

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF URBANCORP (WOODBINE) INC. AND URBANCORP (BRIDLEPATH) INC., THE TOWNHOUSES OF HOGG'S HOLLOW INC., KING TOWNS INC., NEWTOWNS AT KINGTOWNS INC. AND DEAJA PARTNER (BAY) INC. (COLLECTIVELY, THE "APPLICANTS")**

**AND IN THE MATTER OF TCC URBANCORP (BAY) LIMITED PARTNERSHIP**

**MOTION RECORD  
(Returnable February 26, 2018)**

February 16, 2018

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**CCAA PROCEEDINGS OF URBANCORP (WOODBINE) INC., URBANCORP  
(BRIDLEPATH) INC. ET AL**

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**(UPDATED JANUARY 15, 2018)**

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**TAB 1**

**ONTARIO  
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(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF URBANCORP (WOODBINE) INC. AND URBANCORP (BRIDLEPATH) INC., THE TOWNHOUSES OF HOGG'S HOLLOW INC., KING TOWNS INC., NEWTOWNS AT KINGTOWNS INC. AND DEAJA PARTNER (BAY) INC. (COLLECTIVELY, THE "APPLICANTS")**

**AND IN THE MATTER OF TCC URBANCORP (BAY) LIMITED PARTNERSHIP**

**NOTICE OF MOTION  
(Returnable February 26, 2018)**

**THE MOVING PARTIES**, Guy Gissin, the Israeli Court-appointed functionary officer and foreign representative (the "**Foreign Representative**") of Urbancorp Inc. ("**UCI**") in his capacity as Foreign Representative and as Trustee of the claims of the holders of bonds issued by UCI (the "**Bondholders**") pursuant to a Plan of Arrangement and Terra Firma Capital Corporation ("**TFCC**") will make a motion to a judge presiding over the Commercial List on Monday, February 26, 2018, at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

**THE PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR an Order:**

1. If necessary, abridging the time for service and filing of this Notice of Motion and the Motion Record, validating service effected to date, and an order dispensing with service thereof on any other party other than those persons served to date;

2. Deeming the Foreign Representative to have validly late filed a claim (the “**UCI Bondholder Claim**”) on behalf of the Bondholders in the amount of \$8 million to KSV Kofman Inc. (“**KSV**”), in its capacity as monitor (“**Monitor**”) of TCC Urbancorp (Bay) Limited Partnership (“**TCC Bay**”) in relation to the \$6 million promissory note, dated December 11, 2015 (the “**\$6 Million Promissory Note**”), originally issued in favour of Urbancorp Toronto Management Inc. (“**UTMI**”) and then assigned to UCI, and the \$2 million promissory note, dated December 11, 2015 (the “**\$2 Million Promissory Note**”), originally issued in favour of UTMI and then assigned by UTMI to Urbancorp Realtyco Inc. (“**RealtyCo**”) for the benefit of UCI;
3. Approving a settlement agreement between UCI and Terra Firma Capital Corporation (“**TFCC**”) (the “**Settlement Agreement**”) with respect to the within proceeding; and,
4. Such further and other relief that the moving parties may request and this Honourable Court may consider just.

**THE GROUNDS FOR THE MOTION ARE:**

1. This motion seeks approval of a settlement agreement between UCI and TFCC, the two largest disputed claims in the debtors’ estate. The Monitor has fully reserved for all other claims and those remaining claims (disputed or not) are unaffected by the proposed settlement.

**A. THE UCI BONDHOLDER CLAIM**

2. On December 15, 2014, TCC Bay purported to issue a promissory note in the principal amount of \$8 million (the “**2014 Promissory Note**”). The 2014 Promissory Note was allegedly issued in consideration of management fees that were owed to UTMI in an amount equal to at least \$8 million;
3. UCI was created for the sole purpose of the Israeli bond issuance (the “**Bond Issuance**”);
4. The bondholders were consistently reassured through representations contained in the prospectus (the “**Prospectus**”) issued in respect of the Bond Issuance that \$8 million of intercompany loans would be assigned to UCI as a condition of the Bond Issuance;

5. In anticipation of UCI's bond issuance, and apparently for tax reasons, the 2014 Promissory Note was replaced with two promissory notes in the principal amounts of \$6 million and \$2 million that were issued in favour of UTMI on December 11, 2015 (collectively, the "**2015 Promissory Notes**"). Aside from the addition of interest at a rate of 1% per annum, the terms of the 2015 Promissory Notes were otherwise identical to the 2014 Promissory Note;
6. UTMI assigned the \$6 million promissory note to UCI. UTMI assigned the \$2 million promissory note to RealtyCo, for the benefit of UCI in anticipation of and as part consideration for the Bond Issuance;
7. In consideration for the assignment of the 2015 Promissory Notes, UTMI received preferred shares of UCI;
8. On October 18, 2016, this Honourable Court issued a claims process order (the "**Claims Procedure Order**") requiring creditors to submit claims in respect of the Applicants on or before November 23, 2016 (the "**Claims Bar Date**");
9. In accordance with the Claims Procedure Order, the Foreign Representative submitted a claim (the "**UCI Claim**") to the Monitor in connection with the 2015 Promissory Notes before the Claims Bar Date;
10. Subsequently, the Monitor disallowed the UCI Claim asserting that nothing was owing by TCC Bay in relation to the 2015 Promissory Notes and therefore there was no consideration to support the 2015 Promissory Notes;
11. The Monitor took the position that the balance, if any, had been satisfied through a series of intercompany transactions such that the amounts had been fully repaid during the course of 2015 and, certainly before the 2015 Promissory Notes were purported to be issued;
12. None of the foregoing was disclosed in the Prospectus;
13. The Foreign Representative appealed the disallowance to this Honourable Court and a hearing was held on May 2, 2017, with respect to the validity of the disallowance. The

Foreign Representative also sought, in the alternative, a declaration that the first \$8 million of funds from TCC Bay that might otherwise be received by Vestaco Investments Inc. (“**Vestaco**”), as the nominee of Doreen Saskin, be held in trust for UCI and Realtyco and be paid to the Foreign Representative on behalf of UCI. Vestaco is allegedly a nominee of Doreen Saskin that might otherwise receive distributions if the UCI Bondholder Claim is not allowed;

14. The declaratory relief being sought against Vestaco<sup>1</sup> was adjourned pending the outcome of the appeal of the disallowance;
15. On May 11, 2017, the Honourable Mr. Justice Newbould upheld the Monitor’s disallowance of the UCI Claim (the “**Decision**”);
16. In the Decision the Court found that “...the management fees owing by Bay LP (referred to herein as TCC Bay) to UTMI *have been paid and were paid* by the time the [2015 Promissory Notes] were issued”;
17. The Court further found that it could not “...put any store in Mr. Saskin’s assertions of a present day belief that the [2015 Promissory Notes] are valid and enforceable or were at the time he signed them”;
18. Finally, the Court held that it agreed “...with the Monitor that given that UCI and Realtyco were controlled completely by Mr. Saskin, as were UTMI and Bay LP, and all relevant documents were signed by him, it cannot be reasonably held that UCI or Realtyco were unaware of this state of affairs between UTMI and Bay LP....They cannot be said to have actual notice of the state of their own intercompany affairs and the fact that the management fee pursuant to the Original Fee Agreement, as amended, had been fully booked as an expense against reported taxable income and ‘settled’ or ‘paid’ via postings to the intercompany account, especially given that UTMI administered the internal affairs of all of them”;

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<sup>1</sup> Vestaco allegedly assigned its interest to DS (Bay) Holdings Inc., another nominee of Doreen Saskin.

19. Accordingly, TCC Bay knew or ought to have known that the 2015 Promissory Notes were not valid or enforceable when it issued the 2015 Promissory Notes, which it knew formed part of the consideration for the Bond Issuance. Despite this TCC Bay issued the 2015 Promissory Notes;
20. By issuing the 2015 Promissory Notes, TCC Bay, through Alan Saskin, expressly or impliedly represented that the notes were valid and enforceable. The issuance of the 2015 Promissory Notes created a false impression that there was a debt owing by TCC Bay to UCI;
21. TCC Bay knew that the 2015 Promissory Notes formed part of the consideration for the Bond Issuance. Therefore, it was reasonably foreseeable that the Bondholders would rely on the representation that an \$8 million intercompany loan was owed to UCI, and that such reliance would be reasonable;
22. TCC Bay owed a duty of care to UCI and the Bondholders not to issue the 2015 Promissory Notes in respect of debt that had been previously repaid. TCC Bay was required to exercise such reasonable care to ensure that the representations were accurate and not misleading. This standard required TCC Bay to refrain from issuing the 2015 Promissory Notes when no debt from TCC Bay to UTMI remained. Instead, by issuing the 2015 Promissory Notes, TCC Bay made a misrepresentation that was negligent or reckless, and breached its duty of care to the Bondholders and UCI;
23. The 2015 Promissory Notes were a crucial element to the Bondholders' participation in the Bond Issuance. The references in the Prospectus to the \$8 million intercompany loan being assigned to UCI was based solely upon the issuance of the 2015 Promissory Notes. This was a single, uniform representation contained in the Prospectus, a statutorily-mandated disclosure document. The misrepresentation was one that was calculated or which would naturally tend to induce the Bondholders' to act upon it and, therefore, reliance may be inferred;
24. Furthermore, under applicable Israeli securities law, the Bondholders are deemed to have relied upon the misrepresentation contained in the Prospectus;

25. Alternatively, as a matter of "simple justice", TCC Bay had an obligation to be mindful of the Bondholders' and UCI's interests in going about its business and therefore, owed them a duty of care. TCC Bay, through Alan Saskin, issued the 2015 Promissory Notes knowing they would be referenced in the Prospectus in order to induce potential investors (i.e. the Bondholders) to invest in UCI. Therefore, UCI and the Bondholders were known to TCC Bay.
26. TCC Bay knew, or ought to have known, the consequences to the Bondholders if the 2015 Promissory Notes were falsely issued – that negligently issuing the 2015 Promissory Notes when there was in fact no monies owing to UCI could expose the Bondholders' to the very loss that they incurred;
27. Therefore, it was reasonably foreseeable that TCC Bay's failure to take reasonable care in respect of the issuance of the 2015 Promissory Notes would result in harm to the Bondholders;
28. In the further alternative, TCC Bay, together with Alan Saskin, acted in concert, either by agreement or with a common design, for TCC Bay to issue the invalid 2015 Promissory Notes and for UCI to disclose the 2015 Promissory Notes in the Prospectus in order to inflate the assets of UCI as represented in the Prospectus;
29. At the time TCC Bay issued the 2015 Promissory Notes, it knew that the management fees owing by TCC Bay to UTMI had been paid and that there was no consideration underlying the 2015 Promissory Notes;
30. Consequently, the 2015 Promissory Notes were a false record of the balance owing from TCC Bay to UTMI (and ultimately to UCI);
31. The Bondholders suffered losses as a result and are entitled to be restored to the position they would otherwise have been in as if the 2015 Promissory Notes had been outstanding;
32. All the facts relating to the intercompany dealings came to the attention of the Functionary and the Bondholders subsequent to the Claims Bar Date and solely as a result of the reports of the Monitor and the subsequent decision;



33. As none of these matters were known to the Functionary or the Bondholders before the Claims Bar Date, and as the basis for the claim arises from the findings in the Decision, they should be considered to have validly filed an amended and/or late proof of claim against TCC Bay based on the facts, as reported by KSV and found in the Decision;
34. Shortly after the Decision, the Functionary did advise the Monitor of the intention to bring the UCI Bondholder Claim. However, certain steps needed to occur in Israel to place the Functionary in the legal position to pursue the UCI Bondholder Claim.
35. On September 26, 2017, the Israeli Court approved a creditors' arrangement plan ("Plan") in respect of UCI ("Plan Approval Order"). The Plan Approval Order appoints the Functionary as trustee of the UCI estate and, pursuant to the Plan, the Bondholders' rights to pursue any causes of action were assigned to the Functionary.
36. The Plan Approval Order gave the Functionary the legal ability to pursue the UCI Bondholder Claim. Since the granting of the Plan Approval Order the Functionary has been working with TFCC to resolve their remaining claims in the TCC Bay estate and which has now culminated in the Settlement Agreement. The Functionary has kept the Monitor apprised of the status of its dealings with TFCC concerning this matter.

**B. TERRA FIRMA CLAIM**

37. On November 22, 2016, TFCC filed secured proofs of claim in these proceedings in the respective amounts of \$6,512,874.95 as against Urbancorp (Woodbine) Inc. ("Woodbine"), \$6,230,764.08 as against Urbancorp (Bridlepath) Inc. ("Bridlepath") and \$6,013,865.10 as against TCC Bay (collectively, the "TFCC Claims").
38. The TFCC Claims relate to guarantees and second mortgages which Woodbine, Bayview and TCC Bay provided to TFCC with respect to a loan from TFCC to Urbancorp Holdings Inc. ("UHI"), the parent company of UCI;
39. The TFCC Claims were disallowed (although the amounts of \$216,898.98 as against Bridlepath and \$499,009.85 against Woodbine were allowed as unsecured claims and

have been paid out) on the basis, inter alia, that they constituted transfers at undervalue, fraudulent conveyances and were oppressive to TCC Bay's creditors;

- 40. TFCC has appealed the disallowance of its claim;
- 41. The hearing of the appeal has been adjourned sine die;

**C. GENERAL MATTERS**

- 42. All proven claims of the debtors have been paid in full other than certain inter-company claims (the "**Inter-Company Claims**");
- 43. Other than the Inter-Company Claims, the only remaining claims are contested claims. Aside from the UCI Claim and the TFCC Claim, the Monitor has fully reserved for both the Inter-Company Claims and the remaining disputed claims. Among the disputed claims are claims by two former employees of UTMI (the "**Employee Claims**"). The Monitor has fully reserved \$2.4 million for the Employee Claims in each of these proceedings, as well as in the companion Cumberland 1 proceedings.
- 44. UCI is the only remaining proven creditor in the Cumberland 1 proceedings, other than disputed claims which have been fully reserved in those proceedings;
- 45. UCI has agreed that in the event the Settlement Agreement is approved by both this Honourable Court, as well as the Israeli Court, the Employee Claims can be satisfied from the monies reserved in Cumberland 1 and accordingly the reserves for such claims in these proceedings can be distributed to UCI;
- 46. The only other disputed claim remaining to be determined in these proceedings is a claim of Tarion Warranty Corporation for which the Monitor has fully reserved;
- 47. Other than UCI and TFCC, the only party with any potential financial interest in these proceedings and this Settlement Agreement is DS (Bay) Holdings Inc., an entity purportedly owned by Doreen Saskin. For DS (Bay) Holdings Inc. to have any entitlement to funds from these debtors one or both of the UCI Claim and the TFCC Claim would have to be disallowed. In order for DS (Bay) to have any entitlement in

priority to UCI, the Court would have to allow Doreen Saskin to benefit from the wrongful conduct (as so found by Mr. Justice Newbould) of her husband, Alan Saskin;

48. As the only potential creditors of these debtors, UCI and TFCC have agreed to a settlement which provides for a material reduction in TFCC's claim, the allowance of UCI's claim, the distribution of funds to both TFCC and UCI and a release in favour of TFCC from UCI;
49. The Settlement Agreement is just and equitable and represents a reasonable settlement and compromise of significant claims against these debtors, as well as potential claims of UCI against TFCC. Approval of the Settlement Agreement will also avoid material litigation, enable these CCAA proceedings to be terminated in the near term and thereby save material further expense;
50. The Settlement Agreement is conditional upon approval by both this Honourable Court, as well as the Israeli Court supervising the UCI proceedings.

**THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:**

1. First Report of the Foreign Representative, dated February 22, 2017, previously filed;
2. Third Report of the Foreign Representative, dated March 24, 2017, previously filed;
3. The Decision;
4. Sixth Report to the Court of the Monitor, dated March 21, 2017, previously filed;
5. Supplement to the Sixth Report to the Court of the Monitor, dated April 4, 2017, previously filed;
6. Second Supplement to the Sixth Report to the Court of the Monitor, dated April 24, 2017, previously filed;
7. Third Supplement to the Sixth Report to the Court of the Monitor, dated April 26, 2017, previously filed;

8. Tenth Report to the Court of the Monitor, dated July 25, 2017, previously filed;
9. Ninth Report of the Foreign Representative, dated February 15, 2018;
10. Affidavit of Glenn Watchorn, sworn February 14, 2018; and
11. Such further and other evidence as counsel may advise and this Honourable Court may admit.

February 16, 2018

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Urbancorp Inc.*

**TO: SERVICE LIST**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. c-36, AS AMENDED, AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF URBANCORP (WOODBINE) INC. AND URBANCORP (BRIDLEPATH) INC., THE TOWNHOUSES OF HOGG'S HOLLOW INC., KING TOWNS INC., NEWTOWNS AT KINGTOWNS INC. AND DEAJA PARTNER (BAY) INC. (COLLECTIVELY, THE "APPLICANTS") AND IN THE MATTER OF TCC URBANCORP (BAY) LIMITED PARTNERSHIP**

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

Proceedings Commenced at Toronto

**NOTICE OF MOTION**  
(returnable February 26, 2018)

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Israeli Court-appointed functional officer and  
foreign representative of Urbancorp Inc.*

**TAB 2**

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF URBANCORP (WOODBINE) INC. AND URBANCORP (BRIDLEPATH) INC., THE TOWNHOUSES OF HOGG'S HOLLOW INC., KING TOWNS INC., NEWTOWNS AT KINGTOWNS INC. AND DEAJA PARTNER (BAY) INC. (COLLECTIVELY, THE "APPLICANTS")**

**AND IN THE MATTER OF TCC URBANCORP (BAY) LIMITED PARTNERSHIP**

**NINTH REPORT TO THE COURT OF GUY GISSIN, IN HIS CAPACITY AS COURT APPOINTED FUNCTIONARY AND FOREIGN REPRESENTATIVE OF URBANCORP INC.**

**February 15, 2018**

**A. BACKGROUND**

1. On April 21, 2016, certain direct and indirect subsidiaries (the "**NOI Entities**") of Urbancorp Inc. ("**UCI**") commenced bankruptcy proposal proceedings (the "**NOI Proceedings**") by filing a Notice of Intention ("**NOI**") pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada). KSV Kofman Inc. ("**KSV**") was appointed as the proposal trustee.
2. On April 25, 2016, pursuant to an application under Israel's insolvency regime (the "**Israeli Proceedings**") brought by the indenture trustee of certain notes issued by UCI to bond holders (the "**Bondholders**") on the Tel Aviv Stock Exchange (the "**Bond Issuance**"), the District Court in Tel Aviv-Jaffa, Israel (the "**Israeli Court**") granted an order appointing Guy Gissin as functionary officer of UCI (the "**Functionary**") and giving him certain management powers, authorities and responsibilities over UCI.

3. Also, on April 25, 2016, Urbancorp (Woodbine) Inc. (“**Woodbine**”) and Urbancorp (Bridlepath) Inc. (“**Bridlepath**”) each filed a NOI. KSV was also appointed as the proposal trustee for both Bridlepath and Woodbine.
4. On May 11, 2016, the Israeli Court granted an order authorizing the Functionary to enter into a protocol with KSV (the “**Protocol**”). The Protocol contemplated, among other things, that the NOI Entities and certain other entities (together, the “**Cumberland CCAA Entities**”) would file for protection under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) (the “**Cumberland CCAA Proceedings**”).
5. On May 18, 2016, the Ontario Superior Court of Justice (Commercial List) (the “**Ontario Court**”) granted an initial order under the CCAA in respect of the Cumberland CCAA Entities and appointed KSV as monitor of the Cumberland CCAA Entities. This order also approved the Protocol.
6. Also on May 18, 2016, the Ontario Court granted two orders under Part IV of the CCAA, which:
  - (a) recognized the Israeli Proceedings in respect of UCI as a “foreign main proceeding”;
  - (b) recognized the Functionary as the foreign representative of UCI (hereinafter, the “**Foreign Representative**”); and
  - (c) appointed KSV as the Information Officer (the “**Information Officer**”) in respect of UCI.
7. On October 18, 2016, the Ontario Court granted an initial order (the “**Initial Order**”) under the CCAA in respect of the Applicants and TCC Urbancorp (Bay) Limited Partnership (“**TCC Bay**”, and together with the Applicants, the “**Bay CCAA Entities**”) (the “**Bay CCAA Proceedings**”). Although TCC Bay was not a proper party in the Bay CCAA Proceedings, the Ontario Court declared that TCC Bay would enjoy the benefits of the protections and authorizations provided by the Initial Order. The Initial Order also appointed KSV as monitor (the “**Monitor**”) of the Bay CCAA Entities.



8. On September 26, 2017, the Israeli Court approved a creditors' arrangement plan in respect of UCI ("**Plan Approval Order**"). The Plan Approval Order appoints the Foreign Representative as trustee of the UCI estate and, pursuant to the plan, the Bondholders' rights to pursue any causes of action were assigned to the Functionary.

**B. PURPOSE OF THE REPORT**

9. The purpose of this report is to request that the Ontario Court grant an Order:
  - (a) allowing the Foreign Representative to be deemed to have validly late filed a claim on behalf of the Bondholders (the "**UCI Bondholder Claim**") with KSV in its capacity as Monitor of TCC Bay in relation to the \$6 million promissory note, dated December 11, 2015 (the "**\$6 Million Promissory Note**"), originally issued by TCC Bay in favour of Urbancorp Toronto Management Inc. ("**UTMI**"), a company owned by Mr. Alan Saskin, and then assigned to UCI, and the \$2 million promissory note, dated December 11, 2015 (the "**\$2 Million Promissory Note**"), originally issued by TCC Bay in favour of UTMI and then assigned by UTMI to Urbancorp Realtyco Inc. ("**RealtyCo**") for the benefit of UCI;
  - (b) approving a settlement agreement (the "**Settlement Agreement**") between UCI and Terra Firma Capital Corporation ("**TFCC**") with respect to the within proceedings; and
  - (c) allowing the UCI Bondholder Claim.

**C. THE UCI BONDHOLDERS' CLAIM**

10. On December 15, 2014, TCC Bay purported to issue a promissory note to UTMI in the principal amount of \$8 million (the "**2014 Promissory Note**"). The 2014 Promissory Note was allegedly issued in consideration of an amount, equal to at least \$8 million, that was owed to UTMI.
11. On December 11, 2015, shortly after the completion of the Bond Issuance, but before UCI received the proceeds, the 2014 Promissory Note was replaced with two promissory notes in the principal amounts of \$6 million and \$2 million that were issued in favour of UTMI

on December 11, 2015 (collectively, the “**2015 Promissory Notes**”). Aside from the addition of interest at a rate of 1% per annum, the terms of the 2015 Promissory Notes were otherwise identical to the 2014 Promissory Note. Pursuant to the information provided by MNP LLP, the accountants for the Urbancorp group of companies, this transaction was undertaken for income tax reasons.

12. Also on December 11, 2015, UTMI assigned the \$6 Million Promissory Note to UCI and the \$2 Million Promissory Note to RealtyCo, for the benefit of UCI. At the same time, UTMI received preferred shares of Urbancorp Holdco Inc. (“**UHI**”). UHI is the sole shareholder of UCI. The Foreign Representative believes that the beneficial owner of the common shares of UHI is Mrs. Doreen Saskin, the wife of Alan Saskin (Alan Saskin is the registered owner of the common shares but not the beneficial owner according to the report of Fuller Landau, the proposal trustee in Alan Saksin’s personal bankruptcy proposal proceeding).
13. UCI was created for the sole purpose of the Bond Issuance and was transferred certain assets in consideration thereof.
14. The Bondholders were consistently reassured, through representations including financial information contained in the prospectus issued in respect of the Bond Issuance (the “**Prospectus**”), that \$8 million of intercompany loans would be assigned to UCI as a condition of the Bond Issuance. Relevant excerpts from the Prospectus are attached hereto as Appendix “A”. It was understood that this undertaking would be satisfied by the assignment of the 2015 Promissory Notes to, and for the benefit of, UCI.
15. On October 18, 2016, the Ontario Court issued a claims process order (the “**Claims Procedure Order**”) requiring creditors to submit claims in respect of the Applicants on or before November 23, 2016 (the “**Claims Bar Date**”).
16. In accordance with the Claims Procedure Order, the Foreign Representative submitted a claim (the “**UCI Claim**”) to the Monitor in connection with the 2015 Promissory Notes before the Claims Bar Date. A copy of the UCI Claim is attached hereto as Appendix “B”.

17. Subsequently, the Monitor disallowed the UCI Claim asserting that nothing was owing by TCC Bay in relation to the 2015 Promissory Notes and therefore there was no consideration to support the 2015 Promissory Notes.
18. The Monitor took the position that any amount owing by TCC Bay, if any, had been satisfied through a series of intercompany transactions such that the amounts had been fully repaid during the course of 2015 and before the 2015 Promissory Notes were purported to be issued. None of this was disclosed in the Prospectus. Instead, the \$8 million of intercompany loans evidenced by the 2015 Promissory Notes are described as “current assets” on the proforma audited financial statements of UCI as at December 31, 2014, and the reviewed proforma financial statements as at September 30, 2015.
19. The Foreign Representative appealed the disallowance to the Ontario Court and a hearing was held on May 2, 2017, with respect to the validity of the disallowance. The Foreign Representative also sought, in the alternative, a declaration that the first \$8 million of funds from TCC Bay<sup>1</sup> that might otherwise be received by Vestaco Investments Inc. (“Vestaco”) be held in trust for UCI and Realtyco and be paid to the Foreign Representative on behalf of UCI on the basis that Vestaco is allegedly a nominee of Doreen Saskin that might otherwise receive distributions if the UCI Bondholder Claim is not allowed. Doreen Saskin’s beneficial interest in Vestaco was not disclosed in the Prospectus.
20. The declaratory relief being sought against Vestaco<sup>2</sup> was adjourned pending the outcome of the appeal of the disallowance.
21. On May 11, 2017, the Honourable Mr. Justice Newbould upheld the Monitor’s disallowance of the UCI Claim (the “Decision”). A copy of the Decision is attached hereto as Appendix “C”.

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<sup>1</sup> The limited partners of TCC Bay are Alan Saskin (79.99%), Vestaco (20%), and the general partner has the remaining 0.01% interest. Pursuant to a complicated set of amending agreements, it appears that Vestaco has the right to the first \$12 million of any returns ahead of Alan Saskin.

<sup>2</sup> Vestaco purported to assign its rights to DS (Bay) Holdings Inc. which is also allegedly a nominee of Doreen Saskin.

22. In the Decision, the Court found that "...the management fees owing by Bay LP (referred to herein as TCC Bay) to UTMI have been paid and were paid by the time the [2015 Promissory Notes] were issued".<sup>3</sup>
23. The Court further found that it could not "...put any store in Mr. Saskin's assertions of a present day belief that the [2015 Promissory Notes] are valid and enforceable or were at the time he signed them".<sup>4</sup>
24. Finally, the Court held that it agreed "...with the Monitor that given that UCI and Realtyco were controlled completely by Mr. Saskin, as were UTMI and Bay LP, and all relevant documents were signed by him, it cannot be reasonably held that UCI or Realtyco were unaware of this state of affairs between UTMI and Bay LP....They cannot be said to have not had actual notice of the state of their own intercompany affairs and the fact that the management fee pursuant to the Original Fee Agreement, as amended, had been fully booked as an expense against reported taxable income and 'settled' or 'paid' via postings to the intercompany account, especially given that UTMI administered the internal affairs of all of them".<sup>5</sup>
25. The Decision imputes actual knowledge of intercompany affairs to UCI and TCC Bay on account of all of them being completely controlled by Alan Saskin.
26. Accordingly, TCC Bay knew that the 2015 Promissory Notes were unenforceable when issued and that they would be transferred to UCI as consideration for the Bond Issuance in accordance with the Prospectus.
27. By issuing the 2015 Promissory Notes, TCC Bay created a representation that the notes were valid and enforceable, and the false impression that there was a debt owing by TCC Bay to UCI. The references in the Prospectus to the \$8 million intercompany loan being assigned to UCI were solely based on the issuance of the 2015 Promissory Notes. This

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<sup>3</sup> Decision, para. 31.

<sup>4</sup> Decision, para. 37.

<sup>5</sup> Decision, para. 39.

was a single, uniform representation that was contained in the Prospectus, which had the effect of falsely inflating the value of UCI's assets as disclosed in the Prospectus.

28. Under the applicable Israeli securities laws, the Bondholders are deemed to have relied upon this misrepresentation in the Prospectus. Under the Israeli Securities Law, 5728-1968 (the "**Israeli Securities Law**"), "A Prospectus shall contain every detail of importance to a reasonable investor considering the purchase of the securities offered therein..."<sup>6</sup> In addition, the Israeli Securities Law imposes liability for any damage caused by the inclusion of misleading information toward any "person who has provided an opinion, report, review or certificate that was included or mentioned in the prospectus with such person's prior consent."<sup>7</sup>
29. As such, the 2015 Promissory Notes were a material consideration for the Bondholders' participation in the Bond Issuance, as they represented recourse to \$8 million in recoveries for the Bondholders, of which they are now deprived.
30. All of the facts relating to the intercompany dealings came to the attention of the Foreign Representative and the Bondholders subsequent to the Claims Bar Date and solely as a result of the reports of the Monitor and the Decision.
31. As none of these matters were known to the Foreign Representative or the Bondholders before the Claims Bar Date, and as the basis for the claim arises from the findings in the Decision, they should be permitted to be considered as having filed an amended and/or late proof of claim against TCC Bay based on the facts, as reported by KSV and found in the Decision.
32. Soon after the Decision, the Foreign Representative advised the Monitor about the intention to bring a motion in respect of the UCI Bondholder Claim and did serve a notice of motion in that regard. However, the matter was held in abeyance pending the Plan Approval Order being granted as that was needed to give the Foreign Representative the ability to prosecute the UCI Bondholder Claim. Since the Plan Approval Order has been

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<sup>6</sup> Israeli Securities Law, Section 16.

