Trustee's Fees and Disbursements are in addition to the Proposal Fund. The Debtor shall fund the entirety of the Trustee's Fees and Disbursements before the Trustee issues a certificate of full completion.

7. GENERAL PROVISIONS

- (a) The Trustee is acting in its capacity as trustee under this Proposal and shall not be responsible or liable for any obligations of the Debtor. The Trustee shall have the powers granted to it by the Proposal, by the BIA, and by any order of the Court. The Trustee will be exempt from all personal liability in fulfilling any duties or exercising any powers conferred upon it by the Proposal or generally in carrying out the terms of this Proposal unless such acts have been

carried out in bad faith and constitute a wilful or wrongful act or default. Sections 91 to 101 of the BIA (with the exception of Section 97(3)) shall not apply in connection with this Proposal or any dealing by the Debtor prior to the NOI Date, and the Trustee shall have no responsibility, liability or authority whatsoever in connection therewith. The Trustee shall not monitor or in any way manage the Debtor's business or financial affairs.

- (b) The Trustee under this Proposal is acting solely as Trustee and not in its personal capacity and shall not be responsible or liable for any obligations of the Debtor.
- (c) All monies payable under the terms of this Proposal, unless otherwise stated herein, shall be paid over to the Trustee who shall make all payments in accordance with the terms of this Proposal.
- (d) The Creditors, at the meeting of creditors to consider this Proposal, may appoint up to five Inspectors who will have, in addition to any powers of Inspectors under the BIA, the power to:
 - i. receive any notice of default in the performance of the Proposal and waive any such default;
 - ii. advise the Trustee in respect of such matters as may be referred to the inspectors by the Trustee; and,
 - iii. extend the time for any payment due under this Proposal provided that any such extension does not lengthen the total term of the Proposal.
- (e) Upon the issuance of the Certificate of Full Performance by the Trustee to the Debtor, the Directors shall be released and discharged by all Creditors from all Claims, which any Preferred Creditors or Ordinary Creditors may have or have been entitled to assert against any of the directors for which they would be, by law, liable in their capacity as directors for the payment of such claims which arose prior to the NOI Date, provided that nothing herein shall release or discharge any of the directors from Claims that:
 - i. Relate to contractual right of one or more of the Ordinary Creditors arising from contract with one or more of the directors; or
 - ii. Are based on allegations of misrepresentation made by the directors to the Ordinary Creditors or of wrongful or oppressive conduct by the directors.
- (f) All proper claims against the Debtor arising with respect to goods supplied, services rendered, or other consideration given or provided after the NOI Date, up to the date of approval of this Proposal by the Superior Court of Justice in Bankruptcy, and not otherwise dealt with pursuant to this Proposal, shall be paid in full by the Debtor in the ordinary course, in priority to the claims of all other Creditors.

- (g) The provisions of this Proposal will be binding on the creditors with Claims and the Debtor, and their respective heirs, executors, administrators, successors and assigns, upon issuance of the Final Approval.
- (h) The following creditor(s) have agreed not to file a Claim in this Proposal and will not participate in distributions to Unsecured Creditors under this Proposal:
- 2602763 Ontario Ltd.
- (i) Any notices or communication to be made or given in this Proposal shall be in writing and shall refer to this Proposal and may, subject as hereinafter provided, be made or given by personal delivery, by prepaid mail or by e-mail.
- i. if addressed to the Debtor use the following address:
- Goldman, Sloan, Nash and Haber LLP, counsel to the Debtor
480 University Ave Suite 1600
Toronto, Ontario M5G 1V2
Attention: Brendan Bissell
E-mail: bissell@gsnh.com
- ii. if addressed to the Trustee use the following address:
- Albert Gelman Inc.
100 Simcoe St. Suite 125
Toronto, Ontario M5H 3G2
Attention: Bryan Gelman
E-mail: bgelman@albertgelman.com
- (j) For purposes of this Proposal, Claims denominated in a currency other than Canadian funds will be converted to Canadian Dollars at the closing spot rate of exchange of the Bank of Canada on the NOI Date.

Dated at Toronto, Ontario, this 30th day of August, 2021,

Folmur Construction (2004) Ltd.



Per: _____
Anthony Alfred Drexler

I have the authority to bind the corporation.

District of Ontario
Division No.: 08 - Waterloo
Estate No.: 35-2721875
Court No.: 35-2721875

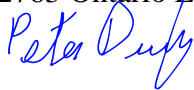
ONTARIO
SUPERIOR COURT OF JUSTICE
(In Bankruptcy and Insolvency)

In the matter of the proposal of
Folmur Construction (2004) Limited
of the Township of Rockwood, in the Province of Ontario

CREDITOR ACKNOWLEDGEMENT

Pursuant to the Debtor's Proposal, the following creditors hereby confirm that they will not file a Claim in this Proposal and will not participate in any distributions to Unsecured Creditors under this Proposal.

2602763 Ontario Limited



Per: _____
Peter Drexler

I have authority to bind the corporation.

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721875
 Estate No. 35-2721875

Form 78
 Statement of Affairs (Business Proposal) made by an entity
 (Subsection 49(2) and Paragraph 158(d) of the Act / Subsections 50(2) and 62(1) of the Act)

In the matter of the proposal of
 Folmur Construction (2004) Limited
 of the Township of Rockwood, in the Province of Ontario

To the debtor:

You are required to carefully and accurately complete this form and the applicable attachments showing the state of your affairs on the date of the filing of your proposal (or notice of intention, if applicable), on the 18th day of March 2021. When completed, this form and the applicable attachments will constitute the Statement of Affairs and must be verified by oath or solemn declaration.

LIABILITIES (as stated and estimated by the officer)		ASSETS (as stated and estimated by the officer)	
1. Unsecured creditors as per list "A"	909,777.90	1. Inventory	143,490.00
Balance of secured claims as per list "B"	0.00	2. Trade fixtures, etc.	0.00
Total unsecured creditors	909,777.90	3. Accounts receivable and other receivables, as per list "E"	
		Good	3,797,743.30
2. Secured creditors as per list "B"	0.00	Doubtful	0.00
		Bad	0.00
3. Preferred creditors as per list "C"	0.00	Estimated to produce.	3,797,743.30
		4. Bills of exchange, promissory note, etc., as per list "F"	0.00
4. Contingent, trust claims or other liabilities as per list "D" estimated to be reclaimable for	0.00	5. Deposits in financial institutions	0.00
Total liabilities.	909,777.90	6. Cash	106,421.00
Surplus	3,397,657.40	7. Livestock	0.00
		8. Machinery, equipment and plant.	104,602.00
		9. Real property or immovable as per list "G"	0.00
		10. Furniture	0.00
		11. RRSPs, RRIFs, life insurance, etc.	0.00
		12. Securities (shares, bonds, debentures, etc.)	0.00
		13. Interests under wills	0.00
		14. Vehicles	155,178.00
		15. Other property, as per list "H"	1.00
		If debtor is a corporation, add:	
		Amount of subscribed capital	0.00
		Amount paid on capital	0.00
		Balance subscribed and unpaid.	0.00
		Estimated to produce	0.00
		Total assets	4,307,435.30
		Deficiency	NIL

I, Anthony Alfred Drexler, of the Town of Rockwood in the Province of Ontario, do swear (or solemnly declare) that this statement and the attached lists are to the best of my knowledge, a full, true and complete statement of the affairs of the Corporation on the 30th day of August 2021 and fully disclose all property of every description that is in my possession or that may devolve on me in accordance with the Act.

SWORN (or SOLEMNLY DECLARED)
 before me at the City of Rockwood in the Province of Ontario, on this 30th day of August 2021.



Bryan Gelman, Commissioner of Oaths
 For the Province of Ontario
 Expires November 22, 2022



Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721875
 Estate No. 35-2721875

FORM 78 – Continued

List "A"
 Unsecured Creditors

Folmur Construction (2004) Ltd.

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
1	2602763 Ontario Limited	339 Elgin St. Port Elgin ON N0H 2C0	335,197.60	0.00	335,197.60
2	Anixter Power Solutions Canada Inc.	188 Purdy Rd P.O. Box 399 Colborne ON K0K 1S0	25,248.49	0.00	25,248.49
3	Artic Clear 1993 Inc.	509 Dickson Drive Fergus ON N1M 2W7	7.60	0.00	7.60
4	Bolts Plus Incorporated	8800 George Bolton Parkway Bolton ON L7E 2Y4	42.62	0.00	42.62
5	Brandt Tractor Ltd	365 Industrial Road Cambridge ON N3H 5S1	1,447.25	0.00	1,447.25
6	CG Equipment	521 Michener Road Kitchener ON N1K 1C8	2,217.63	0.00	2,217.63
7	Cooper Equipment Rentals Ltd	C/O TX4009C P.O. Box 4590 Stn A Toronto ON M5W 7B1	4,234.60	0.00	4,234.60
8	Corwin Mortgage Capital Inc. Attn: Kyle Fenwick	300 - 333 Wilson Avenue Toronto ON M3H 1T2	1.00	0.00	1.00
9	CRA - Tax - Ontario 85750 3700 RC0001	Shawinigan-Sud National Verification and Collection Centre 4695 Shawinigan-Sud Blvd Shawinigan-Sud QC G9P 5H9	89,093.76	0.00	89,093.76
10	CRA - Tax - Ontario 857503700 RT0001	Shawinigan-Sud National Verification and Collection Centre 4695 Shawinigan-Sud Blvd Shawinigan-Sud QC G9P 5H9	279,173.65	0.00	279,173.65
11	Danplas Pipe Systems	20 High Meadow Place North York ON M9L 2Z5	28,479.50	0.00	28,479.50
12	Electrical Safety Authority	400 Sheldon Dr, Unit # 1 Cambridge ON N1T 2H9	172.89	0.00	172.89
13	Graybar Electric Ltd.	P.O. Box 1000 Kitchener ON N2G 4E	38,916.68	0.00	38,916.68
14	John Deere Credit Inc. Attn: Ryan Szymusiak	3430 Superior Court Oakville ON L6L 0C4	1.00	0.00	1.00
15	John Deere Credit Inc. Attn: Ryan Szymusiak	3430 Superior Court Oakville ON L6L 0C4	1.00	0.00	1.00
16	Mann 2018 Limited	7367 Wellington Road 30 Guelph ON N1H 6J2	392.54	0.00	392.54
17	Ministry of Finance - ON PST, EHT & Other Taxes Attn: Mrs. Asta Albery	Ministry of Revenue 33 King Street West 6th Floor Oshawa ON L1H 8H5	1,233.26	0.00	1,233.26
18	Noramco	160 Traders Blvd East Unit # 203 Mississauga ON L4Z 3K7	71,807.86	0.00	71,807.86
19	RBC Royal Bank	74 WYNDHAM STREET NORTH, 2ND FLOOR Guelph ON N1H 4E6	1.00	0.00	1.00
20	Royal Bank of Canada Attn: Ian Aversa	Brookfield Place, 181 Bay Street, Suite 1800 Toronto ON M5J 2T9	1.00	0.00	1.00
21	Rubberline Products	Po Box 336 Kitchener ON N2G 3Y9	399.96	0.00	399.96

30-Aug-2021

Date



Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721875
 Estate No. 35-2721875

FORM 78 – Continued

List "A"
 Unsecured Creditors

Folmur Construction (2004) Ltd.

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
22	Stop 124 Services Inc.	7000 Wellington Rd # 124 Guelph ON N1H 6J4	1,427.05	0.00	1,427.05
23	Thorton Sand & Gravel (1995) Ltd.	545021 Clarke Rd. R.R.#1 Woodstock ON N4S 7V6	5,287.21	0.00	5,287.21
24	Transaxle	155 Werlich Drive Cambridge ON N1T 1Y2	42.71	0.00	42.71
25	Tri City Ready Mix Limited	36 Manitou Drive Kitchener ON N2C 1L3	1.00	0.00	1.00
26	Trillium Ford Lincoln Ltd	4589 Industrial Parkway Box 849 Alliston ON L9R 1W1	1,026.05	0.00	1,026.05
27	Underground Conduit Solutions Inc.	446 Angling Road Waterford ON N0E 1Y0	8,034.30	0.00	8,034.30
28	Underground Specialties Inc	. . ON .	1.00	0.00	1.00
29	UPI Energy	105 Silvercreek Parkway North SUite 200 Guelph ON N1H 8M1	10,257.20	0.00	10,257.20
30	Wasteco	235 Curtis Drive Guelph ON N1K 1Y3	218.81	0.00	218.81
31	Wilson Sand and Gravel Ltd.	1368 Beke Road Cambridge ON N1R-5S5	5,411.68	0.00	5,411.68
Total:			909,777.90	0.00	909,777.90

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721875
 Estate No. 35-2721875

FORM 78 – Continued

List "B"
 Secured Creditors

Folmur Construction (2004) Ltd.

No.	Name of creditor	Address	Amount of claim	Particulars of security	When given	Estimated value of security	Estimated surplus from security	Balance of claim
1	GM Financial Canada Leasing Ltd. c/o BankruptcyHighway.com Attn: Mike Timko 5GAEVBKW6JJ133458	PO Box 57100 Etobicoke ON M8Y 3Y2	1.00	Motor Vehicles - Automobile - 2018 - Buick - Enclave AWD Premium - 5GAEVBKW6JJ133458	20-Dec-2017	0.00		1.00
2	John Deere Financial Inc. 1T0310SLPGD299927/1T0310SLLD338	3430 Superior Court Oakville ON L6L 0C4	1.00	Motor Vehicles - Automobile - 2016 - John Deere - 310SLT - 1T0310SLPGD299927 Motor Vehicles - Automobile - 2018 - John Deere - 310SLT - 1T0310SLLD338127	13-Mar-2018 30-Oct-2018	0.00 0.00		1.00
3	John Deere Financial Inc. 1T0310SLPLF387956	295 Hunter Road, P.O. Box 100 Grimsby ON L3M 4H5	1.00	Motor Vehicles - Automobile - 2020 - John Deere - 310SL - 1T0310SLPLF387956	12-Mar-2021	0.00		1.00
4	John Deere Financial Inc. 1T0310SLPLF387956/1FF245800489	295 Hunter Road, P.O. Box 1000 Grimsby ON L3M 4H5	1.00	Motor Vehicles - Automobile - 2018 - John Deere - 245GFFF - 1FF245GXPHF800489	03-Jun-2019	0.00		1.00
5	Royal Bank of Canada 1GC5YME77LF349752R	10 York Mills Road 3rd Floor Toronto ON M2P 0A2	1.00	Motor Vehicles - Automobile - 2020 - Chevrolet - Silverado 2500 - 1GC5YME77LF349752	27-Oct-2020	0.00		1.00
6	Royal Bank of Canada Attn: c/o BankruptcyHighway.com 1GTV2LEC0GZ230356/1GCVKPEC9HZ402	10 York Mills Road Toronto ON M2P 0A2	1.00	Motor Vehicles - Automobile - 2016 - GMC - Sierra 1500 - 1GTV2LEC0GZ230356 Motor Vehicles - Automobile - 2017 - Chevrolet - Silverado 1500 - 1GCVKPEC9HZ402540	12-May-2016 15-Nov-2017	0.00 0.00		1.00
7	The Bank of Nova Scotia 1GCWGAFP5L1248596/1GC5YM E73MF106	10 Wright Boulevard Stratford ON N5A 7X9	1.00	Motor Vehicles - Automobile - 2020 - Chevrolet - Express Cargo - 1GCWGAFP5L1248596 Motor Vehicles - Automobile - 2021 - Chevrolet - Silverado 2500 - 1GC5YME73MF106425	14-Oct-2020 19-Nov-2020	0.00 0.00		1.00
8	Xerox Canada Ltd.	20 York Mills Road, Suite 500 Box 700 Toronto ON M2P 2C2	1.00	Other - Photocopier Machine	09-Nov-2016	0.00		1.00
Total:			8.00			0.00	0.00	8.00

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721875
Estate No. 35-2721875

FORM 78 – Continued

List "C"
Preferred Creditors for Wages, Rent, etc.

Folmur Construction (2004) Ltd.

No.	Name of creditor	Address and occupation	Nature of claim	Period during which claim accrued	Amount of claim	Amount payable in full	Difference ranking for dividend
Total:					0.00	0.00	0.00

30-Aug-2021

Date



Anthony Alfred Drexler

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721875
Estate No. 35-2721875

FORM 78 – Continued

List "D"
Contingent or Other Liabilities

Folmur Construction (2004) Ltd.

No.	Name of creditor or claimant	Address and occupation	Amount of liability or claim	Amount expected to rank for dividend	Date when liability incurred	Nature of liability
Total:			0.00	0.00		

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721875
 Estate No. 35-2721875

FORM 78 – Continued

List "E"
 Debts Due to the Debtor
 Folmur Construction (2004) Ltd.

No.	Name of debtor	Address and occupation	Nature of debt	Amount of debt (good, doubtful, bad)	Folio of ledgers or other book where particulars to be found	When contracted	Estimated to produce	Particulars of any securities held for debt
1	Account Receivables	Ontario ON	Unsecured	845,406.30 0.00 0.00		18-Mar-2021	845,406.30	None
2	Due from Related Party - Drexler Construction Limited	Ontario ON	Unsecured	2,952,337.00 0.00 0.00		18-Mar-2021	2,952,337.00	None
Total:				3,797,743.30 0.00 0.00			3,797,743.30	

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721875
Estate No. 35-2721875

FORM 78 – Continued

List "F"

Bills of Exchange, Promissory Notes, Lien Notes, Chattel
Mortgages, etc., Available as Assets

Folmur Construction (2004) Ltd.

No.	Name of all promissory, acceptors, endorsers, mortgagors, and guarantors	Address	Occupation	Amount of bill or note, etc.	Date when due	Estimated to produce	Particulars of any property held as security for payment of bill or note, etc.
Total:				0.00		0.00	

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721875
Estate No. 35-2721875

FORM 78 – Continued

List "G"
Real Property or Immovables Owned by Debtor
Folmur Construction (2004) Ltd.

