

**TAB F**

COUNSEL SLIP (COMMERCIAL MOTIONS)

No On List: 2  
Court File No: CV-18-595177-0001  
DATE: Oct. 2/18

Title of Proceeding: Koo Brothers Heavy Equipment Limited v Ansen Quarry Limited et al

COUNSEL FOR Plaintiff(s): Ansen  
Applicant(s): Maya Polak  
Petitioner(s):

(416) 210-1161  
(416) 210-1844  
PHONE NO. & FAX  
maya@lakons.com

COUNSEL FOR Defendant(s):  
Respondent(s):

PHONE NO. & FAX

Graham Phoenix for Koo Bros.

416 748 4776  
416 746 8319  
gphoenix@tonix.com

Jeremy Nemets  
for the Court-appointed receiver  
of Ansen Quarry Limited and certain equipment of Royal Canadian Bedrock Inc.

T 416-863-1500  
F 416-863-1515

RELIEF SOUGHT:

Oct 2, 2018

This matter shall return before me on a 9:30 am on October 11, 2018. It is understood and agreed that the attendance will include settlement discussions, my opinions and views will be expressed but that this will not preclude me from presiding over future hearings pertaining to this matter.

Guignetter

**TAB G**

## Jeremy Nemers

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**From:** Phoenix, Graham <gphoenix@loonix.com>  
**Sent:** October-02-18 11:05 AM  
**To:** Jeremy Nemers; Adam Erlich  
**Subject:** FW: Amsen and Royal  
**Attachments:** Amsen Royal - Lease Info.zip

Forward. FYI.

R. Graham Phoenix \*  
Partner

### LOOPSTRA NIXON LLP

**Direct:** 416.748.4776  
**Cell:** 416.558.4492  
**Fax:** 416.746.8319  
[gphoenix@loonix.com](mailto:gphoenix@loonix.com)

\*Practising as RGP Professional Corporation

**From:** Phoenix, Graham  
**Sent:** September 26, 2018 4:08 PM  
**To:** Stephen Schwartz <Stephen@chaitons.com>  
**Subject:** RE: Amsen and Royal

Hi Stephen,

Sorry for delay. I wanted to get back you in detail, as I take your statement heart that your preference is to determine if proceeding is even necessary.

As a preliminary point: this email should not be taken as an indication that we accept any numbers in the Report or as an admission of any statement, issue, allegation or otherwise. This email is only meant to set our issues with the Report and provide you and Mr. Rosen with information. Our client reserves all of its rights.

There are number of issues with the Report. That said, I appreciate Mr. Rosen likely did not/does not have all the information.

The confusion/issue, historically, has been that Mr. Guido makes a number of fundamental errors in his arguments on the leases. He takes the principal amount (excl. tax) and argues that the same should be reduced by the gross payments (incl. tax). In doing so, not only is he incorrectly treating taxes as a credit against the principal, but he is also completely ignoring the interest component of each payment, which likewise should not be credited against the principal. (This is saying nothing of late charges and residual payment amounts.)

It appears to us that the same issues have been reproduced in the Report.

The biggest issues are as follows:

- Nowhere in the Report does it account for interest (nor that various leases are distinct, at different interest rates, and accounted for separately).
- We are unsure what is meant by "net value" of the leases. However, we take it to mean "principal", as Mr. Rosen states he is deducting deposits and then proceeds to deduct payments. These numbers are *close* to correct principal values (excl. taxes), but they do not reflect the debtors' obligations under the leases. Such value is equal to monthly payments multiplied by the number of months. The debtors' obligations are not simply to repay the principal, but the principal plus interest (leaving aside late charges and residual payment amounts). Accordingly, the "values" set out for the leases

are incorrect. I appreciate that this is a fundamental concept, but it has been a consistent misunderstanding of Mr. Guido.

- Stemming from this, the payments are incorrectly applied. First, they include tax, which should not be applied to reduce principal. Second, they include interest which should likewise not be applied to reduce principal. Applying the gross payments to the principal would equate to an interest free/tax free lease. That is incorrect.
- The same issue extends to the proceeds on equipment sales – the Report is crediting gross not net proceeds.
- The same issue extends to the cheque from Bianchi Presta – it is applied to the lease, including against overdue interest and tax. It is not a straight-line deduction against the principal amount of a lease in default.
- The Report does not account for the two Amsen refinancings (in 2014 and 2016) and one Royal refinancing (In 2016), all of which were negotiated, acknowledged and accepted by Mr. Guido. In any event, there was not large “write up” or penalty for any refinancing. If you read the materials, you will see the refinancings were done to assist the debtors with financial struggles. And, please note: unlike typical commercial leases, when these were refinanced, Kooy did not roll future interest into the refinanced principal. Instead, Kooy gets a payout statement from Kubota (the administrator on these leases) for then-owing principal, plus late interest, etc. but not future interest. Kooy then has to pay out that amount and start a new lease for the debtor, administered by Kubota. So, for each lease replaced by a refinanced lease, there is a Kubota payout statement.
- Finally, the Report refers to “Kooy” records. All records are kept by Kubota, a public company, accessible through their dealer network. As you are likely aware, Kubota administered all payments (save and except for a few cheques that were previously acknowledged). To that end, we attach for each of (a) the original Amsen leases, (b) the 2014 Revised Amsen Lease and (c) the Original Royal Leases:
  - (i) an amortization schedule;
  - (ii) the AR account (or ledger); and
  - (iii) the payout statement for Kubota on refinancing.

All of the above are third-party documents from Kubota. For the 2016 Revised Amsen Lease and the 2016 Revised Royal Lease, we attach amortization schedules. There are no payments thereafter other than ones identified previously by us and in the Report (which we largely agree with but not how they are applied).

I provide the above comments and attached documents with the hope that we can finally move past what are wholly misguided arguments on Mr. Guido’s part. As Kooy has said over and over, it doesn’t want anything other than to get paid. Mr. Guido’s obstinance and failure to cooperate led us to where we are now. He was given ample opportunity to present his explanation of what was owing and he failed too do so. Nonetheless, if he would like to – and is able to – pay Kooy out or buy Kooy’s position, we would consider it. However, that cannot occur until Mr. Guido accepts that Amsen and Royal are deeply indebted to Kooy, as previously set out.

Happy to speak.

Graham

R. Graham Phoenix \*  
Partner

**LOOPSTRA NIXON LLP**

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\*Practising as RGP Professional Corporation

**From:** Stephen Schwartz <[Stephen@chaitons.com](mailto:Stephen@chaitons.com)>  
**Sent:** September 25, 2018 2:16 PM  
**To:** Phoenix, Graham <[gphoenix@loonix.com](mailto:gphoenix@loonix.com)>  
**Cc:** L.S. (Al) Rosen <[al.rosen@rosen-associates.com](mailto:al.rosen@rosen-associates.com)>; Anthony Guido <[anthony@royalcanadianbedrock.com](mailto:anthony@royalcanadianbedrock.com)>  
**Subject:** Amsen and Royal

Graham,

As discussed at court yesterday, I would be grateful if you could provide me with your material criticisms and responses to the Rosen Report. I could then have Mr. Rosen review your position and respond. We can see if the matter can be resolved without further expense for all parties.

thanks



**Stephen Schwartz\***

Partner

Direct Tel: 416.218.1132

Direct Fax: 416.218.1832

Email: [Stephen@chaitons.com](mailto:Stephen@chaitons.com)

5000 Yonge St, 10th Floor, Toronto, Ontario, Canada, M2N 7E9

\* on behalf of Stephen Schwartz Professional Corporation

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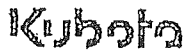
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**TAB H**





KUBOTA CANADA LTD.  
 5900 14th Avenue, Markham, ON L3S 4K4  
 GST/HST #: 102890654  
 PST/QST #: 1006179149

Equipment Lease Agreement

Lease Date: 2016-05-25  
 Lease Version: 1  
 KCL Approval #: 629925  
 KCL Tracking #: 358541

Lessor KOOY BROTHERS LAWN EQUIPMENT LTD. Address: 1919 Wilson Avenue Toronto; ON M9M 1A9 Dealer Ref. # Anthony Guido Dealer code: K00010 Salesperson: KEVIN FORD Phone: (416) 242-3513 Fax: (416) 242-6710 Webpage & Email: GST/HST #: R102874997 PST/QST #: 14407515	Lessee, Legal name: AMSEN QUARRY LIMITED Non Inc./Ltd company Operating name: AMSEN QUARRY LIMITED Customer's address: 16 AMOS MAYNARD CIRCLE WOODBRIDGE ON L4L3B8 Home #: 4164591037 Cell #: Fax #:
<b>PURCHASERS SALES TAX INFORMATION</b> Federal Sales Tax: GST/HST is applicable. Provincial Sales Tax: PST/QST is applicable.	



1. GENERAL PROVISIONS

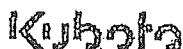
Lessor leases to Lessee and Lessee leases from Lessor for the Term set out below the equipment described below under the heading "Leased Equipment" and all attachments and accessories thereto (together, the "Equipment") on the terms and conditions set forth below (together, this "Lease"). Lessee acknowledges to and agrees with Lessor that: (i) Lessor will assign all of Lessor's right, title and interest in and to the Equipment and this Lease to Kubota Canada Ltd., which may be further assigned by Kubota Canada Ltd. (following such assignment and any subsequent assignment "Lessor" will mean Kubota Canada Ltd. or any subsequent assignee, as applicable); (ii) all amounts due under this Lease are to be paid by Lessee to Kubota Canada Ltd. or, upon further notice from any subsequent assignee, to such assignee; (iii) it has received and inspected the Equipment and found it to be acceptable and in good condition; (iv) it has received an operator's manual, a copy of the manufacturer's warranty and instructions regarding the safe operation of the Equipment including, if applicable, the importance of any roll over protection structure and a seat belt, all of which have been explained to Lessee and which Lessee understands; (v) Lessee has reviewed with Lessor all matters regarding safety in the operator's manual and safety labels on the Equipment and which Lessee understands; (vi) by Lessee's execution of this Lease, Lessee consents to the release by Lessor of all personal (including financial) information respecting Lessee to Kubota Canada Ltd., any subsequent assignee and any credit reporting agency for the purpose of determining the credit standing of Lessee; (vii) Lessor may also disclose to and obtain from any credit reporting agency any credit information respecting Lessee; and (viii) it has received a true copy of this Lease fully completed and including 7 pages.

Name: AMSEN QUARRY LIMITED Seller: KOOY BROTHERS LAWN EQUIPMENT LTD.  
 Sign: [Signature] Officer Signature: [Signature]  
 Signing Date (YYYY-MM-DD) 2016/05/26 Signing Date (YYYY-MM-DD) \_\_\_\_\_  
 Officer Name: Anthony Guido Name of Officer: \_\_\_\_\_

2. GUARANTEE

In order to induce Lessor to enter into the Lease (as defined above) and in consideration of the sum of Ten (\$10.00) Dollars now paid by Lessor to the undersigned (the receipt and sufficiency of which are hereby acknowledged), the undersigned unconditionally and irrevocably guarantees to Lessor the complete and timely payment and performance by Lessee of all of Lessee's obligations under the Lease, including, without limitation, the payment when due of each Monthly Lease Payment, and all other debts and liabilities, present or future, of any and every kind and nature, at any time owing by Lessee to Lessor under or in respect of this Lease. The undersigned agrees that this guarantee shall constitute a separate agreement and shall not be discharged, impaired or affected by the insolvency of Lessee, the incapacity or lack of power and authority of Lessee to enter into and incur obligations under the Lease, or the invalidity or unenforceability of any term or condition of the Lease or any related documents, any failure by Lessor to perfect its security interest in the Equipment by registration, or any waiver, modification or amendment of any terms of the Lease or any related documents. The undersigned acknowledges and agrees that this guarantee, the Lease and all other related documents may be assigned by Lessor to Kubota Canada Ltd. and may be further assigned from time to time without notice to the undersigned. If more than one person signs this guarantee, they shall be jointly and severally liable hereunder. Any term used in the Lease shall have the same meaning when used in this guarantee.

#1. Guarantor's name: Antonio Guido #2. Guarantor's name: Kooy Brothers Lawn Equipment Limited  
 Sign: [Signature] Sign: [Signature]  
 Address: 175 Westridge Dr. Address: 1919 Wilson Ave.  
Kleinburg ON L0J1C0 Toronto ON M9M1A9  
 Date of Birth: 07/20/1964 Date of Birth: 05/06/1956



KUBOTA CANADA LTD.

5900 14th Avenue, Markham, ON L3S 4K4  
 GST/HST #: 102890654  
 PST/QST #: 1006170140

Equipment Lease Agreement

Lease Date: 2016-05-25  
 Lease Version: 1  
 KCL Approval #: 629925  
 KCL Tracking #: 358541

**3. LEASED EQUIPMENT**

Year	Make	Model	Serial	Description	Amount
2010	GMP MFG.	48SB-50HP04	485840010	SQUARING SAW	\$89,310.40
2010	GMP MFG.	410-120-VSH	4120003	QUAD POWERED BELT DRIVE	\$43,783.70
2010	GMP MFG.	HS60RV	HS602510	AUTOMATIC ROLLOVER UNIT	\$53,135.81
2010	GMP MFG.	SBW100	C101	STONE QUANTIFIER	\$31,774.74
2010	GMP MFG.	5443	SL59633	SCISSOR LIFT-5000 LBS.	\$3,364.38
2010	GMP MFG.	5443	SL59634	SCISSOR LIFT-5000 LBS.	\$3,364.38
2010	GMP MFG.	5443	SL59635	SCISSOR LIFT-5000 LBS.	\$3,364.38
2010	GMP MFG.	5443	SL59636	SCISSOR LIFT-5000 LBS.	\$3,364.38
2010	GMP MFG.	168-3HD	5693	MERGE CONVEYER	\$20,693.64
2010	OLYMPIA	50'WX140'L	10-06-0017	FABRIC BUILDING	\$46,113.20
2008	JOHN DEERE	230C-LC	FF230CX603733	EXCAVATOR	\$37,841.83
2008	NPK	GH10	83038	HYDRAULIC HAMMER	\$7,708.52
2008	JOHN DEERE	270C-LC	FF270CX702529	EXCAVATOR	\$50,455.77
2008	JOHN DEERE	304J	LU304JX014719	Wheel Loader	\$23,125.56
2010	GMP MFG.	168-806048MS	1464	14' ROLLOVER CONVEYER	\$39,972.09
Subtotal					\$459,358.88

**4. LEASED EQUIPMENT TRADED-IN**

Year	Make	Model	Serial	Description	Trade Value
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Trade-in allowance

**5. ADDITIONAL AMOUNTS TO BE INCLUDED**

	Amount
(1) Equipment to be leased	\$459,358.88
(2) Add: Freight and PDI	\$0.00
(3) Add: Admin fees and other taxable charges	\$149.00
(4) Add: Registration Fee:	\$54.00
(5) GPS Monitoring Fee:	\$0.00
(6) Physical Damage Insurance	\$0.00
(7) Subtotal	\$459,561.88
(8) Trade-in allowance	\$0.00
(9) Less: Liens outstanding on trade-in	\$0.00
Less: Trade In Equity	\$0.00
(10) Less: Cash down payment	\$0.00
(11) Total Lease Amount	\$459,561.88

**STANDARD PAYMENT TERMS**

Delivery date	2016-05-25		
Total duration of Contract in months	60		
Less Interest waiver months	0		
Contract Amortization period in months	60	Payment Amount	\$7,365.27

Equipment Lease Agreement

Page 2 of 7



KUBOTA CANADA LTD.