<sup>7</sup> Israeli Securities Law, Section 32.

granted, the Foreign Representative has been working with TFCC to try and resolve the remaining claims in TCC Bay. The Foreign Representative has kept the Monitor apprised of the status of its dealings with TFCC concerning this matter.

**D. THE TFCC CLAIM**

33. On November 22, 2016, TFCC filed secured proofs of claim in these proceedings in the respective amounts of \$6,512,874.95 as against Woodbine, \$6,230,764.08 as against Bridlepath, and \$6,013,865.10 as against TCC Bay (collectively, the “TFCC Claims”).
34. The TFCC Claims relate to guarantees and second mortgages which Woodbine, Bridlepath and TCC Bay provided in favour of TFCC with respect to a loan from TFCC to UHI.
35. The TFCC Claims were disallowed (although the amounts of \$216,898.98 as against Bridlepath and \$499,009.85 against Woodbine were allowed as unsecured claims and have been paid out) on the basis, *inter alia*, that they constituted transfers at undervalue, fraudulent conveyances and were oppressive to TCC Bay’s creditors.
36. TFCC has appealed the disallowance of its claim. The hearing of the appeal has been adjourned *sine die*.

**E. THE SETTLEMENT AGREEMENT**

37. TFCC and UCI are the only potential creditors of the Applicants who remain unpaid and in respect of whom a reserve has not been established.
38. All proven claims of the Applicants have been paid in full except certain inter-company claims (“**Inter-Company Claims**”). With the exception of the Inter-Company Claims, the only remaining claims are contested claims. Aside from the UCI Bondholder Claim and the TFCC Claim, the Monitor has fully reserved for the remaining disputed claims which have been disallowed. Among the disputed claims are claims by two former employees of UTMI (the “**Employee Claims**”) for which the Monitor has fully reserved. UCI is the

only remaining proven creditor in the Cumberland CCAA Proceedings, other than disputed claims which have been fully reserved in those proceedings.

39. The only other disputed claim remaining to be determined in these proceedings is a claim of Tarion Warranty Corporation for which the Monitor has fully reserved.
40. As the only potential creditors of the Applicants, UCI and TFCC have entered into the Settlement Agreement, which settles their claims against TCC Bay and allows the Monitor to distribute proceeds and terminate the Bay CCAA Proceedings. The Settlement Agreement is attached hereto as Appendix "D". It provides for, *inter alia*, a material reduction in TFCC's claim, the allowance of UCI's claim, the distribution of funds to both TFCC and UCI, and a release in favour of TFCC from UCI. It also contemplates that the Monitor will bring a motion to terminate the Bay CCAA Proceedings and transfer certain reserves to the Cumberland CCAA Proceedings.
41. The Settlement Agreement is conditional upon approval by both the Ontario Court and the Israeli Court. The Settlement Agreement represents a reasonable settlement and compromise of significant claims against the Applicants, as well as potential claims of UCI against TFCC. Approval of the Settlement Agreement will also avoid material litigation, enable these CCAA proceedings to be terminated in the near term and thereby reduce further material expenses.

**F. RECOMMENDATIONS**

42. The Foreign Representative respectfully requests that this Honourable Court grant an Order:
  - (a) allowing the Foreign Representative to be deemed to have validly late filed the UCI Bondholder Claim with KSV in its capacity as Monitor of TCC Bay in relation to the 2015 Promissory Notes;
  - (b) approving the Settlement Agreement between UCI and TFCC; and
  - (c) allowing the UCI Bondholder Claim.

ALL OF WHICH IS RESPECTFULLY  
SUBMITTED THIS 15<sup>th</sup> DAY OF  
FEBRUARY, 2018.

Guy Gissin, in his capacity as Court-Appointed  
Functionary and Foreign Representative of  
Urbancorp Inc., and not in his personal or  
corporate capacity

*G. Gissin*

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**TAB A**

Definitions

For convenience, below are key definitions used in this chapter:

<b>"The Company"</b>	Urbancorp Inc.
<b>"Group companies" or "the Group"</b>	The Company, subsidiaries and associates.
<b>"Saskin" or "the controlling shareholder"</b>	Alan Saskin, the controlling shareholder of the Company and founder of Urbancorp Group, serves as Chairman and CEO of the Company.
<b>"The rights holders"</b>	Alan Saskin and his family.
<b>"Urbancorp Group"</b>	A commercial name comprised of private corporations held by Alan Saskin (directly or indirectly through other entities controlled thereby), alone, including with his family members or with partners, that hold, as of the prospectus date and prior to transfer of Alan's holdings in the transferred companies to the Company, real estate properties in and outside Toronto (whether development projects, rental properties and/or land classified as investment property). Note that <u>not</u> all Urbancorp Group companies would be transferred to the Company. Consequently, after completion of the issuance pursuant to this prospectus and transfer of Alan's holdings in the transferred companies to the Company, Urbancorp Group would still consist of companies that hold development and investment real estate properties which would not be transferred to the Company.
<b>"The Transferred Rights"</b>	As these terms are defined in section 7.1.7 below.
<b>"The Transferred Companies"</b>	As defined in section 3.3.2.
<b>"Condominium"</b>	As this term is defined in section 7.8.1(h) below.
<b>"Dollar" or "CAD"</b>	Canadian Dollar.
<b>"Square feet" or "sqft"</b>	To convert square feet to square meters, $10 \text{ sqft} = 0.9290 \text{ m}^2$ . For example, a property with an area of 5,000 sqft has an area of $464.5 \text{ m}^2$ .

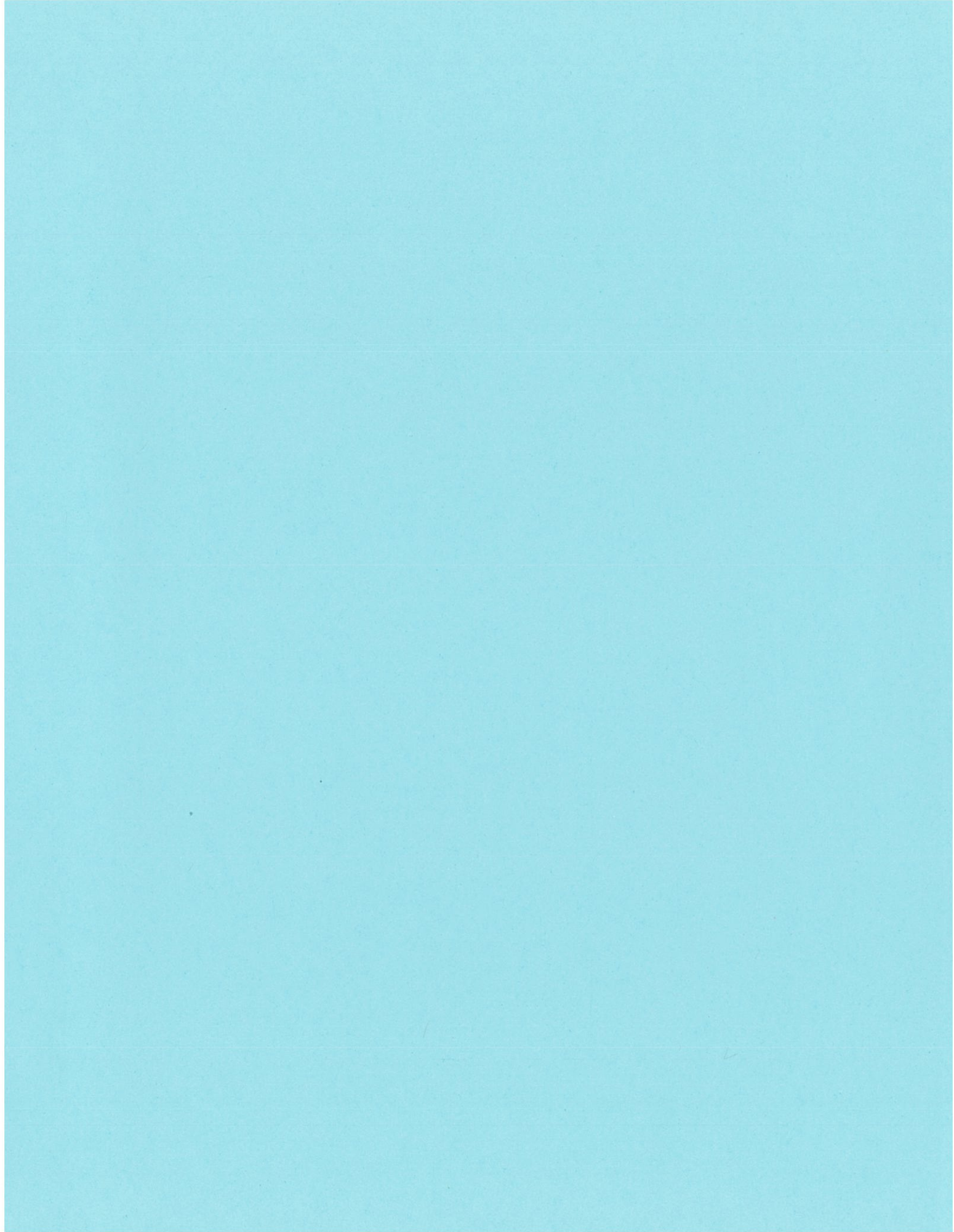
proposal, the proposal would be deemed to have been rejected (by the Audit Committee); in case of rejection of or non-response to the proposal, the controlling shareholder may (directly or indirectly) accept the proposal. Furthermore, in case where, despite acceptance of the proposal by the Company, no agreement for investment in the new project and/or acquisition of the new project by the Company shall materialize (for reasons not contingent on the controlling shareholder), the controlling shareholder may (directly or indirectly) make such investment and/or acquisition, subject to the right of refusal provision as set forth above in this section.

- (c) The Company will issue an Immediate Report concerning any decisions by the Company's Audit Committee and Board of Directors after every such decision concerning delimitation of activities.
- (d) The commitment by the controlling shareholder to delimit his activities, in conjunction of the framework decision above, and the right-of-first-refusal granted to the Company, are given for no consideration.

Note that as of the prospectus date, Saskin owns multiple real estate development projects in Toronto, which would not be transferred to the Company in conjunction with transfer of the transferred rights to the Company.

#### 7.1.6 Acquisition of the transferred companies by the Company from the Rights Holders against share allocation

The Rights Holders (as defined above) have committed that, prior to listing for trading on the stock exchange of debentures (Series A) offered to the public pursuant to this prospectus, and subject to successful issuance to the public, they would transfer to the Company their rights (including indirectly through corporations owned thereby) in the transferred entities which indirectly hold rights to rental investment property, development property and geothermal assets in Toronto, Ontario in Canada, including liabilities with respect thereto, and would assign the Company their right to the repayment of loans from entities held be them, which amounts to CAD 8,000 thousand (hereinafter together: "the **Transferred Rights**") against issuance of class shares to to Urbancorp Holdco Inc, a corporation wholly-owned by Saskin, which will issue similar class shares to the Interest Holders, and will be fully controlled by Saskin.



## **Chapter 9 – Interested parties and senior officers of the Company**

### **9.1 Remuneration of interested parties and senior officers**

In 2013, 2014 and in the first six months of 2015, no salary, management fees and/or associated expenses were paid to interested parties and officers of the Company, other than payments for services rendered by companies controlled by the controlling shareholder of the Company, as set forth in tables in sections 9.2.8 and 9.2.9 below.

### **9.2 Transactions with controlling shareholder**

Below is information, to the best of the Company's knowledge, about all transactions with a controlling shareholder (or in which a controlling shareholder has a personal interest) contracted by the Company and/or by companies controlled thereby in the two years preceding the prospectus date or still effective as of the prospectus date:

#### **9.2.1 Transfer of rights in corporations against issuance of shares**

The rights holders (as defined in section 3.3.2 of the prospectus) have committed that, prior to listing for trading on the stock exchange of debentures (Series A) offered to the public pursuant to this prospectus, and subject to successful issuance to the public, they would transfer to the Company their rights (including indirectly through corporations owned thereby) in the transferred corporations which indirectly hold rights to rental investment property and development property in Toronto, Ontario in Canada, including liabilities with respect there to, and would assign the Company their right to the repayment of loans from entities held be them, which amounts to CAD 8,000 thousand (hereinafter together: "the transferred rights"), against issuance of class shares to to Urbancorp Holdco Inc, a corporation wholly-owned by Saskin, which will issue similar class shares to the Interest Holders, as set forth in section 3.3.2 of the prospectus.

It is hereby clarified that transfer of the transferred interests is not contingent on any suspensive conditions and would become effective subject to successful issuance to the public. The personal interest of the controlling shareholder in this transaction is due to the fact that they are party to said contracting.

#### **9.2.2 Asset construction, development and marketing services agreement:**



Financial Statements included in the original Hebrew version of  
the Prospectus

**UrbanCorp Inc.**

**דוחות כספיים מאוחדים ביניים פרופורמה  
ליום 30 ביוני 2015**

**(בלתי מבוקרים)**

**תוכן העניינים**

<u>עמוד</u>	
2	דוח סקירה של רואי החשבון
3	דוחות תמציתיים מאוחדים ביניים פרופורמה על המצב הכספי
4	דוחות תמציתיים מאוחדים ביניים פרופורמה על רווח או הפסד ורווח כולל אחר
5-6	דוחות תמציתיים מאוחדים ביניים פרופורמה על השינויים בהון
7-8	דוחות תמציתיים מאוחדים ביניים פרופורמה על תזרימי המזומנים
9-18	ביאורים לדוחות הכספיים התמציתיים פרופורמה

## דוח סקירה של רואה החשבון המבקר לבעלי המניות של UrbanCorp Inc.

### מבוא

סקרנו את המידע הכספי פרופורמה המצורף של UrbanCorp Inc וחברות בנות (להלן - "הקבוצה"), הכולל את הדוח התמציתי המאוחד על המצב הכספי פרופורמה ליום 30 ביוני 2015 ואת הדוחות התמציתיים המאוחדים פרופורמה על הרווח או הפסד ורווח כולל אחר, השינויים בהון ותזרימי המזומנים לתקופות של שישה ושלושה חודשים שהסתיימו באותו תאריך. הדירקטוריון והנהלה אחראים לעריכת ולהצגה של מידע כספי פרופורמה לתקופות ביניים אלו בהתאם לתקן חשבונאות בינלאומי IAS 34 "דיווח כספי לתקופות ביניים", וכן הם אחראים לעריכת מידע כספי פרופורמה לתקופות ביניים אלה לפי פרק ד' של תקנות ניירות ערך (דו"חות תקופתיים ומידיים), התש"ל-1970. אחריותנו היא להביע מסקנה על מידע כספי פרופורמה לתקופות ביניים אלו בהתבסס על סקירתנו.