Description of property	Nature of debtor interest	In whose name does title stand	Total value	Particulars of mortgages, hypothecs, or other encumbrances (name, address, amount)	Equity or surplus
Total:			0.00		0.00

30-Aug-2021

Date

Anthony Alfred Drexler

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721875
 Estate No. 35-2721875

FORM 78 -- Concluded

List "H"
 Property

Folmur Construction (2004) Ltd.
 FULL STATEMENT OF PROPERTY

Nature of property	Location	Details of property	Original cost	Estimated to produce
(a) Stock-in-trade		Inventories	143,490.00	143,490.00
(b) Trade fixtures, etc.			0.00	0.00
(c) Cash in financial institutions			0.00	0.00
(d) Cash on hand			0.00	106,421.00
(e) Livestock			0.00	0.00
(f) Machinery, equipment and plant		Equipment	104,602.00	104,602.00
(g) Furniture			0.00	0.00
(h) Life insurance policies, RRSPs, etc.			0.00	0.00
(i) Securities			0.00	0.00
(j) Interests under wills, etc.			0.00	0.00
(k) Vehicles		Automobile - 2016 - GMC - Sierra 1500 - 1GTV2LECGZ230356 Automobile - 2017 - Chevrolet - Silverado 1500 - 1GCVKPEC9HZ402540 Automobile - 2018 - Buick - Enclave AWD Premium - 5GAEBKJ133458 Automobile - 2016 - John Deere - 310SLT - 1T0310SLPGD299927 Automobile - 2018 - John Deere - 310SLT - 1T0310SLLJD338127 Automobile - 2018 - John Deere - 245GFFF - 1FF245GXPHF800489 Automobile - 2020 - Chevrolet - Express Cargo - 1GCWGAFP5L1248596 Automobile - 2020 - Chevrolet - Silverado 2500 - 1GC5YME77LF349752 Automobile - 2021 - Chevrolet - Silverado 2500 - 1GC5YME73MF106425 Automobile - 2020 - John Deere - 310SL - 1T0310SLPLF387956 Automobile - Other Vehicles	0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 155,168.00	1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 155,168.00
(l) Taxes			0.00	0.00
(m) Other		Photocopier Machine	0.00	1.00
			Total:	509,692.00

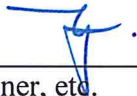
30-Aug-2021

Date



Anthony Alfred Drexler

This is **Exhibit "D"** to the affidavit of Jerome Drexler sworn before me via Zoom this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

Joel Turgeon

District of Ontario
Division No.: 08 - Waterloo
Estate No.: 35-2721896
Court No.: 35-2721896

ONTARIO
SUPERIOR COURT OF JUSTICE
(In Bankruptcy and Insolvency)

In the matter of the proposal of
Down Under Pipe and Cable Locating Ltd.
of the City of Rockwood, in the Province of Ontario

PROPOSAL
(Dated August 30, 2021)

Down Under Pipe and Cable Locating Ltd., the above named Debtor, hereby submits the following Proposal under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. (1985), c.B-3, as amended (the “BIA”).

1. DEFINITIONS

In this Proposal, the following terms have the meaning herein set out:

- (a) **Claim.** Any right of any person against the Debtor in connection with any indebtedness, liability or obligation of the Debtor of any kind which was in existence at the NOI Date, whether or not reduced to judgement, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, surety or otherwise, and whether or not such a right is executory in nature, including, without limitation, any claim referred to in this Proposal in respect of the termination or disclaimer by the Debtor of a lease, any product warranty liability and the right or ability of any person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause of action or chose in action, whether existing at present or commenced in the future based in whole or in part on facts which existed prior the NOI Date;
- (b) **Debtor.** Down Under Pipe and Cable Locating Ltd.
- (c) **Final Approval.** Approval of the Proposal by the Creditors and the Court and any appeal period with respect to the Court Approval having expired;
- (d) **NOI Date.** Date of the filing of the Notice of Intention to Make a Proposal with the Official Receiver being March 18, 2021;

- (e) **Ordinary Creditors.** Unsecured Creditors, excluding the Preferred Creditors;
- (f) **Preferred Creditors.** Creditors with proven claims for which the BIA prescribes payment in priority to claims of Ordinary Creditors;
- (g) **Proposal.** This Proposal, as it may be amended from time to time;
- (h) **Proposal Date.** Date of the filing of the Proposal with the Official Receiver;
- (i) **Proven Claim.** Any claim which was the subject of a proof of claim in accordance with the BIA, filed with the Trustee and considered admissible by it;
- (j) **Secured Creditors.** Those creditors with a security interest in the assets of the Debtor;
- (k) **Trustee.** Albert Gelman Inc., as Trustee to the Proposal of the Debtor;
- (l) **Trustee's Fees and Disbursements.** The Trustee's Fees and Disbursements are comprised of all fees and out of pocket disbursements, including legal fees, of Albert Gelman Inc. incidental to the Proposal. The Trustee's fees shall be billed on a time and hourly rate basis and shall include HST. The Trustee shall be at liberty to withdraw and pay its fees and disbursements from the Proposal Fund, from time to time. The Trustee's hourly billing rates for its professional and administrative staff are subject to change without notice.
- (m) **Unsecured Creditors.** Collectively, the Preferred Creditors, the Ordinary Creditors;

2. DEBTS OWED TO THE CROWN

- (a) Proven claims of Her Majesty in right of Canada or a province of all amounts of a kind that could be subject to a demand under subsection 224(1.2) of the Income Tax Act or under any substantially similar provision of provincial legislation that were outstanding on the NOI Date shall be paid in full within six (6) months of Court approval of this Proposal unless Her Majesty in Right of Canada or a province consents to some other arrangement. The amount payable pursuant to this section of the Proposal will be paid directly by the Debtor to the CRA. The Trustee will not be responsible to monitor payment of this provision of the Proposal.

3. SECURED CREDITORS

- (a) This Proposal is not made to Secured Creditors. Payment of the claims of Secured Creditors shall be made in the usual manner or as may be agreed between the Debtor and the Secured Creditors.

4. PREFERRED CREDITORS

- (a) Proven Claims of Preferred Creditors, without interest, shall be paid in full in priority to all Unsecured Creditors;
- (b) Claims of employees and former employees of amounts equal to the amounts that they would be qualified to receive under paragraph 136(1)(d) of the BIA as well as wages, salaries, commissions or compensation for services rendered after the NOI Date and before Final Approval of this Proposal, together with, in the case of travelling salesmen, disbursements properly incurred by those salesmen in and about the Debtor's business during the same period shall be paid by the Debtor immediately after Final Approval of this Proposal.

5. UNSECURED CREDITORS

- (a) The Debtor shall remit to the Trustee the total sum of \$20,000 (the "**Proposal Fund**"), to be remitted within 3 months of Final Approval.
- (b) The Trustee shall distribute the Proposal Fund in the following order:
 - i. Proven Claims of Preferred Creditors;
 - ii. To Ordinary Creditors with Proven Claims under the Proposal on a *pro rata pari passu* basis.
- (c) Creditors shall accept these payments as full, final and complete satisfaction of their claims.
- (d) The Debtor shall have the right to prepay the balance due under the Proposal prior to the expiration of the scheduled payment terms.

6. TRUSTEE'S FEES AND DISBURSEMENTS

- (a) In addition to the Proposal Fund, the Debtor has agreed to fund the Trustee's Fees and Disbursements. The funds paid by the Debtor to fund the Trustee's Fees and Disbursements are in addition to the Proposal Fund. The Debtor shall fund the entirety of the Trustee's Fees and Disbursements before the Trustee issues a certificate of full completion.

7. GENERAL PROVISIONS

- (b) The Trustee is acting in its capacity as trustee under this Proposal and shall not be responsible or liable for any obligations of the Debtor. The Trustee shall have the powers granted to it by the Proposal, by the BIA, and by any order of the Court. The Trustee will be exempt from all personal liability in fulfilling any duties or exercising any powers conferred upon it by the Proposal or generally in carrying out the terms of this Proposal unless such acts have been carried out in bad faith and constitute a wilful or wrongful act or default. Sections 91 to 101 of the BIA (with the exception of Section 97(3)) shall not

apply in connection with this Proposal or any dealing by the Debtor prior to the NOI Date, and the Trustee shall have no responsibility, liability or authority whatsoever in connection therewith. The Trustee shall not monitor or in any way manage the Debtor's business or financial affairs.

- (c) The Trustee under this Proposal is acting solely as Trustee and not in its personal capacity and shall not be responsible or liable for any obligations of the Debtor.
- (d) All monies payable under the terms of this Proposal, unless otherwise stated herein, shall be paid over to the Trustee who shall make all payments in accordance with the terms of this Proposal.
- (e) The Creditors, at the meeting of creditors to consider this Proposal, may appoint up to five Inspectors who will have, in addition to any powers of Inspectors under the BIA, the power to:
 - i. receive any notice of default in the performance of the Proposal and waive any such default;
 - ii. advise the Trustee in respect of such matters as may be referred to the inspectors by the Trustee; and,
 - iii. extend the time for any payment due under this Proposal provided that any such extension does not lengthen the total term of the Proposal.
- (f) Upon the issuance of the Certificate of Full Performance by the Trustee to the Debtor, the Directors shall be released and discharged by all Creditors from all Claims, which any Preferred Creditors or Ordinary Creditors may have or have been entitled to assert against any of the directors for which they would be, by law, liable in their capacity as directors for the payment of such claims which arose prior to the NOI Date, provided that nothing herein shall release or discharge any of the directors from Claims that:
 - i. Relate to contractual right of one or more of the Ordinary Creditors arising from contract with one or more of the directors; or
 - ii. Are based on allegations of misrepresentation made by the directors to the Ordinary Creditors or of wrongful or oppressive conduct by the directors.
- (g) All proper claims against the Debtor arising with respect to goods supplied, services rendered, or other consideration given or provided after the NOI Date, up to the date of approval of this Proposal by the Superior Court of Justice in Bankruptcy, and not otherwise dealt with pursuant to this Proposal, shall be paid in full by the Debtor in the ordinary course, in priority to the claims of all other Creditors.

- (h) The provisions of this Proposal will be binding on the creditors with Claims and the Debtor, and their respective heirs, executors, administrators, successors and assigns, upon issuance of the Final Approval.
- (i) The payment, compromise or other satisfaction of any Claim under this Proposal will be binding upon such creditor, its heirs, executors, administrators, successors and assigns, for all purposes.
- (j) Any notices or communication to be made or given in this Proposal shall be in writing and shall refer to this Proposal and may, subject as hereinafter provided, be made or given by personal delivery, by prepaid mail or by e-mail.
 - i. if addressed to the Debtor use the following address:

Goldman, Sloan, Nash and Haber LLP, counsel to the Debtor
480 University Ave Suite 1600
Toronto, Ontario M5G 1V2
Attention: Brendan Bissell
E-mail: bissell@gsnh.com
 - ii. if addressed to the Trustee use the following address:

Albert Gelman Inc.
100 Simcoe St. Suite 125
Toronto, Ontario M5H 3G2
Attention: Bryan Gelman
E-mail: bgelman@albertgelman.com
- (k) For purposes of this Proposal, Claims denominated in a currency other than Canadian funds will be converted to Canadian Dollars at the closing spot rate of exchange of the Bank of Canada on the NOI Date.

Dated at Toronto, Ontario, this 30th day of August, 2021,

Down Under Pipe and Cable Locating Ltd.


Per: _____
Anthony Alfred Drexler

I have the authority to bind the corporation.

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721896
 Estate No. 35-2721896

Form 78
 Statement of Affairs (Business Proposal) made by an entity
 (Subsection 49(2) and Paragraph 158(d) of the Act / Subsections 50(2) and 62(1) of the Act)

In the matter of the proposal of
 Down Under Pipe and Cable Locating Ltd.
 of the City of Rockwood, in the Province of Ontario


To the debtor:

You are required to carefully and accurately complete this form and the applicable attachments showing the state of your affairs on the date of the filing of your proposal (or notice of intention, if applicable), on the 18th day of March 2021. When completed, this form and the applicable attachments will constitute the Statement of Affairs and must be verified by oath or solemn declaration.


LIABILITIES (as stated and estimated by the officer)		ASSETS (as stated and estimated by the officer)	
1. Unsecured creditors as per list "A"	47,058.40	1. Inventory	0.00
Balance of secured claims as per list "B"	0.00	2. Trade fixtures, etc.	0.00
Total unsecured creditors	47,058.40	3. Accounts receivable and other receivables, as per list "E"	
2. Secured creditors as per list "B"	0.00	Good	0.00
3. Preferred creditors as per list "C"	0.00	Doubtful	0.00
4. Contingent, trust claims or other liabilities as per list "D" estimated to be reclaimable for	0.00	Bad	0.00
Total liabilities	47,058.40	Estimated to produce	0.00
Surplus	164,445.40	4. Bills of exchange, promissory note, etc., as per list "F" ...	0.00
		5. Deposits in financial institutions	0.00
		6. Cash	68,316.00
		7. Livestock	0.00
		8. Machinery, equipment and plant	78,479.00
		9. Real property or immovable as per list "G"	0.00
		10. Furniture	0.00
		11. RRSPs, RRIFs, life insurance, etc.	0.00
		12. Securities (shares, bonds, debentures, etc.)	0.00
		13. Interests under wills	0.00
		14. Vehicles	0.00
		15. Other property, as per list "H"	64,708.80
		If debtor is a corporation, add:	
		Amount of subscribed capital	0.00
		Amount paid on capital	0.00
		Balance subscribed and unpaid	0.00
		Estimated to produce	0.00
		Total assets	211,503.80
		Deficiency	NIL

I, Anthony Alfred Dexler, of the Town of Rockwood in the Province of Ontario, do swear (or solemnly declare) that this statement and the attached lists are to the best of my knowledge, a full, true and complete statement of the affairs of the Corporation on the 30th day of August 2021 and fully disclose all property of every description that is in my possession or that may devolve on me in accordance with the Act.

SWORN (or SOLEMNLY DECLARED)
 before me at the City of Rockwood in the Province of Ontario, on this 30th day of August 2021.



 Bryan Gelman, Commissioner of Oaths
 For the Province of Ontario
 Expires November 22, 2022



 Anthony Alfred Dexler

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721896
Estate No. 35-2721896

FORM 78 – Continued

List "A"
Unsecured Creditors

Down Under Pipe and Cable Locating Ltd.

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
1	2602763 Ontario Limited	339 Elgin St. Port Elgin ON N0H 2C0	47,058.40	0.00	47,058.40
Total:			47,058.40	0.00	47,058.40

30-Aug-2021

Date

Anthony Alfred Dexter

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721896
Estate No. 35-2721896

FORM 78 – Continued

List "B"
Secured Creditors

Down Under Pipe and Cable Locating Ltd.

No.	Name of creditor	Address	Amount of claim	Particulars of security	When given	Estimated value of security	Estimated surplus from security	Balance of claim
			Total:			0.00	0.00	0.00

30-Aug-2021

Date



Anthony Alfred Dexter

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721896
Estate No. 35-2721896

FORM 78 – Continued

List "C"
Preferred Creditors for Wages, Rent, etc.

Down Under Pipe and Cable Locating Ltd.

No.	Name of creditor	Address and occupation	Nature of claim	Period during which claim accrued	Amount of claim	Amount payable in full	Difference ranking for dividend
Total:					0.00	0.00	0.00

30-Aug-2021

Date



Anthony Alfred Dexter

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721896
Estate No. 35-2721896

FORM 78 – Continued

List "D"
Contingent or Other Liabilities

Down Under Pipe and Cable Locating Ltd.

No.	Name of creditor or claimant	Address and occupation	Amount of liability or claim	Amount expected to rank for dividend	Date when liability incurred	Nature of liability
Total:			0.00	0.00		

30-Aug-2021

Date



Anthony Alfred Dexter

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721896
Estate No. 35-2721896

FORM 78 – Continued

List "E"
Debts Due to the Debtor

Down Under Pipe and Cable Locating Ltd.

No.	Name of debtor	Address and occupation	Nature of debt	Amount of debt (good, doubtful, bad)	Folio of ledgers or other book where particulars to be found	When contracted	Estimated to produce	Particulars of any securities held for debt
				0.00				
			Total:	0.00			0.00	
				0.00				

30-Aug-2021

Date

Anthony Alfred Dexter

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721896
Estate No. 35-2721896

FORM 78 – Continued

List "F"

Bills of Exchange, Promissory Notes, Lien Notes, Chattel
Mortgages, etc., Available as Assets

Down Under Pipe and Cable Locating Ltd.

No.	Name of all promissory, acceptors, endorsers, mortgagors, and guarantors	Address	Occupation	Amount of bill or note, etc.	Date when due	Estimated to produce	Particulars of any property held as security for payment of bill or note, etc.
Total:				0.00		0.00	

30-Aug-2021

Date



Anthony Alfred Dexter

District of: Ontario
Division No. 08 - Waterloo
Court No. 35-2721896
Estate No. 35-2721896

FORM 78 – Continued

List "G"
Real Property or Immovables Owned by Debtor
Down Under Pipe and Cable Locating Ltd.

Description of property	Nature of debtor interest	In whose name does title stand	Total value	Particulars of mortgages, hypothecs, or other encumbrances (name, address, amount)	Equity or surplus
Total:			0.00		0.00

30-Aug-2021

Date

Anthony Alfred Dexter

District of: Ontario
 Division No. 08 - Waterloo
 Court No. 35-2721896
 Estate No. 35-2721896

FORM 78 -- Concluded

List "H"
 Property

Down Under Pipe and Cable Locating Ltd.
 FULL STATEMENT OF PROPERTY


Nature of property	Location	Details of property	Original cost	Estimated to produce
(a) Stock-in-trade			0.00	0.00
(b) Trade fixtures, etc.			0.00	0.00
(c) Cash in financial institutions			0.00	0.00
(d) Cash on hand			0.00	68,316.00
(e) Livestock			0.00	0.00
(f) Machinery, equipment and plant		Office Equipment	0.00	1,314.00
		Computer	0.00	131.00
		Equipment	0.00	77,034.00
(g) Furniture			0.00	0.00
(h) Life insurance policies, RRSPs, etc.			0.00	0.00
(i) Securities			0.00	0.00
(j) Interests under wills, etc.			0.00	0.00
(k) Vehicles			0.00	0.00
(l) Taxes			0.00	0.00
(m) Other		Accounts Receivables	0.00	62,737.80
		Income Tax Recoverable	0.00	971.00
		Prepaid Expenses	0.00	1,000.00
			Total:	211,503.80

30-Aug-2021

Date

Anthony Alfred Dexter

This is **Exhibit "E"** to the affidavit of Jerome Drexler sworn before me via Zoom this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

SOEL TURGEON

well as those other parties present, as indicated in the counsel slip, no other parties being present although duly served as appears from the affidavit of service, filed:

NOTICE AND SERVICE

1. **THIS COURT ORDERS** that the time for service of the motion record in respect of this motion, the First Report and the Supplementary Report is abridged and validated so that the motion is properly returnable today, and that further service thereof is dispensed with.