5900 14th Avenue, Markham, ON L3S 4K4  
 GST/HST #: 102890654  
 PST/QST #: 1006170140

Equipment Lease Agreement

Lease Date: 2016-05-25  
 Lease Version: 1  
 KCL Approval #: 629925  
 KCL Tracking #: 358541  
 Interest Start Date: 2016-05-25

Payment frequency Monthly  
 Calculated 1st PMT date 2016-06-25  
 # of days alteration from Selected 1st PMT date 0  
 Selected 1st PMT date 2016-06-25  
 Last payment date 2021-05-25

UPFRONT PAYMENT

(15) Cash Downpayment	\$0.00
GST/HST	\$0.00
PST/QST	\$0.00
Subtotal	<u>\$0.00</u>
(16) Other Non-Taxable	\$0.00
Payment due to Dealer on delivery	<u>\$0.00</u>

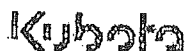
**6. LEASE END PURCHASE OPTION**

If the Lessee is not in default under the Lease, the Lessee shall have an option to purchase all leased Equipment listed in section 3 above, at the end of the term on at least 60 days written notice prior to 2021-05-25

Purchase option at lease end	Stated Value	\$100,100.00
Maximum usage hours allowed		0
Late return charge per day		\$0.00
Cost per extra hour of usage		\$0.00

**7. Payment Schedule**

Date	Seq #	Pmt	PST/QST	GST/HST	Total Pmt
2016-06-25	1	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2016-07-25	2	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2016-08-25	3	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2016-09-25	4	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2016-10-25	5	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2016-11-25	6	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2016-12-25	7	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2017-01-25	8	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2017-02-25	9	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2017-03-25	10	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2017-04-25	11	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2017-05-25	12	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2017-06-25	13	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2017-07-25	14	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2017-08-25	15	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2017-09-25	16	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2017-10-25	17	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2017-11-25	18	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2017-12-25	19	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2018-01-25	20	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2018-02-25	21	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2018-03-25	22	\$7,365.27	\$0.00	\$957.49	\$8,322.76



KUBOTA CANADA LTD.

5900 14th Avenue, Markham, ON L3S 4K4

GST/HST #: 102890854

PST/QST #: 1006179140

2018-04-25	23	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2018-05-25	24	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2018-06-25	25	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2018-07-25	26	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2018-08-25	27	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2018-09-25	28	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2018-10-25	29	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2018-11-25	30	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2018-12-25	31	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2019-01-25	32	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2019-02-25	33	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2019-03-25	34	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2019-04-25	35	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2019-05-25	36	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2019-06-25	37	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2019-07-25	38	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2019-08-25	39	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2019-09-25	40	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2019-10-25	41	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2019-11-25	42	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2019-12-25	43	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2020-01-25	44	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2020-02-25	45	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2020-03-25	46	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2020-04-25	47	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2020-05-25	48	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2020-06-25	49	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2020-07-25	50	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2020-08-25	51	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2020-09-25	52	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2020-10-25	53	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2020-11-25	54	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2020-12-25	55	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2021-01-25	56	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2021-02-25	57	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2021-03-25	58	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2021-04-25	59	\$7,365.27	\$0.00	\$957.49	\$8,322.76
2021-05-25	60	\$7,365.51	\$0.00	\$957.52	\$8,323.03

### Equipment Lease Agreement

Lease Date: 2016-05-25

Lease Version: 1

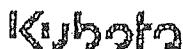
KCL Approval #: 629925

KCL Tracking # 358541

#### **B. METHOD OF PAYMENT**

Purchaser shall provide to the Seller on the delivery date, payment instruments in the name of Kubota Canada Ltd. or the subsequent assignee as to 1. A cheque payable to the Dealer, if applicable.

2. A void cheque on the pre-selected account at a financial institution (the "Bank") from which withdrawals on account of the remaining scheduled payment and any other amounts owing here under will be made in due course and the purchaser hereby instructs the bank to honour any cheque, order or request drawn on it payable to the Seller's assignee, Kubota Canada Ltd., in respect thereof. Purchaser shall provide to the Seller on the delivery date, payment instruments in the name of Kubota Canada Ltd. or the subsequent assignee as to. The account holder(s) identified on page 1 of this contract as the Purchaser, hereby authorize Kubota Canada Ltd. to debit the account at the bank or other financial institution identified on the voided cheque that Purchaser have provided to us or that Purchaser may identify to us from time to time (the "Account") for (i) the amount of each payment due under the Contract on or shortly after its payment due date as set out in the Contract and (ii) at the same time, any overdue payment, unpaid interest or other charges that become due under the Contract at any time. In each case, without prior notice to you. Purchaser understands that this authorization may be cancelled by the Purchaser at any time upon 30 days' written notice given by Purchaser to Kubota Canada Ltd.; however, if you cancel this authorization, the Purchaser will remain obligated to pay Kubota Canada Ltd. all amounts due or owing under the Contract. The Purchaser may obtain a sample cancellation form, or further information on the right to cancel this authorization, at your financial institution or by visiting [www.cdnmpay.ca](http://www.cdnmpay.ca). Purchaser acknowledges that this authorization is being given for the benefit of Kubota Canada Ltd. and the financial institution at which the Account is held (the "Processing Institution") and is being entered into in consideration of the Processing Institution agreeing to process pre-authorized debit requests (each, a "PAD") against the Account in accordance with the rules of the Canadian Payments Association. Purchaser acknowledges that delivery of this authorization to Kubota Canada Ltd. also constitutes delivery thereof by the Purchaser to the Processing



KUBOTA CANADA LTD.

5900 14th Avenue, Markham, ON L3S 4K4

GST/HST #: 102090854

PST/QST #: 1006170140

Institution, and that the Processing Institution is not required to verify that each PAD submitted by Kubota Canada Ltd. has been issued in accordance with this authorization (including the amount) or that the purpose of the payment for which a PAD was submitted has been fulfilled as a condition of honoring a PAD. The Purchaser has certain recourse rights if any debit does not comply with this authorization. For example, the Purchaser has the right to receive reimbursement for any debit that is not authorized or is not consistent with this authorization. To obtain more information on your recourse rights, you may contact your financial institution or visit [www.cdnpay.ca](http://www.cdnpay.ca)

## Equipment Lease Agreement

Lease Date: 2016-05-25

Lease Version: 1

KCL Approval #: 629925

KCL Tracking #: 358541

### 9. INSURANCE

Lessee shall arrange to have the leased Equipment insured for replacement value under a standard insurance policy containing the usual limitations and designating the Lessor and Kubota Canada Ltd. as loss payees and the Lessee shall maintain at its expense liability coverage

### 10. ADDITIONAL TERMS AND CONDITIONS

- (a) Lessee shall use the Equipment in a prudent manner and shall maintain and repair the Equipment as a prudent owner would do using only repair parts prescribed by the manufacturer of the Equipment. Unless Lessee has exercised its option to purchase the Equipment at the end of the term and has paid the option price in full, Lessee shall return the Equipment to Lessor at such location as Lessor shall designate in good condition and repair. If the Equipment has not been used, maintained and repaired as required with the result that its fair market value is less than the Residual Value, then Lessee shall pay to Lessor the amount, as determined by Lessor, which represents the reduction in fair market value as a result of failure to properly use, maintain or repair the Equipment.
- (b) Lessee shall keep the Equipment free and clear of any lien, security interest or other encumbrance and if Lessee does not do so, Lessor may pay off any such lien, security interest or other encumbrance and such amount shall be due and payable forthwith by Lessee to Lessor.
- (c) The Equipment shall remain personal or movable property and shall not form part of any real property on which it is located, and Lessee shall not allow the Equipment to be affixed in any way to any land or building. Lessee shall not, without the written permission of Lessor, remove or permit removal of the Equipment from the province or territory in which the Equipment was delivered by Lessor, part with possession of the Equipment (except that the Purchaser may use the Equipment for hire in the course of its business on commercially reasonable terms).
- (d) Lessor warrants that the Equipment conforms to the description in this Lease and assigns to Lessee the benefit of the manufacturer's warranty. LESSOR MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE EQUIPMENT, INCLUDING WITHOUT LIMITATION, AS TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE EXCEPT THAT IF LESSEE IS AN INDIVIDUAL AND IS NOT PURCHASING THE EQUIPMENT FOR BUSINESS PURPOSES, ANY WARRANTIES REQUIRED BY STATUTE SHALL APPLY TO THE EQUIPMENT. All claims pursuant to the above warranty as to the description of the Equipment must be made in writing within 30 days of Lessee's receipt of the Equipment. Lessee agrees that Lessee will make all payments when due hereunder to Kubota Canada Ltd. or any subsequent assignee even though Lessee has a dispute with the manufacturer of the Equipment respecting its warranty, with the Lessor named above, or for any other reason.
- (e) Lessee represents to Lessor that Lessee owns the trade-in (if any) described above free and clear of all encumbrances, and if such is not the case, Lessor may, in addition to any other remedy under this Lease, pay the amount of any such encumbrance and such amount shall be due and payable forthwith by Lessee to Lessor.
- (f) Lessee shall maintain in force all risks property damage insurance for the Equipment and third party liability insurance, in each case in an amount specified by Lessor, as long as any amount remains owing hereunder. Lessee shall provide Lessor with a certified copy of each policy of insurance which shall name Kubota Canada Ltd. as first loss payee under the property damage insurance and as an additional insured under the third party liability insurance, and shall upon request provide Kubota Canada Ltd. with a copy of all renewals thereof as they come into effect. Each insurance company chosen by Lessee must be acceptable to Lessor. Lessee may also request Lessor to arrange for insurance coverage for Lessee, however such insurance coverage provided by the Lessor shall be limited to all risks property damages insurance for the Equipment and shall not include third party liability insurance. If Lessee requests that Lessor arrange for insurance coverage, the service fee for the coverage shall be included in the Total Lease Cost, provided that if such insurance is declined by the insurer in whole or in part or if any premium is returned to Lessor upon cancellation or rescission of a policy, Lessor's only obligation shall be to credit Lessee with the amount of any premium so returned. If Lessee does not comply with all terms of this clause, Lessor may effect and maintain the required insurance, and the fees for such insurance shall be forthwith due and payable upon demand, but Lessor shall not in any event be obliged to effect or maintain insurance. Lessee hereby assigns to Lessor all refunded insurance premiums and, so long as any amount remains owing hereunder, irrevocably appoints Lessor as the attorney of Lessee in the name of Lessee to exercise all rights of Lessee under any such policies, and if Lessee defaults under this Lease, Lessor may, in addition to any other remedy, cancel or resiliate any such policy and collect any refunded premium and apply it to the amounts due hereunder. Any loss payment to Lessor may, at the option of Lessor, be applied to repair the Equipment or to pay any amount owing hereunder.
- (g) Lessee shall be in default, under this Equipment Lease Agreement, or any other Conditional Sales Contract or Equipment Lease Agreement assigned to Kubota Canada Ltd., if Lessee does not pay any amount owing under this lease when due, violates any other term of this Lease, if any of the Equipment is confiscated or is not used in accordance with this Lease, if Lessor in its discretion deems the Equipment in danger of misuse or confiscation or at risk of loss, if a proceeding in bankruptcy, receivership, winding-up, insolvency, or protection against creditors or for the dissolution of Lessee is instituted by or against Lessee or any of the property of Lessee, if any execution, attachment, distress or writ is levied upon any of Lessee's property, or if Lessee dies.
- (h) If Lessee defaults, under this Equipment Lease Agreement, or any other Conditional Sales Contract or Equipment Lease Agreement assigned to Kubota Canada Ltd., Lessor may (i) declare the Term of this Lease to be at an end and, with or without legal process, take immediate possession of the Equipment and, without further notice or demand, sell, lease or otherwise dispose of the Equipment on such terms and conditions as Lessor may determine; (ii) as agent for Lessee, and without declaring the Term of this Lease to be at an end and, whether or not Lessor has taken possession of the Equipment, lease the Equipment to another person on such terms and conditions as Lessor may determine. The proceeds of any such sale, lease or other disposition when received shall be applied first against all costs of repairs and all other costs incurred in connection with the repossession, lease and sale of the Equipment, including all solicitors fees, and then in reduction of the unpaid balance of the amount due hereunder by Lessee to



KUBOTA CANADA LTD.

5900 14th Avenue, Markham, ON L3S 4K4  
 GST/HST #: 102890854  
 PST/QST #: 1008179149

### Equipment Lease Agreement

Lease Date: 2016-05-25  
 Lease Version: 1  
 KCL Approval #: 629925  
 KCL Tracking #: 358541

Lessor and accrued interest thereon. All rights and remedies hereunder are cumulative and not alternative. Failure by Lessor to exercise any right or remedy shall not constitute a waiver thereof or affect the right of Lessor to exercise any other right or remedy. Lessor may recover possession of the Equipment and/or all monies due and payable under this Contract as permitted by law in lieu of, in addition to, concurrently with, or after or before the exercise of any other rights of Lessor hereunder. No judgment shall create any merger of Lessor's rights herein.

(j) If Lessee does not pay any amount owing under this Lease when due, interest shall accrue daily on the unpaid balance of such amount at the rate of 24% per annum and shall be paid by Lessee to Lessor on demand. Any unpaid interest shall be compounded monthly.

(j) Except for any security that may now or at any future time be taken as collateral hereto or any promissory note or other evidence of indebtedness, this Lease constitutes the entire agreement between the parties.

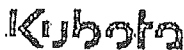
(k) In no event shall Lessor be liable to Lessee for any special damages or for loss of profits or other, indirect or consequential damages arising from the Equipment or its use or operation. Lessee assumes all risks and responsibility related to the ownership or use of the Equipment, whether used alone or in combination with other Equipment and agrees to indemnify and save Lessor harmless from all costs, losses, damages, liabilities, actions, claims or proceedings of any nature or kind in respect of such ownership or use.