### היקף הסקירה

ערכנו את סקירתנו בהתאם לתקן סקירה 1 של לשכת רואי חשבון בישראל "סקירה של מידע כספי פרופורמה לתקופות ביניים הנערכת על ידי רואה החשבון המבקר של הישות". סקירה של מידע כספי פרופורמה לתקופות ביניים מורכבת מבידורים, בעיקר עם אנשים האחראים לעניינים הכספיים והחשבונאיים, ומיישום נהלי סקירה אנליטיים ואחרים. סקירה הינה מצומצמת בהיקפה במידה ניכרת מאשר ביקורת הנערכת בהתאם לתקני ביקורת מקובלים בישראל ולפיכך אינה מאפשרת לנו להשיג ביטחון שניוודע לכל העניינים המשמעותיים שהיו יכולים להיות מזוהים בביקורת. בהתאם לכך, אין אנו מחוויים חוות דעת של ביקורת.

### מסקנה

בהתבסס על סקירתנו, לא בא לתשומת ליבנו דבר הגורם לנו לסבור שהמידע הכספי פרופורמה הנ"ל אינו ערוך, מכל הבחינות המהותיות, בהתאם לתקן חשבונאות בינלאומי IAS 34 והמדיניות והנחות הפרופורמה המפורטות בדוחות הכספיים פרופורמה. בנוסף לאמור בפסקה הקודמת, בהתבסס על סקירתנו, לא בא לתשומת ליבנו דבר הגורם לנו לסבור שהמידע הכספי פרופורמה הנ"ל אינו ממלא, מכל הבחינות המהותיות, אחר הוראות גילוי לפי פרק ד' של תקנות ניירות ערך (דו"חות תקופתיים ומידיים), התש"ל-1970.

מבלי לסייג את מסקנתנו הנ"ל, אנו מפנים את תשומת הלב לאמור בביאור 4 למידע הכספי פרופורמה בדבר התאמה בדרך של הצגה מחדש (restatement) של המידע הכספי ליום 30 ביוני 2015 ולתקופות של שישה ושלושה חודשים שהסתיימו באותו תאריך על מנת לשקף בהם למפרע את השפעת תיקון הטעות בחישוב עלויות בנייה והוצאות מכירה נדחות בין מימים למכירת דירות שהוקמו בידי החברה.

**בריטמן אלמגור זהר ושות'  
רואי חשבון**

**תל אביב, 29 בנובמבר, 2015**

2

#### תל אביב - משרד ראשי

מרכז עוראלי 1 תל אביב. 6701101 ת.ד. 16593

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## UrbanCorp Inc.

דוחות תמציתיים מאוחדים על המצב הכספי פרפורמה

ליום 31 בדצמבר	ליום 30 ביוני	
2014	2014	2015
מבוקר	(בלתי מבוקר)	
אלפי דולר קנדי		
592	2,693	315
3,901	3,939	2,048
9,307	9,138	11,477
43,523	802	4,785
7,160	5,694	8,199
107,133	125,352	(*)109,438
(**)-	-	8,000
171,616	147,618	144,262

50,802	42,119	(***)61,133
8,871	7,749	(***)14,580
34,354	13,674	19,157
48,778	48,984	48,719
3,623	4,715	1,551
1,961	1,961	1,961
148,389	119,202	147,101

320,005	266,820	291,363
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174,020	124,512	137,153
30,231	26,505	(*)29,184
29,533	29,498	23,148
1,398	1,406	10,575
235,182	181,921	200,060

2,523	2,547	3,615
17,698	18,466	(*)15,189
20,221	21,013	18,804

(***)55,092	53,014	(*)60,810
20,449	20,684	20,656
(10,939)	(9,812)	(*)8,967
(***)64,602	63,886	(*)72,499

320,005	266,820	291,363
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**נכסים שוטפים**

מזומנים ושווי מזומנים  
פקדונות מוגבלים ומיועדים  
חייבים ויתרות חובה  
לקוחות- רוכשי דירות  
פקדונות מלקוחות המוחזקים בנאמנות  
מלאי בניינים למכירה  
צדדים קשורים

**נכסים לא שוטפים**

נדל"ן להשקעה בהקמה  
נדל"ן להשקעה  
מלאי מקרקעין  
רכוש קבוע  
חייבים לזמן ארוך  
מוניטין

**התחייבויות שוטפות**

הלוואות מתאגידים פיננסיים ואחרים  
ספקים, קבלנים ונותני שירותים  
מקדמות מרוכשי דירות  
זכאים ויתרות זכות

**התחייבויות לא שוטפות**

הלוואות מתאגידים פיננסיים ואחרים  
התחייבויות מסים נדחים

**הון המיוחס לבעלי מניות החברה**

השקעות בעלים, נטו  
קרן הון בגין הערכה מחדש של רכוש קבוע, נטו ממס  
יתרת (הפסד)  
סה"כ הון

(\*) הוצג מחדש ראה ביאור 4  
(\*\*) התאמה למפרע בגין שינוי בהנחות פרפורמה ראה ביאור 3  
(\*\*\*) סווג מחדש

29 בנובמבר, 2015

מר פיליפ גלס  
סמנכ"ל כספיםמר אלן ססקין  
סמנכ"ל ויו"ר הדירקטוריון

תאריך אישור הדוחות הכספיים

הביאורים המוצגים מהווים חלק בלתי נפרד מהדוחות הכספיים המאוחדים.

## UrbanCorp Inc.

דוחות תמציתיים מאוחדים פרופורמה על רווח או הפסד ורווח כולל אחר

לשנה שהסתיימה ביום 31 בדצמבר	לתקופה של שלושה חודשים שהסתיימה ביום 30 ביוני		לתקופה של שישה חודשים שהסתיימה ביום 30 ביוני		
	2014	2015	2014	2015	
מבוקר	(בלתי מבוקר)		(בלתי מבוקר)		
	אלפי דולר קנדי				
56,693	165	5,923	4,888	44,258	הכנסות ממכירת דירות ושטחי מסחר הכנסות מהשכרה וניהול של נכסים הכנסות מהפעלת מערכות גיא-תרמיות
1,557	246	1,241	597	2,514	
703	99	331	199	730	
<u>58,953</u>	<u>510</u>	<u>7,495</u>	<u>5,684</u>	<u>47,502</u>	
(50,711)	(1,374)	(*)3,864	(3,854)	(*)39,804	עלות הדירות ושטחי המסחר שנמכרו עלות ההשכרה וניהול של נכסים עלות הפעלת מערכות גיא-תרמיות
(1,347)	(382)	(469)	(890)	(1,236)	
(577)	(128)	(142)	(272)	(332)	
<u>(52,635)</u>	<u>(1,884)</u>	<u>(4,475)</u>	<u>(5,016)</u>	<u>(41,372)</u>	
<u>6,318</u>	<u>(1,374)</u>	<u>(*)3,020</u>	<u>668</u>	<u>(*)6,130</u>	רווח (הפסד) גולמי
(4,775)	(315)	(*)1,733	(964)	(*)3,970	הוצאות מכירה ושיווק הוצאות הנהלה וכלליות עליית (ירידת) ערך בדל"ן להשקעה, נטו הכנסות אחרות, נטו
(1,351)	(320)	(98)	(686)	(426)	
1,586	(54)	(1,191)	4,003	(388)	
<u>69</u>	<u>-</u>	<u>1,289</u>	<u>-</u>	<u>1,415</u>	
<u>1,847</u>	<u>(2,063)</u>	<u>(*)1,287</u>	<u>3,021</u>	<u>(*)2,761</u>	רווח תפעולי
380	150	391	389	874	הכנסות מימון הוצאות מימון הכנסות (הוצאות) מימון, נטו
(788)	(70)	(354)	(438)	(953)	
<u>(408)</u>	<u>80</u>	<u>37</u>	<u>(49)</u>	<u>(79)</u>	
1,439	(1,983)	(*)1,324	2,972	(*)2,682	רווח (הפסד) לתקופה לפני מסים על הכנסה הכנסות (הוצאות) מסים על הכנסה
(381)	526	(*)350	(787)	(*)710	
<u>1,058</u>	<u>(1,457)</u>	<u>(*)974</u>	<u>2,185</u>	<u>(*)1,972</u>	סה"כ (הפסד) רווח
					רווח כולל אחר:
					פריטי רווח כולל אחר אשר לא יסווגו בעתיד לרווח או הפסד:
7,050	(1,146)	(30)	7,285	207	רווח (הפסד) מהערכה מחדש של רכוש קבוע, נטו ממס
<u>7,050</u>	<u>(1,146)</u>	<u>(30)</u>	<u>7,285</u>	<u>207</u>	סה"כ רווח (הפסד) כולל אחר לתקופה
<u>8,109</u>	<u>(2,603)</u>	<u>(*)944</u>	<u>9,470</u>	<u>(*)2,179</u>	סה"כ רווח (הפסד) כולל לשנה

(\*) הוצג מחדש ראה ביאור 4

הביאורים המצורפים מהווים חלק בלתי נפרד מהדוחות הכספיים המאוחדים.

## UrbanCorp Inc.

דוחות תמציתיים מאוחדים פרפורמה על השינויים בהון

סה"כ	יתרת רווח	קרן הון בגין הערכה מחדש של רכוש קבוע, נטו ממס	השקעות בעלים, נטו	
אלפי דולר קנדי				
64,602	(10,939)	20,449	(**55,092)	<u>יתרה ליום 1 בינואר, 2015 (מבוקר)</u>
(*)1,972	(*)1,972	-	-	רווח
207	-	207	-	רווח כולל אחר
(*)11,921	-	-	(*)11,921	השקעות
(6,203)	-	-	(6,203)	משיכות
<u>(*)72,499</u>	<u>(*)8,967</u>	<u>20,656</u>	<u>(*)60,810</u>	<u>יתרה ליום 30 ביוני, 2015 (בלתי מבוקר)</u>
57,386	(11,997)	13,399	55,984	<u>יתרה ליום 1 בינואר, 2014 (מבוקר)</u>
2,185	2,185	-	-	רווח
7,285	-	7,285	-	רווח כולל אחר
9,750	-	-	9,750	השקעות
(12,720)	-	-	(12,720)	משיכות
<u>63,886</u>	<u>(9,812)</u>	<u>20,684</u>	<u>53,014</u>	<u>יתרה ליום 30 ביוני, 2014 (בלתי מבוקר)</u>
57,386	(11,997)	13,399	55,984	<u>יתרה ליום 1 בינואר, 2014 (מבוקר)</u>
1,058	1,058	-	-	רווח
7,050	-	7,050	-	רווח כולל אחר
(**17,876)	-	-	(**17,876)	השקעות
(18,768)	-	-	(18,768)	משיכות
<u>64,602</u>	<u>(10,939)</u>	<u>20,449</u>	<u>55,092</u>	<u>יתרה ליום 31 בדצמבר, 2014 (מבוקר)</u>

(\*) הוצג מחדש ראה ביאור 4  
 (\*\*) התאמה למפרע בגין שינוי בהנחות פרפורמה ראה ביאור 3.

הביאורים המצורפים מהווים חלק בלתי נפרד מהדוחות הכספיים המאוחדים.

## UrbanCorp Inc.

דוחות תמציתיים מאוחדים פרופורמה על השינויים בהון  
(המשך)

סה"כ	יתרת רווח	קרן הון בגין הערכה מחדש של רכוש קבוע, נטו ממס	השקעות בעלים, נטו	
אלפי דולר קנדי				
74,298	(9,941)	20,686	63,553	<u>יתרה ליום 1 באפריל, 2015 (בלתי מבוקר)</u>
(*)974	(*)974	-	-	רווח
(30)	-	(30)	-	הפסד כולל אחר
(*)2,595	-	-	(*)2,595	השקעות
(5,338)	-	-	(5,338)	משיכות
<u>(*)72,499</u>	<u>(*)8,967</u>	<u>20,656</u>	<u>(*)60,810</u>	<u>יתרה ליום 30 ביוני, 2015 (בלתי מבוקר)</u>
68,603	(8,355)	21,830	55,128	<u>יתרה ליום 1 באפריל, 2014 (בלתי מבוקר)</u>
(1,457)	(1,457)	-	-	הפסד
(1,146)	-	(1,146)	-	הפסד כולל אחר
(1,379)	-	-	(1,379)	השקעות
(735)	-	-	(735)	משיכות
<u>63,886</u>	<u>(9,812)</u>	<u>20,684</u>	<u>53,014</u>	<u>יתרה ליום 30 ביוני, 2014 (בלתי מבוקר)</u>

(\*) הוצג מחדש ראה ביאור 4

הביאורים המצורפים מהווים חלק בלתי גפרד מהדוחות הכספיים המאוחדים.

## UrbanCorp Inc.

דוחות תמציתיים מאוחדים פרופורמה על תזרימי המזומנים

לשנה שהסתיימה ביום 31 בדצמבר	לתקופה של שלושה חודשים שהסתיימה ביום 30 ביוני		לתקופה של שישה חודשים שהסתיימה ביום 30 ביוני	
	2014	2015	2014	2015

<b>תזרימי מזומנים מפעילות שוטפת</b>					
1,058	(1,457)	(*)974	2,185	(*)1,972	רווח (הפסד) לתקופה
<b>התאמות הדרושות להצגת תזרימי מזומנים מפעילות שוטפת:</b>					
2,414	383	476	1,473	998	פחת והפחתות
409	(80)	(37)	49	79	הוצאות (הכנסות) מימון, נטו
381	(526)	(*)695	787	(*)1,055	הוצאות (הכנסות) מסים על ההכנסה
(1,586)	54	1,191	(4,003)	388	ירידת (עליית) ערך נדל"ן להשקעה, נטו
(69)	-	(1,289)	-	(1,415)	הכנסות אחרות, נטו
(1,258)	930	(*)1,527	(2,362)	(*)98	<b>שינויים בסעיפי רכוש והתחייבות:</b>
4,075	57	65,660	46,795	38,738	ירידה (עלייה) בחייבים ויתרות חובה
6,137	(9,031)	(*)254	(12,006)	(*)34,266	ירידה בלקוחות רוכשי דירות
(14,017)	(820)	(1,712)	(1,164)	(1,870)	ירידה (עלייה) במלאי בניינים למכירה
(599)	(2,714)	(*)11,207	(5,260)	(*)7,974	ירידה (עלייה) במלאי מקרקעין
1,768	1,719	3,458	1,746	(6,384)	עלייה (ירידה) בספקים ויתרות זכות
(1,287)	(11,485)	82,404	28,240	75,703	עלייה (ירידה) במקדמות מרוכשי דירות
<b>מזומנים נטו מפעילות (לפעילות) שוטפת</b>					
<b>תזרימי מזומנים לפעילות השקעה</b>					
380	150	391	389	874	ריבית שנתקבלה
396	446	647	1,857	(1,039)	שינוי בפקדונות מלקוחות המוחזקים בנאמנות
2,076	(1,666)	(68)	2,039	1,854	שינוי בפקדונות מוגבלים ומיועדים
(11,888)	(3,023)	(5,226)	(5,595)	(6,542)	הקמת נדל"ן להשקעה
(3,934)	(2,152)	(517)	(2,887)	(658)	השקעה ברכוש קבוע
(12,970)	(6,245)	(4,773)	(4,197)	(5,511)	<b>מזומנים נטו ששימשו לפעילות השקעה</b>
<b>תזרימי מזומנים מפעילות מימון</b>					
(13,030)	(1,796)	(3,340)	(4,775)	(6,424)	ריבית ששולמה
80,097	11,586	6,620	28,351	20,619	קבלת הלוואות מתאגידים פיננסיים ואחרים
(55,967)	5,175	(76,968)	(46,607)	(79,087)	פירעון הלוואות מתאגידים פיננסיים ואחרים
(7,598)	(735)	(5,338)	(2,220)	(6,203)	חלוקות לבעלי מניות החברה
10,898	2,429	578	3,452	626	השקעות בעלי מניות בחברה
14,400	16,659	(78,448)	(21,799)	(70,469)	<b>מזומנים נטו מפעילות (לפעילות) מימון</b>
143	(1,071)	(817)	2,244	(277)	שינוי במזומנים ושוי מזומנים
449	3,764	1,132	449	592	יתרת מזומנים ושוי מזומנים לתחילת התקופה
592	2,693	315	2,693	315	יתרת מזומנים ושוי מזומנים לסוף התקופה

(\*) הוצג מחדש ראה ביאור 4

הביאורים המצורפים מהווים חלק בלתי נפרד מהדוחות הכספיים המאוחדים.