PROCEDURAL CONSOLIDATION

2. **THIS COURT ORDERS** that, without prejudice to the right of any party to seek or oppose substantive consolidation in respect of any or all of the following proceedings:

- a. the present proceeding,
- b. the NOI proceeding of Folmur, estate and court file no. 35-2721875, and
- c. the NOI proceeding of Down Under, estate and court file no. 35-2721896,

(collectively, the “**NOI Proceedings**”)

the NOI Proceedings are hereby procedurally consolidated, and the Proposal Trustee is authorized and directed, save to the extent the Proposal Trustee deems it unnecessary or undesirable, as the case may be, to administer the NOI Proceedings on a consolidated basis for all purposes in carrying out its administrative duties and other responsibilities under the *Bankruptcy and Insolvency Act* (the “**BIA**”), including, without limitation, the following:

- d. sending notices to creditors of one or more of the Companies pursuant to one consolidated notice,
- e. calling and conducting any meetings of creditors of the Companies pursuant to one combined advertisement and one meeting,
- f. issuing consolidated reports in respect of the estates of the Companies,
- g. preparing, filing, advertising and distributing any and all filings and/or notices relating to the administration of the estates of the Companies on a consolidated basis, and
- h. bringing motions to this Honourable Court on a consolidated basis.

3. **THIS COURT ORDERS** that the single court file number 35-2721716 (the “**Consolidated Court File**”) and the following title of proceeding be assigned to the NOI Proceedings:

“

**IN THE MATTER OF THE NOTICES OF INTENTION
TO MAKE A PROPOSAL PROCEEDINGS OF
DREXLER CONSTRUCTION LIMITED, FOLMUR
CONSTRUCTION (2004) LIMITED, AND DOWN
UNDER PIPE AND CABLE LOCATING LIMITED,
CORPORATIONS INCORPORATED UNDER THE
ONTARIO *BUSINESS CORPORATIONS ACT***

”

4. **THIS COURT ORDERS** that the Companies file a copy of this order in the court file for each of the NOI Proceedings but that any other document required to be filed in any of the NOI Proceedings shall hereafter only be required to be filed in the Consolidated

Court File. For avoidance of doubt, any motion, application or action in respect of the Companies or any of them shall be brought and filed in the Consolidated Court File and if so brought and filed it shall be deemed brought and filed in each of the NOI Proceedings, as appropriate, without prejudice to any rules of civil procedure or otherwise that are applicable. For further avoidance of doubt, this motion and this order are deemed made and granted in each of the NOI Proceedings.

5. **THIS COURT ORDERS** that the procedural consolidation of the NOI Proceedings does not:

- a. affect the separate legal status and structures of any of the Companies,
- b. cause any of the Companies to be liable for any claim for which it otherwise would not be liable, or
- c. affect the Proposal Trustee's or a creditor's right to seek to disallow any claim, including on the basis that such claim is a duplicative claim.

EXTENSION OF TIME TO FILE A PROPOSAL

6. **THIS COURT ORDERS** that, pursuant to Section 50.4(9) of the BIA, the period within which a proposal may be filed on behalf of any or all of the Companies is extended to and including Tuesday, June 1, 2021.

DIP FINANCING AND CHARGE

7. **THIS COURT ORDERS** that the Companies are and each of them is hereby authorized and empowered to obtain and borrow under a credit facility from Corwin

Mortgage Capital Inc. (the “**DIP Lender**”) in order to finance the Companies’ operations, capital expenditures and restructuring, which shall be on the terms and subject to the conditions set forth in the amended term sheet (the “**Term Sheet**”) attached as Appendix “A” to the Supplementary Report, filed.

8. **THIS COURT ORDERS** that the Companies be and hereby are authorized to borrow, under the aforementioned credit facility, (i) up to \$750,000, (ii) a further \$250,000 with the written consent of the Proposal Trustee in consultation with Royal Bank of Canada (“**RBC**”), and (iii) any further amounts with the written consent of RBC or further court order.

9. **THIS COURT ORDERS** that the Companies are authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as may be reasonably required pursuant to the terms of the Term Sheet, and the Companies are authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Term Sheet and the Definitive Documents as and when the same become due and are to be performed in accordance with their terms, subject to paragraph 21 of this order but notwithstanding any other provision of this order.

10. **THIS COURT ORDERS** that the DIP Lender is granted a charge (the “**DIP Lender’s Charge**”) on the Companies’ interest in and to the real estate properties municipally known as 5274 Wellington Road 27, Rockwood, Ontario (the “**Wellington Property**”) and 183 Catherine Street, Rockwood, Ontario (the “**Catherine Property**”,

and, together with the Wellington Property, the “**Properties**”). The DIP Lender’s Charge shall not secure an obligation that begun to exist before this order is made. The DIP Lender’s Charge shall have the priority set out in paragraph 13 hereof.

11. **THIS COURT ORDERS** that, notwithstanding any other provision of this order:

- a. the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents, and
- b. the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee-in-bankruptcy, interim receiver, receiver or receiver and/or manager of the Companies or any of them or the Properties.

12. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Companies or any of them under the *Companies’ Creditors Arrangement Act* (Canada), or any proposal filed by the Companies or any of them under the BIA, with respect to any advances made under the Term Sheet or the Definitive Documents.

13. **THIS COURT ORDERS** that the DIP Lender’s Charge shall rank in priority to all security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise encumbering either or both of the Properties (each, an “**Encumbrance**”) in favour of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing being each a “**Person**”), save and except

any Encumbrance in favour of RBC and any Encumbrance ranking in priority to RBC's Encumbrance.

14. **THIS COURT ORDERS** that the filing, registration or perfection of the DIP Lender's Charge shall not be required, and that the DIP Lender's Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the DIP Lender's Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

15. **THIS COURT ORDERS** that the Companies or any of them shall not grant any Encumbrance that ranks in priority to, or *pari passu* with the DIP Lender's Charge, save with the prior written consent of the Proposal Trustee and DIP Lender, or further court order.

16. **THIS COURT ORDERS** that the Term Sheet, the Definitive Documents and the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein, (ii) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications, (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA, (iv) the provisions of any federal or provincial statutes, or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement

(each, an “**Agreement**”) which binds the Companies, and notwithstanding any provision to the contrary in any Agreement:

- a. neither the creation of the DIP Lender’s Charge nor the execution, delivery, perfection, registration or performance of the Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Companies or any of them of any Agreement to which it is a party,
- b. the DIP Lender shall have no liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Companies or any of them entering into the Term Sheet the creation of the DIP Lender’s Charge, or the execution, delivery or performance of the Definitive Documents, and
- c. the payments made by the Companies or any of them pursuant to this Order, the Term Sheet or the Definitive Documents, and the granting of the DIP Lender’s Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

17. **THIS COURT ORDERS** that the DIP Lender’s Charge, to the extent it would apply over leases of real property in Canada, shall only be a charge in the interest of the Companies (or any of them) in such real property leases.

ADMINISTRATION CHARGE

18. **THIS COURT ORDERS** that (i) counsel for the Companies, (ii) the Proposal Trustee, and (iii) counsel to the Proposal Trustee be and hereby are granted a charge (the “**Administration Charge**”) on the Companies’ interest in the Properties in connection with any unpaid fees and disbursements up to a maximum amount of \$100,000.

19. **THIS COURT ORDERS** that the Administration Charge shall rank in priority to all Encumbrances in favour of any Person save and except (i) any Encumbrance in favour of RBC and any Encumbrance ranking in priority to RBC’s Encumbrance, and (ii) the DIP Lender’s Charge.

SALE OF REDUNDANT EQUIPMENT

20. **THIS COURT ORDERS** that the Companies be and hereby are authorized to sell the equipment marked in Confidential Exhibit “3” to the Drexler April Affidavit (the “**Redundant Equipment**”) and such further equipment as RBC may agree in writing may be sold, provided that the sale price for each such piece of equipment is no less than the appraised amount for that piece of equipment as set out in Confidential Exhibit “2” to the Drexler April Affidavit, or if not appraised then in an amount that RBC and any other secured creditor with an interest in the equipment may approve, by:

- a. retaining Canam-Appraiz Inc. (“**Canam**”) to sell one or more pieces of the Redundant Equipment, or
- b. by private sale of one or more pieces of the Redundant Equipment.

21. **THIS COURT ORDERS** that with respect to the proceeds of any sale of Redundant Equipment:

- a. if the item sold is subject only to the secured claim of RBC as the first-ranking secured creditor generally, for which the Proposal Trustee has already obtained an independent legal opinion confirming its validity and enforceability, then the proceeds of sale less Canam's costs of disposition as approved by RBC for that item shall be paid to RBC immediately and without further court order in repayment of the Companies' obligations to RBC, up to the amount of the same.
- b. if the item sold is subject to two or more possible secured claims as determined by the Proposal Trustee, then (i) the Proposal Trustee shall obtain an independent legal opinion on the validity, enforceability, and rank of each claim and communicate such opinion to each secured claimant, and (ii) if the affected secured creditors agree on the opinion obtained by the Proposal Trustee, the proceeds of sale less Canam's costs of disposition as approved by the affected secured creditors for that item shall be immediately paid in accordance with that opinion and without further court order in repayment of the Companies' obligations to the applicable secured creditor(s) up to the amount of the same, but if there is no such agreement, then the Companies or the Proposal Trustee shall make a motion to the court for advice and direction on the payment of the net proceeds.

APPROVAL OF PROPOSAL TRUSTEE'S FEES AND ACTIVITIES

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

SEALING

23. **THIS COURT ORDERS** that Confidential Exhibits "1", "2" and "3" to the Drexler April Affidavit be and hereby are sealed pending the earlier of a court order approving a proposal to creditors in respect of all of the Companies under the BIA, or further court order.

MISCELLANEOUS

24. **THIS COURT ORDERS** that the Companies pay the reasonable accounts, fees and disbursements of the Proposal Trustee, counsel to Proposal Trustee and counsel to the Companies, in each case at their standard rates and charges and as they become due, as part of the costs of these proceedings and post-filing obligations. Counsel to the Companies is authorized to immediately apply such payments in satisfaction of their reasonable accounts, fees and disbursements. In the case of the Proposal Trustee and counsel to the Proposal Trustee, such payments shall constitute advances applicable on account of such reasonable accounts, fees and disbursements as may be approved by this court or through taxation under the BIA.

25. **THIS COURT 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 Companies, the Proposal Trustee and their respective agents in carrying out the terms of this order. All courts, tribunals, regulatory and administrative bodies are respectfully requested to make such orders and to provide such assistance to the Companies and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist the Companies and the Proposal Trustee and their respective agents in carrying out the terms of this Order.

Kelly A. Gowen

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF DREXLER CONSTRUCTION LIMITED, A
CORPORATION INCORPORATED UNDER THE ONTARIO
BUSINESS CORPORATIONS ACT**

**ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced in LONDON**

**ORDER
(procedural consolidation, extension of time to file a
proposal, debtor-in-possession financing approval
and charge, administration charge, sale of
redundant equipment, approval of activities, sealing)**

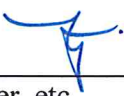
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Email: turgeon@gsnh.com

Lawyers for Drexler Construction Ltd., Folmur
Construction (2004) Ltd., and Down Under Pipe and
Cable Locating Ltd.

This is **Exhibit "F"** to the affidavit of Jerome Drexler sworn before me via Zoom this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

JOEL TURGEON

Estate No. 35-2721716

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE NOTICES OF INTENTION TO
MAKE A PROPOSAL PROCEEDINGS OF DREXLER
CONSTRUCTION LIMITED, FOLMUR CONSTRUCTION
(2004) LIMITED, AND DOWN UNDER PIPE AND CABLE
LOCATING LIMITED, CORPORATIONS INCORPORATED
UNDER THE ONTARIO *BUSINESS CORPORATIONS ACT***

**AFFIDAVIT OF JEROME DREXLER
(sworn May 22, 2021)**

I, Jerome Drexler of Rockwood in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a director and officer of Drexler Construction Ltd. (“**Drexler**”), which is the parent company of Folmur Construction (2004) Ltd. (“**Folmur**”) and Down Under Pipe and Cable Locating Ltd. (“**Down Under**”, and together with Drexler and Folmur, the “**Companies**”). As such I have knowledge of the matters to which I refer. In preparing this affidavit, I consulted with legal, financial and other advisors of the Companies and other members of the Companies’ management. Where this affidavit is on information and belief, I have stated the source of that information and believe it to be true.

I. OVERVIEW

2. The affidavit is in support of the Companies’ motion for orders:
 - a. extending to Friday, July 16, 2021, the time for Albert Gelman Inc. in its capacity as trustee (in such capacity, the “**Proposal Trustee**”) to the notice of intention to make a proposal to creditors (“**NOI**”) proceeding of each of the Companies, to file, on behalf of the Companies (individually or collectively, as the case may be), a

proposal to creditors under the *Bankruptcy and Insolvency Act* (Canada) (“**BIA**”). The current extension expires on June 1, 2021. The sought extension is to allow the Companies to work further on the viable restructuring path identified below, towards a proposal.

- b. augmenting the orders of this court made on April 16, 2021 in this file (the “**April 16 Order**”) with respect to sales of Redundant Equipment (as defined in the April 16 Order), to provide for what I am advised is described as usual “vesting orders”, whereby upon delivery of a Bill of Sale to a Purchaser of Purchased Assets, the Purchaser obtains the Purchased Assets free of all Encumbrances, which are reported onto the proceeds (capitalized terms defined in the draft order). Otherwise, the April 16 Order remains unchanged, including as to which assets may be sold and for what price, and as respects the resolution of competing claims to the proceeds, as the case may be. This relief is to incentivize sales and make the auction sale process practicable and attractive, while maintaining proportionate administration costs.
 - c. approving the second report of the Proposal Trustee, to be served and filed separately (the “**Second Report**”), and the Proposal Trustee’s fees and activities described therein, to streamline the files’ administration.
 - d. sealing Confidential Exhibit “1” to this affidavit, being a copy of the Auction Agreement (defined below). This is to protect the integrity of the auction sale process in light of some of the valuation information contained in the full copy.
3. The Proposal Trustee supports and recommends the relief sought. Leading counsel for the Companies, Brendan Bissell, informs me that Royal Bank of Canada (“**RBC**”), the senior

ranking creditor of the Companies, has been consulted about the relief sought and does not oppose it, and that he is not aware of any opposition or potential opposition to any element of the relief sought.

II. BACKGROUND

a. The Companies and their business

4. I provided the full background in my affidavit sworn April 12, 2021 filed in this court file, of which I attach a copy without exhibits as **Exhibit “A”** for reference.

5. To summarize, the business was initially set up by myself and my 7 brothers, of which 4 remain involved as the sole shareholders of Drexler, which is itself the sole shareholder of Folmur and Down Under, making the latter fully-owned subsidiaries. All the Companies operate in the construction industry, offering a wide spectrum of services including excavating, hydro, and concrete. The Companies attract notable clients including municipalities throughout Ontario. For reference, Drexler made a gross profit of approximately \$4,483,355 in 2018 and \$5,113,471 in 2019, and employs between 50 and 110 non-unionized employees depending on the season. Folmur made a gross profit of approximately \$1,689,684 in 2018 and \$2,233,232 in 2019, and has 25 non-unionized employees. Down Under made a gross profit of approximately \$316,813 in 2018 and \$217,259 in 2019, and has 2 non-unionized employees.

b. Causes of insolvency, main creditors, restructuring approach

6. The Companies are all indebted to RBC, each as borrower under a number of credit facilities and as guarantor of the other two Companies' obligations to RBC, for approximately \$2,087,000 based on RBC's demand letters and notices to enforce security dated March 8, 2021. RBC holds (i) collateral charges/mortgages over Drexler's Catherine

Property (as defined in my April affidavit (Exhibit “A”)) totalling \$435,000 and (ii) general security agreements from each of the Companies. The Proposal Trustee obtained a legal opinion from independent counsel, which, subject to standard assumptions and qualifications, concludes that such RBC security interests are valid and enforceable in accordance with their terms. Before filing the NOIs, the Companies were in discussions (through counsel) with RBC about a forbearance, but, despite significant efforts on both sides, a mutually agreeable arrangement was not possible.

7. The Companies’ other creditors and potential creditors are further discussed in my April affidavit (Exhibit “A”) and include *Personal Property Security Act* registrants (mostly in respect of equipment and motor vehicles) and related companies. With their NOIs, Drexler lists approximately \$1,000,000 arms’ length unsecured claims, Folmur approximately \$400,000, and Down Under approximately \$47,000. As to the Canada Revenue Agency (“CRA”), Drexler and Folmur have outstanding amounts on account of HST and source deductions based on a CRA proof of claim recently received by the Proposal Trustee, being a combined approximate \$215,000 for Drexler and \$200,000 for Folmur, subject to normal course repayments and reductions as I understand will be addressed in the Second Report.
8. At present, each of the Companies is insolvent primarily because of (i) being unable to repay the amounts owing to RBC, (ii) the COVID-19 crisis having had a general adverse impact on costs, timelines to complete projects, and viability of actual and potential jobs, and (iii) two unusual and isolated financial setbacks in 2020, being a loss of approximately \$324,000 on a job due to an estimator’s error, and a \$299,000 CRA interest charge.