(l) This Lease shall ensure to the benefit of and be binding upon the heirs, executors and personal representatives of Lessee (if an individual), and shall ensure to the benefit of, and be binding upon the successors and assigns of Lessor. Any reference to the male gender includes the female gender and vice-versa, any reference to the singular includes the plural and vice-versa, where the context so requires. Lessee may not assign its rights or obligations hereunder without the consent in writing of Lessor.

(m) Lessee, if a corporation, agrees that the Limitation of Civil Rights Act of the Province of Saskatchewan shall have no application to this Lease or any agreement or instrument renewing or extending or collateral to this Lease. Any provision of this Lease that is prohibited or unenforceable by the law in any jurisdiction shall not invalidate the remaining provisions of this Lease. This Lease shall be governed by the laws of the province where the Equipment is located at the time of execution hereof.

(n) IF THIS CONTRACT IS EXECUTED IN THE PROVINCE OF QUEBEC, THE PARTIES HERETO CONFIRM HAVING REQUESTED THAT SAME TOGETHER WITH ANY DOCUMENTS RELATED THERETO BE DRAWN UP IN ENGLISH; SI CE CONTRAT EST SIGNE DANS LA PROVINCE DE QUEBEC, LES PARTIES CONFIRMENT AVOIR REQUIE QUE CELUI-CI DE MEME QUE TOUS LES DOCUMENTS Y AFFERENTS SOIENT REDIGES EN LANGUE ANGLAISE.

(o) If a GPS unit is an attachment or accessory to the Equipment and the cost thereof is included in the cost of the Equipment sold hereunder, then Seller shall at all times during the Term of the Lease have access to all information, including personal information, collected in connection with such GPS unit from any source, which potentially includes the personal information of individuals, employees, passengers and other third parties. Purchaser shall not take any steps to interfere with such access, until the amount to be financed, interest thereon and all other amounts owing by Purchaser to Seller under this Contract have been paid in full.



KUBOTA CANADA LTD.  
 5900 14th Avenue, Markham, ON L3S 4K4  
 GST/HST #: 102800654  
 PST/QST #: 1006179149

Equipment Lease Agreement

Lease Date: 2016-05-25  
 Lease Version: 1  
 KCL Approval #: 829925  
 KCL Tracking #: 358541

**Insurance Confirmation**

Insurance Company Name: Intact Insurance  
 Insurance Broker Name: CORNERSTONE INS. BROKERS  
 Insurance Broker Address: 8001 WESTON RD.  
 Insurance Broker Phone #: 888-768-8001  
 Insurance Broker Fax #:  
 Insurance Policy Number: CSIB107989

DESCRIPTION AND VALUE OF EQUIPMENT TO BE INSURED					
Year	Make	Model	Serial	Description	Amount
2010	GMP MFG.	48SB-50HPB4	405840010	SQUARING SAW	\$89,316.40
2010	GMP MFG.	410-120-VSH	4120003	QUAD POWERED BELT DRIVE	\$43,763.70
2010	GMP MFG.	HS60RV	HS602510	AUTOMATIC ROLLOVER UNIT	\$53,135.91
2010	GMP MFG.	SBW100	C101	STONE QUANTIFIER	\$31,774.74
2010	GMP MFG.	5443	SL59833	SCISSOR LIFT-5000 LBS.	\$3,364.38
2010	GMP MFG.	5443	SL59634	SCISSOR LIFT-5000 LBS.	\$3,364.38
2010	GMP MFG.	5443	SL59635	SCISSOR LIFT-5000 LBS.	\$3,364.38
2010	GMP MFG.	5443	SL59636	SCISSOR LIFT-5000 LBS.	\$3,364.38
2010	GMP MFG.	168-3HD	5893	MERGE CONVEYER	\$20,693.64
2010	OLYMPIA	50'WX140'L	10-08-0017	FABRIC BUILDING	\$48,113.20
2008	JOHN DEERE	230C-LC	FF230CX603733	EXCAVATOR	\$37,841.83
2008	NPK	GH10	83938	HYDRAULIC HAMMER	\$7,708.52
2008	JOHN DEERE	270C-LC	FF270CX702529	EXCAVATOR	\$50,455.77
2006	JOHN DEERE	304J	LU304JX914719	Wheel Loader	\$23,125.50
2010	GMP MFG.	168-806048MS	1464	14' ROLLOVER CONVEYER	\$38,972.09

I understand that to provide protection from serious financial loss, should an accident or loss occur, my installment contract requires the equipment (excludes personal injury and liability) to be covered both on and off my property with insurance against all risks including fire, theft, collision, upset, accidental damage. Failure to provide such insurance constitutes a default and gives Kubota Canada Ltd., the right to declare the entire unpaid balance immediately due and payable. Accordingly, I have arranged for the required insurance through the insurance company shown above and have requested my agent to note Kubota Credit Corporation's interest in the equipment and endorse the policy with a loss payable endorsement in favor of Kubota Canada Ltd.

This is to authorize the insurance company named above to furnish KUBOTA CANADA LTD, 5900 14th Ave, Markham Ontario, L3S 4K4 with property damage insurance on the above described Equipment with a "Loss Payable clause as their interest may appear" for the period:

- beginning on 2016-05-25 and ending on 2021-05-25 for the amounts indicated above.

Legal first, middle and last name:

\_\_\_\_\_

Sign:

Seller: KOOY BROTHERS LAWN EQUIPMENT LTD

Authorized signing officer's name:

\_\_\_\_\_

Sign: \_\_\_\_\_

KUBOTA CANADA LTD.  
5900 - 14<sup>th</sup> Avenue,  
Markham, Ontario  
L3S 4K4

### GUARANTEED BUY OUT CONFIRMATION

LEASE#: 629925


DATED: May 25, 2016

Year	Make	Description	Model	Serial Number
2010	GMP MFG.	SQUARING SAW	48SB-50HP84	485840010
2010	GMP MFG.	QUAD POWERED BELT DRIVE	410-120-VSH	4120003
2010	GMP MFG.	AUTOMATIC ROLLOVER UNIT	HS60RV	HS602510
2010	GMP MFG.	STONE QUANTIFIER	SBW100	C101
2010	GMP MFG.	SCISSOR LIFT-5000 LBS.	5443	SL59633
2010	GMP MFG.	SCISSOR LIFT-5000 LBS.	5443	SL59634
2010	GMP MFG.	SCISSOR LIFT-5000 LBS.	5443	SL59635
2010	GMP MFG.	SCISSOR LIFT-5000 LBS.	5443	SL59636
2010	GMP MFG.	MERGE CONVEYER	168-3HD	5693
2010	OLYMPIA	FABRIC BUILDING	50'WX140'L	10-06-0017
2006	JOHN DEERE	EXCAVATOR	230C-LC	FF230CX603733
2006	NPK	HYDRAULIC HAMMER	GH10	83936
2006	JOHN DEERE	EXCAVATOR	270C-LC	FF270CX702529
2006	JOHN DEERE	Wheel Loader	304J	LU304JX914719
2010	GMP MFG.	14' ROLLOVER CONVEYER	168-606048MS	1464

Please accept this letter as an advance notice pertaining to Section 6. LEASE END PURCHASE OPTION) of the above described vehicle lease that we will purchase the leased vehicle at the expiry of the lease term for the option price shown on face of the described lease contract thereof.

LESSEE: Amsen Quarry Limited  
16 Amos Maynard Circle  
Woodbridge, Ontario  
L4L 3B8  
Tel: 416-459-1037

AUTHORIZED SIGNATURE: \_\_\_\_\_

  
Anthony Guido





<b>Invoice</b>		<b>6444 PF</b>
KOYO BROTHERS LAWN EQUIPMENT LTD. 1919 WILSON AVE. TORONTO, ONT.		<b>130</b> PH# 416-242-3799 FAX# 416-242-2479 www.kooybros.com HST# R102874897

<b>Bill To</b>				<b>Ship To</b>			
KUBOTA CANADA FINANCE 5900 14TH AVE MARKHAM, ON L3S 4K4				AMSEN QUARRY LIMITED 16 AMOS MAYNARD CIRCLE WOODBRIDGE, ON L4L 3B8			
<b>Contact</b>	<b>Customer Tax Number</b>	<b>Phone</b>	<b>Alt. Phone</b>	<b>PO Number</b>	<b>Transaction</b>		
Antonio Guldo		(416) 459-1037			Finance		
<b>Counter Person</b>	<b>Sales Person</b>	<b>Invoice Date</b>	<b>Reference</b>	<b>Department</b>			
	Kevin Ford	30/05/2016	Lease# 629925	Providential			

Model	Line	Description	Ordered	B/O'd	Shipped	List	Net	Amount
48SB-50HP84	GMP	2010 GMP MFG. Squaring Saw	1	0	1		\$89,316.40	\$89,316.40
	SN	485840010						
410-120-VSH	GMP	2010 GMP MFG. Quad Powered Built Drive	1	0	1		\$43,763.70	\$43,763.70
	SN	4120003						
HS60RV	GMP	2010 GMP MFG. Automatic Rollover Unit	1	0	1		\$53,135.91	\$53,135.91
	SN	HS602510						
SBW100	GMP	2010 GMP MFG. Stone Quantifier	1	0	1		\$31,774.74	\$31,774.74
	SN	C101						
5443	GMP	2010 GMP MFG. Scissor Lift-5000 LBS	4	0	4		\$3,364.38	\$13,457.52
	SN	SL59533						
	SN	SL59634						
	SN	SL59635						
	SN	SL59636						
168-3HD	GMP	2010 GMP MFG. Merge Conveyer	1	0	1		\$20,693.64	\$20,693.64
	SN	5693						
50'WX140'L	OLP	2010 Olympla Fabric Building	1	0	1		\$48,113.20	\$48,113.20
	SN	10-06-0017						
230C-LC	JNDR	2006 John Deere Excavator	1	0	1		\$37,841.83	\$37,841.83
	SN	FF230CX603733						
GH10	NPK	2006 NPK Hydraulic Hammer	1	0	1		\$7,708.52	\$7,708.52
	SN	83936						
270C-LC	JNDR	2006 John Deere Excavator	1	0	1		\$50,455.77	\$50,455.77
	SN	FF270CX702529						
304J	JNDR	2006 John Deere Wheel Loader	1	0	1		\$23,125.56	\$23,125.56
	SN	LU304JX914719						
168-606048MS	GMP	2010 GMP MFG. 14' Rollover Conveyer	1	0	1		\$39,972.09	\$39,972.09
	SN	1464						

\*Residual Payments for Lease 609757.

Invoice Total	\$459,358.88
Sales Tax	\$0.00
<b>Grand Total</b>	<b>\$459,358.88</b>

<b>Payment Details</b>	<b>Memo</b>	<b>Clerk</b>	<b>Date</b>	<b>Amount</b>
Lease# 629925	KUBOTA CANADA FINANCE	Stephanie	30/05/2016	(\$459,358.88)

Payment Total (\$459,358.88)

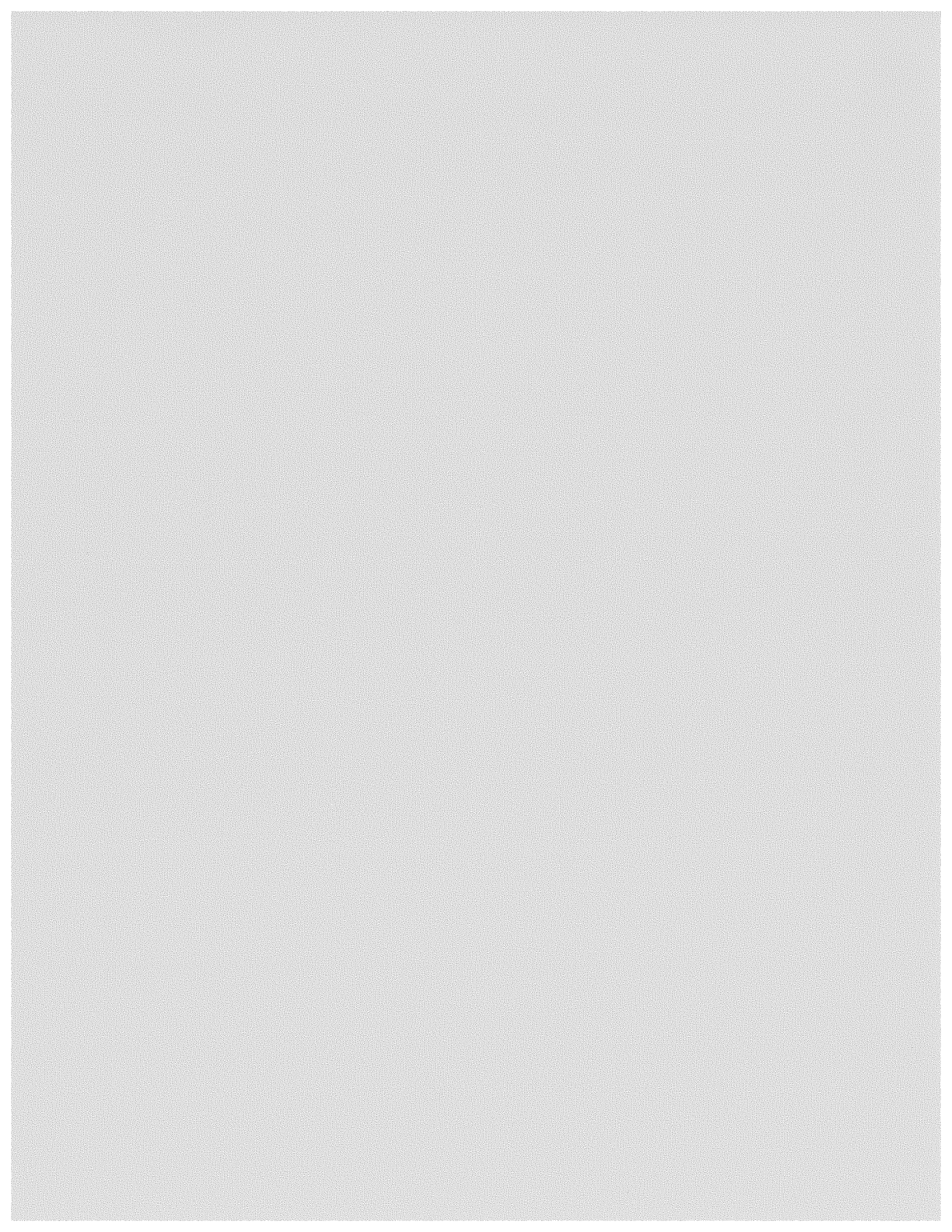
Balance Due \$0.00

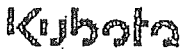
Thank you for your business! All Claims and Returned goods must be accompanied by this invoice. There will be no refunds or exchanges on any electrical parts or Special Order parts. A 20% restocking fee will be applied to all other parts returns. The factory warranty constitutes all of the warranties in regards to the invoiced items.