**UrbanCorp Inc.****דוחות תמציתיים מאוחדים פרפורמה על תזרימי המזומנים  
(המשך)**

לשנה שהסתיימה ביום 31 בדצמבר	לתקופה של שלושה חודשים שהסתיימה ביום 30 ביוני		לתקופה של שישה חודשים שהסתיימה ביום 30 ביוני	
	2014	2015	2014	2015
מבוקר	(בלתי מבוקר)		(בלתי מבוקר)	
	אלפי דולר קנדי			

**נספח א' - פעילות שלא במזומן**

(**)-	-	8,000	-	8,000	יתרות עם צדדים קשורים
6,678	6,678	-	6,678	-	אשראי והלוואות ששולמו על ידי בעל שליטה
572	-	2,800	-	2,800	רכישת נדל"ן להשקעה באמצעות אשראי מהמוכר

(\*\*) התאמה למפרע בגין שינוי בהנחות פרפורמה ראה ביאור 3.

## UrbanCorp Inc.

### ביאורים לדוחות הכספיים התמציתיים פרופורמה

#### ביאור 1 - כללי

- א. אורבנקורפ אינק (להלן - החברה) הוקמה ונתאגדה ביום 19 ביוני 2015 על פי דיני מחוז אונטריו, קנדה.
- ב. הכתובת של המשרד הרשום שלה היא ברחוב לין ווליאמס מס' 120, משרד מס' 2א', בטורונטו, אונטריו, קנדה.
- החברה והחברות המאוחדות שלה עוסקות בייזום, רכישה, השכרה ומכירה של שטחי מסחר ובנייני מגורים באונטריו.
- בנוסף, מחזיקה החברה בנכסים גיאותרמיים שהינן מערכות משולבות המספקות חימום וקירור לבניין בו הן מותקנות, המשלבות טכנולוגיות ירוקות על מנת להבטיח שסביבת הבניין נשמרת בטמפרטורה אופטימלית.
- יש לעיין בדוחות תמציתיים מאוחדים אלו בהקשר לדוחות הכספיים השנתיים של החברה ליום 31 בדצמבר 2014 ולשנה שהסתיימה באותו תאריך, ולביאורים אשר נלוו אליהם.

#### ג. רכישת השקעות מבעל השליטה:

בעלי הזכויות התחייבו, כי קודם לרישום למסחר בבורסה של אגרות החוב (סדרה א') המוצעות לציבור על פי משקל זה ובכפוף להצלחת ההנפקה לציבור, יעבירו לחברה את זכויותיהם (לרבות בעקיפין באמצעות תאגידים בבעלותם) בתאגידים המועברים, אשר יחזיקו בשרשור בזכויות בנכסי נדל"ן להשקעה, נדל"ן ימי ונכסים גיאותרמיים בעיר טורונטו, אונטריו, קנדה לרבות להתחייבויות בגינם, כנגד הנפקת 100 מניות של החברה לתאגיד בבעלות בעלי הזכויות, אשר בשליטתו המלאה של בעל השליטה.

מובהר בזאת כי העברת הזכויות וההתחייבויות המועברות אינה מותנית בתנאים מתלים והיא תכנס לתוקף בכפוף להצלחת ההנפקה לציבור.

#### ד. דוחות כספיים מאוחדים פרופורמה:

מאחר והחברה רוכשת פעילויות אלה מהישויות המעבירות הנשלטות על ידי אותם בעלי שליטה בחברה לפני ואחרי הרכישה, הרכישה אינה מהווה צירוף עסקים אשר יש להציגו בהתאם להוראות IFRS 3.

בהתאם לכך, החברה מטפלת ברכישה בדומה לשיטת איחוד העניין (pooling of interests).

בהתאם, החברה ערכה דוחות כספיים מאוחדים פרופורמה לצורכי הנפקה של אגרות החוב של החברה בבורסה לניירות ערך בתל-אביב על מנת לשקף את הרכישה כאילו היא התרחשה בתחילת התקופה המוקדמת ביותר המוצגת בדוחות (1 בינואר 2012). לפיכך, הדוחות הכספיים המאוחדים פרופורמה כוללים את המצב הכספי, תוצאות הפעילות ותזרימי המזומנים של החברה ושל הפעילויות שנרכשו מהישויות המעבירות במאוחד. בגין מספר פרויקטים שנרכשו על ידי הישויות המעבירות לאחר יום 1 בינואר 2012, הדוחות הכספיים המאוחדים פרופורמה משקפים את הנכסים וההתחייבויות, נטו ואת הפעילויות של פרויקטים אלה החל ממועד רכישתם על ידי הישויות המעבירות.

כמו-כן, בכפוף להשלמת הנפקת ורישום אגרות החוב של החברה למסחר, ימחו בעלי השליטה לחברה את זכותם לקבל הלוואות מתאגידים המוחזקים על ידם, אשר סכומם מסתכם בכ- 8,000 אלפי דולר קנדי. הדוחות הכספיים פרופורמה כוללים המחאת זכות זו כאילו נתקבלה ביום 30 ביוני, 2015.

בשל העובדה שהמבנה המשפטי של הישויות המועברות לא כלל הוראות בדבר אופן זקיפת סכומים שחולקו לבעלי המניות לרכיבי ההון, חלוקות שבוצעו לבעלי המניות קיבלו ביטוי בדוח על השינויים בהון פרופורמה בהנחה כי החברה ראשית מחלקת את יתרת קרנות ההון האחרות.

עם השלמת רכישת הפעילות מהישויות הנשלטות על ידי אותם בעלי שליטה בחברה (קרי עם השלמת ההנפקה כאמור), תישא החברה בהוצאות מס העברה בגין רכישת הנדל"ן, כאמור, בסכום הנאמד בכ- 3.5 מיליון דולר קנדי, אשר ירשמו כהוצאות עם התהוותן.

כמו כן, בכוננת בעלי השליטה להעמיד לחברה, בכפוף להצלחת ההנפקה, תרומת בעלים במזומן המסתכמת לסך של כ- 12 מיליון דולר קנדי, להון (להלן: "תרומת הבעלים"). בעקבות תרומת הבעלים האמורה, ההון העצמי פרופורמה המיוחס לבעלי המניות של החברה (לא כולל זכויות מיעוט) יעלה מכ-72.5 מיליון דולר קנדי כמפורט בדוחות הכספיים פרופורמה ליום 30 ביוני 2015 לכ-84.5 מיליון דולר קנדי (מידע המתבסס על היקף ההון העצמי פרופורמה המדווח של החברה ליום 30 ביוני 2015). לאור העובדה כי לא מדובר על העברת נכס מזהה, אלא תרומה במזומן, לא נכללו השפעת הזרמה זו בדוח על המצב הכספי.

## UrbanCorp Inc.

## ביאורים לדוחות הכספיים התמציתיים פרופורמה

## ביאור 2 - מדיניות חשבונאית

הדוחות הכספיים המאוחדים ביניים פרופורמה ערוכים בהתאם לכללים חשבונאיים מקובלים לעריכת דוחות כספיים לתקופות ביניים כפי שנקבעו בתקן כספי בינלאומי IAS 34 ("דיווח כספי לתקופת ביניים").

בעריכת דוחות כספיים ביניים פרופורמה אלה יישמה החברה מדיניות חשבונאית, כללי הצגה ושיטות חישוב הזהים לאלו שישומו בעריכת דוחותיה הכספיים ליום 31 בדצמבר 2014 ולשנה שהסתיימה באותו תאריך.

הדוחות הכספיים ביניים פרופורמה נערכו בהתאם להוראות הגילוי בפרק ד' לתקנות ניירות ערך (דוחות תקופתיים ומיידיים), התש"ל-1970.

## ביאור 3 - התאמה למפרע בגין שינוי הנחת פרופורמה

כמפורט בביאור 1ד' לעיל, הדוחות הכספיים המאוחדים פרופורמה של החברה ערוכים תחת הנחת פרופורמה המשקפת המחאה לחברה של זכות לקבלת הלוואות מתאגידים המוחזקים על ידי בעלי הזכויות כתרומת בעלים. הדוחות הכספיים השנתיים של החברה ליום 31 בדצמבר 2014 נערכו תחת ההנחה כי הזכות כאמור הועברה לחברה ביום 31 בדצמבר 2014. בדוחות הכספיים הנוכחיים החברה התאימה למפרע את נתוני הדוח על המצב הכספי ליום 31 בדצמבר 2014 על מנת לשקף בהם את השינוי בהנחת הפרופורמה הזו (ההנחה בדוחות הכספיים הנוכחיים הינם כי הזכות מועברת לחברה ביום 30 ביוני 2015).

## ביאור 4 - הצגה מחדש בגין תיקון טעות

בדוחות הכספיים המאוחדים ליום 30 ביוני 2015 ולתקופות של שישה ושלושה חודשים שנסתיימו באותו תאריך לא הכירה החברה בעלויות בנייה והוצאות מכירה נדחות בגין מיזמים למכירת דירות שהוקמו בידי החברה לכן התאימה החברה את נתוני ההשוואה בדרך של הצגה מחדש כמפורט להלן:

להלן השפעת תיקון הטעות על הדוחות הכספיים של החברה:

## השפעה על המצב הכספי:

ליום 30 ביוני 2015			
כמוצג בדוחות כספיים אלו	השפעת תיקון הטעות אלפי דולר קנדי	כפי שדווח בעבר	
11,477	(1,295)	12,772	חייבים ויתרות חובה
109,438	(2,500)	111,938	מלאי בניינים למכירה
29,184	(74)	29,258	ספקים, קבלנים ונותני שירותים
15,189	(1,350)	16,539	התחייבות מיסים נדחים
72,499	(2,371)	74,870	הון המיוחס לבעלי מניות החברה

## השפעה על דוח רווח הכולל:

לשישה חודשים שהסתיימו ביום 30 ביוני 2015			
כמוצג בדוחות כספיים אלו	השפעת תיקון הטעות אלפי דולר קנדי	כפי שדווח בעבר	
(39,804)	(2,392)	(37,412)	עלות מכירת דירות ושטחי מסחר שנמכרו
(3,970)	(1,330)	(2,640)	הוצאות מכירה ושיווק
(710)	987	(1,697)	הוצאות מיסים על ההכנסה
1,972	(2,735)	4,707	רווח
2,179	(2,735)	4,914	רווח כולל



## UrbanCorp Inc.

ביאורים לדוחות הכספיים התמציתיים פרופורמה

ה - 4

ביאור

לשלושה חודשים שהסתיימו ביום 30 ביוני 2015			
כמוצג בדוחות כספיים אלו	השפעת תיקון הטעות	כפי שדווח בעבר	
אלפי דולר קנדי			
(3,864)	(2,392)	(1,472)	עלות מכירת דירות ושטחי מסחר שנמכרו
(1,733)	(1,330)	(403)	הוצאות מכירה ושיווק
974	(2,735)	3,709	רווח
944	(2,735)	3,679	רווח כולל
(350)	1,347	(1,697)	הכנסות (הוצאות) מיסים על הכנסה

ביאור 5 - יתרות ועסקאות עם בעלי עניין וצדדים קשורים

א. יתרות עם בעלי עניין וצדדים קשורים:

ליום 31 בדצמבר 2014	ליום 30 ביוני 2014 2015		
אלפי דולר קנדי			
מבוקר	(בלתי מבוקר)		
(*) -	-	8,000	צדדים קשורים (1)
1,802	338	1,827	חייבים ויתרות חובה (2)
1,088	2,180	1,551	חייבים לזמן ארוך (2)
1,715	429	429	מלאי (3)
719	78	628	ספקים ונותני שירותים (4)

(\*) התאמה למפרע ראה ביאור 3.

- (1) יתרה שאינה נושאת ריבית.  
 (2) כולל יתרת חייבים בגין מכירת משרד מכירות מחברת Edge On Triangle Park Inc וכן יתרות חייבים בגין הכנסות גיאותרמי לקבל מחברת ניהול נכסים גיאותרמיים בבעלות בעל השליטה.  
 (3) דמי ניהול לבעל עניין אשר מהווים למלאי.  
 (4) יתרות בגין דמי ניהול.

ב. עסקאות עם צדדים קשורים:

לשנה שהסתיימה ביום 31 בדצמבר 2014	לתקופה של שלושה חודשים שהסתיימה ביום 30 ביוני 2014 2015		לתקופה של שישה חודשים שהסתיימה ביום 30 ביוני 2014 2015		
מבוקר	(בלתי מבוקר)		(בלתי מבוקר)		
אלפי דולר קנדי					
1,140	(*)316	76	(*)570	366	שכר ונלוות - הנהלה וכלליות
72	(*)33	(*)14	(*)70	(*)34	הוצאות תפעול
1,212	(*)349	(*)90	(*)640	(*)400	סך הכל (*) סווג מחדש

## UrbanCorp Inc.

### ביאורים לדוחות הכספיים התמציתיים פרופורמה

#### ביאור 5 - יתרות ועסקאות עם בעלי עניין וצדדים קשורים (המשך)

##### ג. הסכם שירותים כולל עם חברת הניהול (Services agreement):

בכוונת החברה להתקשר, בסמוך למועד ההנפקה של אגרות החוב (סדרה א'), עם חברת הניהול בהסכם שירותים כולל (להלן - "הסכם השירותים"), במסגרתו תעניק חברת הניהול לחברה, תחת קורת גג אחת, שלל שירותי מעטפת לפעילותה, כגון: מנגנון רכישות והשקעות, מימון, שיווק, ייעוץ משפטי, הנהלת חשבונות ודיווח חשבונאי, פיקוח על ניהול נכסים, שירותי משרד, תקשורת, מחשבים, מזכירות וכן שירותי יו"ר דירקטוריון, שירותי מנכ"לות ושירותי סמנכ"ל כספים (להלן: "שירותי הניהול"), כאשר שירותי הניהול ינתנו על ידי עובדים של קבוצת UrbanCorp ממטה הקבוצה בטורונטו, קנדה, לרבות באמצעות נושאי המשרה בחברה. הסכם השירותים יכנס לתוקפו עם השלמת ההנפקה על פי תשקיף זה, ויעמוד בתוקפו בכל תקופת חיי אגרות החוב של החברה ויפקע במועד שבו לא תיוותרנה אגרות חוב במחזור. יובהר כי הסכם שירותים זה נערך לראשונה לאור הנפקת אגרות החוב המוצעות על פי תשקיף זה. התמורה השנתית הקבועה בגין השירותים שיינתנו לחברה מכוח הסכם השירותים הכולל, עומדת על סך של 1.5 מיליון דולר קנדי לשנה (להלן: "התמורה הכוללת"). בהנחה שההסכם היה נכנס לתוקף ב-1 בינואר 2012, היו גדלות הוצאות ההנהלה והכלליות ובמקביל היה קטן הרווח השנתי, החציוני והרבעוני, ב-1,500, 750 ו-375 אלפי דולר קנדי, בהתאמה.