9. However, the Companies' assets greatly exceed their liabilities, including based on the confidential valuations of the Properties, which are subject to a sealing order, and the book value of their other properties including substantial accounts receivable and capital assets, as more fully set out in my April affidavit (Exhibit "A"). This allows for a restructuring approach centered around locating, with the assistance of the Proposal Trustee, counsel to the Companies, the Financial Advisor and the Broker (terms defined below), a new source of financing to repay RBC (as well as the DIP loan, discussed below), making a viable proposal to creditors, and returning to solvency. This would benefit the Companies' stakeholders including their clients, suppliers, employees, equity holders, and creditors.
10. Each of the Companies therefore filed an NOI under the BIA on March 18, 2021 (collectively, the "**NOI Proceedings**"). The Proposal Trustee is the proposal trustee in each of the NOI Proceedings.

c. Restructuring efforts since the April 16 Order and state of file

11. On April 16, 2021, this court granted the April 16 Order, of which a copy is attached as **Exhibit "B"**, on an unopposed basis. The April 16 Order provides for the following main relief:
- a. administratively consolidating the NOI Proceedings in this court file,
 - b. extending the time to file a proposal to June 1, 2021,
 - c. creating a \$1,500,000 debtor-in-possession (DIP) financing charge on the Properties (as defined in the April 16 Order), subordinate to RBC's position,
 - d. creating a \$100,000 administration charge on the same properties, subordinate to the DIP charge,
 - e. approving the sale of Redundant Equipment, and

- f. approving the Proposal Trustee's first report and supplemental report thereto, along with the activities described therein.
12. Other than possible sales of Redundant Equipment, as allowed in the April 16 Order, the Companies currently contemplate no liquidation of assets.
 13. Since the April 16 Order, the Companies have, among other things:
 - a. retained GreySuits Advisors Inc. (the "**Advisor**") to act as their external chief financial officer and advisor to, among other things, oversee the Companies' internal accounting processes, prepare short and long-term cash flow forecasting models, assist the Companies with obtaining financing and provide general financial advice.
 - b. finalized documentation with respect to the DIP financing facility with Corwin Mortgage Capital Inc., as approved in the April 16 Order.
 - c. retained a mortgage broker (the "**Broker**") to assist the Companies in locating alternative financing to repay RBC. Furthermore, the Companies and the Proposal Trustee continue to negotiate directly with one prospective lender with whom the Companies had commenced negotiations priorly.
 - d. as authorized in the April 16 Order, entered into an agreement with Canam Appraiz Inc. ("**Canam**") dated May 21, 2021 (the "**Auction Agreement**"), of which I attach a redacted copy as **Exhibit "C"** and a full copy as **Confidential Exhibit "1"**, for auctioning services in respect of the Redundant Equipment. The redacted copy blanks out the appraiser's valuation of the items to be sold on Schedule A to the Auction Agreement. A sealing order is sought for the full Auction Agreement, as set out further below.

- e. continued to work, including with the Proposal Trustee and counsel, with transparency and good faith, in providing information to and responding to inquiries from stakeholders (including RBC), attending meetings with the professionals to discuss the Companies' restructuring options and all attendant matters, preparing the revised cash flow forecasts of which I attach respective copies for each of the Companies as **Exhibit "D"**, **"E"** and **"F"** (the **"Revised Cashflow Forecasts"**), and providing all the information required by the Proposal Trustee to allow *inter alia* the monitoring of receipts and disbursements.
14. The next steps in the restructuring, such as through the extension period sought, are:
 - a. to continue efforts towards locating alternative financing to repay RBC, leveraging the involvement of the Proposal Trustee, the Companies' counsel, the Advisor, and the Broker, and
 - b. to assist Canam in conducting auctions under the Auction Agreement with respect to Redundant Equipment, provided the relief sought herein as to the augmentation of the April 16 Order in this regard is granted.
 15. I am advised by Bryan Gelman of the Proposal Trustee that one potential lender with which the Companies had contact prior to filing the NOIs is at an advanced stage of formulating a proposal on lending arrangements to refinance the amounts owing to RBC and to otherwise provide borrowing facilities to the Companies going forward. Mr. Gelman advises that he hopes to get other proposals from the Broker in order to attempt to ensure that any new lending arrangements are on competitive terms.

16. Looking forward, Drexler also has plans to invest in and develop the Vacant Development Land (as defined in the Second Report), once it obtains site plan approval from the municipality, so as to enhance the long-term value of that asset.
17. As more fully appears from the Revised Cashflow Forecasts, the Companies will have access to sufficient funds to operate throughout the sought extension, with any reasonable contingency being covered through draws available under the approved DIP facility.

III. RELIEF SOUGHT

a. Extension of time

18. As discussed above, the Companies have been working in good faith and with due diligence towards a viable restructuring path. I continue to believe that following the one-time restructuring expense, a viable proposal to creditors can be made to allow the Companies to remain going concerns, to the benefit of all their stakeholders including clients, suppliers, employees, shareholders and creditors.

b. Sale of Redundant Equipment provisions

19. The orders sought on this topic do not alter the April 16 Order in the material respects that are the definition of what assets can be sold (i.e., the Redundant Equipment, as defined in the April 16 Order, for which a sale would yield more value than is being obtained from their possession), how and by whom those assets can be sold (i.e., by the Companies themselves or Canam, as provided in the April 16 Order), for what price they can be sold (i.e. the sealed appraised value, as provided in the April 16 Order), the mechanism provided for resolving any priority dispute on the proceeds, or the provided payment scheme for proceeds in accordance with priorities. Those aspects of the authorization to sell Redundant

Equipment were discussed and agreed among stakeholders, principally including RBC, and there is no need to alter them. In fact, the draft order contains language expressly preserving the April 16 Order save to the extent augmented through the relief sought.

20. The augmentations sought are to provide for what I am advised is described as “vesting orders”, whereby upon delivery of a Bill of Sale to a Purchaser of Purchased Assets, the Purchaser obtains the Purchased Assets free of all Encumbrances, which are reported onto the proceeds (capitalized terms defined in the draft order). As set out above, this relief is to incentivize sales and make the auction sale process practicable and attractive, while maintaining proportionate administration costs.
21. I am advised by Mr. Bissell that the orders sought for this head of relief are substantially in the form of the Commercial List model approval and vesting order.

c. Sealing orders

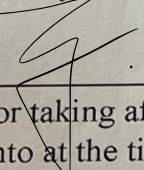
22. A sealing order is sought as to Confidential Exhibit “1” to this affidavit, being an unredacted copy of the Auction Agreement. This is because it contains background information about pricing and valuations which would “pollute” and affect the integrity of any sale process if the information were accessible to bidders and the market generally.

d. Approval of Proposal Trustee’s Second Report, fees and activities

23. The activities and fees of the Proposal Trustee and its counsel were reported to the court and stakeholders including in the Second Report. I believe such activities are appropriate, commercially reasonable, and conducted in the best interest of the Companies and their

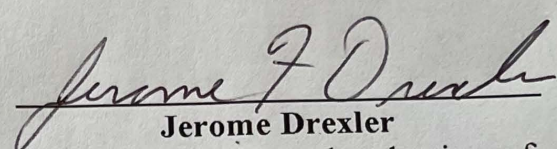
stakeholders. Material in this regard is the April 16 Order, where this court approved the Proposal Trustee's prior report as well as the activities described therein.

SWORN BEFORE ME via Zoom at the City of Toronto, in the Province of Ontario, this 22nd day of May, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



Commissioner for taking affidavits
(present at Toronto at the time of swearing)

Joël Turgeon



Jerome Drexler
(present at Rockwood at the time of swearing)

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL
PROCEEDINGS OF DREXLER CONSTRUCTION LIMITED, FOLMUR
CONSTRUCTION (2004) LIMITED, AND DOWN UNDER PIPE AND CABLE
LOCATING LIMITED, CORPORATIONS INCORPORATED UNDER THE
ONTARIO *BUSINESS CORPORATIONS ACT***

ONTARIO
SUPERIOR COURT OF JUSTICE

AFFIDAVIT OF JEROME DREXLER
(sworn May 22, 2021)

GOLDMAN SLOAN NASH & HABER LLP
480 University Avenue, Suite 1600
Toronto ON M5G 1V6

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Tel: (416) 597-6489
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Joël Turgeon (LSO #80984R)
Tel: (416) 597-6486
Email: turgeon@gsnh.com

Lawyers for the moving parties and debtor companies,
Drexler Construction Limited, Folmur Construction
(2004) Limited, and Down Under Pipe and Cable
Locating Limited

This is **Exhibit "G"** to the affidavit of Jerome Drexler sworn before me via Zoom this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

JOEL TURGEON

Estate No. 35-2721716

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE NOTICES OF INTENTION TO
MAKE A PROPOSAL PROCEEDINGS OF DREXLER
CONSTRUCTION LIMITED, FOLMUR CONSTRUCTION
(2004) LIMITED, AND DOWN UNDER PIPE AND CABLE
LOCATING LIMITED, CORPORATIONS INCORPORATED
UNDER THE ONTARIO *BUSINESS CORPORATIONS ACT***

**AFFIDAVIT OF JEROME DREXLER
(sworn July 12, 2021)**

I, Jerome Drexler of Rockwood in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a director and officer of Drexler Construction Ltd. (“**Drexler**”), which is the parent company of Folmur Construction (2004) Ltd. (“**Folmur**”) and Down Under Pipe and Cable Locating Ltd. (“**Down Under**”, and together with Drexler and Folmur, the “**Companies**”). As such I have knowledge of the matters to which I refer. In preparing this affidavit, I consulted with legal, financial and other advisors of the Companies and other members of the Companies’ management. Where this affidavit is on information and belief, I have stated the source of that information and believe it to be true.

I. OVERVIEW

2. The affidavit is in support of the Companies’ motion for orders:
 - a. extending to Monday, August 30, 2021, the time for Albert Gelman Inc. in its capacity as trustee (in such capacity, the “**Proposal Trustee**”) to the notice of intention to make a proposal to creditors (“**NOI**”) proceeding of each of the Companies, to file, on behalf of the Companies (individually or collectively, as the

case may be), a proposal to creditors under the *Bankruptcy and Insolvency Act* (Canada) (“**BIA**”). The current extension expires on July 16, 2021. The sought extension is to allow the Companies to work further on the viable restructuring path identified below, towards a proposal.

- b. approving the third report of the Proposal Trustee, to be served and filed separately (the “**Third Report**”), and the Proposal Trustee’s fees and activities described therein, to streamline the files’ administration.
3. The Proposal Trustee recommends the relief sought. Leading counsel for the Companies, Brendan Bissell, informs me that he does not expect opposition from Royal Bank of Canada (“**RBC**”), the senior ranking creditor of the Companies, nor from any other person.

II. BACKGROUND

a. The Companies and their business

4. I provided the full background in my prior affidavit sworn April 12, 2021 filed in this court file, of which I attach a copy without exhibits as **Exhibit “A”** for reference.
5. To summarize, the business was initially set up by myself and my 7 brothers, of which 4 remain involved as the sole shareholders of Drexler, which is itself the sole shareholder of Folmur and Down Under, making the latter fully-owned subsidiaries. All the Companies operate in the construction industry, offering a wide spectrum of services including excavating, hydro, and concrete. The Companies attract notable clients including municipalities throughout Ontario. For reference, Drexler made a gross profit of approximately \$4,483,355 in 2018 and \$5,113,471 in 2019, and employs between 50 and 110 non-unionized employees depending on the season. Folmur made a gross profit of approximately \$1,689,684 in 2018 and \$2,233,232 in 2019, and has 25 non-unionized

employees. Down Under made a gross profit of approximately \$316,813 in 2018 and \$217,259 in 2019, and has 2 non-unionized employees.

b. Causes of insolvency, main creditors, restructuring approach

6. The Companies are all indebted to RBC, each as borrower under a number of credit facilities and as guarantor of the other two Companies' obligations to RBC, for approximately \$2,087,000 based on RBC's demand letters and notices to enforce security dated March 8, 2021. RBC holds (i) collateral charges/mortgages over Drexler's Catherine Property (as defined in my April affidavit (Exhibit "A")) totalling \$435,000 and (ii) general security agreements from each of the Companies. The Proposal Trustee obtained a legal opinion from independent counsel, which, subject to standard assumptions and qualifications, concludes that such RBC security interests are valid and enforceable in accordance with their terms. Before filing the NOIs, the Companies were in discussions (through counsel) with RBC about a forbearance, but, despite significant efforts on both sides, a mutually agreeable arrangement was not possible.
7. The Companies' other creditors and potential creditors are further discussed in my April affidavit (Exhibit "A") and include *Personal Property Security Act* registrants (mostly in respect of equipment and motor vehicles) and related companies. With their NOIs, Drexler lists approximately \$1,000,000 arms' length unsecured claims, Folmur approximately \$400,000, and Down Under approximately \$47,000. As to the Canada Revenue Agency ("CRA"), Drexler and Folmur have outstanding amounts on account of HST and source deductions based on a CRA proof of claim received by the Proposal Trustee, being a combined approximate \$215,000 for Drexler and \$200,000 for Folmur, subject to normal

course repayments and reductions (including after sales of Redundant Equipment, discussed below) as more fully addressed in the Third Report.

8. At present, each of the Companies is insolvent primarily because of (i) being unable to repay the amounts owing to RBC, (ii) the COVID-19 crisis having had a general adverse impact on costs, timelines to complete projects, and viability of actual and potential jobs, and (iii) two unusual and isolated financial setbacks in 2020, being a loss of approximately \$324,000 on a job due to an estimator's error, and a \$299,000 CRA interest charge.
9. However, the Companies' assets greatly exceed their liabilities, including based on the confidential valuations of the Properties, which are subject to a sealing order, and the book value of their other properties including substantial accounts receivable and capital assets, as more fully set out in my April affidavit (Exhibit "A"). This allows for a restructuring approach centered around locating, with the assistance of the Proposal Trustee, counsel to the Companies, the Financial Advisor and the Broker (terms defined below), a new source of financing to repay RBC (as well as the DIP loan, discussed below), making a viable proposal to creditors, and returning to solvency. This would benefit the Companies' stakeholders including their clients, suppliers, employees, equity holders, and creditors.
10. Each of the Companies therefore filed an NOI under the BIA on March 18, 2021 (collectively, the "**NOI Proceedings**"). The Proposal Trustee is the proposal trustee in each of the NOI Proceedings.

c. State of file

11. On April 16, 2021, this court granted an order (the “**April 16 Order**”), of which a copy is attached as **Exhibit “B”**, on an unopposed basis. The April 16 Order provides for the following main relief:
 - a. administratively consolidating the NOI Proceedings in this court file,
 - b. extending the time to file a proposal to June 1, 2021,
 - c. approving a debtor-in-possession (DIP) financing facility and creating a \$1,500,000 DIP charge on the Properties (as defined in the April 16 Order), subordinate to RBC’s position,
 - d. creating a \$100,000 administration charge on the same properties, subordinate to the DIP charge,
 - e. allowing the sale of any or all of the Redundant Equipment (as defined in the April 16 Order), and
 - f. approving the Proposal Trustee’s first report and supplemental report thereto, along with the activities described therein.

12. On May 28, 2021, this court granted an order (the “**May 28 Order**”), of which a copy is attached as **Exhibit “C”**, on an unopposed basis. The May 28 Order provides for the following main relief:
 - a. extending the time to file a proposal to July 16, 2021,
 - b. augmenting the April 16 Order with respect to sales of Redundant Equipment to provide for a “vesting-upon-sale” mechanism, and otherwise providing that the April 16 Order, subject to such augmentation, remains in force in accordance with its terms with respect to sales of Redundant Equipment, and

- c. approving the Proposal Trustee's second report as well as the activities and fees described therein.
13. Therefore the current stay period expires at the end of July 16, 2021.
- d. Restructuring efforts**
- i. Up to the May 28 Order
14. The Companies' restructuring efforts leading to the April 16 Order and the May 28 Order are respectively more fully set out in my April affidavit (Exhibit "A") as well as my prior affidavit sworn May 22, 2021, of which I attach a copy without exhibits as **Exhibit "D"**. Primarily and among other things, during that latter period, the Companies:
- a. retained GreySuits Advisors Inc. (the "**Advisor**") as their external chief financial officer and advisor,
 - b. retained a mortgage broker (the "**Broker**") to assist the Companies in locating alternative financing to repay RBC,
 - c. worked with the Proposal Trustee towards the Revised Cash Flow Forecasts (as defined in the Third Report), and
 - d. entered into an auction agreement with Canam Appraiz Inc. ("**Canam**") with respect to the sale of Redundant Equipment.
- ii. Since the May 28 Order
15. The Companies' restructuring efforts since the May 28 Order to today include:
- a. terminating the Companies' internal accountant/controller whose function is now fulfilled by the Advisor.

- b. continuing efforts towards locating alternative financing to repay RBC, leveraging the involvement of the Proposal Trustee, the Companies' counsel, the Advisor, and the Broker.
 - c. obtaining audited financial statements for the fiscal year ended March 31, 2021, which is important for potentially interested lender(s).
 - d. assisting Canam in conducting auctions with respect to Redundant Equipment.
 - e. generally, continuing to work, including with the Proposal Trustee and counsel, with transparency and good faith, in providing information to and responding to inquiries from stakeholders (including RBC), attending meetings with the professionals to discuss the Companies' restructuring options and all attendant matters, and providing all the information required by the Proposal Trustee to allow *inter alia* the monitoring of receipts and disbursements.
16. As to sales of Redundant Assets:
- a. based on a reassessment of changing conditions in the construction market, the Companies determined that some of the Redundant Equipment they had originally intended to sell was no longer redundant in the sense that such was no longer economical against the Companies' renewed need for it and upkeep costs. As a result, the net minimum amount guaranteed by Canam under the auction agreement was revised from approximately \$560,000 to \$496,050 to account for the smaller pool of items sold. In return the Companies undertook to "top-up" any difference between the prior minimum guarantee amount and the revised minimum guarantee amount in the event that sale proceeds did not reach the former. This notably satisfied RBC based on communications among counsel.

- b. an auction was completed on June 28, 2021 and the Redundant Equipment sold was removed by the purchaser(s). The \$453,746.80 proceeds generated were less than the revised amount guaranteed by Canam, so the Companies received such guaranteed amount from Canam (\$496,050). Those funds, plus the difference with the original guaranteed amount (approx. \$560,000), are in the process of being distributed, in accordance with the applicable priorities and the procedure set out in the April 16 Order, to CRA and RBC on account of the Companies' prior-ranking pre-filing obligations to them, as more fully set out in the Third Report.
17. To not hinder the efforts towards locating alternative financing, confidentiality is appropriate and so I am limited in the comments I should publicly make in an affidavit as to which potential lender(s) has/have shown interest, and the level of progress made with such potential lender(s) towards a long-term financing agreement. However, the Companies have provided such information upon request to RBC, the principal stakeholder, and I am advised that more information may be orally provided to the court at the hearing if it is required and some form of satisfactory *in camera* setting is possible.
- iii. Going forward
18. The principal next step in the restructuring, such as through the extension period sought, is to continue efforts towards locating alternative financing to repay RBC. The Companies (and the Proposal Trustee, as more fully appears in the Third Report) are confident they can locate such financing during the sought extension period, or at least, make substantial progress towards the same. Once this is obtained, the Companies will work with the Proposal Trustee on a viable proposal.

19. Looking forward, Drexler also has plans to invest in and develop the Vacant Development Land (as defined in the Third Report), once it obtains site plan approval from the municipality, so as to enhance the long-term value of that asset.
20. The Companies currently contemplate no need to sell any more assets. The Companies have so far had no need to draw on the DIP facility. The DIP facility will be available should any draw be required during the sought extension period. Therefore, and as more fully appears from the Third Report, the Companies will have access to sufficient funds to operate throughout the sought extension.