Notes:



Customer acknowledges receipts thereof:





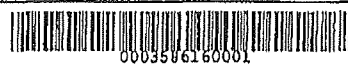
KUBOTA CANADA LTD.

5900 14th Avenue, Markham, ON L3S 4K4  
 GST/HST #: 102890654  
 PST/QST #: 1006179149

Equipment Lease Agreement

Lease Date: 2016-05-25  
 Lease Version: 1  
 KCL Approval #: 629927  
 KCL Tracking #: 358616

Lessor KOOY BROTHERS LAWN EQUIPMENT LTD. Address: 1919 Wilson Avenue Toronto: ON M9M 1A9 Dealer Ref. # Anthony Guido Dealer code: KOO010      Salesperson: KEVIN FORD Phone: (416) 242-3513      Fax: (416) 242-8710 Webpage & Email: GST/HST #: R102874997      PST/QST #: 14407515	Lessee, Legal name: ROYAL CANADIAN BEDROCK INC. Non Inc./Ltd company Operating name: ROYAL CANADAIAN BEDROCK INC. Customer's address: 16 AMOS MAYNARD CIRCLE WOODBRIDGE ON L4L3B8 Home #: 4164591037      Cell #:      Fax #:
<b>PURCHASERS SALES TAX INFORMATION</b> Federal Sales Tax: GST/HST is applicable. Provincial Sales Tax: PST/QST is applicable.	



**1. GENERAL PROVISIONS**

Lessor leases to Lessee and Lessee leases from Lessor for the Term set out below the equipment described below under the heading "Leased Equipment" and all attachments and accessories thereto (together, the "Equipment") on the terms and conditions set forth below (together, this "Lease"). Lessee acknowledges to and agrees with Lessor that: (i) Lessor will assign all of Lessor's right, title and interest in and to the Equipment and this Lease to Kubota Canada Ltd., which may be further assigned by Kubota Canada Ltd. (following such assignment and any subsequent assignment "Lessor" will mean Kubota Canada Ltd. or any subsequent assignee, as applicable); (ii) all amounts due under this Lease are to be paid by Lessee to Kubota Canada Ltd. or, upon further notice from any subsequent assignee, to such assignee; (iii) it has received and inspected the Equipment and found it to be acceptable and in good condition; (iv) it has received an operator's manual, a copy of the manufacturer's warranty and instructions regarding the safe operation of the Equipment including, if applicable, the importance of any roll over protection structure and a seat belt, all of which have been explained to Lessee and which Lessee understands; (v) Lessee has reviewed with Lessor all matters regarding safety in the operator's manual and safety labels on the Equipment and which Lessee understands; (vi) by Lessee's execution of this Lease, Lessee consents to the release by Lessor of all personal (including financial) information respecting Lessee to Kubota Canada Ltd., any subsequent assignee and any credit reporting agency for the purpose of determining the credit standing of Lessee; (vii) Lessor may also disclose to and obtain from any credit reporting agency any credit information respecting Lessee; and (viii) it has received a true copy of this Lease fully completed and including 7 pages.

Name: ROYAL CANADIAN BEDROCK INC.      Seller: KOOY BROTHERS LAWN EQUIPMENT LTD.  
 Sign:      Officer Signature:   
 Signing Date (YYYY-MM-DD) 2016/05/26      Signing Date (YYYY-MM-DD) \_\_\_\_\_  
 Officer Name: Anthony Guido      Name of Officer: \_\_\_\_\_

**2. GUARANTEE**

In order to induce Lessor to enter into the Lease (as defined above) and in consideration of the sum of Ten (\$10.00) Dollars now paid by Lessor to the undersigned (the receipt and sufficiency of which are hereby acknowledged), the undersigned unconditionally and irrevocably guarantees to Lessor the complete and timely payment and performance by Lessee of all of Lessee's obligations under the Lease, including, without limitation, the payment when due of each Monthly Lease Payment, and all other debts and liabilities, present or future, of any and every kind and nature, at any time owing by Lessee to Lessor under or in respect of this Lease. The undersigned agrees that this guarantee shall constitute a separate agreement and shall not be discharged, impaired or affected by the insolvency of Lessee, the incapacity or lack of power and authority of Lessee to enter into and incur obligations under the Lease, or the invalidity or unenforceability of any term or condition of the Lease or any related documents, any failure by Lessor to perfect its security interest in the Equipment by registration, or any waiver, modification or amendment of any terms of the Lease or any related documents. The undersigned acknowledges and agrees that this guarantee, the Lease and all other related documents may be assigned by Lessor to Kubota Canada Ltd. and may be further assigned from time to time without notice to the undersigned. If more than one person signs this guarantee, they shall be jointly and severally liable hereunder. Any term used in the Lease shall have the same meaning when used in this guarantee.

#1. Guarantor's name: Antonino Guldo      #2. Guarantor's name: Kooy Brothers Lawn Equipment Limited  
 Sign:      Sign:   
 Address: 175 Westridge Dr.      Address: 1919 Wilson Ave.  
                  Kleinburg ON L0J1C0      Toronto ON M9M1A9  
 Date of Birth: 07/20/1964      Date of Birth: 06/06/1956



KUBOTA CANADA LTD.

5900 14th Avenue, Markham, ON L3S 4K4  
 GST/HST #: 102880654  
 PST/QST #: 1006170149

Equipment Lease Agreement

Lease Date: 2016-05-25  
 Lease Version: 1  
 KCL Approval #: 629927  
 KCL Tracking #: 358616

3. LEASED EQUIPMENT						
Year	Make	Model	Serial	Description	Amount	
2003	WILSON	11-B	HD30-11630-03149	OVERHEAD GANTRY SAW	\$75,361.02	
1997	CAT	980G	2KR01235	Wheel Loader	\$50,263.26	
2013	KUBOTA	KX057-4GA	21846	EXCAVATOR	\$48,554.58	
2005	VOLVO	L220E	EV3530	Wheel Loader	\$133,254.46	
2014	KUBOTA	ISVL80-2HFC	13943	SKID STEER LOADER	\$63,114.38	
2008	JCB	436HT	JCB43600L71305303	Wheel Loader	\$45,071.83	
2011	JCB	456HT	JCB45600H01304170	Wheel Loader	\$95,151.84	
2010	PARK INDUSTRIES	PYTHON II	138388	DIAMOND SAW	\$38,060.88	
2013	DAEWOO	L0LAR 3000-V	1305	EXCAVATOR CW RTS SAW	\$37,059.05	
1998	FIAT ALLIS	FR220	OGM40659MOEST010M	Wheel Loader	\$30,047.89	
2005	CAT	90B	CAT00806LTAR00543	Wheel Loader	\$37,059.06	
2000	OGDEN	8-40300	OG1058	STONE SPLITTER	\$50,079.81	
2008	PARK INDUSTRIES	36-16-150	108542	STONE SPLITTER	\$32,551.88	
2008	PARK INDUSTRIES	PCDC-30-120	108543	CONVEYE WITH SKID L;OADER	\$32,551.88	
					Subtotal	\$774,171.39

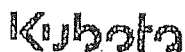
4. LEASED EQUIPMENT TRADED-IN						
Year	Make	Model	Serial	Description	Trade Value	

Trade-in allowance

5. ADDITIONAL AMOUNTS TO BE INCLUDED		Amount
(1) Equipment to be leased		\$774,171.39
(2) Add: Freight and PDI		\$0.00
(3) Add: Admin fees and other taxable charges		\$141.00
(4) Add: Registration Fee:		\$54.00
(5) GPS Monitoring Fee:		\$0.00
(6) Physical Damage Insurance		\$0.00
	(7) Subtotal	\$774,366.39
(8) Trade-in allowance		\$0.00
(9) Less: Liens outstanding on trade-in		\$0.00
Less: Trade In Equity		\$0.00
(10) Less: Cash down payment		\$0.00
	(11) Total Lease Amount	\$774,366.39

STANDARD PAYMENT TERMS

Delivery date	2016-05-25		
Total duration of Contract in months	60		
Less Interest waiver months	0		
Contract Amortization period in months	60	Payment Amount	\$13,144.97



KUBOTA CANADA LTD.

5900 14th Avenue, Markham, ON L3S 4K4

GST/HST #: 102890654

PST/QST #: 1006179149

Payment frequency	Monthly	Interest Start Date	2016-05-25
Calculated 1st PMT date	2016-06-25		
# of days allerallon from Selected 1st PMT date	0		
Selected 1st PMT date	2016-06-25		
Last payment date	2021-05-25		

Equipment Lease Agreement

Lease Date: 2016-05-25

Lease Version: 1

KCL Approval #: 629927

KCL Tracking #: 358616

UPFRONT PAYMENT

(15) Cash Downpayment	\$0.00
GST/HST	\$0.00
PST/QST	\$0.00
Subtotal	\$0.00
(16) Other Non-Taxable	\$0.00
Payment due to Dealer on delivery	\$0.00

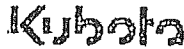
**6. LEASE END PURCHASE OPTION**

If the Lessee is not in default under the Lease, the Lessee shall have an option to purchase all leased Equipment listed in section 3 above, at the end of the term on at least 60 days written notice prior to 2021-05-25

Purchase option at lease end	Stated Value	\$100,100.00
Maximum usage hours allowed		0
Late return charge per day		\$0.00
Cost per extra hour of usage		\$0.00

**7. Payment Schedule**

Date	Seq #	Pmt	PST/QST	GST/HST	Total Pmt
2016-06-25	1	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2016-07-25	2	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2016-08-25	3	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2016-09-25	4	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2016-10-25	5	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2016-11-25	6	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2016-12-25	7	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2017-01-25	8	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2017-02-25	9	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2017-03-25	10	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2017-04-25	11	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2017-05-25	12	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2017-06-25	13	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2017-07-25	14	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2017-08-25	15	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2017-09-25	16	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2017-10-25	17	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2017-11-25	18	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2017-12-25	19	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2018-01-25	20	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2018-02-25	21	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2018-03-25	22	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82



KUBOTA CANADA LTD.

5909 14th Avenue, Markham, ON L3S 4K4  
 GST/HST #: 102890854  
 PST/QST #: 1006179149

Equipment Lease Agreement

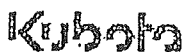
Lease Date: 2016-05-25  
 Lease Version: 1  
 KCL Approval #: 629927  
 KCL Tracking #: 358518

2018-04-25	23	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2018-05-25	24	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2018-06-25	25	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2018-07-25	26	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2018-08-25	27	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2018-09-25	28	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2018-10-25	29	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2018-11-25	30	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2018-12-25	31	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2019-01-25	32	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2019-02-25	33	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2019-03-25	34	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2019-04-25	35	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2019-05-25	36	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2019-06-25	37	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2019-07-25	38	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2019-08-25	39	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2019-09-25	40	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2019-10-25	41	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2019-11-25	42	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2019-12-25	43	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2020-01-25	44	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2020-02-25	45	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2020-03-25	46	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2020-04-25	47	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2020-05-25	48	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2020-06-25	49	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2020-07-25	50	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2020-08-25	51	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2020-09-25	52	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2020-10-25	53	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2020-11-25	54	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2020-12-25	55	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2021-01-25	56	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2021-02-25	57	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2021-03-25	58	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2021-04-25	59	\$13,144.97	\$0.00	\$1,708.85	\$14,853.82
2021-05-25	60	\$13,144.78	\$0.00	\$1,708.82	\$14,853.80

**8. METHOD OF PAYMENT**

Purchaser shall provide to the Seller on the delivery date, payment instruments in the name of Kubota Canada Ltd. or the subsequent assignee as to 1. A cheque payable to the Dealer, if applicable.

2. A void cheque on the pre-selected account at a financial institution (the "Bank") from which withdrawals on account of the remaining scheduled payment and any other amounts owing here under will be made in due course and the purchaser hereby instructs the bank to honour any cheque, order or request drawn on it payable to the Seller's assignee, Kubota Canada Ltd., in respect thereof. Purchaser shall provide to the Seller on the delivery date, payment instruments in the name of Kubota Canada Ltd. or the subsequent assignee as to. The account holder(s) identified on page 1 of this contract as the Purchaser, hereby authorize Kubota Canada Ltd. to debit the account at the bank or other financial institution identified on the voided cheque that Purchaser have provided to us or that Purchaser may identify to us from time to time (the "Account") for (i) the amount of each payment due under the Contract on or shortly after its payment due date as set out in the Contract and (ii) at the same time, any overdue payment, unpaid interest or other charges that become due under the Contract at any time, in each case, without prior notice to you. Purchaser understands that this authorization may be cancelled by the Purchaser at any time upon 30 days' written notice given by Purchaser to Kubota Canada Ltd.; however, if you cancel this authorization, the Purchaser will remain obligated to pay Kubota Canada Ltd. all amounts due or owing under the Contract. The Purchaser may obtain a sample cancellation form, or further information on the right to cancel this authorization, at your financial institution or by visiting [www.cdnpay.ca](http://www.cdnpay.ca). Purchaser acknowledges that this authorization is being given for the benefit of Kubota Canada Ltd. and the financial institution at which the Account is held (the "Processing Institution") and is being entered into in consideration of the Processing Institution agreeing to process pre-authorized debit requests (each, a "PAD") against the Account in accordance with the rules of the Canadian Payments Association. Purchaser acknowledges that delivery of this authorization to Kubota Canada Ltd. also constitutes delivery thereof by the Purchaser to the Processing



KUBOTA CANADA LTD.