#### ביאור 6 - מגזרי פעילות

א. החברה פועלת בתחומי השכרה ויזום של נדל"ן למגורים ומסחרי. כמו כן מפעילה החברה במספר פרוייטים מערכות גיאותרמיות המשמשות להספקת חימום וקירור לנכסים תוך שימוש באנרגיה ירוקה. להלן מידע כללי על מגזרי הפעילות:

- (1) יזום נדל"ן למגורים - כולל יזום, רכישה ומכירה של נכסי נדל"ן
- (2) נדל"ן מניב למגורים - כולל השכרה וניהול של נדל"ן למגורים
- (3) מערכות גיאותרמיות - כולל פיתוח תחזוקה וניהול של מערכות גיאותרמיות המספקות ויסות טמפרטורה לנכסים
- (4) אחר - נדל"ן מסחרי להשכרה

ב. מקבל ההחלטות הראשי בחברה הינו בעל השליטה בחברה מר אלן סוקין, המכהן כמנכ"ל ויו"ר החברה.

ג. מידע כללי על מגזרי פעילות:

(1) כללי:

הכנסות והוצאות המגזרים כוללות הכנסות והוצאות הנובעות מהפעילויות התפעוליות של המגזרים והמיוחסות ישירות למגזרים העסקיים וכן חלק יחסי מהוצאות החברה בגין כל המגזרים שניתן להקצותן למגזרים על בסיס סביר.

תוצאות הפעילות וההתייבויות של המגזר מייצגים 100% מהפעילויות המשותפות, בהתאם לנתונים אותם בוחן מקבל ההחלטות הראשי של החברה.

## UrbanCorp Inc.

ביאורים לדוחות הכספיים התמציתיים פרופורמה

ביאור 6 - מגזרי פעילות (המשך)

ג. מידע כללי על מגזרי פעילות: (המשך)

(2) תוצאות פעילות המגזר:

לתקופה של שישה חודשים שנסתיימו ביום 30 ביוני 2015						
סה"כ	התאמות*	אחר	מערכות גיאותרמיות	נדל"ן מניב למגורים	ייזום נדל"ן למגורים	
אלפי דולר קנדי (בלתי מבוקר)						
47,502	(22,993)	66	730	249	69,450	הכנסות המגזר
(**)(3,389)	-	66	399	107	(**)(2,817)	תוצאות המגזר
(*)(1,229)						התאמה לחלקה של החברה
(426)						הוצאות הנהלה וכלליות
1,415						הכנסות אחרות
(388)						ירידת ערך נדל"ן להשקעה
(79)						הוצאות מימון נטו
(*)2,682						רווח לפני מסים על ההכנסה

לתקופה של שישה חודשים שנסתיימו ביום 30 ביוני 2014						
סה"כ	התאמות*	אחר	מערכות גיאותרמיות	נדל"ן מניב למגורים	ייזום נדל"ן למגורים	
אלפי דולר קנדי (בלתי מבוקר)						
5,684	(3,649)	3,184	199	213	5,737	הכנסות המגזר
999	-	(42)	(74)	158	957	תוצאות המגזר
(1,295)						התאמה לחלקה של החברה
(686)						הוצאות הנהלה וכלליות
4,003						עליית ערך נדל"ן להשקעה
(49)						הוצאות מימון נטו
2,972						רווח לפני מסים על ההכנסה

(\*) התאמה לשיעור האחזקה של החברה  
(\*\*) הוצג מחדש ראה ביאור 4

**UrbanCorp Inc.**  
**ביאורים לדוחות הכספיים התמציתיים פרופורמה**

ביאור 6 - מגזרי פעילות (המשך)

ג. מידע כללי על מגזרי פעילות: (המשך)

(2) תוצאות פעילות המגזר: (המשך)

**לתקופה של שלושה חודשים שנסתיימו ביום 30 ביוני 2015**

סה"כ	התאמות*	אחר	מערכות גיאותרמיות	נדל"ן מניב למגורים	ייזום נדל"ן למגורים	
אלפי דולר קנדי (בלתי מבוקר)						
7,495	(3,430)	30	331	121	10,443	הכנסות המגזר
(2,143)**	-	32	189	92	1,830**	תוצאות המגזר
(856)* (98)						התאמה לחלקה של החברה
1,289						הוצאות הנהלה וכלליות
(1,191) 37						הכנסות אחרות ירידת ערך נדל"ן להשקעה
1,324*						הכנסות מימון רווח לפני מסים על ההכנסה

**לתקופה של שלושה חודשים שנסתיימו ביום 30 ביוני 2014**

סה"כ	התאמות*	אחר	מערכות גיאותרמיות	נדל"ן מניב למגורים	ייזום נדל"ן למגורים	
אלפי דולר קנדי (בלתי מבוקר)						
510	(198)	-	100	121	487	הכנסות המגזר
(1,927)	-	-	(29)	88	(1,986)	תוצאות המגזר
238						התאמה לחלקה של החברה
(320)						הוצאות הנהלה וכלליות
(54) 80						ירידת ערך נדל"ן להשקעה
(1,983)						הכנסות מימון הפסד לפני מסים על ההכנסה

(\*) התאמה לשיעור האחזקה של החברה  
 (\*\*) הוצג מחדש ראה ביאור 4

## UrbanCorp Inc.

ביאורים לדוחות הכספיים התמציתיים פרופורמה

ביאור 6 - מגזרי פעילות (המשך)

ג. מידע כללי על מגזרי פעילות: (המשך)

(2) תוצאות פעילות המגזר: (המשך)

לשנה שהסתיימה ביום 31 בדצמבר 2014						
סה"כ	התאמות*	אחר	מערכות גיאותרמיות	נדל"ן מניב למגורים	יזום נדל"ן למגורים	
אלפי דולר קנדי (מבוקר)						
58,953	(28,375)	3,253	835	466	82,774	הכנסות המגזר
2,594	-	60	258	263	2,013	תוצאות המגזר
(1,051)						התאמה לחלקה של החברה
(1,351)						הוצאות הנהלה וכלליות
69						הכנסות אחרות עליית ערך נדל"ן
1,586						להשקעה
(408)						הוצאות מימון
1,439						רווח לפני מסים על ההכנסה

\* התאמה לשיעור האחזקה של החברה

**UrbanCorp Inc.**  
**ביאורים לדוחות הכספיים התמציתיים פרופורמה**

**ביאור 7 - אירועים משמעותיים בתקופת הדוח**

בהמשך לאמור בביאור 5(ב') (2) לדוחות הכספיים השנתיים פרופורמה, ביום 3 באוגוסט 2011 התקשרה חברה מוחזקת בשליטה משותפת בשני הסכמים לרכישה ומכירה של אדמות פיתוח בבעלות ממשלת קנדה. הסכם אחד הינו בגין רכישה של כ-1,279,342 ר"ר של קרקע לבנייה (להלן: "הקרקע") במחיר של 40,097 אלפי דולר קנדי (להלן "הסכם רכישת הקרקע") וההסכם השני הינו בגין רכישה של מגרשים לבניית 29 יחידות משפחתיות בודדות אשר שטחם כ-1,188 ר"ר (linear feet) (להלן: "המגרשים").

ביום 1 ביוני 2015, חברת הנכס השלימה את רכישת הקרקע והמיומן בסך כולל של כ-46,157 אלפי דולר קנדי, נעשה כמפורט להלן:

1. חברת הנכס נטלה הלוואה בסך כולל של כ-36,925 אלפי דולר קנדי, בריבית בשיעור של 0% מהמוכר (הלוואת מוכר (Vendor Take Back, VTB);
2. חברת הנכס קיבלה אשראי בגין המקדמה, בסך של כ-4,097 אלפי דולר קנדי, ששולמה למוכר בזמן ההתקשרות בהסכם רכישת הקרקע (כאשר 50% מהתמורה כאמור שולמה על ידי השותף, כמפורט לעיל);
3. מקדמה נוספת ששולמה על ידי חברת הנכס אשר תזוכה כנגד תמורת הרכישה בסך של כ-3,476 אלפי דולר קנדי;
4. סך של כ-1,659 אלפי דולר קנדי שהועבר לחברת הנכס בקשר עם זכאות של הפרויקט ליחידות דיור בר השגה (Affordable Housing). יצוין כי במסגרת זו על הפרויקט לכלול לפחות 113 יחידות דיור ברות השגה, מתוכן 60 קוטג'ים חד משפחתיים ו-53 דירות, בהתאם לכללים שנקבעו על ידי CMHC (Canada Mortgage Housing Corporation), אשר עיקרם קובע גודל יחידות מסוים ודמי שכירות מסוימים לר"ר. יצוין כי נכון למועד זה החברה צפויה לעמוד בכללים אלו, לאור המודל התכנוני של הפרויקט.

כמו כן באותו תאריך, ביום 1 ביוני 2015, השלימה חברת הנכס את הרכישה של המגרשים והמיומן בסך כולל של 8,767 אלפי דולר קנדי, נעשה כמפורט להלן:

1. חברת הנכס נטלה הלוואה בסך כולל של כ-7,014 אלפי דולר קנדי, בריבית בשיעור של 0% מהמוכר (הלוואת מוכר (Vendor Take Back, VTB), במסגרתה מעמיד מוכר הנכס את הלוואה לרוכש הנכס);
2. אשראי בגין המקדמה, בסך של כ-838 אלפי דולר קנדי, שולמה למוכר בזמן ההתקשרות הסכם המגרש;
3. מקדמה נוספת ששולמה על ידי חברת הנכס אשר תזוכה כנגד תמורת הרכישה בסך של כ-915 אלפי דולר קנדי.

## UrbanCorp Inc.

### ביאורים לדוחות הכספיים התמציתיים פרופורמה

#### ביאור 8 - אירועים משמעותיים לאחר תאריך המאזן

א. ביום 28 ביולי 2015 התקשרה החברה, באמצעות UrbanCorp New King Inc., והשותף בפרויקט Kingsclub, (להלן - הפרויקט), מצד אחד, עם Capreit Limited Partnership, צד שלישי שאינו קשור לחברה, מצד שני (להלן - "הרוכש"), בהסכם (להלן - "הסכם המכירה") למכירת זכויות בלתי מסוימות בשליש (1/3) מכל אחת מיחידות הדיור בפרויקט (וכן זכויות גלויות, לרבות הסכמי שכירות קיימים ושטחי חניה בגין יחידות הדיור כאמור) (להלן: "הזכויות הנמכרות"), וזאת בתמורה לסך של כ-60,333 אלפי דולר קנדי. במסגרת הסכם המכירה, הועמדה ערבות על ידי First Capital Realty לקיום התחייבויות השותף והחברה בקשר עם ההסכם.

מכירת הזכויות הנמכרות לרוכש תבוצע בהתאם למנגנון המפורט בהסכם המכירה כך שלרוכש ימחו הזכויות בכל ההכנסות, הטבות והנכסים שיבועו מחלק (1/3) בלתי מסוים ביחס ליחידות הדיור בכל קומה בבנייני המגורים (Floor by Floor Basis), אחת לרבעון לכל היותר, במועד סיום בניית כל קומה. יובהר כי בהתאם להסכם המכירה, זכויות הבעלות בחלקים המועברים לרוכש מתוך בנייני המגורים ושטחי החניה, יועברו לרוכש במועד של 30 ימים לאחר קבלת תעודת אכלוס ביחס לקומות האחרונות של בניין המגורים הרלוונטי.

כמו כן, בהתאם להסכם המכירה נקבע כי שעבודים מכה הלוואות בקשר עם הבניין הראשון יוסרו עד למועד העברת הבעלות לרוכש ביחידות הדיור של הבניין הראשון, אשר נקבע עד ליום 31 בדצמבר 2018. יצוין כי השעבודים בקשר עם הבניין השני והשלישי יוסרו עד למועד העברת הבעלות לרוכש ביחידות הדיור של הבניינים השני והשלישי, לפי העניין.

בהתאם להסכם המכירה, במידה והלוואת הרכישה תועמד לפירעון מידי ותמומשה הבטחות בקשר עם ההלוואה כאמור, לרוכש תהיינה הזכות לרכישת מחצית מהזכויות בבנייני המגורים שימומשו על ידי First Capital Realty, בתמורה לגבוה מבין: 1. מחיר המשקף את מחצית משוים של זכויות כאמור; או 2. מחצית מהקרן והריבית בגין הלוואת הרכישה שטרם נפרעה.

ביום 28 ביולי 2015 התקשרו החברה, באמצעות UrbanCorp New King Inc., והשותף, מצד אחד, עם הרוכש, מצד שני, בהסכם ניהול (להלן: "הסכם ניהול הנכס") לפיו הרוכש יעמיד שירותי ניהול בקשר עם יחידות הדיור (למעט שטחים משותפים בבנייני המגורים כפי שהוגדרו בהסכם ניהול הנכס) הכוללים בין היתר התקשרות בהסכמים (לרבות הסכמי שכירות), ניהול מערך הסכמי השכירות ביחידות הדיור, תחזוקת יחידות הדיור וכיוצ"ב (להלן: "שירותי הניהול"). תמורת שירותי הניהול יהא הרוכש זכאי לתשלום חודשי המהווה שיעור 4% מהכנסות השכירות הנובעות מיחידות הדיור.

הרוכש יביא לאישור החברה והשותף תקציב שנתי, המפרט את הוצאות השוטפות וההוניות שיש לבצע באותה שנה בקשר עם יחידות הדיור.