III. RELIEF SOUGHT

a. Extension of time

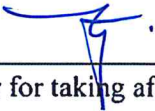
21. As recounted above, the Companies have been working in good faith and with due diligence towards a viable restructuring path. I continue to believe that following the one-time restructuring expense, a viable proposal to creditors can be made to allow the Companies to remain going concerns, to the benefit of all their stakeholders including creditors, clients, suppliers, employees and shareholders.

b. Approval of Proposal Trustee's Third Report, fees and activities

22. The activities and fees of the Proposal Trustee and its counsel were reported to the court and stakeholders including in the Third Report. The Companies believe those are appropriate, commercially reasonable, and in the best interest of the Companies and their stakeholders. Material in this regard are the April 16 and May 28 Orders, where this court approved the Proposal Trustee's prior reports as well as the activities described therein.

[10]

SWORN BEFORE ME via Zoom at the City of Toronto, in the Province of Ontario, this 12th day of July, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



Commissioner for taking affidavits
(present at Toronto at the time of swearing)



Jerome Drexler
(present at Rockwood at the time of swearing)

JOEL TURGEON

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL
PROCEEDINGS OF DREXLER CONSTRUCTION LIMITED, FOLMUR
CONSTRUCTION (2004) LIMITED, AND DOWN UNDER PIPE AND CABLE
LOCATING LIMITED, CORPORATIONS INCORPORATED UNDER THE
ONTARIO *BUSINESS CORPORATIONS ACT***

ONTARIO
SUPERIOR COURT OF JUSTICE

AFFIDAVIT OF JEROME DREXLER
(sworn July 12, 2021)

GOLDMAN SLOAN NASH & HABER LLP
480 University Avenue, Suite 1600
Toronto ON M5G 1V6

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Joël Turgeon (LSO #80984R)
Tel: (416) 597-6486
Email: turgeon@gsnh.com

Lawyers for the moving parties and debtor companies,
Drexler Construction Limited, Folmur Construction
(2004) Limited, and Down Under Pipe and Cable
Locating Limited

This is **Exhibit "H"** to the affidavit of Jerome Drexler sworn before me via Zoom this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

JOEL TURGEON



**Canadian Equipment
FINANCE & LEASING INC.**

250 Woolwich St., Unit 5, Breslau, Ontario, N0B 1M0
PH: (519) 648-3898 FX: (519) 648-3382

EQUIPMENT FINANCE PROPOSAL # 2021154

August 25, 2021

Canadian Equipment Finance & Leasing Inc. is pleased to present the following Commercial Mortgage Proposal to **Drexler Construction Limited**. This proposal is an outline of proposed terms for your consideration, and is not a commitment to finance. This proposal sets out the terms and conditions which Canadian Equipment Finance & Leasing Inc. is prepared to offer. Upon your signed acceptance, this Proposal will be brought forward as an application to Canadian Equipment Finance & Leasing Inc.

**MORTGAGOR/
BORROWER:**

Drexler Construction Limited.

GUARANTEES:

Personal Guarantees and other Corporate Guarantees from corporations within the Drexler Group of Companies to be determined once due diligence and a credit review is completed.

SECURITY:

General Security Agreement of Drexler Construction Limited. to support the mortgages on the three limited properties listed below.

ADDRESS:

5270 Wellington Rd. 27
Township of Guelph/Eramosa, Ontario
N0B 2K0

CONTACT:

Rodney Davis
Phone: 647-966-3772
Email: rodney@greysuit.ca

LENDER:

Canadian Equipment Finance & Leasing Inc.
and/or its assignee or nominee

CONTACT:

Brent Keenan
President
Phone: 519-648-2977
Mobile: 519-766-5056
E-Mail: brent.keenan@cefl.ca

PURPOSE:

1 - To provide long term financing at approx.75% Loan to Value (LTV) on land and buildings located at 5270 Wellington Rd. 27, Township of Guelph/Eramosa ON with a 1st Mortgage. (Commercial Property)

2 - To provide long term financing at approx.75% Loan to Value (LTV) on land and buildings located at 5270 Wellington Rd. 27 Rockwood, ON with a 1st Mortgage. (Duplex)

3 - To provide long term financing at approx.50% Loan to Value (LTV) on land and buildings located at 183 Catherine St. Township of Guelph/Eramosa, ON with a 1st Mortgage. (Development Land)

TRANSACTION AMOUNT:

Appraised Total: CAD \$ 7,760,000.00
Total Transaction Amount: CAD \$ 3,500,000.00

** This is only an estimate of the costs for illustration purposes and excludes any other costs that may apply including duty, tariffs, shipping, installation, administration fees and consulting fees for services rendered in connection with the product or Loan, (if any).*

CURRENCY:

Unless otherwise specified, all amounts mentioned in this Proposal are in Canadian dollars.

START DATE:

October 2021

MORTGAGE LOAN TERM: Up to 5 years with a 25 year amortization.

MORTGAGE LOAN RATES: Range in the 4.50% to 6.25%.

**This is based on a preliminary review.*

REPAYMENT:

Repayment will be made by consecutive monthly installments, in arrears, by way of Pre Authorized Payments.

DOCUMENTATION:

Loan and Mortgage Agreements and such other related documentation as deemed necessary by Lender and its outside legal counsel.

FEES PAYABLE:

Administration Fee: Mortgagor/Borrower shall forward to Lender an Administration Fee in the amount of **\$50,000.00 CAD plus tax**, along with the signed acceptance of this Proposal. The Administration Fee covers among other things, the Lender's initial expenses of structuring, credit evaluation, PPSA search and waivers, review and negotiation and is not refundable unless specified herein.

A 0.50% Lender Fee will be due upon closing of the mortgages.

Legal Expense: *All such expense (if any) shall be for the account of the borrower.*

3rd Party Fees: *All such fees, disbursements, including appraisal (Paid), environmental, fees for the account of the borrower.*

INSURANCE:

Mortgagor/Borrower will be responsible for obtaining and maintaining physical damage and liability insurance over the properties in amounts and with insurers acceptable to Lender and with Lender shown as first Loss Payee and additional insured.

OTHER CONDITIONS:

Notwithstanding other conditions imposed upon the formal credit review process, the following are minimum requirements:

1. Registered first-ranking mortgage over 5270 Wellington Rd. 27, Township of Guelph/Eramosa, ON. No subsequent encumbrances on 5270 Wellington Rd. 27, Township of Guelph/Eramosa, ON without approval of the Lender in writing.

2. Registered first-ranking mortgage over 5270 Wellington Rd. 27, Rockwood, ON. No subsequent encumbrances on 5270 Wellington Rd. 27, Township of Rockwood, ON without approval of the Lender in writing.
3. Registered first-ranking mortgage over 183 Catherine St. Township of Guelph/Eramosa, ON. No subsequent encumbrances on 183 Catherine St. Township of Guelph/Eramosa, ON without approval of the Lender in writing.
4. Title Insurance may be required.
5. All Risk Fire Insurance Policy to be provided, showing loss payable to Lender, with premium prepaid one year from closing.
6. Proof of payment of insurance & property taxes as requested by the Lender as applies.
7. Assignment of rents if applicable, and/or General Security Agreement specific to the property being financed.
8. AACI Appraisal report for the properties, suitable to the Lender. (**Completed appraisals is considered satisfactory*)
9. Satisfactory Environmental due diligence, Phase I.

MORTGAGOR/BORROWER

SUPPLIED INFORMATION: By signing and returning the proposal, the Mortgagor/Borrower confirms that all information and written materials which it provides to the Lender in connection with this proposed transaction are accurate, that the Mortgagor/Borrower has all necessary authority to disclose such information and written materials and to provide copies of such information and written materials to Lender. The Lender is authorized to use such information and written materials for its internal purposes.

IDENTIFICATION AND VERIFICATION:

The Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada) establishes minimum standards of information related to an account or a financing (an "account") to be collected and maintained by Canadian Equipment Finance & Leasing Inc. This federal law requires all financial institutions to obtain, verify, and record information that identifies each person or legal entity that opens an account.

Specifically, this means that before we can extend a financing, we will ask for certain information to allow us to identify the person or the legal entity as well as the individuals authorized to provide instructions on the account on behalf of the legal entity.

The foregoing Equipment Finance Proposal, errors and omissions excepted, expires at 5:00pm on August 30th 2021, unless accepted by the Mortgagor/Borrower by signing and returning a copy of the Acceptance included herein.

Canadian Equipment Finance & Leasing Inc. makes no representation to the Mortgagor/Borrower that this Equipment Finance Proposal conforms to any accounting treatment whatsoever. Any such determination shall be the sole responsibility of the Mortgagor/Borrower and its advisors in such matters.

This Proposal does not represent a firm agreement or commitment by Canadian Equipment Finance & Leasing Inc. or its nominee. A commitment may only be extended after this transaction has been approved by all appropriate credit committees and other signing officers, then a written commitment will be issued and accepted. Canadian Equipment Finance & Leasing Inc. shall have the sole right of assignability of this proposal or any of the final transactions.

Sincerely,
Canadian Equipment Finance & Leasing Inc.



Brent Keenan

The undersigned authorizes Canadian Equipment Finance & Leasing Inc. or its nominee to commence its credit adjudication process for an extension of credit and therefore consents to Canadian Equipment Finance & Leasing Inc. or its nominee to obtain credit information reports as required.

Accepted this _____ day of _____, 2021.
[Proposal 2021154]

Drexler Construction Limited.

(Signature)

(Name & Title)



**Canadian Equipment
FINANCE & LEASING INC.**

250 Woolwich St., Unit 5 Breslau, Ontario, N0B 1M0
PH: (519) 648-3898 FX: (519) 648-3382

INVOICE

To:	Drexler Construction Limited.	Invoice Date:	August 25, 2021
	5270 Wellington Rd. 27	Invoice #	2021154
	Township of Guelph/Eramosa,		
	Ontario		
	N0B 2K0		
Attn:	Accounts Payable	Due Date:	Upon Receipt

	Administration Fee for Proposal # 2021154	\$50,000.00
	Account Executive: Brent Keenan	
	HST:	\$6,500.00
	Total Amount:	\$56,500.00
	HST # 81246 5029 RT0001	
	BC PST # 10094533	
	QST # 1222059964 TQ0001	
	Total Due:	\$56,500.00 CAD

Please courier payment directly to:

CANADIAN EQUIPMENT FINANCE & LEASING INC.
250 Woolwich St., Unit 5
Breslau, Ontario
N0B 1M0
519-648-3898

**Wire transfer option available.*

This is **Exhibit "I"** to the affidavit of Jerome Drexler sworn before me via Zoom this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

SOEL TULCEA

AIRD BERLIS

Jeremy Nemers
Direct: 416.865.7724
Email: jnemers@airdberlis.com

August 30, 2021

BY EMAIL (bissell@gsnh.com)

Drexler Construction Limited, Folmur Construction (2004) Ltd. and Down Under Pipe and Cable Locating Ltd.

c/o Goldman Sloan Nash & Haber LLP

480 University Avenue, Suite 1600

Toronto, ON M5G 1V2

Attention: Brendan Bissell

Dear Mr. Bissell:

Re: Payment of certain outstanding indebtedness and liabilities of Drexler Construction Limited ("Drexler"), Folmur Construction (2004) Ltd. ("Folmur") and Down Under Pipe and Cable Locating Ltd. ("Down Under" and, together with Drexler and Folmur, the "Debtors") to Royal Bank of Canada ("RBC")

1. Reference is made to:

- (a) the amended and restated credit agreement between RBC and Drexler dated November 1, 2013, as amended by amending agreements dated April 28, 2014, April 6, 2015, May 15, 2014, June 4, 2015 and December 11, 2017 (as may have been further amended, replaced, restated or supplemented from time to time, the "**Drexler Credit Agreement**");
- (b) the credit agreement between RBC and Folmur dated January 3, 2019 (as may have been amended, replaced, restated or supplemented from time to time, the "**Folmur Credit Agreement**");
- (c) the amended and restated credit agreement between RBC and Down Under dated June 19, 2008 (as may have been amended, replaced, restated or supplemented from time to time) (the "**Down Under Credit Agreement**");
- (d) the RBC Royal Bank Visa Business Card Agreements with the Debtors (as same may have been amended, renewed or restated from time to time, the "**Visa Agreements**" and, together with the Drexler Credit Agreement, the Folmur Credit Agreement and the Down Under Credit Agreement, the "**Credit Agreements**"); and
- (e) the notices of intention to make a proposal by each of the Debtors dated on or about March 18, 2021 pursuant to the *Bankruptcy and Insolvency Act* (Canada), pursuant to which Albert Gelman Inc. was named proposal trustee (in such capacity, the "**Proposal Trustee**").

- 2. Pursuant to the Credit Agreements and the documentation executed in connection therewith, RBC extended certain credit facilities and services to the Debtors, and the Debtors granted certain security and guarantees to RBC, which security and guarantees are detailed at **Schedule A** hereto (collectively, the "**Security**").
- 3. The parties hereto have agreed that the Debtors will be using their funds to:
 - (a) repay the total outstanding indebtedness of the Debtors to RBC under the Credit Agreements; and
 - (b) provide RBC with \$105,000.00, to be held by RBC (or RBC's counsel, in trust for RBC) as cash collateral (the "**Cash Collateral**") to secure repayment of any Chargebacks (as defined below) and any other amounts, if any, owing by the Debtors to RBC following the Payout Date (as defined below), which Cash Collateral shall be held by RBC subject to the terms herein. Drexler hereby grants a security interest to RBC in the Cash Collateral to secure repayment of these amounts.
- 4. Based upon amounts known to RBC as of the date hereof (the "**Payout Date**"), the total aggregate principal balance, accrued interest, fees and expenses due to RBC under the Credit Agreements as at the Payout Date, plus the Cash Collateral, is the aggregate sum of the following amounts (collectively, the "**Payout Amount**"):

Demand facility under the Drexler Credit Agreement	\$1,292,788.85
Demand facility under the Folmur Credit Agreement	0.00
Second demand facility under the Folmur Credit Agreement	5,292.84
Third demand facility under the Folmur Credit Agreement	15,370.95
Credit cards under the Folmur Credit Agreement	20,613.28
Credit cards under the Down Under Credit Agreement	6,352.28
Invoices for legal fees and disbursements from June 1/21 to Aug. 10/21	13,908.05
WIP for legal fees and disbursements from Aug. 11/21 to Aug. 27/21	5,066.44
Estimated legal fees and disbursements to completion	2,500.00
Cash Collateral	105,000.00
Payout Amount:	\$1,466,892.69

- 5. The Debtors are hereby irrevocably directed to pay the Payout Amount to RBC on the Payout Date by way of wire transfer in trust to RBC's counsel, Aird & Berlis LLP, in accordance with the wire instructions attached hereto as **Schedule B**.
- 6. Each of the Debtors hereby indemnifies RBC for any and all fees (including, but not limited to, legal fees), bank account charges, credit card items, obligations under this letter, service charges, account overdrafts, obligations in respect of the \$5,000 letter of credit under the Drexler Credit Agreement (the "**Letter of Credit**") and chargebacks for any cheques, drafts and other payment items dishonoured or otherwise returned to RBC with respect to the administration and closing of the Debtors' credit facilities and accounts (all such fees, items, overdrafts, service charges and chargebacks being hereinafter referred to, collectively, as "**Chargebacks**").
- 7. Each of the Debtors hereby agrees that it shall pay all outstanding Chargebacks in full on demand after the Payout Date (and, for greater certainty, on or before the earlier of: (A)

AIRD BERLIS

the date same come due in RBC's ordinary course of business; and (B) 60 calendar days after the Payout Date), and that the Cash Collateral shall be retained by RBC for:

- (a) any Chargebacks; and
 - (b) any other amounts, if any, owing by any of the Debtors to RBC following the Payout Date, including, without limitation, any Priority Payables (as defined below).
8. Upon receipt by RBC of payment in full of the Payout Amount, completed and executed copies of the three statutory declarations attached hereto as **Schedule C** (together, in each case, with all exhibits referenced therein) and a copy of this letter executed by each of the Debtors and acknowledged by the Proposal Trustee, then (and only then):
- (a) RBC acknowledges and agrees that payment in full of the Payout Amount constitutes payment and satisfaction in full of the amounts owing pursuant to the Credit Agreements as at the Payout Date, other than the Chargebacks, and all subject to the last sentence of paragraph 9 of this letter;
 - (b) to the extent not already cancelled, instructions shall be given by RBC immediately to cancel all the credit facilities pursuant to the Credit Agreements (including, without limitation and for greater certainty, the credit cards). For greater certainty, each of the Debtors hereby agrees that any unredeemed reward/loyalty points (if any) as of the Payout Date on any of the Debtors' credit cards shall be cancelled;
 - (c) instructions shall be given by RBC on the Payout Date to close all the Debtors' accounts with RBC, including, if applicable, any and all such accounts in the names of registered business names (if any), such that, for greater certainty, no transactions of any nature will then be accepted in any of these accounts by RBC. For greater certainty, and effective immediately until such time as these accounts are closed, none of the Debtors is authorized to any overdraft privileges in respect of any of these accounts. Any remaining cash balance in these accounts after their closure and net of any setoff that may apply, if any, shall be sent to the applicable Debtors (at the applicable Debtors' expense), care of Goldman Sloan Nash & Haber LLP, 480 University Avenue, Suite 1600, Toronto, ON M5G 1V2, attention Brendan Bissell;
 - (d) RBC hereby releases, discharges, terminates and re-assigns to each of the Debtors, as applicable, all security interests, mortgages, charges, liens, guarantees, assignments and hypothecs and any rights relating to the foregoing granted by the Debtors, as applicable, pursuant to the Security other than the security interest granted in the Cash Collateral;
 - (e) RBC hereby agrees to register, at the Debtors' sole expense, the financing change statements, termination statements and certificates of release to record, as applicable:
 - (i) amendment of the existing PPSA registration listed on **Schedule D** hereto to amend the collateral classifications to include only Accounts and Other, and to insert a collateral description which reads "Cash collateral held by Royal Bank of Canada;"

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- (ii) discharge of the existing PPSA registrations listed on **Schedule E** hereto; and
 - (iii) discharge of the existing real property registrations listed on **Schedule F** hereto; and
- (f) RBC (or RBC's counsel, in trust for RBC) shall continue to hold a portion of the Payout Amount equal to the Cash Collateral, and:
- (i) to the extent that any amount of the Chargebacks is not paid when due, RBC shall be entitled to deduct such amounts (plus any related legal fees and disbursements) from the Cash Collateral to pay such amounts, without further notice to or instructions from any of the Debtors;
 - (ii) if any amount of the Cash Collateral in excess of \$10,000.00 remains after the date that is 60 calendar days after the Payout Date, any such remainder in excess of \$10,000 shall be released to the Debtors (at the Debtors' expense), care of Goldman Sloan Nash & Haber LLP, 480 University Avenue, Suite 1600, Toronto, ON M5G 1V2, attention Brendan Bissell; and
 - (iii) if any amount of Cash Collateral remains after the date that RBC receives written evidence, to its sole satisfaction, that the Letter of Credit has been cancelled and that no further obligations of any kind may be owing by RBC in respect of the Letter of Credit, then, and only then, any such remainder of Cash Collateral shall be released to the Debtors (at the Debtors' expense), care of Goldman Sloan Nash & Haber LLP, 480 University Avenue, Suite 1600, Toronto, ON M5G 1V2, attention Brendan Bissell, provided, however, that this paragraph 8(f)(iii) shall not be operable until at least 60 calendar days after the Payout Date.
9. Each of the Debtors, on its behalf and on behalf of its successors, assigns and other legal representatives, hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges RBC and each of its successors and assigns, participants, affiliates, subsidiaries, branches, divisions, predecessors, directors, officers, attorneys, employees, lenders and other representatives and advisors (RBC and all such other persons being hereinafter referred to collectively as the "**Releasees**" and individually as a "**Releasee**"), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, complaints, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defences, rights of set-off, demands and liabilities whatsoever (individually, a "**Claim**" and collectively, "**Claims**") of every name and nature, known or unknown, suspected or unsuspected, both arising at law and in equity, which any of the Debtors or any of their successors, assigns or other legal representatives may now own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the date hereof relating to the Payout Amount. Notwithstanding any of the foregoing, nothing in this paragraph or in this letter affects any rights pursuant to the *Solicitors Act* (Ontario) (or that may arise as a result of any application thereunder) in respect of the legal fees included in the Payout Amount.
10. Notwithstanding any other term or condition provided in this letter, including, without limitation, any discharge of Security, any release and/or discharge granted by RBC is

made on the basis that any and all claims that may rank in priority to the amounts owing to RBC under the Credit Agreements (the "**Potential Prior-Ranking Claims**") have been paid in full, including, without limitation, any Potential Prior-Ranking Claims (if any) arising from obligations owing to Canada Revenue Agency and/or in respect of property taxes. To the extent that RBC suffers a loss or is required to pay any amounts in respect of any Potential Prior-Ranking Claims as a result of the failure of any of the Debtors to meet any of their obligations, the Debtors shall jointly and severally pay RBC the full amount of any loss or payment required to be made in respect of any Potential Prior-Ranking Claims, and the discharges shall not operate as a release of the Debtors to such extent.