5900 14th Avenue, Markham, ON L3S 4K4  
 GST/HST #: 102690654  
 PST/QST #: 1006179149

## Equipment Lease Agreement

Lease Date: 2016-05-25  
 Lease Version: 1  
 KCL Approval #: 629927  
 KCL Tracking #: 358616

institution, and that the Processing Institution is not required to verify that each PAD submitted by Kubota Canada Ltd. has been issued in accordance with this authorization (including the amount) or that the purpose of the payment for which a PAD was submitted has been fulfilled as a condition of honoring a PAD. The Purchaser has certain recourse rights if any debit does not comply with this authorization. For example, the Purchaser has the right to receive reimbursement for any debit that is not authorized or is not consistent with this authorization. To obtain more information on your recourse rights, you may contact your financial institution or visit [www.cdnpay.ca](http://www.cdnpay.ca)

### 9. INSURANCE

Lessee shall arrange to have the leased Equipment insured for replacement value under a standard insurance policy containing the usual limitations and designating the Lessor and Kubota Canada Ltd. as loss payees and the Lessee shall maintain at its expense liability coverage

### 10. ADDITIONAL TERMS AND CONDITIONS

- (a) Lessee shall use the Equipment in a prudent manner and shall maintain and repair the Equipment as a prudent owner would do using only repair parts prescribed by the manufacturer of the Equipment. Unless Lessee has exercised its option to purchase the Equipment at the end of the term and has paid the option price in full, Lessee shall return the Equipment to Lessor at such location as Lessor shall designate in good condition and repair. If the Equipment has not been used, maintained and repaired as required with the result that its fair market value is less than the Residual Value, then Lessee shall pay to Lessor the amount, as determined by Lessor, which represents the reduction in fair market value as a result of failure to properly use, maintain or repair the Equipment.
- (b) Lessee shall keep the Equipment free and clear of any lien, security interest or other encumbrance and if Lessee does not do so, Lessor may pay off any such lien, security interest or other encumbrance and such amount shall be due and payable forthwith by Lessee to Lessor.
- (c) The Equipment shall remain personal or movable property and shall not form part of any real property on which it is located, and Lessee shall not allow the Equipment to be affixed in any way to any land or building. Lessee shall not, without the written permission of Lessor, remove or permit removal of the Equipment from the province or territory in which the Equipment was delivered by Lessor, part with possession of the Equipment (except that the Purchaser may use the Equipment for hire in the course of its business on commercially reasonable terms).
- (d) Lessor warrants that the Equipment conforms to the description in this Lease and assigns to Lessee the benefit of the manufacturer's warranty. LESSOR MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE EQUIPMENT, INCLUDING WITHOUT LIMITATION, AS TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE EXCEPT THAT IF LESSEE IS AN INDIVIDUAL AND IS NOT PURCHASING THE EQUIPMENT FOR BUSINESS PURPOSES, ANY WARRANTIES REQUIRED BY STATUTE SHALL APPLY TO THE EQUIPMENT. All claims pursuant to the above warranty as to the description of the Equipment must be made in writing within 30 days of Lessee's receipt of the Equipment. Lessee agrees that Lessee will make all payments when due hereunder to Kubota Canada Ltd. or any subsequent assignee even though Lessee has a dispute with the manufacturer of the Equipment respecting its warranty, with the Lessor named above, or for any other reason.
- (e) Lessee represents to Lessor that Lessee owns the trade-in (if any) described above free and clear of all encumbrances, and if such is not the case, Lessor may, in addition to any other remedy under this Lease, pay the amount of any such encumbrance and such amount shall be due and payable forthwith by Lessee to Lessor.
- (f) Lessee shall maintain in force all risks property damage insurance for the Equipment and third party liability insurance, in each case in an amount specified by Lessor, as long as any amount remains owing hereunder. Lessee shall provide Lessor with a certified copy of each policy of insurance which shall name Kubota Canada Ltd. as first loss payee under the property damage insurance and as an additional insured under the third party liability insurance, and shall upon request provide Kubota Canada Ltd. with a copy of all renewals thereof as they come into effect. Each insurance company chosen by Lessee must be acceptable to Lessor. Lessee may also request Lessor to arrange for insurance coverage for Lessee, however such insurance coverage provided by the Lessor shall be limited to all risks property damages insurance for the Equipment and shall not include third party liability insurance. If Lessee requests that Lessor arrange for insurance coverage, the service fee for the coverage shall be included in the Total Lease Cost, provided that if such insurance is declined by the insurer in whole or in part or if any premium is returned to Lessor upon cancellation or rescission of a policy, Lessor's only obligation shall be to credit Lessee with the amount of any premium so returned. If Lessee does not comply with all terms of this clause, Lessor may effect and maintain the required insurance, and the fees for such insurance shall be forthwith due and payable upon demand, but Lessor shall not in any event be obliged to effect or maintain insurance. Lessee hereby assigns to Lessor all refunded insurance premiums and, so long as any amount remains owing hereunder, irrevocably appoints Lessor as the attorney of Lessee in the name of Lessee to exercise all rights of Lessee under any such policies, and if Lessee defaults under this Lease, Lessor may, in addition to any other remedy, cancel or resiliate any such policy and collect any refunded premium and apply it to the amounts due hereunder. Any loss payment to Lessor may, at the option of Lessor, be applied to repair the Equipment or to pay any amount owing hereunder.
- (g) Lessee shall be in default, under this Equipment Lease Agreement, or any other Conditional Sales Contract or Equipment Lease Agreement assigned to Kubota Canada Ltd., if Lessee does not pay any amount owing under this lease when due, violates any other term of this Lease, if any of the Equipment is confiscated or is not used in accordance with this Lease, if Lessor in its discretion deems the Equipment in danger of misuse or confiscation or at risk of loss, if a proceeding in bankruptcy, receivership, winding-up, insolvency, or protection against creditors or for the dissolution of Lessee is instituted by or against Lessee or any of the property of Lessee, if any execution, attachment, distress or writ is levied upon any of Lessee's property, or if Lessee dies.
- (h) If Lessee defaults, under this Equipment Lease Agreement, or any other Conditional Sales Contract or Equipment Lease Agreement assigned to Kubota Canada Ltd., Lessor may (i) declare the Term of this Lease to be at an end and, with or without legal process, take immediate possession of the Equipment and, without further notice or demand, sell, lease or otherwise dispose of the Equipment on such terms and conditions as Lessor may determine; (ii) as agent for Lessee, and without declaring the Term of this Lease to be at an end and, whether or not Lessor has taken possession of the Equipment, lease the Equipment to another person on such terms and conditions as Lessor may determine. The proceeds of any such sale, lease or other disposition when received shall be applied first against all costs of repairs and all other costs incurred in connection with the repossession, lease and sale of the Equipment, including all solicitors fees, and then in reduction of the unpaid balance of the amount due hereunder by Lessee to

# Kubota

KUBOTA CANADA LTD.

5900 14th Avenue, Markham, ON L3S 4K4

GST/HST #: 102890654

PST/QST #: 1006179149

## Equipment Lease Agreement

Lease Date: 2016-05-25

Lease Version: 1

KCL Approval #: 629927

KCL Tracking #: 358616

Lessor and accrued interest thereon. All rights and remedies hereunder are cumulative and not alternative. Failure by Lessor to exercise any right or remedy shall not constitute a waiver thereof or affect the right of Lessor to exercise any other right or remedy. Lessor may recover possession of the Equipment and/or all monies due and payable under this Contract as permitted by law in lieu of, in addition to, concurrently with, or after or before the exercise of any other rights of Lessor hereunder. No judgment shall create any merger of Lessor's rights herein.

(i) If Lessee does not pay any amount owing under this Lease when due, interest shall accrue daily on the unpaid balance of such amount at the rate of 24% per annum and shall be paid by Lessee to Lessor on demand. Any unpaid interest shall be compounded monthly.

(j) Except for any security that may now or at any future time be taken as collateral hereto or any promissory note or other evidence of indebtedness, this Lease constitute the entire agreement between the parties.

(k) In no event shall Lessor be liable to Lessee for any special damages or for loss of profits or other, indirect or consequential damages arising from the Equipment or its use or operation. Lessee assumes all risks and responsibility related to the ownership or use of the Equipment, whether used alone or in combination with other Equipment and agrees to indemnify and save Lessor harmless from all costs, losses, damages, liabilities, actions, claims or proceedings of any nature or kind in respect of such ownership or use.

(l) This Lease shall ensure to the benefit of and be binding upon the heirs, executors and personal representatives of Lessee (if an individual), and shall ensure to the benefit of, and be binding upon the successors and assigns of Lessor. Any reference to the male gender includes the female gender and vice-versa, any reference to the singular includes the plural and vice-versa, where the context so requires. Lessee may not assign its rights or obligations hereunder without the consent in writing of Lessor.

(m) Lessee, if a corporation, agrees that the Limitation of Civil Rights Act of the Province of Saskatchewan shall have no application to this Lease or any agreement or instrument renewing or extending or collateral to this Lease. Any provision of this Lease that is prohibited or unenforceable by the law in any jurisdiction shall not invalidate the remaining provisions of this Lease. This Lease shall be governed by the laws of the province where the Equipment is located at the time of execution hereof.

(n) IF THIS CONTRACT IS EXECUTED IN THE PROVINCE OF QUEBEC, THE PARTIES HERETO CONFIRM HAVING REQUESTED THAT SAME TOGETHER WITH ANY DOCUMENTS RELATED THERETO BE DRAWN UP IN ENGLISH; SI CE CONTRAT EST SIGNE DANS LA PROVINCE DE QUEBEC, LES PARTIES CONFIRMENT AVOIR REQUIE QUE CELUI-CI DE MEME QUE TOUS LES DOCUMENTS Y AFFERENTS SOIENT REDIGES EN LANGUE ANGLAISE.

(o) If a GPS unit is an attachment or accessory to the Equipment and the cost thereof is included in the cost of the Equipment sold hereunder, then Seller shall at all times during the Term of the Lease have access to all information, including personal information, collected in connection with such GPS unit from any source, which potentially includes the personal information of individuals, employees, passengers and other third parties. Purchaser shall not take any steps to interfere with such access, until the amount to be financed, interest thereon and all other amounts owing by Purchaser to Seller under this Contract have been paid in full.





KUBOTA CANADA LTD.

5900 14th Avenue, Markham, ON L3S 4K4  
 GST/HST #: 102890854  
 PST/QST #: 1006170140

Equipment Lease Agreement

Lease Date: 2016-05-25  
 Lease Version: 1  
 KCL Approval #: 629827  
 KCL Tracking # 358616

**Insurance Confirmation**

Insurance Company Name: Intact Insurance  
 Insurance Broker Name: CORNERSTONE INS. BROKERS  
 Insurance Broker Address: 8001 WESTON RD.  
 Insurance Broker Phone #: 888-768-8001  
 Insurance Broker Fax #:  
 Insurance Policy Number: 501330897

**DESCRIPTION AND VALUE OF EQUIPMENT TO BE INSURED**

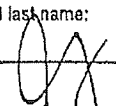
Year	Make	Model	Serial	Description	Amount
2003	WILSON	11-5	HC30-11030-03149	OVERHEAD GANTRY SAW	\$75,351.02
1997	CAT	980G	2KR01235	Wheel Loader	\$56,263.26
2013	KUBOTA	IKX057-4GA	21846	EXCAVATOR	\$48,554.58
2005	VOLVO	L220E	EV3530	Wheel Loader	\$133,254.46
2014	KUBOTA	ISVL80-2HFC	13943	SKID STEER LOADER	\$63,114.36
2008	JCB	436HT	JCB43600L71305303	Wheel Loader	\$45,071.83
2011	JCB	456HT	JCB45600H01304170	Wheel Loader	\$95,151.64
2010	PARK INDUSTRIES	PYTHON II	138368	DIAMOND SAW	\$38,060.65
2013	DAEWOO	L0LAR 3000-V	1305	EXCAVATOR C/W RTS SAW	\$37,059.06
1998	FIAT ALLIS	FR220	DGM40659MOEST010M	Wheel Loader	\$30,047.89
2005	CAT	80B	CAT00908LTAR00543	Wheel Loader	\$37,059.06
2000	OGDEN	B-40300	OG1058	STONE SPLITTER	\$60,079.81
2008	PARK INDUSTRIES	36-16-150	109542	STONE SPLITTER	\$32,551.88
2008	PARK INDUSTRIES	PCDC-30-120	109543	CONVEYE WITH SKID L:OADER	\$32,551.88

I understand that to provide protection from serious financial loss, should an accident or loss occur, my installment contract requires the equipment (excludes personal injury and liability) to be covered both on and off my property with insurance against all risks including fire, theft, collision, upset, accidental damage. Failure to provide such insurance constitutes a default and gives Kubota Canada Ltd., the right to declare the entire unpaid balance immediately due and payable. Accordingly, I have arranged for the required insurance through the insurance company shown above and have requested my agent to note Kubota Credit Corporation's interest in the equipment and endorse the policy with a loss payable endorsement in favor of Kubota Canada Ltd.

This is to authorize the Insurance company named above to furnish KUBOTA CANADA LTD, 5900 14th Ave, Markham Ontario, L3S 4K4 with property damage insurance on the above described Equipment with a "Loss Payable clause as their interest may appear" for the period:

- beginning on 2016-05-25 and ending on 2021-05-25 for the amounts indicated above.

Legal first, middle and last name:

\_\_\_\_\_  
 Sign: 

Seller: KOOY BROTHERS LAWN EQUIPMENT LTD.  
 Authorized signing officer's name:

\_\_\_\_\_  
 Sign: 



<b>Invoice</b>		<b>6443 PF</b>
KOBY BROTHERS LAWN EQUIPMENT LTD. 1919 WILSON AVE. TORONTO, ONT, M9M 1A9		<b>246</b> PH# 416-242-3799 FAX# 416-242-2479 HST# R102874997

<b>Bill To</b>				<b>Ship To</b>			
KUBOTA CANADA FINANCE 5900 14TH AVE MARKHAM, ON L3S 4K4				ROYAL CANADIAN BEDROCK INC. 16 AMOS MAYNARD CIRCLE WOODBIDGE, ON L4L 3B8			
<b>Contact</b>	<b>Customer Tax Number</b>	<b>Phone</b>	<b>Alt. Phone</b>	<b>PO Number</b>	<b>Transaction</b>		
Antonio Guido		(416) 459-1037			Finance		
<b>Counter Person</b>	<b>Sales Person</b>	<b>Invoice Date</b>	<b>Reference</b>	<b>Department</b>			
	Kevin Ford	30/05/2016	Lease# 629927	Kooy Bros			

Model	Line	Description	Ordered	B/O'd	Shipped	List	Net	Amount
11-6	WIL	2003 Wilson Overhead Gantry Saw	1	0	1		\$75,351.02	\$75,351.02
	SN	HD30-11630-03149						
980G	CAT	1997 Cat Wheel Loader	1	0	1		\$56,263.26	\$56,263.26
	SN	2KR01235						
IX057-4GA	KUW	2013 Kubota Excavator	1	0	1		\$48,554.58	\$48,554.58
	SN	21846						
L220E	VOL	2005 Volvo Wheel Loader	1	0	1		\$133,254.46	\$133,254.46
	SN	EV3530						
SVL90-2HFC	KUW	2014 Kubota Skid Steer Loader	1	0	1		\$63,114.36	\$63,114.36
	SN	13943						
436HT	JCB	2008 JCB Wheel Loader	1	0	1		\$45,071.83	\$45,071.83
	SN	JCB43600L71305303						
456HT	JCB	2011 JCB Wheel Loader	1	0	1		\$95,151.64	\$95,151.64
	SN	JCB4500H01304170						
PYTHON II	PKIN	2010 Park Industries Diamond Saw	1	0	1		\$38,060.66	\$38,060.66
	SN	138368						
LOLAR 3000-V	DWD	2013 Dlawoo Excavator	1	0	1		\$37,059.06	\$37,059.06
	SN	1305						
FR220	FTAL	1998 Fiat Allis Wheel Loader	1	0	1		\$30,047.89	\$30,047.89
	SN	DGM40659MOEST010M						
908	CAT	2005 Cat Wheel Loader	1	0	1		\$37,059.06	\$37,059.06
	SN	CAT00908LTAR00543						
8-40300	OGD	2000 Ogden Stone Splitter	1	0	1		\$50,079.81	\$50,079.81
	SN	OG1D58						
36-16-150	PKIN	2008 Park Industries Stone Splitter	1	0	1		\$32,551.88	\$32,551.88
	SN	109542						
PCDC-30-120	PKIN	2008 Park Industries Conveye & Skid Loader	1	0	1		\$32,551.88	\$32,551.88
	SN	109543						

\*Refinance lease 612688, 615540, 611789, 611787, 615375.