הסכם ניהול הנכס ייכנס לתוקף בסמוך לפני קבלת תעודת אכלוס לקומות המגורים הראשונות בפרויקט. תקופת ההסכם אינה מוגבלת בזמן, ולצדדים זכות להביאו לסיום מוקדם, בין היתר, במקרים שלהלן: 1. הפרת הסכם ניהול הנכס מעבר לתקופת הרפיון הקבועה בהסכם ניהול הנכס; 2. כניסה להליכי כינוס נכסים או פשיטת רגל; 3. ביצוע מעשה מרמה, גניבה, רשלנות רבתי וכיוצ"ב על ידי הרוכש (בכפוף לתקופת רפיון כפי שהוגדרה בהסכם ניהול הנכס); 4. המחאת זכויות הרוכש על פי הסכם הניהול הנכס, פרט לנעבר מורשה, ללא הסכמת החברה והשותף; 5. אי רכישת חלקו של הרוכש ביחידות הדיור במועד ההשלמה הרלוונטי (החרגה חלקית מהסכם ניהול הנכס של יחידות הדיור שלא נרכשו על ידו); ו- 6. העברת יחידות הדיור (כולן או חלקן) על ידי מי מהצדדים להסכם ניהול הנכס (ביחס לחלק המועבר).

בהסכם המכירה נקבע כי קבלת החלטות בקשר לנושאים המפורטים שלהלן, בין היתר, תתקבלנה פה אחד בועדת הנהלה אשר תמונה במועד ההתקשרות בהסכם המכירה ותורכב מנציג של החברה, השותף והרוכש (קרי, שלושה נציגים בסך הכל): 1. שינויים או תיקונים הנוגעים לזהות הקבלן המבצע, מנהל הבניה או ארכיטקט של בנייני המגורים, לתכניות הבניה ומתן השירותים של בנייני המגורים; 2. קבלת מימון ביחס לפרויקט, שאינו שעבוד לטובת ההלוואה להקמת הפרויקט; 3. שינוי בהגבלת האכלוס בקשר עם בנייני המגורים; 4. העברת זכויות ביחידות הדיור בפרויקט ובזכויות הצמודות להן, פרט להעברות לנעברים מורשים בהתאם להסכם המכירה; 5. קביעת תקציב שנתי; 6. הוצאות העולות על סך של 10 אלפי דולר, שלא בקשר עם הקמת בנייני המגורים; 7. שינוי נוסח הסכם השותפות.

החברה והשותף הסכימו בעל פה כי מנגנון קבלת החלטות בהתאם להסכם השותפות (המפורט לעיל) יחול קודם לקבלת החלטה בהתאם להסכם המכירה. קרי, במידה והחלטה נדרשת לאישור פה אחד הן בהתאם להסכם השותפות והן בהתאם להסכם המכירה, ההחלטה כאמור תובא לאישור של השותף והחברה בהתאם להסכם השותפות, ולאחריה תאושר בועדת הנהלה כמפורט בהסכם המכירה (קרי, בהחלטה פה אחד של החברה, השותף והרוכש).

## UrbanCorp Inc.

## ביאורים לדוחות הכספיים התמציתיים פרופורמה

ביאור 8 - אירועים משמעותיים לאחר תאריך המאזן

## א. (המשך)

בסמוך לאחר מועד העברת הבעלות הראשון מכח הסכם המכירה, לפי העניין, יחתמו הצדדים על הסכם שותפות בקשר עם יחידות הדיור (להלן: "הסכם השותפות העתידי"), כאשר עד לאותו המועד ימשיכו החברה והשותף לנהל את יחידות הדיור, כפי שיוסכם על ידם. בהסכם השותפות העתידי נקבע כי קבלת החלטות בקשר לנושאים המפורטים שלהלן, בין היתר, תתקבלנה פה אחד בועדת הנהלה שתוקם מכח הסכם השותפות העתידי ותרכב מנציג של החברה, השותף והרוכש (קרי, שלושה נציגים בסך הכל): 1. רכישת נכסים נוספים; 2. דיספוזיציה או שעבוד של יחידות הדיור; 3. התקשרות בהסכמי מימון; 4. אישור שינוי מבני מהותי לבניינים; 5. קביעת תקציב שנתו; 6. שינוי נוסח הסכם השותפות העתידי.

מסגרת הסכם השותפות העתידי, נקבע כי חלוקת הרווחים מתוך תזרים המזומנים השוטף של הפרויקט תבוצע בחלקים שווים לחברה, השותף והרוכש.

ב. ביום 13 באוגוסט העמדה לחברה מוחזקת בשליטה משותפת מסגרת הלוואה של 225 מיליוני דולר קנדי מידי קבוצת מלווים. ההלוואה כאמור נלקחה על מנת לממן את בניית פרויקט Kingsclub (וכן לפרוע הלוואה קיימת בקשר עם הנכס בסך של 25 מיליוני דולר קנדי). ההלוואה כפופה לעמידה באמות מידה פיננסיות של התאגיד הערב (השותף FCR).

ג. ביום 11 באוגוסט 2015 התקשרה חברת הנכס המחזיקה בנכס הידוע כ Queen 952 בהסכם מותנה עם צד שלישי, שאינו קשור לחברה, למכירת הפרויקט (לרבות חלקו המניב והיזמי) בתמורה לסך של 14,500 אלפי דולר קנדי. השלמת העסקה בוצעה ביום 20 באוקטובר 2015.

ד. ביום 22 ביוני, 2015 התקשרה החברה בהסכם עם צד שלישי, שאינו קשור לחברה, אשר מחזיק ב-33.33% בפרויקט מעורב, הכולל חלק מניב, חלק יזמי ומערכת גיאותרמית, הידוע בשם Edge (להלן – "Edge"). במסגרת ההסכם, חולקו יתרת הנכסים ב-Edge, כך שהחברה תחזיק 100% מהנכס הגיאותרמי, ב-53 יחידות דיור, בשטח המסחרי ובשטחי משרדים. במקביל לעסקה זו, התקשרו בעלי השליטה בעסקה עם אותו צד שלישי לחלוקת פרויקט נוסף בין הצדדים. ההפרש בין שוויים ההוגן של נכסי והתחייבויות שניתנו והתקבלו מהפרויקטים כאמור, בהתאמה, נזקף להון כתרומת בעלים. ביום 6 ביולי, 2015 הושלמה העסקה.

להלן השווי ההוגן למועד הרכישה של התמורה שהועברה:

אלפי דולר קנדי	
(בלתי מבוקר)	
-	מזומן
4,337	העברת יחידות דיור, מקומות חניה ומחסנים
3,398	תמורה ששולמה באמצעות העברת נכסים בבעלות בעל השליטה
7,735	סה"כ תמורה שהועברה
16,227	השווי ההוגן של ההשקעה בפעילות המשותפת, שהייתה קיימת טרם צירוף העסקים
23,962	סה"כ

החברה הכירה ברווח בסך כ-6,138 אלפי דולר קנדי כתוצאה ממדידה בשווי הוגן של זכויותיה בשיעור 66.67% בפעילות משותפת Edge שהוחזקו לפני צירוף העסקים. הרווח נכלל בסעיף רווח מהשגת שליטה בפעילות משותפת ברווח או הפסד לתקופות של שלושה ותשעה חודשים שהסתיימו ביום 30 בספטמבר 2015.

## קביעת שווי הוגן באופן ארעי

הטיפול החשבונאי הראשוני ברכישת החזקות החברה ב-Edge, כמוצג בדוחות כספיים אלה הינו ארעי. עד לפרסום הדוחות הכספיים, טרם השלימה החברה את הקצאת עלות הרכישה לנכסים, להתחייבויות ולהתחייבויות התלויות של Edge.



**UrbanCorp Inc.****ביאורים לדוחות הכספיים התמציתיים פרופורמה**

ביאור 8 - אירועים משמעותיים לאחר תאריך המאזן

ד. (המשך)

הסכומים שהוכרו במועד הרכישה בגין נכסים והתחייבויות של Edge:

אלפי דולר קנדי <u>(בלתי מבוקר)</u>	
27,995	נדל"ן להשקעה
877	מלאי
3,930	מוניטין
19,430	רכוש קבוע
10,251	נכסים אחרים
(4,357)	התחייבויות מסים נדחים
<u>(34,164)</u>	התחייבויות אחרות
<u>23,932</u>	סה"כ נכסים בטו ניתנים לזיהוי

**מוניטין**

כאמור לעיל, במסגרת רכישת Edge, נוצר לחברה מוניטין בסך של כ- 3,930 אלפי דולר קנדי. לאור העובדה שאין ביכולתה של החברה להצדיק את המוניטין, הפחיתה אותו החברה כנגד הקטנת הרווח מהשגת שליטה בפעילות משותפת.

English Translation of the Financial Statements included in the  
original Hebrew version of the Prospectus

**URBANCORP INC.****CONDENSED INTERIM PRO FORMA CONSOLIDATED****FINANCIAL STATEMENTS AS OF SEPTEMBER 30, 2015****UNAUDITED****INDEX**

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**CONDENSED INTERIM PRO FORMA CONSOLIDATED  
STATEMENTS OF FINANCIAL POSITION**

	September 30,		December 31,
	2015	2014	2014
	Unaudited		Audited
	CAD in thousands		
<b>ASSETS</b>			
<b>CURRENT ASSETS:</b>			
Cash and cash equivalents	381	733	592
Restricted and earmarked deposits	2,326	3,541	3,901
Other accounts receivable	16,260	8,785	9,307
Trade receivables - condominium buyers	2,620	6,878	43,523
Customer deposits held in trust	8,554	6,282	7,160
Inventories of buildings for sale	96,954	159,911	107,133
Related parties	8,000	-	*) -
Assets held for sale	13,716	-	-
	<u>148,811</u>	<u>186,130</u>	<u>171,616</u>
<b>NON-CURRENT ASSETS:</b>			
Investment property under construction	62,110	45,529	50,802
Investment property	33,601	8,404	8,871
Real estate inventories	16,838	13,899	34,354
Property, plant and equipment	62,073	48,924	48,778
Long-term receivables	1,551	4,715	3,623
Goodwill	1,961	1,961	1,961
	<u>178,135</u>	<u>123,432</u>	<u>148,389</u>
	<u>326,946</u>	<u>309,562</u>	<u>320,005</u>
<b>LIABILITIES AND EQUITY</b>			
<b>CURRENT LIABILITIES:</b>			
Loans from financial corporations and others	147,023	165,996	174,020
Trade payables, contractors and service providers	47,688	23,728	30,231
Advances from condominium buyers	26,062	30,944	29,533
Other accounts payable	853	1,162	1,398
	<u>220,326</u>	<u>221,830</u>	<u>235,182</u>
<b>NON-CURRENT LIABILITIES:</b>			
Loans from financial corporations and others	3,599	2,535	2,523
Deferred tax liabilities	20,908	19,324	17,698
	<u>24,507</u>	<u>21,859</u>	<u>20,221</u>
<b>EQUITY ATTRIBUTABLE TO EQUITY HOLDERS OF THE COMPANY:</b>			
Owners' contributions, net	63,826	57,361	*) (55,092)
Capital reserve for revaluation of property, plant and equipment net of tax	22,069	20,564	20,449
Accumulated deficit	(5,082)	(12,052)	(10,939)
Total equity	<u>80,813</u>	<u>65,873</u>	*) <u>64,602</u>
	<u>326,946</u>	<u>309,562</u>	<u>320,005</u>

\*) Retroactive adjustment following change in pro forma assumptions.

November 29, 2015

Date of approval of  
the financial statements

Mr. Alan Saskin  
CEO and Chairman

Mr. Philip Gales  
Deputy CEO, Finance

**CONDENSED INTERIM PRO FORMA CONSOLIDATED  
STATEMENTS OF PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME**

	Nine months ended September 30,		Three months ended September 30,		Year ended December 31,
	2015	2014	2015	2014	2014
	Unaudited				Audited
	CAD in thousands				
Revenues from sale of condominiums and retail space	46,475	11,971	2,217	7,083	56,693
Revenues from rent and management of properties	2,900	901	386	304	1,557
Revenues from operating geothermal units	1,085	294	355	95	703
	<u>50,460</u>	<u>13,166</u>	<u>2,958</u>	<u>7,482</u>	<u>58,953</u>
Cost of condominiums and retail space sold	(43,405)	(9,222)	(3,601)	(5,368)	(50,711)
Cost of rent and management of properties	(1,513)	(956)	(277)	(66)	(1,347)
Operating cost of geothermal units	(653)	(455)	(321)	(183)	(577)
	<u>(45,571)</u>	<u>(10,633)</u>	<u>(4,199)</u>	<u>(5,617)</u>	<u>(52,635)</u>
Gross profit (loss)	<u>4,889</u>	<u>2,533</u>	<u>(1,241)</u>	<u>1,865</u>	<u>6,318</u>
Selling and marketing expenses	(4,148)	(2,479)	(178)	(1,515)	(4,775)
General and administrative expenses	(533)	(925)	(107)	(239)	(1,351)
Fair value gain (loss) of investment property, net	(1,156)	755	(768)	(3,248)	1,586
Other income, net	3,708	152	2,293	152	69
Operating income (loss)	<u>2,760</u>	<u>36</u>	<u>(1)</u>	<u>(2,985)</u>	<u>1,847</u>
Finance income	923	418	49	29	380
Finance expenses	(1,287)	(529)	(334)	(91)	(788)
Finance income (expenses), net	<u>(364)</u>	<u>(111)</u>	<u>(285)</u>	<u>(62)</u>	<u>(408)</u>
Income (loss) for the period before income tax	2,396	(75)	(286)	(3,047)	1,439
Income tax expense (income)	(634)	20	76	807	(381)
Total income (loss)	<u>1,762</u>	<u>(55)</u>	<u>(210)</u>	<u>(2,240)</u>	<u>1,058</u>
Other comprehensive income:					
Items of other comprehensive income that will not be reclassified subsequently to profit or loss:					
Gain (loss) from revaluation of property, plant and equipment net of tax	5,715	7,165	5,508	(120)	7,050
Total other comprehensive income (loss) for the period	<u>5,715</u>	<u>7,165</u>	<u>5,508</u>	<u>(120)</u>	<u>7,050</u>
Total comprehensive income (loss) for the period	<u>7,477</u>	<u>7,110</u>	<u>5,298</u>	<u>(2,360)</u>	<u>8,108</u>

**CONDENSED INTERIM PRO FORMA CONSOLIDATED  
STATEMENTS OF CHANGES IN EQUITY**

	Owners' contributions, net	Capital reserve for revaluation of property, plant and equipment net of tax	Accumulated deficit	Total
	CAD in thousands			
Balance at January 1, 2015 (audited)	*) 55,092	20,449	(10,939)	*) 64,602
Income	-	-	1,762	1,762
Other comprehensive income	-	5,715		5,715
Transfer to revaluation reserve of property, plant and equipment		(4,095)	4,095	-
Contributions	19,929	-	-	19,929
Withdrawals	(11,195)	-	-	(11,195)
Balance at September 30, 2015 (unaudited)	<u>63,826</u>	<u>22,069</u>	<u>(5,082)</u>	<u>80,813</u>
Balance at January 1, 2014 (audited)	55,984	13,399	(11,997)	57,386
Loss	-	-	(55)	(55)
Other comprehensive income	-	7,165	-	7,165
Contributions	15,675	-	-	15,675
Withdrawals	(14,298)	-	-	(14,298)
Balance at September 30, 2014 (unaudited)	<u>57,361</u>	<u>20,564</u>	<u>(12,052)</u>	<u>65,873</u>
Balance at January 1, 2014 (audited)	55,984	13,399	(11,997)	57,386
Income	-	-	1,058	1,058
Other comprehensive income	-	7,050	-	7,050
Contributions	*) 17,876	-	-	*) 17,876
Withdrawals	(18,768)	-	-	(18,768)
Balance at December 31, 2014 (audited)	<u>55,092</u>	<u>20,449</u>	<u>(10,939)</u>	<u>64,602</u>

\*) Retroactive adjustment following change in pro forma assumptions.