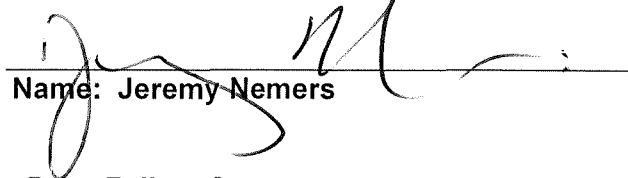
11. This letter may be executed and delivered by the parties hereto and the Proposal Trustee in one or more counterparts, each of which when so executed and delivered will be an original and such counterparts will together constitute one and the same instrument. Delivery of this letter by facsimile or PDF transmission constitutes valid and effective delivery.
12. This letter shall be governed by the laws of the Province of Ontario and the Federal laws of Canada applicable therein. The parties hereto irrevocably submit to the courts of the Province of Ontario sitting in Toronto in any action or proceeding arising out of or relating to this letter, and irrevocably agree that all such actions and proceedings may be heard and determined in such courts, and irrevocably waives, to the fullest extent possible, the defence of an inconvenient forum.
13. As the quantum of the credit facilities provided pursuant to the Credit Agreements can fluctuate on a daily basis, the Payout Amount is only valid until 4:00 p.m. (Toronto time) on the Payout Date. If RBC has not received the Payout Amount by such time (together with all other deliverables required by paragraph 8 of this letter), RBC will be required to recalculate the Payout Amount for the next full business day. Accordingly, if RBC does not receive the Payout Amount on or before 4:00 p.m. (Toronto time) on the Payout Date, together with all other deliverables required by paragraph 8 of this letter, then paragraph 8 of this letter shall be deemed to be null and void and of no further force and effect.
14. By executing and delivering this letter, each of the parties acknowledges and declares that:
 - (a) it has had an adequate opportunity to read and consider this letter and to obtain such advice in regard to it as it considers advisable, including, without limitation, independent legal advice;
 - (b) it fully understands the nature and effect of this letter; and
 - (c) this letter has been duly executed voluntarily.

AIRD BERLIS

We trust the foregoing is satisfactory.

Yours truly,

AIRD & BERLIS LLP FOR AND ON BEHALF OF
ROYAL BANK OF CANADA

By: 
Name: Jeremy Nemers

[Acknowledgment Page Follows]

ACKNOWLEDGED AND AGREED by the Debtors as of the date first written above.

DREXLER CONSTRUCTION LIMITED

By: Jerome F. Drexler
Name: Jerome F. Drexler
Title: Vice-President

I have authority to bind the corporation.

FOLMUR CONSTRUCTION (2004) LTD.

By: Jerome F. Drexler
Name: Jerome F. Drexler
Title: Vice-President

I have authority to bind the corporation.

DOWN UNDER PIPE AND CABLE LOCATING LTD.

By: Jerome F. Drexler
Name: Jerome F. Drexler
Title: Vice-President

I have authority to bind the corporation.

ALBERT GELMAN INC., in its capacity as the Proposal Trustee of the Debtors, acknowledges receipt of this letter and the acknowledgment and agreement of the Debtors to its terms as of the date first written above.

ALBERT GELMAN INC., in its capacity as the Proposal Trustee of Dexler Construction Limited, Folmur Construction (2004) Ltd. and Down Under Pipe and Cable Locating Ltd., and not in its personal capacity

By: _____
Name:
Title:

I have authority to bind the Proposal Trustee.

AIRD BERLIS

**SCHEDULE A
SECURITY**

1. Guarantee and postponement of claim dated December 15, 2017, which is limited to the principal amount of \$4,889,998.00 plus interest thereon from the date of demand for payment, pursuant to which, amongst other things, Folmur has guaranteed the obligations of Drexler to RBC.
2. Guarantee and postponement of claim dated December 15, 2017, which is limited to the principal amount of \$4,889,998.00 plus interest thereon from the date of demand for payment, pursuant to which, amongst other things, Down Under has guaranteed the obligations of Drexler to RBC.
3. Guarantee and postponement of claim dated December 15, 2017, which is limited to the principal amount of \$496,166.36 plus interest thereon from the date of demand for payment, pursuant to which, amongst other things, Drexler has guaranteed the obligations of Folmur to RBC.
4. Guarantee and postponement of claim dated February 15, 2019, which is limited to the principal amount of \$496,166.36 plus interest thereon from the date of demand for payment, pursuant to which, amongst other things, Down Under has guaranteed the obligations of Folmur to RBC.
5. Guarantee and postponement of claim dated December 15, 2017, which is limited to the principal amount of \$20,000.00 plus interest thereon from the date of demand for payment, pursuant to which, amongst other things, Drexler has guaranteed the obligations of Down Under to RBC.
6. Guarantee and postponement of claim dated December 15, 2017, which is limited to the principal amount of \$20,000.00 plus interest thereon from the date of demand for payment, pursuant to which, amongst other things, Folmur has guaranteed the obligations of Down Under to RBC.
7. General Security Agreement, made by Drexler in favour of RBC, dated May 11, 1984.
8. General Security Agreement, made by Folmur in favour of RBC, dated November 2, 2006.
9. General Security Agreement, made by Down Under in favour of RBC, dated November 2, 2006.
10. Collateral charge/mortgage of land in principal the amount of \$215,000.00 in respect of the real property municipally known as 183 Catherine Street in Eramosa, Ontario and legally described in PIN 71180-0052 (LT) registered on April 7, 1992 as Instrument No. RO663164.
11. Collateral charge/mortgage of land in the principal amount of \$130,000.00 in respect of the real property municipally known as 183 Catherine Street in Eramosa, Ontario and legally described in PIN 71180-0052 (LT) registered on January 18, 1993 as Instrument No. RO686143.

**SCHEDULE B
WIRE INSTRUCTIONS**

CANADIAN DOLLAR PAYMENT / CANADIAN DOLLAR TRUST ACCOUNT

Account Name: Aird & Berlis LLP
181 Bay Street, Suite 1800
Toronto, Ontario M5J 2T9

Account No.: 5221548

Bank: TD Canada Trust
55 King Street West
Toronto, Ontario M5K 1A2

Bank No.: 004

Transit No: 10202

Swift Code: TDOMCATTOR

RE: **M# 161826 Attention: Ian Aversa and Jeremy Nemers**
(NOTE: This information must be included)

AIRD BERLIS

SCHEDULE C
STATUTORY DECLARATIONS
[FOLLOW ON NEXT PAGE]

AIRD BERLIS

STATUTORY DECLARATION

CANADA	)	IN THE MATTER OF the <i>Business Corporations Act</i> (Ontario)
)	
PROVINCE OF ONTARIO	)	AND IN THE MATTER OF the <i>Personal Property Security Act</i> (Ontario)
)	
TO WIT)	

I, **JEROME DREXLER**, of the Municipality of _____, in the Province of Ontario,

SOLEMNLY DECLARE THAT:

1. I am a Director and an Officer of **DREXLER CONSTRUCTION LIMITED** (the "**Debtor**"), and, as such, have knowledge of the facts declared herein or have taken such steps as I deem sufficient to make myself aware of the facts declared herein.
2. As of the date hereof, the Debtor has no outstanding liabilities that would rank in priority to the Debtor's obligations to Royal Bank of Canada. Without in any way limiting the generality of the foregoing, the Debtor is current on account with: (i) Canada Revenue Agency ("**CRA**") for any and all obligations as of the date hereof in respect of employee source deductions and Harmonized Sales Tax ("**HST**"); and (ii) The Corporation of The Township of Guelph/Eramosa (the "**Municipality**") in respect of property taxes, including, without limitation, in respect of the real property municipally known as 183 Catherine Street in Eramosa, ON and legally described in PIN 71180-0052 (LT) and in respect of the real property municipally known as 5274 Wellington County Road 27 RR1 in Eramosa, ON and legally described in PIN 71180-0203 (LT) and PIN 71180-0204 (LT).
3. Attached as **Exhibit "1"** hereto is a true statement from CRA reflecting that no balance is owing by the Debtor to CRA as of the date hereof for employee source deductions.
4. Attached as **Exhibit "2"** hereto is a true statement from CRA reflecting that no balance is owing by the Debtor to CRA as of the date hereof for HST.
5. Attached as **Exhibit "3"** hereto is a true statement from the Municipality reflecting that no balance is owing by the Debtor to the Municipality for property taxes as of the date hereof.
6. I have had an adequate opportunity to read and consider this statutory declaration and to obtain such advice in regard to it as it considers advisable, including, without limitation, independent legal advice, I fully understand the nature and effect of this statutory declaration and this statutory declaration has been duly executed voluntarily.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

DECLARED before me in the)	
Municipality of _____, in the Province)	
of Ontario this ____ day of August, 2021)	
)	
)	_____
	)	JEROME DREXLER
A Commissioner, etc.)	



STATUTORY DECLARATION

CANADA	)	IN THE MATTER OF the <i>Business Corporations Act</i> (Ontario)
)	
PROVINCE OF ONTARIO	)	AND IN THE MATTER OF the <i>Personal Property Security Act</i> (Ontario)
)	
TO WIT)	

I, **JEROME DREXLER**, of the Municipality of _____, in the Province of Ontario,

SOLEMNLY DECLARE THAT:

1. I am a Director of **FOLMUR CONSTRUCTION (2004) LTD.** (the "**Debtor**"), and, as such, have knowledge of the facts declared herein or have taken such steps as I deem sufficient to make myself aware of the facts declared herein.
2. As of the date hereof, the Debtor has no outstanding liabilities that would rank in priority to the Debtor's obligations to Royal Bank of Canada. Without in any way limiting the generality of the foregoing, the Debtor is current on account with Canada Revenue Agency ("**CRA**") for any and all obligations as of the date hereof in respect of employee source deductions and Harmonized Sales Tax ("**HST**").
3. Attached as **Exhibit "1"** hereto is a true statement from CRA reflecting that no balance is owing by the Debtor to CRA as of the date hereof for employee source deductions.
4. Attached as **Exhibit "2"** hereto is a true statement from CRA reflecting that no balance is owing by the Debtor to CRA as of the date hereof for HST.
5. I have had an adequate opportunity to read and consider this statutory declaration and to obtain such advice in regard to it as it considers advisable, including, without limitation, independent legal advice, I fully understand the nature and effect of this statutory declaration and this statutory declaration has been duly executed voluntarily.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

DECLARED before me in the)	
Municipality of _____, in the Province)	
of Ontario this ____ day of August, 2021)	
)	
)	_____
	)	JEROME DREXLER
A Commissioner, etc.)	



STATUTORY DECLARATION

CANADA	)	IN THE MATTER OF the <i>Business Corporations</i>
	)	<i>Act</i> (Ontario)
)	
PROVINCE OF ONTARIO	)	AND IN THE MATTER OF the <i>Personal Property</i>
	)	<i>Security Act</i> (Ontario)
TO WIT)	

I, **JEROME DREXLER**, of the Municipality of _____, in the Province of Ontario,

SOLEMNLY DECLARE THAT:

1. I am an Officer and a Director of **DOWN UNDER PIPE AND CABLE LOCATING LTD.** (the "**Debtor**"), and, as such, have knowledge of the facts declared herein or have taken such steps as I deem sufficient to make myself aware of the facts declared herein.
2. As of the date hereof, the Debtor has no outstanding liabilities that would rank in priority to the Debtor's obligations to Royal Bank of Canada. Without in any way limiting the generality of the foregoing, the Debtor is current on account with Canada Revenue Agency ("**CRA**") for any and all obligations as of the date hereof in respect of employee source deductions and Harmonized Sales Tax ("**HST**").
3. Attached as **Exhibit "1"** hereto is a true statement from CRA reflecting that no balance is owing by the Debtor to CRA as of the date hereof for employee source deductions.
4. Attached as **Exhibit "2"** hereto is a true statement from CRA reflecting that no balance is owing by the Debtor to CRA as of the date hereof for HST.
5. I have had an adequate opportunity to read and consider this statutory declaration and to obtain such advice in regard to it as it considers advisable, including, without limitation, independent legal advice, I fully understand the nature and effect of this statutory declaration and this statutory declaration has been duly executed voluntarily.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

DECLARED before me in the)	
Municipality of _____, in the Province)	
of Ontario this ____ day of August, 2021)	
)	
)	_____
A Commissioner, etc.	)	JEROME DREXLER



SCHEDULE D

PPSA REGISTRATION TO BE AMENDED TO RECORD CASH COLLATERAL PURSUANT TO PARAGRAPH 8 OF THIS LETTER

Drexler Construction Limited				
Registration Number	Reference File No.	Debtor	Secured Party	Collateral Classification/Description
19840518 1029 88 9270 Amended by 19860129 1456 15 6972 Renewed by 19870422 1520 15 8441 Renewed for 5 years by 19900227 1450 0020 5115 Renewed for 5 years by 19941212 2209 1529 8606 Amended secured party address by 19961028 1924 1529 3430 Renewed for 5 years by 20000215 1759 1531 6904 Renewed for 5 years by 20050315 1454 1530 1998 Renewed for 5 years by 20100305 1949 1531 0170 Renewed for 5 years by 20150320 1940 1531 3860 Renewed for 5 years by 20200320 1435 1530 6954	957365559	Drexler Construction Limited	Royal Bank of Canada	I, E, Book Debts, O, MV

AIRD BERLIS

SCHEDULE E

PPSA REGISTRATIONS TO BE DISCHARGED PURSUANT TO PARAGRAPH 8 OF THIS LETTER

Folmur Construction (2004) Ltd.				
Registration Number	Reference File No.	Debtor	Secured Party	Collateral Classification/Description
20061030 1046 1529 9018 Renewed for 5 years by 20110923 1945 1531 7054 Renewed for 5 years by 20160923 1438 1530 0705	630158157	Folmur Construction (2004) Ltd.	Royal Bank of Canada	I, E, A, O, MV

Down Under Pipe & Cable Locating Ltd.				
Registration Number	Reference File No.	Debtor	Secured Party	Collateral Classification/Description
20061030 1046 1529 9019 Renewed for 5 years by 20110923 1945 1531 7055 Renewed for 5 years by 20160923 1438 1530 0706	630158166	Down Under Pipe & Cable Locating Ltd.	Royal Bank of Canada	I, E, A, O, MV

AIRD BERLIS

SCHEDULE F

**REAL PROPERTY REGISTRATIONS TO BE DISCHARGED PURSUANT TO PARAGRAPH 8
OF THIS LETTER**

1. Collateral charge/mortgage of land in principal the amount of \$215,000.00 in respect of the real property municipally known as 183 Catherine Street in Eramosa, Ontario and legally described in PIN 71180-0052 (LT) registered on April 7, 1992 as Instrument No. RO663164.
2. Collateral charge/mortgage of land in the principal amount of \$130,000.00 in respect of the real property municipally known as 183 Catherine Street in Eramosa, Ontario and legally described in PIN 71180-0052 (LT) registered on January 18, 1993 as Instrument No. RO686143.

This is **Exhibit "J"** to the affidavit of Jerome Drexler sworn before me via Zoom this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

Joël Turgeon

CORWIN MORTGAGE CAPITAL INC.
333 WILSON AVENUE, SUITE 300
TORONTO, ONTARIO
M3H 1T2

August 26, 2021

Drexler Construction Limited (“Drexler”) and Folmur Construction (2004) Ltd (“Folmur”) (collectively known as the “Borrowers”)

Re: Mortgage Financing Commitment (the “Commitment”)

Corwin Mortgage Capital Inc. (“Corwin”), licensed under the *Mortgage Brokers, Lenders and Administrators Act* as a mortgage brokerage, hereby provides its Amended Commitment, as an agent for the Lender (defined in Schedule B), to fund a loan (the “Loan”) to be secured by a mortgage (the “Mortgage”) to be registered on title to the Lands (“Title”). The terms of the Amended Commitment are as follows:

1. **Municipal Addresses:** 5274 Wellington Road 27, Rockwood, ON (“Well”)
183 Catherine Street, Rockwood, ON (“Cath”)
2. **Loan Amount and Priority:** \$1,000,000. Second Mortgages.
3. **Interest Rate:** 10% per annum, interest only.
4. **Term:** 1 year.
5. **Fees** (collectively the “Fees”):
 - i) **Brokerage:** \$10,000.00 to Corwin.
 - ii) **Lender’s Legal Fees:** To be paid by the Borrowers.
6. **Prepayment Privilege:** Open for repayment in full upon not less than 45 days written notice.
7. **Security:** As described hereafter in paragraph 4 of Schedule ‘B’.
8. **Deposit:** \$5,000.00 by certified cheque payable to Corwin Admin Inc. (the “Deposit”).
9. **Court Approval:** **This Commitment must be approved by the Superior Court of Justice.**
10. **Closing Date:** On the fifth business day following Corwin confirming that the Closing Requirements as described hereafter in paragraph 6 of Schedule ‘B’ have been satisfied or waived by Corwin, or on a prior date set by Corwin and agreed to by the Borrowers (the “Closing Date”).