Invoice Total	\$774,171.39
Sales Tax	\$0.00
<b>Grand Total</b>	<b>\$774,171.39</b>

<b>Payment Details</b>	<b>Memo</b>	<b>Clerk</b>	<b>Date</b>	<b>Amount</b>
Lease# 629927	KUBOTA CANADA FINANCE	Stephanie	30/05/2016	(\$774,171.39)

Payment Total (\$774,171.39)

Balance Due \$0.00

Thank you for your business! All Claims and Returned goods must be accompanied by this invoice. There will be no refunds or exchanges on any electrical parts or Special Order parts. A 20% restocking fee will be applied to all other parts returns. The factory warranty constitutes all of the warranties in regards to the Invoiced Items.

Notes:



Customer acknowledges receipts thereof:

KUBOTA CANADA LTD.  
5900 - 14<sup>th</sup> Avenue,  
Markham, Ontario  
L3S 4K4

### GUARANTEED BUY OUT CONFIRMATION

LEASE#: 629927

DATED: May 25, 2016

Year	Make	Description	Model	Serial Number
2003	WILSON	Overhead Gantry Saw	11-Jun	HD30-11630-03149
1997	CAT	Wheel Loader	980G	2KR01235
2013	KUBOTA	Excavator	IKX057-4GA	21846
2005	VOLVO	Wheel Loader	L220E	EV3530
2014	KUBOTA	Skid Steer Loader	ISVL90-2HFC	13943
2008	JCB	Wheel Loader	436HT	JCB43600L71305303
2011	JCB	Wheel Loader	456HT	JCB45600H01304170
2010	PARK INDUSTRIES	Diamond Saw	PYTHON II	138368
2013	DAEWOO	Excavator c/w RTS Saw	LOLAR 3000-V	1305
1998	FIAT ALLIS	Wheel Loader	FR220	DGM40659MOEST010M
2005	CAT	Wheel Loader	908	CAT00908LTAR00543
2000	OGDEN	Stone Splitter	8-40300	OG1058
2008	PARK INDUSTRIES	Stone Splitter	36-16-150	109542
2008	PARK INDUSTRIES	Conveyer With Skid Loader	PCDC-30-120	109543

Please accept this letter as an advance notice pertaining to Section 6. LEASE END PURCHASE OPTION) of the above described vehicle lease that we will purchase the leased vehicle at the expiry of the lease term for the option price shown on face of the described lease contract thereof.

LESSEE: Royal Canadian Bedrock Inc.  
16 Amos Maynard Circle  
Woodbridge, Ontario  
L4L 3B8  
Tel: 416-459-1037

AUTHORIZED SIGNATURE: \_\_\_\_\_



Anthony Guido

**KOORY BROTHERS LAWN EQUIPMENT LIMITED**

-and-

**AMSEN QUARRY LIMITED, et al.**

Applicant

Respondents

Court File No. CV-18-00595177-00CL

---

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

**Proceedings commenced at Toronto**

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**SECOND REPORT OF THE**  
**COURT-APPOINTED RECEIVER**

---

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Ian Aversa (LSUC # 55449N)**

Tel: (416) 865-3082

Fax: (416) 863-1515

Email: [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

**Jeremy Nemers (LSUC # 66410Q)**

Tel: (416) 865-7724

Fax: (416) 863-1515

Email: [jnemers@airdberlis.com](mailto:jnemers@airdberlis.com)

*Lawyers for the Receiver*

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**KOOY BROTHERS LAWN EQUIPMENT LIMITED**

Applicant

- and -

**AMSEN QUARRY LIMITED, ROYAL CANADIAN  
BEDROCK INC. and TPNP HOLDINGS INC.**

Respondents

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

**SUPPLEMENT TO THE SECOND REPORT  
OF THE COURT-APPOINTED RECEIVER**

**OCTOBER 24, 2018**

## **Appendices**

- “A” - Endorsement of the Honourable Madam Justice Chiappetta (October 11, 2018)
- “B” - Follow-up email from the Receiver to Chaitons LLP (October 11, 2018)
- “C” - Email from Mr. Guido to the Receiver (October 12, 2018)
- “D” - Responding email from the Receiver’s counsel to Chaitons LLP (October 12, 2018)

1. The Fuller Landau Group Inc., in its capacity as the court-appointed receiver (in such capacity, the “**Receiver**”) of the Property (as defined in the Order appointing the Receiver of the Honourable Madam Justice Chiappetta of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made September 12, 2018 (the “**Appointment Order**”), previously filed a report to Court dated October 9, 2018 (the “**Second Report**”). Unless otherwise stated herein, all capitalized terms are defined as they are in the Second Report.

2. Amongst other things, the Second Report (as with the Receiver’s first report to Court dated September 28, 2018 (the “**First Report**”) advised the Court of the Receiver’s repeated requests for information about the Debtors and the Property from Mr. Guido, many of which requests had gone unanswered despite repeated follow-up requests by the Receiver and its counsel.

3. The purpose of this supplement to the Second Report (this “**Second Report Supplement**”) is to provide a further update to the Court regarding the level of cooperation by Mr. Guido.

4. Attached as **Appendix “A”** to this Second Report Supplement is the endorsement of the Honourable Madam Justice Chiappetta made October 11, 2018, which, amongst other things, requires the Debtors and Mr. Guido to “*cooperate with the Receiver in accordance with their obligations under the [Appointment] Order, including, without limitation, by providing the outstanding information requested of them by the Receiver.*”

5. Attached as **Appendix “B”** to this Second Report Supplement is an email (without appendices), also dated October 11, 2018, from the Receiver to Chaitons LLP, listing the information that the Receiver had previously requested (as set out in more detail in the First Report and in the Second Report) and that still remained outstanding/unanswered. As of the date of this Second Report Supplement, neither the Receiver nor its counsel has received any response from

Chaitons LLP or Mr. Guido to the Receiver's October 11, 2018 email, and all the information requests listed as outstanding/unanswered in the Receiver's October 11, 2018 email continue to remain outstanding/unanswered.

6. Attached as **Appendix "C"** to this Second Report Supplement is a new email from Mr. Guido to the Receiver dated October 12, 2018, in which Mr. Guido does not address any of the outstanding/unanswered information requests, but instead advises, amongst other things, that:

- (a) RCB purportedly extracted raw material from the Amsen Quarry prior to the date of the Appointment Order, which extracted material Mr. Guido claims remains at the Amsen Quarry but that is *"urgently required to complete a project ... [for which] I'm subject to performance penalties ... if I do not deliver on time;"*
- (b) *"I now require immediate access for approximately 2-3 days to bring machines to the Amsen [Q]uarry to lift blocks and coordinate 2-3 truck loads of raw material and then remove equipment brought to site to [do] this;"* and
- (c) *"I was expecting the receivership matter to be terminated with recent court appearances as Amsen Quarry leases with Kooy Bros. have been overpaid."*

7. Attached as **Appendix "D"** to this Second Report Supplement is the Receiver's response of October 12, 2018, delivered by the Receiver's counsel to Chaitons LLP, advising, amongst other things, that absent the receipt of satisfactory written evidence reflecting that title to raw material transferred to RCB prior to the date of the Appointment Order (in exchange for good and valid consideration to Amsen, which, if such consideration exists, has been withheld from the Receiver and must be delivered to the Receiver forthwith), the Receiver cannot release any raw material to



RCB. As of the date of this Second Report Supplement, neither the Receiver nor its counsel has received any response from Chaitons LLP or Mr. Guido.

8. It is the Receiver's view that Mr. Guido's continued and flagrant lack of cooperation with the Receiver, his disregard for the Appointment Order and his blatant disregard for Her Honour's endorsement are precluding the Receiver from identifying the full scope of the Property, jeopardizing the potential monetization of the Property and causing unnecessary expense to accrue, all of which will have a negative impact on the Receiver's ability to generate any potential recoveries for the Debtors' stakeholders.

All of which is respectfully submitted this 24th day of October 2018.

A handwritten signature in cursive script that reads "The Fuller Landau Group Inc.".

**The Fuller Landau Group Inc.,**  
in its capacity as the court-appointed receiver of the Property

**TAB A**

COUNSEL SLIP

Court File No CV-18-595177-004

Date: Oct 11/18

KOOY BROTHERS LAWN EQUIPMENT LTD  
VS.  
AMSEN QUARRY LIMITED

No. On List 1

Title of Proceeding

AMSEN QUARRY LIMITED

Counsel for:

Plaintiff(s) [ ]  
Applicant(s) [ ]  
Petitioner(s) [ ]

Phone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

Counsel for:

Defendant(s) [ ]  
Respondent(s) [ ]

STEPHEN SCHWARTZ

Phone No. (416) 218-1132

Fax No. (416) 218-1832

Jeremy Nemars,  
for the Court-appointed Receiver

T 416-863-1500

F 416-863-1515

Graham Phoenix  
for Kooy Brothers

T 416 748 4736

F 416 746 8319

gphoenix@loonix.com

Oct 11, 2018 MJ Chiappetta.

Order to go in consent in accordance  
with the handwritten draft attached and  
signed by me today. Chiappetta

October 11, 2018

The parties' counsel and the Receiver attended before me this morning to address several ongoing issues, as a result of which the following steps shall be taken:

- ① The Debtors and Mr. Guido shall cooperate with the Receiver in accordance with their obligations under the Receivership Order, including, without limitation, by providing the outstanding information requested of them by The Receiver.
- ② Kooy, Amser, Royal and their respective necessary representatives shall meet at the offices of Kubota during the week of October 15, 2018 on a date and time to be agreed upon by counsel for the purpose of reviewing the leasing history and payments thereunder.

③ A motion shall be scheduled for, Friday, October 26, 2018

to determine the following two issues:

(a) do the Debtors have jurisdiction to bring the accounting motion contemplated by the Order of Patillo, J. made July 26, 2018 in light of the subsequent Receivership Order made September 12, 2018; and

(b) if the Debtors do have jurisdiction to bring the motion referenced in (a), can they do so without <sup>first</sup> making the Payment (as defined in the Order of Patillo, J. made July 26, 2018)?

④ No further materials shall be raised to address items 3(a) or 3(b) other than optional facts.

Giuseppe  
MJ Chiappetta

**TAB B**

## Eunice Baltkois

---

**From:** Adam Erlich <aerlich@fullerllp.com>  
**Sent:** October-11-18 12:53 PM  
**To:** Stephen Schwartz  
**Cc:** Jeremy Nemers  
**Subject:** Amsen - documents/information that remains outstanding  
**Attachments:** AMSEN RCB REPLY TO FUELLER.pdf

Stephen,

As discussed in court today, below is a list of information requested from Anthony that remains unanswered. A copy of Anthony's responses to our initial information request is attached.

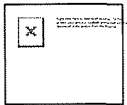
As well, the items below were outlined in the Receiver's First report in paragraph 25. Other than our comments in bold below, no additional information has been by Anthony. Let me know if you want to discuss before you speak with your client.

- a) an explanation/clarification regarding the purported 13 pieces of non-existent Equipment, including, without limitation, the location of this Equipment if it does in fact exist;
- b) the location of an additional three pieces of Equipment that Mr. Guido has still not addressed in any fashion;
- c) keys for all the Equipment;

**(NTD: Anthony has undertaken to provide keys for the equipment he disclosed at a) Wiarnton Quarry, 104 Quarry Road, b) 1549 Blue Church Road, Augusta, and c) 1591 Sunbury Rd, Kingston)**

- d) machine hours for all the Equipment;

- e) a list of all equipment/property (including, without limitation, the respective serial numbers) at the Amsen Quarry that Mr. Guido claims does not constitute Property, together with supporting documents proving its ownership;
  - f) the status of any insurance policies;
  - g) an aged payable trial balance, or confirmation that there are no unsecured creditors, and copies of the most recent assessments and a statement of account from Canada Revenue Agency for payroll source deductions and HST;
  - h) application documents and site plans relating to Amsen's class A license, and documents/details related to the quality and quantity of the remaining reserves at the Amsen Quarry;
  - i) appraisal reports, geological reports, and rehabilitation reports;
- (NTD: Geological Investigations report dated November 24, 2013 was obtained from Anthony's June 1, 2018 affidavit. This report calculated the value of aggregate at the quarry at the report date to be between \$59 and \$88 million). Documents are needed to support this report**
- j) building/floor plans; and
  - k) details relating to the known local and regional royalty rates, or agreements to extract material.



Adam Erlich, MBA, CPA, CA • CIRP, LIT , Restructuring & Insolvency, The Fuller  
Landau Group Inc.  
**FULLER LANDAU LLP**

151 Bloor Street West  
12th Floor  
Toronto, Ontario  
Canada M5S 1S4

Tel 416.645.6560  
Fax 416.645.6501  
Email [AErlich@FullerLLP.com](mailto:AErlich@FullerLLP.com)  
Web [www.fullerllp.com](http://www.fullerllp.com)





This message is only for the use of the individual or individuals to whom it is addressed. It may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please contact Adam Erlich immediately by email at [AErlich@FullerLLP.com](mailto:AErlich@FullerLLP.com). Thank you.