Acceptance

Initial _____ date _____

CORWIN MORTGAGE CAPITAL 333 WILSON AVENUE, SUITE 300
TORONTO, ONTARIO, M3H 1T2

Please signify your agreement to the Commitment by executing and dating a copy of each page and returning same with the Deposit. This Commitment is voidable at the option of Corwin if not accepted in accordance with its terms by August 30, 2021. **Before acceptance of the Commitment you are strongly advised to obtain legal advice.**

Yours very truly,
CORWIN MORTGAGE CAPITAL INC. (FSCO Licence
No. 12380)



Per: Kyle Fenwick
I have the authority to bind the Corporation

Acceptance

Initial _____ date _____

CORWIN MORTGAGE CAPITAL 333 WILSON AVENUE, SUITE 300
TORONTO, ONTARIO, M3H 1T2

ACCEPTANCE

The Borrowers hereby accept the Commitment and confirms their agreement with all of the terms and conditions hereof, having either obtained legal advice independent of Corwin or having been satisfied that legal advice is not required.

Accepted at _____ this _____ day of _____, 2021.

Drexler Construction Limited

Folmur Construction (2004) Ltd

Per: Alfred Drexler
I have the authority to bind the Corporation

Per: Alfred Drexler
I have the authority to bind the Corporation

Acceptance

Initial _____ date _____

CORWIN MORTGAGE CAPITAL 333 WILSON AVENUE, SUITE 300
TORONTO, ONTARIO, M3H 1T2

SCHEDULE 'A'

AUTHORIZATION, DIRECTION AND CONSENT

TO: City of Rockwood, Utility Suppliers, and any existing or future encumbrancers of the Lands as defined below

AND TO: Corwin Mortgage Capital Inc.,

FROM: Drexler Construction Limited and Folmur Construction (2004) Ltd.

RE: Corwin Second Mortgages; 5274 Wellington Road 27, Rockwood, ON and 183 Catherine Street, Rockwood, ON

We, Drexler Construction Limited and Folmur Construction Ltd. the proposed Borrowers with respect to the above referenced transaction, hereby authorizes and directs that upon written request and from time to time you are to release to the intended and thereafter existing mortgagee of the Lands, Corwin Mortgage Capital Inc., and/or its solicitors, any and all records and information requested pertaining to the property and, in particular, accounts, building, zoning, fire, building permits, health issues or work orders and in case of a 1st mortgage loan a mortgage or loan statement for discharge or information purposes, an arrears statement and particulars of any default that has occurred or exists and particulars of any renewal, conversions or other changes made to the mortgage. This is your full and sufficient authority and direction to do so. You may rely on this authorization and direction and authorization as the consent of the undersigned for all purposes to release our personal information related in any manner to the Lands.

We also authorize and direct Corwin and/or its solicitors to release any information relating to the above-noted mortgage to any existing or future encumbrancers or creditors who have an interest in or whose claims bind the Lands.

DATED at _____, this _____ day of _____, 2021.

Drexler Construction Limited

Folmur Construction (2004) Ltd

Per: Alfred Drexler
I have the authority to bind the Corporation

Per: Alfred Drexler
I have the authority to bind the Corporation

Acceptance

Initial _____ date _____

CORWIN MORTGAGE CAPITAL 333 WILSON AVENUE, SUITE 300
TORONTO, ONTARIO, M3H 1T2

SCHEDULE 'B'

1. **Lender:** The Lender for the Loan will be a syndicate of investors.
2. **Interest:** Calculated and payable monthly, interest only ("Interest") with no deemed reinvestment of monthly payments. Interest shall become due and payable the first of each month immediately following the Interest Adjustment Date as referred to hereunder and on the first of each month thereafter.
3. **Interest Adjustment Date:** The Interest Adjustment Date ("IAD") shall be the 1st of the month following the Closing Date as described hereunder.
4. **Security:**
 - i) Second Mortgages to be registered on Title to Well and Cath subject only to the existing first mortgages in favour of Corwin;
 - ii) Postponement of all claims by any shareholder of the Borrowers;
 - iii) Corporate Guarantee collaterally secured by the mortgages referred to in sections 4(i) and (ii) from Drexler on all advances made to Folmur;
 - iv) Assignment of insurance policies over the assets of the Borrowers at the Lands with loss payable to Corwin;
 - v) Assignment of all material contracts and agreements pertaining to the Lands; and
 - vi) Such other legal documents reasonably considered necessary by Corwin's solicitors, to support Corwin's security.
5. **Borrowers Representations and Acknowledgements:**

The Borrowers represent and warrant to Corwin that as of the date of acceptance of this Commitment by the Borrowers and as of the Closing Date:

- The Borrowers have the power, capacity and authority to enter into this Commitment and to perform and complete the transaction contemplated herein, all of which have been duly authorized where required by all necessary corporate action, and that no consents are necessary for this transaction to be completed;
- The Borrowers have not withheld any information of a material nature relating to the Lands or the Borrowers;
- All financial information provided by the Borrowers to the Lender, including without limitation financial information provided in respect of the values and other matters pertaining to the Lands.
- **The Lands and all activities conducted thereon comply with all environmental laws in the Province**

Acceptance

Initial _____ date _____

CORWIN MORTGAGE CAPITAL 333 WILSON AVENUE, SUITE 300
TORONTO, ONTARIO, M3H 1T2

of Ontario. The Lands contain no hazardous substances, have not been previously subject to any remediation or clean-up of hazardous substances and there is no prior, existing or threatened investigation, action, proceedings, notice, order, fine, conviction, judgment or lien of any nature or kind against or affecting the Lands or the Borrowers or the previous owners arising under or relating to environmental laws. All existing environmental assessments, audits, tests and reports relating to the Lands within the knowledge of the Borrowers has been delivered to Corwin;

- On closing the Borrowers will be the registered owner and the sole beneficial owners of the Lands;
- The Lands and the building(s) thereon are owner occupied commercial/industrial properties;
- The current use of the Lands is legal in every respect, complying with all municipal, provincial, federal and regulatory laws, regulations and/or by-laws (governmental or otherwise).

6. **Closing Requirements:**

This Commitment must be approved by the Superior Court of Justice.

7. **Termination of Commitment:**

In the event the Loan is not advanced and the Commitment is terminated the Deposit shall not be refundable to the Borrowers and may be retained by Corwin as liquidated damages except in the event of Corwin's default. In addition to the foregoing, the Borrowers shall be responsible for and pay the deficiency between the Fees and the Deposit to Corwin forthwith on demand which are deemed to be earned and payable by the Borrowers upon acceptance by the Borrowers hereof. The Borrowers acknowledge that the Fees are a reasonable estimate of Corwin's costs incurred in sourcing, investigating, underwriting and preparing the Loan and holding monies available to fund the Loan and that said Fees are earned irrespective of whether the Loan is advanced, save for Corwin's default.

No termination of this Commitment shall limit, restrict or otherwise affect in any way: (i) the obligations of the Borrowers to pay to Corwin the Fees or any third party fees, costs and expenses of Corwin in connection with the Loan specified in this Commitment; and (ii) the right of Corwin in respect of any deposits paid to it, including its right to retain the Deposit and/or to apply the Deposit for third party fees, costs and expenses as set out herein.

It is understood that Corwin has entered into this Commitment based on representations made by the Borrowers and, if at any time, there is or has been any material discrepancy or inaccuracy in any written or oral information, statements, or representations heretofore or hereafter made or furnished to Corwin by or on behalf of the Borrowers concerning the security or the Borrowers financial condition and responsibility, then Corwin shall be entitled in its sole discretion to withdraw or cancel any obligation hereunder and decline to advance funds, and in addition to forfeiture of the Deposit, the Borrowers shall be liable to pay all Fees as hereinbefore recited.

8. **Extension and Assignment of Commitment:**

In the event the Loan is not advanced by the Closing Date the Commitment may be terminated at the option of Corwin unless the Borrowers pre-pay interest to Corwin for one month for each one-month extension or

Acceptance

Initial _____ date _____

CORWIN MORTGAGE CAPITAL 333 WILSON AVENUE, SUITE 300
TORONTO, ONTARIO, M3H 1T2

part thereof of the Closing Date together with all Fees.

Corwin may sell, transfer, assign or syndicate the Loan, or any interest therein, from time to time without notice to, or consent of, the Borrowers. The Borrowers acknowledge and agree that the Loan may be sold, transferred assigned or syndicated without further notice to, or the consent of, the Borrowers.

Corwin from time to time may release, disclose, exchange, share, transfer and assign, as it may determine in its sole discretion, all financial and other information and materials provided to or obtained by Corwin or its agents and representatives, without restriction and without notice to or the consent of the Borrowers as follows:

- i. to any subsequent or proposed purchaser of the Loan, including any subsequent lender and their respective third party advisors such as lawyers, accountants, consultants, appraisers and credit verification sources; and
- ii. to any person in connection with the sale or assignment of the Loan.

The Borrowers consent to the release, disclosure, exchange and sharing of all such information and materials and to any publicity or advertising that refers to the financing of the Lands.

The rights or obligations of the Borrowers under or in respect of this Commitment or the Loan may not be assigned to or performed by any other party.

9. **Realty Taxes:**

The Charge may include a provision for the collection of property taxes by the Lender or anyone instructed by the Lender.

10. **Expenses:**

The Borrowers agree to pay all fees (including legal fees), costs and expenses incurred by Corwin in connection with the preparation, negotiation and documentation of this Commitment and the security provided for herein and the operation or enforcement of this Commitment and the security provided for herein.

11. **Title Insurance:**

At the Borrowers expense, Corwin's solicitors will obtain a title insurance policy from title insurer with coverage satisfactory to Corwin's solicitors in their sole and absolute discretion.

12. **Insurance:**

The Borrowers shall deliver evidence of fire and liability insurance, including any other coverage required by Corwin, showing the interest of Corwin as second mortgagee and loss payee. On closing, the insurance premium for 1 year from the date of closing shall be paid in full.

Acceptance

Initial _____ date _____

CORWIN MORTGAGE CAPITAL 333 WILSON AVENUE, SUITE 300
TORONTO, ONTARIO, M3H 1T2

13. **Possession:**

In the event of default under the Mortgage by the Borrowers, Corwin obtaining possession of the Lands and determining, in its sole discretion, that the Lands require work and improvements in order to market the Lands, then Corwin shall have the right, at its sole option, to complete such work on such terms as it deems advisable. The cost of completion of the servicing and work by Corwin and its agents and all expenses incidental thereto shall be added to the Loan Amount, together with a management fee of fifteen per cent (15%) of the costs of the work and improvements completed by Corwin. All costs and expenses, as well as said management fee, shall bear interest at the rate as herein provided for and shall form part of the Loan secured hereunder and Corwin shall have the same rights and remedies with respect to collection of same as it would have with respect to collection of Mortgage principal and Interest hereunder or at law.

14. **Deliveries:**

Such financial and other information, statements and documents as Corwin and/or its solicitors may require in connection with the underwriting or closing of the Loan.

15. **Non-Merger:**

The provisions of this Commitment shall not merge with any security provided to the Lender, but shall continue in full force and effect for the benefit of the parties hereto.

16. **General Provisions and Independent Legal Advice:**

- Mortgage advance is to be payable to the registered owner of the Lands;
- Attorney pursuant to power of attorney cannot execute Mortgage document;
- Independent Legal Advice shall be required for any party guaranteeing the Mortgage, consenting to or guaranteeing the Mortgage or postponing their interest to Corwin's security unless waived by Corwin;
- Prior to advance of funds, all security and loan documentation is to be delivered to Corwin in form satisfactory to Corwin and its solicitors; and
- No subsequent financing.

17. **Lender's Legal Fees:**

The Lender's Legal Fees are for performance of the following legal services:

- i. due diligence searches as required by the Lender and review of such searches;
- ii. preparation of the mortgage and security documentation;
- iii. placement of title insurance;
- iv. registration of the mortgage and security documents as required; and
- v. correspondence with the Borrowers solicitors.

If any other work is required to be completed by the Lender's solicitors which is outside the scope of the foregoing, including but not limited to, (a) work completed as a result of the Borrowers non-disclosure of existing

Acceptance

Initial _____ date _____

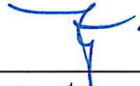
CORWIN MORTGAGE CAPITAL 333 WILSON AVENUE, SUITE 300
TORONTO, ONTARIO, M3H 1T2

encumbrances which relate to the security being provided under the mortgage, (b) negotiating the mortgage and security documentation in response to changes requested by Borrowers, (c) revising the mortgage and security documentation to reflect changes requested by the Borrowers and agreed to by the Lender, (d) investigating the Land's compliance with applicable laws and regulations, and (e) conducting the closing of the transaction, then in addition to the amount of the Lender's Legal Fees indicated on page 1 of the Commitment, the Lender's solicitors may charge, and the Borrowers must pay on closing, the additional legal fees of the Lender's solicitors which will be charged at the Lender's solicitors' hourly rate.

Acceptance

Initial _____ date _____

This is **Exhibit "K"** to the affidavit of Jerome Drexler sworn before me via Zoom this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

JOEI TURGEON

August 31, 2021

DELIVERED BY EMAIL

Down Under Pipe and Cable Locating Ltd. (the “Company”)

a/s Jerome Drexler
5278 Wellington County Road 27
Rockwood ON N0B 2K0
jerome@drexlerconstruction.on.ca

with a copy to:

Goldman Sloan Nash & Haber LLP

a/s R. Brendan Bissell & Joël Turgeon
480 University Avenue, Suite 1600
Toronto ON M5G 1V2
bissell@gsnh.com
turgeon@gsnh.com

and with a copy to:

Albert Gelman Inc. in its capacity as proposal trustee to the Company

a/s Bryan Gelman, CIRP, LIT, Managing Director
100 Simcoe Street, Suite 125
Toronto ON M5H 3G2
bgelman@albertgelman.com

Dear Sirs:

RE: THE COMPANY’S PROPOSAL TO CREDITORS DATED AUGUST 30, 2021
(the “Proposal”)

I write to you in my capacity as principal of 2602763 Ontario Limited (“**260’ Inc.**”) which I have authority to bind.

I have received and reviewed the Proposal on behalf of 260’ Inc. I note that 260’ Inc. is the only listed creditor in the Form 78 attached to the Proposal. 260’ Inc. is listed as an unsecured creditor for \$47,058.40 which is correct.

I am the sole shareholder and principal of 260’ Inc., and I understand that the Company is a wholly-owned subsidiary of Drexler Construction Limited, whose sole shareholders are my brothers. I understand from my communications with you that the professionals involved believe that 260’ Inc. may therefore be considered “related” to the Company under the *Bankruptcy and Insolvency Act*, with the result that 260’ Inc. would in principle only be allowed to vote against the Proposal, and not in favour of it, under the *Act*.

I also understand from my communications with you that the Company will make a motion to the court for orders allowing either (i) the Company to withdraw the Proposal and the prior notice of intention to make the Proposal (the "NOI"), or (ii) 260' Inc. to vote in favour of the Proposal.

As orally discussed, I write to confirm on behalf of 260' Inc. that:

1. 260' Inc. would not oppose the withdrawal of the Proposal or the NOI, including among other things because I understand from my communications with you that the Company is more than likely solvent at this point, and because I believe that 260' Inc. can reach a mutually acceptable arrangement with the Company for payment of its claim outside of the Proposal process.
2. At the same time, I believe the terms of the Proposal are fair and reasonable and, if allowed by the court, I would cause 260' Inc. to vote in favour of the Proposal.

Therefore, of the two alternative reliefs sought on the upcoming Company's motion as noted above, 260' Inc. has no particular preference, and 260' Inc. will consent to both forms of relief. Depending on which (if any) is ordered by the court, I will cause 260' Inc. to act accordingly.

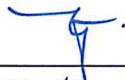
Yours truly,

2602763 Ontario Limited



Per: Peter Drexler

This is **Exhibit "L"** to the affidavit of Jerome Drexler sworn before me via Zoom this 1st day of September, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*



A Commissioner, etc.

JOE TURGEON

LAND
REGISTRY
OFFICE #61

71180-0052 (LT)

PREPARED FOR Karen001
ON 2021/08/26 AT 14:58:46

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PT LT 6 CON 4 ERAMOSIA PT 1 61R3832; GUELPH-ERAMOSIA

PROPERTY REMARKS:

ESTATE/QUALIFIER:
FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:
RE-ENTRY FROM 71180-0263

PIN CREATION DATE:
2001/01/22

OWNERS' NAMES
DREXLER CONSTRUCTION LIMITED

CAPACITY SHARE
BENO

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2001/01/19 **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 2001/01/22 **						
MS65132	1967/06/15	BYLAW				C
MS92395	1970/02/13	LEASE		*** COMPLETELY DELETED ***	TUFFIN, HARVEY	
61R3832	1987/04/27	PLAN REFERENCE				C
ROS549271	1987/05/11	TRANSFER	\$210,000		DREXLER CONSTRUCTION LIMITED	C
RO663164	1992/04/07	CHARGE	\$215,000		ROYAL BANK OF CANADA	C
RO686143	1993/01/18	CHARGE	\$130,000		ROYAL BANK OF CANADA	C
WC633248	2021/05/10	NO DET/SURR LEASE		*** COMPLETELY DELETED *** DREXLER CONSTRUCTION LIMITED	DREXLER CONSTRUCTION LIMITED	
REMARKS: MS92395.						
WC633256	2021/05/10	CHARGE	\$1,500,000	DREXLER CONSTRUCTION LIMITED	CORWIN MORTGAGE CAPITAL INC.	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

LAND
REGISTRY
OFFICE #61

71180-0052 (LT)

PREPARED FOR Karen001
ON 2021/08/26 AT 14:58:46

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
WC633257	2021/05/10	NO ASSGN RENT GEN REMARKS: WC633256		DREXLER CONSTRUCTION LIMITED	CORWIN MORTGAGE CAPITAL INC.	C
WC633258	2021/05/10	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	CORWIN MORTGAGE CAPITAL INC.	C

LAND
REGISTRY
OFFICE #61

71180-0203 (LT)

PREPARED FOR Karen001
ON 2021/08/26 AT 15:02:20

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PT LT 10 CON 4 ERAMOSIA PT 2 61R7045; GUELPH-ERAMOSIA; S/T EASEMENT IN FAVOUR OF UNION GAS LIMITED OVER PT 2, 61R7045 AS IN WC94269.

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:

RE-ENTRY FROM 71180-0401

PIN CREATION DATE:

2001/01/22

OWNERS' NAMES

DREXLER CONSTRUCTION LIMITED

CAPACITY SHARE

BENO

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2001/01/19 **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 2001/01/22 **						
MS65132	1967/06/15	BYLAW				C
ROS574474	1988/06/02	TRANSFER	\$300,000		DREXLER CONSTRUCTION LIMITED	C
ROS574475	1988/06/02	CHARGE		*** COMPLETELY DELETED ***	DREXLER, ALFRED DREXLER, SHIRLEY	
RO739539	1995/10/06	AGREEMENT			THE TOWNSHIP OF ERAMOSIA	C
61R7045	1996/04/02	PLAN REFERENCE				C
LT84738	2002/06/14	NOTICE		DREXLER CONSTRUCTION LIMITED	THE CORPORATION OF THE TOWNSHIP OF GUELPH-ERAMOSIA	C
WC94269	2005/03/23	TRANSFER EASEMENT	\$1	DREXLER CONSTRUCTION LIMITED	UNION GAS LIMITED	C
WC328553	2011/11/17	APL OF SURV-CHRG		*** COMPLETELY DELETED *** DREXLER, ALFRED	DREXLER, SHIRLEY	
REMARKS: ROS574475.						

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.

NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

LAND
REGISTRY
OFFICE #61

71180-0203 (LT)

PREPARED FOR Karen001
ON 2021/08/26 AT 15:02:20

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
WC410286	2014/08/07	DISCH OF CHARGE		*** COMPLETELY DELETED *** CHAPMAN, PAMELA MARIE DREXLER, CHARLES JOHN		
		REMARKS: ROS574475.				
WC630229	2021/04/13	NOTICE		XPLORNET COMMUNICATIONS INC.		C
WC633256	2021/05/10	CHARGE	\$1,500,000	DREXLER CONSTRUCTION LIMITED	CORWIN MORTGAGE CAPITAL INC.	C
WC633257	2021/05/10	NO ASSGN RENT GEN		DREXLER CONSTRUCTION LIMITED	CORWIN MORTGAGE CAPITAL INC.	C
		REMARKS: WC633256				
WC633258	2021/05/10	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	CORWIN MORTGAGE CAPITAL INC.	C

**IN THE MATTER OF THE PROPOSAL TO CREDITORS PROCEEDINGS OF
DREXLER CONSTRUCTION LIMITED, FOLMUR CONSTRUCTION (2004)
LIMITED AND DOWN UNDER PIPE AND CABLE LOCATING LIMITED,
CORPORATIONS INCORPORATED UNDER THE ONTARIO *BUSINESS
CORPORATIONS ACT***

ONTARIO
SUPERIOR COURT OF JUSTICE

AFFIDAVIT OF JEROME DREXLER
(sworn September 1, 2021)

GOLDMAN SLOAN NASH & HABER LLP
480 University Avenue, Suite 1600
Toronto ON M5G 1V6

R. Brendan Bissell (LSO# 40354V)
Tel: (416) 597-6489
Fax: (416) 597-3370
Email: bissell@gsnh.com

Joël Turgeon (LSO #80984R)
Tel: (416) 597-6486
Email: turgeon@gsnh.com

Lawyers for the moving parties and debtor companies,
Drexler Construction Limited, Folmur Construction
(2004) Limited, and Down Under Pipe and Cable
Locating Limited

TAB 3
Draft Order

indicated on the counsel slip, no other parties being present although duly served as more fully appears from the affidavit of service, filed:

I. NOTICE AND SERVICE

1. **THIS COURT ORDERS** that the time for service of the motion record in respect of this motion and the Fourth Report is abridged and validated so that the motion is properly returnable today, and that further service thereof is dispensed with.

II. INCREASED DIP FACILITY

2. **THIS COURT ORDERS** that the Companies are and each of them is hereby authorized and empowered to obtain and borrow under an increased credit facility (the “**Increased DIP Facility**”) from Corwin Mortgage Capital Inc. (the “**DIP Lender**”) in order to finance the Companies’ operations, capital expenditures and restructuring, which Increased DIP Facility shall be on the terms and subject to the conditions set forth in the amended term sheet (the “**Amended Term Sheet**”) attached as Exhibit “J” to the Drexler September Affidavit.

3. **THIS COURT ORDERS** that the Companies are hereby authorized to borrow, under the Increased DIP Facility, up to \$1,000,000, which for avoidance of doubt shall be in addition to the Initial DIP Facility (term defined below).

4. **THIS COURT ORDERS** that the Companies are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as may be reasonably required pursuant to the terms of the

Amended Term Sheet, and the Companies are authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under the Increased DIP Facility and pursuant to the Amended Term Sheet and the Definitive Documents as and when the same become due and are to be performed in accordance with their terms.

5. **THIS COURT ORDERS** that the DIP Lender's Charge, defined and created by order of this court made in this proceeding as of April 16, 2021 (the "**April 16 Order**"), shall hereby secure and be deemed to be in an amount equal to any Companies' outstanding obligations to the DIP Lender under the DIP facility approved in the April 16 Order (the "**Initial DIP Facility**"), the Increased DIP Facility, the Amended Term Sheet and the Definitive Documents, including any that begun to exist prior to this order but on or after the day of the April 16 Order, it being understood that within the DIP Lender's Charge, amounts due in respect of the Initial DIP Facility shall rank in priority to amounts due in respect of the Increased DIP Facility.

6. **THIS COURT ORDERS** that paragraphs 10 to 17 of the April 16 Order shall be deemed reproduced and applicable herein in respect of the Increased DIP Facility save:

- a. in the case of paragraph 13, the words "save and except any Encumbrance in favour of RBC and any Encumbrance ranking in priority to RBC's Encumbrance" are removed.
- b. that in case of conflict or difference between such paragraphs and this section II. of the present order, the latter shall control.

III. WITHDRAWAL OF NOTICE OF INTENTION AND PROPOSAL

7. **THIS COURT ORDERS** that upon the Proposal Trustee filing a certificate with the court (the “**Effective Time**”) substantially in the form of Schedule “A” to this order (the “**Down Under Completion Certificate**”) certifying that the Proposal Trustee has completed the Remaining Activities (as defined in the Fourth Report) as well as any residual tasks that the Proposal Trustee believes necessary or appropriate for the finalization of the administration, in accordance with the present order, in respect of the notice of intention to make a proposal to creditors and proposal to creditors filed by Down Under respectively on March 19, 2021 and August 30, 2021 (collectively, the “**Down Under NOI & Proposal**”):

- a. the Down Under NOI & Proposal shall be deemed withdrawn and shall thereupon cease to have any effects for the future, it being understood that no order in this section III. is retroactive to any prior date.
- b. the Proposal Trustee shall be discharged as Proposal Trustee with respect to the Down Under NOI & Proposal, and, for avoidance of doubt, the filing of the Down Under Completion Certificate shall not discharge the Proposal Trustee as Proposal Trustee with respect to the Companies.

8. **THIS COURT ORDERS** that for avoidance of doubt:

- a. from the Effective Time, any stay of proceedings triggered under the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) by the filing of the Down Under NOI & Proposal shall cease to apply for the future.

- b. from the Effective Time, orders made in this proceeding shall cease to apply with respect to Down Under for the future, it being understood that such orders shall continue to have their full force and effect with respect to the Companies.
- c. with respect to the Down Under NOI & Proposal, Down Under shall not be deemed bankrupt by reason only of there being no proposal approved by Down Under's creditors, by reason only of there being no court approval of a proposal, or by reason only of the present order causing any other irregularity in respect of the proposal process under the BIA.
- d. Down Under and its directors and officers shall not be deemed to have committed a fault, tort, reviewable conduct, or like behaviour by reason only of the filing of the Down Under NOI & Proposal or by reason only of having acted or done any thing in good faith in respect of the Down Under NOI & Proposal, save gross negligence or wilful misconduct.

9. **THIS COURT ORDERS** that upon the Proposal Trustee filing the Down Under Completion Certificate, and save further court order, Albert Gelman Inc. ("**AGI**") shall be released and discharged from any and all liability that AGI now has or may hereafter have by reason of, or in any way arising out of, AGI's acts or omissions of while acting in its capacity as Proposal Trustee with respect to the Down Under NOI & Proposal, save gross negligence or wilful misconduct. Without limiting the generality of the foregoing, AGI shall, upon its filing the Down Under Completion Certificate, be forever released and discharged from any and all liability relating to matters that were raised, or which could

have been raised, with respect to the Down Under NOI & Proposal, save and except gross negligence or wilful misconduct.

IV. APPROVAL OF PROPOSAL TRUSTEE'S FEES AND ACTIVITIES

10. **THIS COURT ORDERS** that the Fourth Report and the activities described therein – including, for avoidance of doubt, those in respect of the withdrawal of the Down Under NOI & Proposal as ordered in section III. of this order – be and are hereby approved, provided, however, that only (i) the Proposal Trustee and (ii) Albert Gelman Inc. in its personal capacity and only with respect to its personal liability, shall be entitled to rely upon or utilize in any way such approval.

11. **THIS COURT ORDERS** that the professional fees and disbursements of the Proposal Trustee and its independent legal counsel, Macdonald Sager Manis LLP, as set out in the Fee Affidavits (term defined in the Fourth Report), be and are hereby approved.

12. **THIS COURT ORDERS** that the Companies are authorized to pay the approved fees from the Companies' funds available after payment to RBC of all amounts payable and collateral provided for in the Payout Letter (term defined in the Fourth Report).

13. **THIS COURT ORDERS** that this order is effective without the requirement for issuance and entering.

Schedule A – Form of Proposal Trustee’s Completion Certificate

[See next page]

Estate No. 35-2721716

ONTARIO
SUPERIOR COURT OF JUSTICE

**IN THE MATTER OF THE PROPOSAL TO
CREDITORS PROCEEDINGS OF DREXLER
CONSTRUCTION LIMITED, FOLMUR
CONSTRUCTION (2004) LIMITED AND DOWN
UNDER PIPE AND CABLE LOCATING LIMITED,
CORPORATIONS INCORPORATED UNDER THE
ONTARIO *BUSINESS CORPORATIONS ACT***

PROPOSAL TRUSTEE'S CERTIFICATE OF COMPLETION

WHEREAS:

- a. on March 19, 2021, Down Under Pipe and Cable Locating Limited (“**Down Under**”) filed a notice of intention to make a proposal to creditors under the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) and on August 30, 2021, Down Under filed a proposal to creditors under the BIA (together, the “**Down Under NOI & Proposal**”).
- b. Albert Gelman Inc. acts as proposal trustee to the Down Under NOI & Proposal (in such capacity, the “**Proposal Trustee**”).
- c. on September 10, 2021, the Ontario Superior Court of Justice made an order (the “**September 10 Order**”) in this court file ordering *inter alia* (i) the withdrawal of the Down Under NOI & Proposal as of the Effective Time (as defined in the September 10 Order) and (ii) that upon the Proposal Trustee filing the present certificate certifying that the Proposal Trustee has completed the Remaining Activities (as defined in the September 10 Order) as well as any residual tasks that

the Proposal Trustee believes necessary or appropriate for the finalization of the administration of the Down Under NOI & Proposal proceeding, the Proposal Trustee shall be discharged as Proposal Trustee with respect to the Down Under NOI & Proposal.

THE PROPOSAL TRUSTEE HEREBY CERTIFIES that the Proposal Trustee has completed the Remaining Activities as well as all residual tasks that the Proposal Trustee believed necessary or appropriate for the finalization of the administration of the Down Under NOI & Proposal.

DATED AT TORONTO, THIS _____ DAY OF _____ 2021.

ALBERT GELMAN INC., solely in its capacity as proposal trustee to the notice of intention to make a proposal and proposal to creditors of Down Under Pipe and Cable Locating Limited

Per: Bryan Gelman, CIRP, LIT, managing director

**IN THE MATTER OF THE PROPOSAL TO CREDITORS
PROCEEDINGS OF DREXLER CONSTRUCTION LIMITED,
FOLMUR CONSTRUCTION (2004) LIMITED AND DOWN UNDER
PIPE AND CABLE LOCATING LIMITED, CORPORATIONS
INCORPORATED UNDER THE ONTARIO *BUSINESS
CORPORATIONS ACT***

***ONTARIO*
SUPERIOR COURT OF JUSTICE
Proceeding commenced in LONDON**

**ORDER
(DIP increase, approval of long-term financing,
approval of proposal trustee's fees and activities,
withdrawal of one notice of intention and proposal)**

GOLDMAN SLOAN NASH & HABER LLP
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Lawyers for Drexler Construction Ltd., Folmur
Construction (2004) Ltd., and Down Under Pipe and
Cable Locating Ltd.

TAB 4

Service list as of September 1, 2021

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL PROCEEDINGS OF DREXLER CONSTRUCTION
LIMITED, A CORPORATION INCORPORATED UNDER THE
ONTARIO *BUSINESS CORPORATIONS ACT***

**SERVICE LIST
(as at August 31, 2021)**

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<p>MACDONALD SAGER MANIS LLP</p> <p>150 York Street, Suite 800 Toronto ON M5H 3S5 Fax: 416 364 1453</p> <p>Howard Manis Tel: 416 364 5289 Email: hmanis@msmlaw.ca</p> <p>Lawyers for the Proposal Trustee</p>	<p>AIRD & BERLIS LLP</p> <p>181 Bay Street, Suite 1800 Toronto ON M5J 2T9 Fax: 416 863 1515</p> <p>Ian Aversa Tel: 416 865 3082 Email: iaversa@airdberlis.com</p> <p>Jeremy Nemers Tel: 416 865 7724 Email: jnemers@airdberlis.com</p> <p>Lawyers for Royal Bank of Canada</p>
<p>ATTORNEY GENERAL OF CANADA</p> <p>Department of Justice Canada Ontario Regional Office, Tax Law Section 120 Adelaide Street West, Suite 400 Toronto ON M5H 1P9</p> <p>Diane Winters Tel: 647.256.7459 Email: diane.winters@justice.gc.ca</p> <p>Rakhee Bhandari Tel: 416.952.8563 Email: Rakhee.bhandari@justice.gc.ca</p>	<p>MINISTRY OF FINANCE (ONTARIO)</p> <p>Legal Services Branch 777 Bay Street, 11th Floor Toronto ON M5G 2C8</p> <p>Kevin O'Hara Tel: 416.327.8463 Email: kevin.ohara@ontario.ca</p>
<p>MASTERS INSURANCE (HAMILTON) LTD.</p> <p>McMaster Innovation Park 175 Longwood Road South, Suite 209A Hamilton ON L8P 0A1 Fax: 905 577 9154</p> <p>Doug Corby Tel: 905 577 1180 Email: dcorby@mastersinsurance.com</p>	<p>ZURICH CANADA</p> <p>100 King Street West, Suite 5500 P.O Box 290 Toronto ON M5X 1C9 Fax: 416 586 6821 / 1 800 319 3219</p> <p>Brent McAllister Tel: 416 586 2880 Email: brent.mcallister@zurich.com</p>

<p>JOHN DEERE FINANCIAL INC.</p> <p>3430 Superior Court Oakville ON L6L 0C4</p> <p>295 Hunter Road, PO Box 1000 Grimsby ON L3M 4H5</p> <p>PPSA registrant</p>	<p>CANADIAN EQUIPMENT FINANCE & LEASING INC.</p> <p>250 Woolwich Street South, Suite 5 Breslau ON N0B 1M0</p> <p>Brent Keenan Tel: 519 648 3898 Email: brent.keenan@cefl.ca</p> <p>PPSA registrant</p>
<p>HARRISON PENZA LLP</p> <p>450 Talbot St. (map) London ON N6A 5J6 Fax: 519 667 3362</p> <p>Michael Cassone Tel: 519 661 6765 Email: mcassone@harrisonpensa.com</p> <p>Lawyers for TD Auto Finance (Canada) Inc.</p>	<p>THE BANK OF NOVA SCOTIA</p> <p>10 Wright Boulevard Stratford ON N5A 7X9</p> <p>4715 Tahoe Boulevard Mississauga ON L4W 0B4</p> <p>PPSA Registrant</p>
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<p>GM FINANCIAL CANADA LEASING LTD.</p> <p>2001 Sheppard Avenue, Suite 600 Toronto ON M2J 4Z8</p> <p>Sulake Araye Tel: 416 753 4064 Email: sulake.araye@gmfinancial.com</p>	<p>XEROX CANADA LTD.</p> <p>20 York Mills Road, Suite 500, Box 700 Toronto ON M2P 2C2</p> <p>PPSA Registrant</p>
<p>CORWIN MORTGAGE CAPITAL INC.</p> <p>330 Wilson Avenue, Suite 300 Toronto ON M3H 1T2</p> <p>Kyle Fenwick Tel: 416 543 1298 Email: kyle@corwincapital.ca</p> <p>Debtor-in-possession lender</p>	<p>COCO GROUP</p> <p>949 Wilson Avenue Toronto, ON M3K 1G2</p> <p>Ilia Valitsky Tel: 416-633-9670 Fax: 416-633-6765 Email: ivalitsky@cocogroup.com</p>

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**IN THE MATTER OF THE PROPOSAL TO CREDITORS PROCEEDINGS OF
DREXLER CONSTRUCTION LIMITED, FOLMUR CONSTRUCTION (2004)
LIMITED, AND DOWN UNDER PIPE AND CABLE LOCATING LIMITED,
CORPORATIONS INCORPORATED UNDER THE ONTARIO *BUSINESS
CORPORATIONS ACT***

Estate No. 35-2721716

***ONTARIO*
SUPERIOR COURT OF JUSTICE**

MOTION RECORD
**(increased DIP facility, approval of long-term financing,
approval of proposal trustee's fees and activities,
withdrawal of one notice of intention and proposal)**
(returnable September 10, 2021)

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