**TAB C**

## Eunice Baltkois

---

**From:** Eunice Baltkois  
**Sent:** October-24-18 8:44 AM  
**To:** Eunice Baltkois  
**Subject:** FW: Amsen Quarry Access — Urgent Request Re RCB Time Sensitive Order

**From:** Anthony Guido <[anthony@royalcanadianbedrock.com](mailto:anthony@royalcanadianbedrock.com)>  
**Sent:** Friday, October 12, 2018 8:14 AM  
**To:** Joshua Samson <[jsamson@fullerllp.com](mailto:jsamson@fullerllp.com)>  
**Cc:** Adam Erlich <[aerlich@fullerllp.com](mailto:aerlich@fullerllp.com)>; Stephen@chaitons.com  
**Subject:** Amsen Quarry Access — Urgent Request Re RCB Time Sensitive Order

Hi Joshua,

Royal Canadian Bedrock has a prior time sensitive order and has previously extracted (prior to Amsen receivership) raw material for this order at Amsen Quarry that is already been extracted in raw material rockery block form that is in the Amsen Quarry that urgently required to complete a project on the good ... I'm am subject to performance penalties on this project if I do not deliver on time ... I now require immediate access for approximately 2-3 days to bring machines to the Amsen quarry to lift blocks and coordinate 2-3 truck loads of raw material and then remove equipment brought to site to this this.

Please advise on how and when we would be authorized access to do so.

I was expecting the receivership matter to be terminated with recent court appearances as Amsen Quarry leases with Kooy Bros. have been overpaid.

If you have any questions regarding this matter please contact me ASAP.

I trust that this can be handle harmoniously to avoid penalties and damages.

Kindly advise ... thank you.

**ANTHONY GUIDO, CPA, CA**  
*PRESIDENT*  
[anthony@royalcanadianbedrock.com](mailto:anthony@royalcanadianbedrock.com)  
**M 416 459 1037**

<~WRD000.jpg>

100 King Street West, Suite 5600 Toronto, Ontario Canada M5X 1C9  
T 416 306 5796 F 1 888 217 9377

**TAB D**

## Eunice Baltkois

---

**From:** Eunice Baltkois  
**Sent:** October-24-18 8:46 AM  
**To:** Eunice Baltkois  
**Subject:** FW: Amsen Quarry Access — Urgent Request Re RCB Time Sensitive Order

**From:** Jeremy Nemers <[jnemers@airdberlis.com](mailto:jnemers@airdberlis.com)>  
**Date:** October 12, 2018 at 12:13:52 PM EDT  
**To:** "[stephen@chaitons.com](mailto:stephen@chaitons.com)" <[stephen@chaitons.com](mailto:stephen@chaitons.com)>  
**Cc:** Ian Aversa <[iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)>, "Erlich, Adam ([AErlich@FullerLLP.com](mailto:AErlich@FullerLLP.com))" <[AErlich@FullerLLP.com](mailto:AErlich@FullerLLP.com)>, 'Joshua Samson' <[jsamson@fullerllp.com](mailto:jsamson@fullerllp.com)>, 'Anthony Guido' <[anthony@royalcanadianbedrock.com](mailto:anthony@royalcanadianbedrock.com)>  
**Subject:** FW: Amsen Quarry Access — Urgent Request Re RCB Time Sensitive Order

Counsel,

The Receiver forwarded your clients' below email to us for response.

The property to which your clients appear to be referring in their email would appear to be, on your clients' own narrative and without evidence to the contrary, the property of Amsen (i.e., product extracted from Amsen's quarry and still located at Amsen's quarry). Absent satisfactory written evidence from your clients reflecting that title to this product transferred to RCB prior to the receivership (in exchange for good and valid consideration to Amsen, which, if such consideration exists, has been withheld from the Receiver and must be delivered to the Receiver forthwith), the Receiver cannot release this product to RCB. In the event that your clients are able to provide such satisfactory written evidence and consideration to the Receiver, then there is also the matter of compensating the Amsen receivership appropriately for storing and dealing with this product.

We trust that your clients' below reference to "penalties and damages" is not intended to be a threat directed against the Receiver. To the extent that Mr. Guido and/or RCB now face the prospect of penalties and/or damages from their own customers, that is not the Receiver's doing.

There is also the matter of your clients' continued lack of cooperation with the Receiver's repeated informational enquiries (notwithstanding the terms of the Appointment Order, Her Honour's endorsement of yesterday and the Receiver's repeated follow-up messages over the past month, including, without limitation, the Receiver's email to you of yesterday to which the Receiver has not received any response). Please advise when we will hear from you with a response to the Receiver's email of yesterday, which email you requested be provided to you at yesterday's court attendance.

Thanks,

Jeremy

Begin forwarded message:

**From:** Anthony Guido <[anthony@royalcanadianbedrock.com](mailto:anthony@royalcanadianbedrock.com)>  
**Sent:** Friday, October 12, 2018 8:14 AM

**To:** Joshua Samson <[jsamson@fullerllp.com](mailto:jsamson@fullerllp.com)>  
**Cc:** Adam Erlich <[aerlich@fullerllp.com](mailto:aerlich@fullerllp.com)>; [Stephen@chaitons.com](mailto:Stephen@chaitons.com)  
**Subject:** Amsen Quarry Access — Urgent Request Re RCB Time Sensitive Order

Hi Joshua,

Royal Canadian Bedrock has a prior time sensitive order and has previously extracted (prior to Amsen receivership) raw material for this order at Amsen Quarry that is already been extracted in raw material rockery block form that is in the Amsen Quarry that urgently required to complete a project on the good ... I'm am subject to performance penalties on this project if I do not deliver on time ... I now require immediate access for approximately 2-3 days to bring machines to the Amsen quarry to lift blocks and coordinate 2-3 truck loads of raw material and then remove equipment brought to site to this this.

Please advise on how and when we would be authorized access to do so.

I was expecting the receivership matter to be terminated with recent court appearances as Amsen Quarry leases with Kooy Bros. have been overpaid.

If you have any questions regarding this matter please contact me ASAP.

I trust that this can be handle harmoniously to avoid penalties and damages.

Kindly advise ... thank you.

**ANTHONY GUIDO, CPA, CA**  
*PRESIDENT*  
[anthony@royalcanadianbedrock.com](mailto:anthony@royalcanadianbedrock.com)  
**M 416 459 1037**

<image001.jpg>

100 King Street West, Suite 5600 Toronto, Ontario Canada M5X 1C9

T 416 306 5796 F 1 888 217 9377

**KOOY BROTHERS LAWN EQUIPMENT LIMITED**

-and-

**AMSEN QUARRY LIMITED, et al.**

Applicant

Respondents

Court File No. CV-18-00595177-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceedings commenced at Toronto

**SUPPLEMENT TO THE SECOND REPORT  
OF THE  
COURT-APPOINTED RECEIVER**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Ian Aversa (LSUC # 55449N)**  
Tel: (416) 865-3082  
Fax: (416) 863-1515  
Email: [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

**Jeremy Nemers (LSUC # 66410Q)**  
Tel: (416) 865-7724  
Fax: (416) 863-1515  
Email: [jnemers@airdberlis.com](mailto:jnemers@airdberlis.com)

*Lawyers for the Receiver*

# Exhibit “J”





Thornton Grout Finnigan LLP  
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre  
100 Wellington Street West  
Suite 3200, P.O. Box 329  
Toronto, ON Canada M5K 1K7  
T 416.304.1616 F 416.304.1313

Puya J. Fesharaki  
T: 416-304-7979  
E: pfesharaki@tgf.ca  
File No. 100-413

**PERSONAL & CONFIDENTIAL**

October 26, 2018

**VIA EMAIL AND COURIER**

Royal Canadian Bedrock Inc.  
100 King Street West  
Suite #5600  
Toronto, ON M5X 1C9

Royal Canadian Bedrock Inc.  
c/o Anthony Guido  
16 Amos Maynard Circle  
Woodbridge, ON L4L 3B8

**Attention: Antony Guido  
(Director and Officer)**

**Attention: Anthony Guido  
(Director & Officer)**

Dear Sir:

**Re: Indebtedness of Royal Canadian Bedrock Inc. (the “Company”) to HSBC Bank  
Canada (the “Bank”)**

We are the solicitors for the Bank with respect to the above-noted matter.

We refer to the credit facilities made available by the Bank to the Company (the “**Credit Facilities**”) pursuant to a credit facilities letter agreement dated October 31, 2016, as amended by letters dated February 9, 2017 and November 22, 2017 (as amended, the “**Credit Facility Letter**”), and an Offer to Lease with respect to certain equipment dated November 1, 2016 (the “**Offer to Lease**” and, together with the Credit Facility Letter, the “**Loan Documents**”). As at October 26, 2018, the Company is indebted to the Bank in connection with the Loan Documents in the total amount of CAD \$2,039,043.84 plus accruing interest and costs as set out in **Schedule “A”** attached hereto (the “**Indebtedness**”).

**On behalf of the Bank, we hereby demand payment from the Company of the Indebtedness, namely the sum of CAD \$2,039,043.84 together with accruing interest and costs.**

Please note that the Indebtedness will continue to accrue interest at the rates set out in the Loan Documents, and costs will continue to be incurred by the Bank, for which you will be responsible, until payment of all the Indebtedness is received by the Bank by either certified cheque or bank draft at the following address:

HSBC Bank Canada  
70 York Street, 6<sup>th</sup> Floor  
Toronto, ON M5J 1S9

**Attention: Andrew O'Coin**  
**Assistant Vice President**

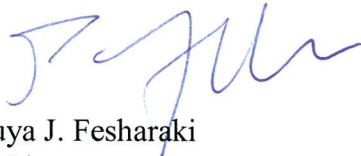
or by Thornton Grout Finnigan LLP at the above noted address, to the attention of the undersigned.

If full payment, as set forth above, is not received by **5:00pm on Monday, November 5, 2018**, the Bank will take whatever steps it deems appropriate to seek repayment of the Indebtedness.

We also enclose herewith a Notice of Intention to Enforce Security delivered to you in accordance with section 244 of the *Bankruptcy and Insolvency Act* (Canada). If you consent to the Bank enforcing its rights and remedies without further delay, please date and execute one copy of the consent attached to the enclosed Notice of Intention to Enforce Security and return same to the undersigned by facsimile forthwith.

Yours truly,

**Thornton Grout Finnigan LLP**



Puya J. Fesharaki  
PJF/rgm

*Encl.*

cc: Andrew O'Coin, *HSBC Bank Canada* (via email)

**Schedule "A"**

**Indebtedness<sup>1</sup> of Royal Canadian Bedrock Inc.  
to HSBC Bank Canada  
as at October 26, 2018**

<u>Facility</u>	<u>Account #</u>	<u>Principal</u>	<u>Interest</u>	<u>TOTAL</u>
Operating Loan	002-798492-001	802,597.40	2,698.36	805,295.76
Capital Loan	002-798492-601	294,688.91	3,954.77	298,643.68
<b>TOTAL (excluding leasing)</b>	-	<b>1,097,286.31</b>	<b>6,653.13</b>	<b><u>1,103,939.44</u></b>

<u>Lease # 34685</u> <u>Contract</u>	<u>Remaining</u> <u>Rentals</u> <u>Balance</u>	<u>ON HST</u>	<u>Subtotal</u>	<u>Arrears<sup>2</sup></u> <u>(Tax</u> <u>Included)</u>	<u>TOTAL</u>
34685001 (Schedule 1)	65,074.42	8,459.67	73,534.09	4,661.64	78,195.73
34685003 (Schedule 3)	261,828.36	34,037.69	295,866.05	16,205.64	312,071.69
34685004 (Schedule 4)	442,492.00	57,523.96	500,015.96	25,560.16	525,576.12
<b>TOTAL</b>	<b>769,394.78</b>	<b>100,021.32</b>	<b>869,416.10</b>	<b>46,427.44</b>	<b><u>915,843.54</u></b>

<u>Payout of</u> <u>Promissory Notes</u>	<u>Balance</u>	<u>June 1 to October 25</u> <u>Interest</u>	<u>TOTAL</u>
Promissory Note #6	16,438.30	2,822.56	<b><u>19,260.86</u></b>

**TOTAL OUTSTANDING BALANCE: CAD \$2,039,043.84**

E.&O.E.

<sup>1</sup> All amounts in Canadian dollars.

<sup>2</sup> July-October arrears.

**NOTICE OF INTENTION TO ENFORCE SECURITY  
PURSUANT TO SECTION 244 OF THE  
BANKRUPTCY AND INSOLVENCY ACT (CANADA)**

**TO: ROYAL CANADIAN BEDROCK INC. (the “Borrower”)**

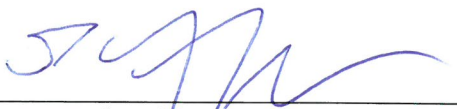
Take notice that:

1. HSBC Bank Canada (the “**Bank**”), a secured creditor, intends to enforce its security on the property of the Borrower described below:
  - (a) all present and after-acquired real and personal property of the Borrower; and
  - (b) all proceeds of the foregoing collateral.
2. The security that is to be enforced is in the form of a General Security Agreement dated January 10, 2017, and certain other security delivered by the Borrower to the Bank (collectively, the “**Security**”).
3. The total amount of the indebtedness secured by the Security is, as at October 26, 2018, CAD \$2,039,043.84 plus accruing interest and costs incurred by or charged to the Bank.
4. The Bank will not have the right to enforce the Security until the expiry of the 10-day period after this notice is sent, unless the Borrower consents to an earlier enforcement.

Dated at Toronto this 26<sup>th</sup> day of October, 2018.

**HSBC BANK CANADA,  
by its solicitors herein, Thornton Grout Finnigan LLP**

Per:

  
\_\_\_\_\_  
Puya Fesharaki  
File No. 100-413  
**Thornton Grout Finnigan LLP**  
100 Wellington St. West, Suite 3200  
Toronto ON M5K 1K7

**CONSENT**

**TO: HSBC BANK CANADA (the “Bank”)**

**FROM: ROYAL CANADIAN BEDROCK INC. (the “Borrower”)**

The Borrower acknowledges receipt of a Notice of Intention to Enforce Security delivered by the Bank.

For consideration received, the receipt and sufficiency of which are hereby irrevocably acknowledged, the Borrower hereby consents to the immediate enforcement by the Bank of the security held by it from the Borrower, and for the same consideration waives completely all rights to any delay by or any further notice from the Bank with respect to the enforcement of the Bank’s security and the exercise of the other remedies of the Bank against the Borrower.

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**ROYAL CANADIAN BEDROCK INC.**

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

Name:

Title:

I have the authority to bind the Borrower.

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended*

**HSBC BANK CANADA**

- and -

**ROYAL CANADIAN BEDROCK INC.**

Applicant

Respondent

Court File No. CV-18-609417-00CL

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

Proceedings commenced at Toronto

**AFFIDAVIT OF ANDREW O'COIN  
(Sworn November 26, 2018)**

**Thornton Grout Finnigan LLP**  
TD West Tower, Toronto-Dominion Centre  
100 Wellington Street West, Suite 3200  
Toronto, ON M5K 1K7  
Fax: (416) 304-1313

**D.J. Miller** (LSO# 34393P)  
Email: [djmillertgf.ca](mailto:djmillertgf.ca)  
Tel: (416) 304-0559

**Puya Fesharaki** (LSO #70588L)  
Email: [pfesharaki@tgf.ca](mailto:pfesharaki@tgf.ca)  
Tel.: (416) 304-7979

Lawyers for the Applicant, HSBC Bank Canada

# TAB 3

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

THE HONOURABLE

)

WEDNESDAY, THE 5TH

JUSTICE

)

DAY OF DECEMBER, 2018

)

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended,  
and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3,  
as amended*

BETWEEN:

**HSBC BANK CANADA**

Applicant

- and -

**ROYAL CANADIAN BEDROCK INC.**

Respondent

**ORDER  
(appointing Receiver)**

THIS MOTION made by HSBC Bank Canada (the "**Applicant**") for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing Deloitte Restructuring Inc. as receiver (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of Royal Canadian Bedrock Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, save and except for certain equipment set out in Schedule "A" hereto in respect of which Kooy Brothers Lawn Equipment Limited has a prior-ranking security interest (the "**Kooy Equipment**") and which is subject to the existing receivership proceeding detailed at paragraph 4 herein, was heard this day at 330 University Avenue, Toronto, Ontario.



ON READING the affidavit of Andrew O'Coin sworn November 26, 2018, and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and all such other counsel as were present, no one appearing for any other party although duly served as appears from the affidavit of service of Puya Fesharaki sworn November 26, 2018 and on reading the consent of Deloitte Restructuring Inc. to act as the Receiver,

### **SERVICE**

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

### **APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Deloitte Restructuring Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof, save and except for the Kooy Equipment (the "**Property**").

### **RECEIVER'S POWERS**

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

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

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

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, shall not be required;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable, including but not limited to the Limited Existing Receiver (as defined below) appointed over the Kooy Equipment, if the Receiver deems it appropriate or helpful to the carrying out of its mandate pursuant to this Order;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;
- (r) to file an assignment in bankruptcy on behalf of the Debtor; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

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

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, authorized signing officers, employees, agents, accountants, legal counsel (subject to solicitor and client privilege) and shareholders, and all other persons acting on its instructions or behalf, (iii) The Fuller Landau Group Inc., solely in its capacity as Court-appointed receiver (in such capacity, the “**Limited Existing Receiver**”) of Amsen Quarry Limited (a related entity to the Debtor) and the Kooy Equipment (the “**Limited Existing Receivership**”) subject to such terms as to confidentiality as the Limited Existing Receiver and the Receiver may deem advisable, and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person's possession or

control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

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

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

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least

seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

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

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

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

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

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

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

### **CONTINUATION OF SERVICES**

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

### **RECEIVER TO HOLD FUNDS**

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

## **EMPLOYEES**

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

## **PIPEDA**

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

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario



*Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

#### **RECEIVER'S ACCOUNTS**

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

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

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and

charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

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

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant, by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

#### **RETENTION OF LAWYERS**

25. THIS COURT ORDERS that the Receiver may retain solicitors to represent and advise the Receiver in connection with the exercise of the Receiver's powers and duties, including without limitation, those conferred by this Order. Such solicitors may include the solicitors for the Applicant herein, in respect of any aspect where the Receiver is satisfied that there is no actual or potential conflict of interest.

### **SERVICE AND NOTICE**

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

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

### **GENERAL**

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

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

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

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

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

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

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## SCHEDULE "A"

### KOOY EQUIPMENT

Year	Make	Model	Serial	Description
2003	Wilson	11-6	HD30-11630-03149	Overhead Gantry Saw
1997	CAT	980G	2KR01235	Wheel Loader
2013	Kubota	IKX057-4GA	21846	Excavator
2005	Volvo	L220E	EV3530	Wheel Loader
2014	Kubota	ISVL90-2HFC	13943	Skid Steer Loader
2008	JCB	436HT	JCB43600L7 1305303	Wheel Loader
2011	JCB	456HT	JCB45600H 01304170	Wheel Loader
2010	Park Industries	PYTHON II	138368	Diamond Saw
2013	Daewoo	LOLAR 3000-V	1305	Excavator C/W RTS SA
1998	Fiat Allis	FR220	DGM40659 MOEST010 M	Wheel Loader
2005	CAT	908	CAT00908L TAR00543	Wheel Loader
2000	OGDEN	8-40300	OG1058	Stone Splitter
2008	Park Industries	36-16-150	109542	Stone Splitter
2008	Park Industries	PCDC-30-120	109543	Conveyer with skid loader

**SCHEDULE "B"**

**RECEIVER CERTIFICATE**

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

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

1. THIS IS TO CERTIFY that Deloitte Restructuring Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties of Royal Canadian Bedrock Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 5th day of December, 2018 (the "**Order**"), save and except for the Kooy Equipment (as defined in the Order), made in an action having Court file number CV-18-609417-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Deloitte Restructuring Inc., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

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

Name:

Title:

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended*

**HSBC BANK CANADA**

- and -

**ROYAL CANADIAN BEDROCK INC.**

Applicant

Respondent

Court File No. CV-18-609417-00CL

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

Proceedings commenced at Toronto

**ORDER  
(appointing Receiver)**

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Lawyers for the Applicant, HSBC Bank Canada



# TAB 4

Revised: January 21, 2014  
s.243(1) BIA (National Receiver) and s.101 CJA (Ontario) Receiver

Court File No. CV-18-609417-00CL

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

THE HONOURABLE \_\_\_\_\_ ) ~~WEEKDAY~~ WEDNESDAY, THE #5TH  
JUSTICE \_\_\_\_\_ ) DAY OF ~~MONTH~~ DECEMBER, ~~20YR~~ 2018

**~~PLAINTIFF~~<sup>†</sup>**

~~Plaintiff~~

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended,  
and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3,  
as amended*

BETWEEN:

HSBC BANK CANADA

Applicant

- and -

**~~DEFENDANT~~**

~~Defendant~~

ROYAL CANADIAN BEDROCK INC.

Respondent

**ORDER  
(appointing Receiver)**

<sup>†</sup>The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application.  
This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.

THIS MOTION made by ~~the Plaintiff~~<sup>2</sup> HSBC Bank Canada (the "Applicant") for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing ~~[RECEIVER'S NAME]~~ Deloitte Restructuring Inc. as receiver-~~[and manager]~~ (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of ~~[DEBTOR'S NAME]~~ Royal Canadian Bedrock Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, save and except for certain equipment set out in Schedule "A" hereto in respect of which Kooy Brothers Lawn Equipment Limited has a prior-ranking security interest (the "Kooy Equipment") and which is subject to the existing receivership proceeding detailed at paragraph 4 herein. was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of ~~[NAME]~~ Andrew O'Coin sworn ~~[DATE]~~ November 26, 2018, and the Exhibits thereto and on hearing the submissions of counsel for ~~[NAMES]~~ the Applicant and all such other counsel as were present, no one appearing for ~~[NAME]~~ any other party although duly served as appears from the affidavit of service of ~~[NAME]~~ Puya Fesharaki sworn ~~[DATE]~~ November 26, 2018 and on reading the consent of ~~[RECEIVER'S NAME]~~ Deloitte Restructuring Inc. to act as the Receiver,

## SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of ~~Motion~~ Application and the ~~Motion~~ Application Record herein is hereby abridged and validated<sup>3</sup> so that this ~~motion~~ application is properly returnable today and hereby dispenses with further service thereof.

## APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]~~ Deloitte Restructuring Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or

<sup>2</sup> ~~Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~

<sup>3</sup> ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order-validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

used in relation to a business carried on by the Debtor, including all proceeds thereof, save and except for the Kooy Equipment (the "**Property**").

### **RECEIVER'S POWERS**

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;

- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings.<sup>4</sup> The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$~~\_\_\_\_\_~~250,000, provided that the aggregate consideration for all such transactions does not exceed \$~~\_\_\_\_\_~~500,000; and

~~<sup>4</sup>This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, ~~[or section 31 of the Ontario *Mortgages Act*, as the case may be,]<sup>5</sup> shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;~~

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable, including but not limited to the Limited Existing Receiver (as defined below) appointed over the Kooy Equipment, if the Receiver deems it appropriate or helpful to the carrying out of its mandate pursuant to this Order;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the

<sup>5</sup>~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;
- (r) to file an assignment in bankruptcy on behalf of the Debtor; and
- (s) ~~(t)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

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

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, authorized signing officers, employees, agents, accountants, legal counsel (subject to solicitor and client privilege) and shareholders, and all other persons acting on its instructions or behalf, ~~and~~ (iii) The Fuller Landau Group Inc., solely in its capacity as Court-appointed receiver (in such capacity, the "Limited Existing Receiver") of Amsen Quarry Limited (a related entity to the Debtor) and the Kooy Equipment (the "Limited Existing Receivership") subject to such terms as to confidentiality as the Limited Existing Receiver and the Receiver may deem advisable. and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data

storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.



### **NO PROCEEDINGS AGAINST THE RECEIVER**

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

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

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, [save and except for the Limited Existing Receivership proceedings.](#)

### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

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

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

### **CONTINUATION OF SERVICES**

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

### **RECEIVER TO HOLD FUNDS**

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

### **EMPLOYEES**

14. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of

its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

### **PIPEDA**

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

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

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

Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

### **RECEIVER'S ACCOUNTS**

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.<sup>6</sup>

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

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and

~~<sup>6</sup>Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### **FUNDING OF THE RECEIVERSHIP**

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant, by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$~~\_\_\_\_\_~~250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

### **RETENTION OF LAWYERS**

25. THIS COURT ORDERS that the Receiver may retain solicitors to represent and advise the Receiver in connection with the exercise of the Receiver's powers and duties, including without limitation, those conferred by this Order. Such solicitors may include the solicitors for the Applicant herein, in respect of any aspect where the Receiver is satisfied that there is no actual or potential conflict of interest.

### **SERVICE AND NOTICE**

26. ~~25.~~ THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL- ~~'<@>'~~: [www.insolvencies.deloitte.ca/en-ca/RoyalCanadianBedrock](http://www.insolvencies.deloitte.ca/en-ca/RoyalCanadianBedrock)

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

### **GENERAL**

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

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

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

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

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

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

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## SCHEDULE "A"

## KOOY EQUIPMENT

Year	Make	Model	Serial	Description
2003	Wilson	11-6	HD30-11630-03149	Overhead Gantry Saw
1997	CAT	980G	2KR01235	Wheel Loader
2013	Kubota	IKX057-4GA	21846	Excavator
2005	Volvo	L220E	EV3530	Wheel Loader
2014	Kubota	ISVL90-2HFC	13943	Skid Steer Loader
2008	JCB	436HT	JCB43600L71305303	Wheel Loader
2011	JCB	456HT	JCB45600H01304170	Wheel Loader
2010	Park Industries	PYTHON II	138368	Diamond Saw
2013	Daewoo	LOLAR 3000-V	1305	Excavator C/W RTS SA
1998	Fiat Allis	FR220	DGM40659 MOEST010 M	Wheel Loader
2005	CAT	908	CAT00908L TAR00543	Wheel Loader
2000	OGDEN	8-40300	OG1058	Stone Splitter
2008	Park Industries	36-16-150	109542	Stone Splitter
2008	Park Industries	PCDC-30-120	109543	Conveyer with skid loader



**SCHEDULE "B"****RECEIVER CERTIFICATE**

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

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

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ Deloitte Restructuring Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~ of Royal Canadian Bedrock Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the —5th day of —, 20—December, 2018 (the "**Order**"), save and except for the Kooy Equipment (as defined in the Order), made in an action having Court file number —CL—CV-18-609417-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

~~[RECEIVER'S NAME]~~ Deloitte Restructuring Inc., solely in its capacity as Receiver of the Property, and not in its personal capacity

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

Name:

Title:

IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended

<p><u>HSBC BANK CANADA</u></p>	<p><u>- and -</u></p> <p><u>Applicant</u></p> <p><u>ROYAL CANADIAN BEDROCK INC.</u></p> <p><u>Respondent</u></p> <p><u>Court File No. CV-18-609417-00CL</u></p>
	<p><u>ONTARIO</u></p> <p><u>SUPERIOR COURT OF JUSTICE</u> <u>(COMMERCIAL LIST)</u></p> <p><u>Proceedings commenced at Toronto</u></p>
	<p><b><u>ORDER</u></b> <b><u>(appointing Receiver)</u></b></p>
	<p><u>Thornton Grout Finnigan LLP</u> <u>TD West Tower, Toronto-Dominion Centre</u> <u>100 Wellington Street West, Suite 3200</u> <u>Toronto, ON M5K 1K7</u> <u>Fax: (416) 304-1313</u></p> <p><u>D.J. Miller (LSO# 34393P)</u> <u>Email: <a href="mailto:djmillert@tgf.ca">djmillert@tgf.ca</a></u> <u>Tel: (416) 304-0559</u></p> <p><u>Puya Fesharaki (LSO #70588L)</u> <u>Email: <a href="mailto:pfesharaki@tgf.ca">pfesharaki@tgf.ca</a></u> <u>Tel: (416) 304-7979</u></p> <p><u>Lawyers for the Applicant, HSBC Bank Canada</u></p>

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Description	#2474569v2<Client> - Receivership Order
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Format changed	0

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

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and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3,  
as amended*

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

**HSBC BANK CANADA**

Applicant

- and -

**ROYAL CANADIAN BEDROCK INC.**

Respondent

**CONSENT**

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Deloitte Restructuring Inc. hereby consents to act as Court-appointed Receiver in this proceeding should such an Order be granted by the Court.


Dated at Toronto, Ontario, this \_\_\_\_ day of November, 2018.

**DELOITTE RESTRUCTURING INC.**

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

Name:

Title:

  
PAUL M. CASOY  
SENIOR VICE-PRESIDENT

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended*

**HSBC BANK CANADA**

- and -

**ROYAL CANADIAN BEDROCK INC.**

Respondent

Applicant

Court File No. CV-18-609417-00CL

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

Proceedings commenced at Toronto

**CONSENT**

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Lawyers for the Applicant, HSBC Bank Canada

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**HSBC BANK CANADA**

- and -

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**APPLICATION RECORD  
(Returnable December 5, 2018)**

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