**CONDENSED INTERIM PRO FORMA CONSOLIDATED  
STATEMENTS OF CHANGES IN EQUITY**

	Owners' contributions, net	Capital reserve for revaluation of property, plant and equipment net of tax	Accumulated deficit	Total
	CAD in thousands			
Balance at July 1, 2015 (unaudited)	60,810	20,656	(8,967)	72,499
Loss	-	-	(210)	(210)
Other comprehensive income	-	5,508	-	5,508
Transfer to revaluation reserve of property, plant and equipment	-	(4,095)	4,095	-
Contributions	7,846	-	-	7,846
Withdrawals	(4,830)	-	-	(4,830)
Balance at September 30, 2015 (unaudited)	<u>63,826</u>	<u>22,069</u>	<u>(5,082)</u>	<u>80,813</u>
Balance at July 1, 2014 (unaudited)	53,014	20,684	(9,812)	63,886
Loss	-	-	(2,240)	(2,240)
Other comprehensive loss	-	(120)	-	(120)
Contributions	5,926	-	-	5,926
Withdrawals	(1,579)	-	-	(1,579)
Balance at September 30, 2014 (unaudited)	<u>57,361</u>	<u>20,564</u>	<u>(12,052)</u>	<u>65,873</u>

**CONDENSED INTERIM PRO FORMA CONSOLIDATED  
STATEMENTS OF CASH FLOWS**

	Nine months ended September 30,		Three months ended September 30,		Year ended December 31,
	2015	2014	2015	2014	2014
	Unaudited				Audited
	CAD in thousands				
<u>Cash flows from operating activities:</u>					
Income (loss) for the period	1,762	(55)	(210)	(2,240)	1,058
Adjustments to reconcile income (loss) to net cash provided by (used in) operating activities:					
Depreciation and amortization	1,630	1,955	632	482	2,414
Finance expenses, net	364	111	285	62	409
Income tax expense (income)	634	(20)	(421)	(807)	381
Fair value gain (loss) of investment property, net	1,156	(755)	768	3,248	(1,586)
Other income, net	(3,708)	(152)	(2,293)	(152)	(69)
Change in asset and liability items:					
Decrease (increase) in other accounts receivable	(2,054)	525	(1,956)	2,887	(1,258)
Decrease (increase) in trade receivables - condominium buyers	43,288	38,185	4,550	(8,610)	4,075
Decrease (increase) in inventories of buildings for sale	31,631	(46,425)	(2,635)	(34,419)	6,137
Decrease (increase) in real estate inventories	844	507	2,714	1,671	(14,017)
Increase (decrease) in trade and other accounts payable	6,653	(8,099)	(1,321)	(2,839)	(599)
Increase (decrease) in advances from condominium buyers	(3,906)	3,193	2,478	1,447	1,768
Net cash provided by (used in) operating activities	78,294	(11,030)	2,591	(39,270)	(1,287)
<u>Cash flows from investing activities:</u>					
Interest received	923	418	49	29	380
Change in customer deposits held in trust	(1,331)	1,269	(292)	(588)	396
Change in restricted and earmarked deposits	2,458	2,437	604	398	2,076
Construction of investment property	(12,706)	(11,704)	(6,164)	(6,109)	(11,888)
Cash inflow from business combination	86	-	86	-	-
Investment in property, plant and equipment	(673)	(3,471)	(15)	(584)	(3,934)
Net cash used in investing activities	(11,243)	(11,051)	(5,732)	(6,854)	(12,970)
<u>Cash flows from financing activities:</u>					
Interest paid	(11,702)	(8,032)	(5,278)	(3,257)	(13,030)
Receipt of loans from financial corporations and others	33,528	126,435	12,909	98,084	80,097
Repayment of loans from financial corporations and others	(79,351)	(103,325)	(264)	(56,718)	(55,967)
Distributions to equity holders of the Company	(11,196)	(3,799)	(4,993)	(1,579)	(7,598)
Contributions by equity holders of the Company	1,459	11,086	833	7,634	10,898
Net cash provided by (used in) financing activities	(67,262)	22,365	3,207	44,164	14,400
Change in cash and cash equivalents	(211)	284	66	(1,960)	143
Cash and cash equivalents at the beginning of the period	592	449	315	2,693	449
Cash and cash equivalents at the end of the period	381	733	381	733	592



**CONDENSED INTERIM PRO FORMA CONSOLIDATED  
STATEMENTS OF CASH FLOWS**

	Nine months ended September 30,		Three months ended September 30,		Year ended December 31,
	2015	2014	2015	2014	2014
	Unaudited				Audited
	CAD in thousands				
<u>Appendix A - non-cash transactions:</u>					
Balances with related parties	8,000	-	-	-	*) -
Repayment of credit and loans by controlling shareholder	-	6,678	-	-	6,678
Purchase of investment property through seller's credit	2,800	-	-	-	572

\*) Retroactive adjustment following change in pro forma assumptions.

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**TAB B**

**PROOF OF CLAIM FORM FOR CLAIMS AGAINST  
THE CCAA ENTITIES<sup>1</sup>**

**1. Name of CCAA Entity or Entities (the "Debtor"):**

Debtor: TCC/URBAN CORP (BAY) LIMITED PARTNERSHIP

**2(a) Original Claimant (the "Claimant")**

Legal Name of Claimant URBAN CORP INC.  
 Address c/o GISSIN LAW  
38B HARARZEL ST.  
 City TEL AVIV Prov ISRAEL  
 Postal/Zip Code 69710

Name of Contact GUY GISSIN  
 Title COURT-APPOINTED FUNCTIONARY  
 Phone # +972-3-7467777  
 Fax # +972-3-7467700  
 email GUY@GISSINLAW.CO.IL

**2(b) Assignee, if claim has been assigned**

Legal Name of Assignee N/A  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ Prov /State \_\_\_\_\_  
 Postal/Zip Code \_\_\_\_\_

Name of Contact \_\_\_\_\_  
 Phone # \_\_\_\_\_  
 Fax # \_\_\_\_\_  
 email: \_\_\_\_\_

**3. Amount of Claim**

The Debtor was and still is indebted to the Claimant as follows:

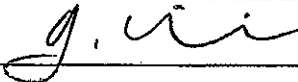
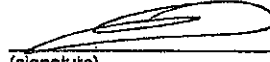
Currency	Amount of Claim	Unsecured Claim	Secured Claim
<u>CAD</u>	<u>\$6,051,485.96</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

<sup>1</sup> Urbancorp (Woodbine) Inc., Urbancorp (Bridlepath) Inc., The Townhouses of Hogg's Hollow Inc., King Towns Inc., New Towns at King Towns Inc., DEAJA Partner (Bay) Inc. and TCC/Urbancorp (Bay) Limited Partnership (collectively, the "CCAA Entities").

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**4. Documentation**

Provide all particulars of the Claim and supporting documentation, including amount, and description of transaction(s) or agreement(s), or legal breach(es) giving rise to the Claim, including any claims assignment/transfer agreement or similar document, if applicable, and amount of invoices, particulars of all credits, discounts, etc. claimed, description of the security, if any, granted by the affected Debtor to the Claimant and estimated value of such security.

<b>5. Certification</b>	
I hereby certify that:	
<ol style="list-style-type: none"> <li>1. I am the Claimant or authorized representative of the Claimant.</li> <li>2. I have knowledge of all the circumstances connected with this Claim.</li> <li>3. The Claimant asserts this Claim against the Debtor as set out above.</li> <li>4. Complete documentation in support of this claim is attached.</li> </ol>	
Signature: <u></u>	Witness: <u>Yael Hershkovitz</u>
Name: <u>GUY GISSIN</u>	<u></u> (signature)
Title: <u>COURT-APPOINTED FUNCTIONARY</u>	<u>Yael HERSHKOVITZ</u> (print)
Dated at <u>TEL AVIV</u> this <u>8</u> day of <u>NOVEMBER</u> , 2016	

**6. Filing of Claim**

This Proof of Claim must be received by the Monitor on or before 5:00 p.m. (Toronto time) on November 23, 2016 (or within thirty (30) days after the date on which the Monitor had sent you a Claims Package with respect to a Restructuring Period Claim) by prepaid ordinary mail, registered mail, courier, personal delivery or electronic transmission at the following address:

KSV Kofman Inc.  
150 King Street West  
Suite 2308  
Toronto, ON M5H 1J9

Attention: Noah Goldstein  
Email: [ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)  
Fax: 416.932.6266

For more information see <http://www.ksvadvisory.com/insolvency-cases/urbancorp-group/>, or contact the Monitor by telephone (416.932.6207)

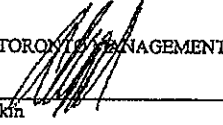
ASSIGNMENT

TO: URBANCORP INC.

WE HEREBY ASSIGN TO URBANCORP INC. all of our right, title and interest in a \$6,000,000 Promissory Note dated the 11<sup>th</sup> day of December, 2015, a copy of which is attached hereto, outstanding to us from TFCC/Urbancorp (Bay) Limited Partnership.

DATED at Toronto, this 11<sup>th</sup> day of December, 2015.

URBANCORP TORONTO MANAGEMENT INC.

Per:   
Alan Saskin  
President

I have the authority to bind the Corporation

ACU115018Assignment of promissory note from tfcc to urbancorp inc.docx

## PROMISSORY NOTE

CANADIAN \$6,000,000  
Toronto, Ontario

DUE: On Demand  
Date: December 11<sup>th</sup>, 2015

FOR VALUE RECEIVED, the undersigned TCC/URBANCORP (BAY) LIMITED PARTNERSHIP (the "Borrower"), hereby promises to pay to the order URBANCORP TORONTO MANAGEMENT INC. (the "Holder"), which term shall include its successors and assigns at 120 Lynn Williams Street, Suite 2A Toronto, Ontario, M6K 3P6 or at such other place as the Holder may from time to time in writing designate, in lawful money of Canada, the principal sum of Six Million (\$6,000,000) Dollars or so much thereof as may be outstanding from time to time (hereinafter referred to as the "Principal Balance"), together with interest thereon at the rate of One (1%) per annum, which interest shall be calculated daily and compounded monthly as hereinafter set forth, as well after as before demand or maturity and both before and after default and judgment as follows:

Interest calculated daily not in advance at the aforesaid rate on the amount outstanding from time to time shall become due and be payable monthly on the 1st day of January in each and every year commencing on the 1st day of January, 2017. The first payment of interest is to be computed from the 11th day of December, 2015 on the amount outstanding from time to time, to become due and payable on the 1st day of January, 2017.

Provided this Promissory Note may be repaid in whole without bonus or penalty upon ten days prior written notice.

If this Promissory Note is placed in the hands of a solicitor for collection or if collected through any legal proceeding, the Borrower promises to pay all costs of collection including the Holder's solicitors' fees and Court costs as between a solicitor and his own client.

All payments to be made by the Borrower pursuant to this Promissory Note are to be made in freely transferable, immediately available funds and without set-off, withholding or deduction of any kind whatsoever except to the extent required by applicable law and, if any such set-off, withholding or deduction is so required and is made, the Borrower will, as a separate and independent obligation to the Holder, be obligated to pay to the Holder all such additional amounts as may be required to fully indemnify and save harmless the Holder from such set-off, withholding or deduction and as will result in the effective receipt by the Holder of all the amounts otherwise payable in accordance with the terms of this Promissory Note.


The undersigned and all persons liable or to become liable on this Promissory Note waive presentment, protest and demand, notice of protest, demand and dishonour and non-payment of this Promissory Note, and consent to any and all renewals and extensions in the time of payment hereof, and agree further that, at any time and from time to time without notice, the terms of payment herein may be modified, without affecting the liability of any party to this instrument or any person liable or to become liable with respect to any indebtedness evidenced hereby.

Time is of the essence hereof.

This Promissory Note shall be governed by the laws of the Province of Ontario and shall not be changed, modified, discharged or cancelled orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors and assigns and the provisions hereof shall bind and enure to the benefit of their respective heirs, executors, administrators, successors and assigns forever.

This Promissory Note is in substitution for a portion of a Promissory Note in the amount of \$8,000,000 between the Borrower and Holder dated the 11<sup>th</sup> day of December, 2015.

TCC/URBANCORP (BAY) LIMITED  
PARTNERSHIP by its General Partner DEAJA  
PARTNER (BAY) INC.

Per:   
Alan Maslin  
President

I have the authority to bind the Corporation

**TAB C**

CITATION: Re Urbancorp, 2017 ONSC 2900  
COURT FILE NO.: CV-16-11549-00CL  
DATE: 20170511

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

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c.  
C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
URBANCORP (WOODBINE) INC. AND URBANCORP (BRIDLEPATH) INC., THE  
TOWNHOUSES OF HOGG'S HOLLOW INC., KING TOWNS INC., NEWTOWNS AT  
KINGTOWNS INC. AND DEAJA PARTNER (BAY) INC. (COLLECTIVELY, THE  
"APPLICANTS")

AND IN THE MATTER OF TCC/URBANCORP (BAY) LIMITED PARTNERSHIP

**BEFORE:** Newbould J.

**COUNSEL:** *Neil S. Rabinovitch and Kenneth Kraft*, for Guy Gissin, the Israeli Functionary of  
Urbancorp Inc.

*Robin B. Schwill*, for the Monitor

*David Preger*, for Downing Street Financial

*Adam M. Slavens*, for Tarion Warranty Corporation

*Lori Goldberg*, for Fuller Landau, the Receiver of Alan Saskin

**HEARD:** May 2, 2017

**ENDORSEMENT**

[1] Guy Gissin, the Israeli Functionary of Urbancorp Inc. ("UCI") and recognized in this proceeding as the Foreign Representative, moves to set aside the disallowance of a claim made by UCI in the claims process on a promissory note of \$6 million issue by Bay LP, an Urbancorp entity, to Urbancorp Toronto Management Inc. ("UTMI") and assigned by UTMI to UCI. Mr.



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Gissin also moves for a declaration confirming the validity of a companion \$2 million note issued by Bay LP to UTMI and assigned to Urbancorp Realtyco Inc. ("Realtyco"), a subsidiary of UCI.

[2] These notes were issued in connection with management fees to be paid by Bay LP to UTMI and they replaced an earlier \$8 million note of Bay LP to UTMI. The relevant events are contained in the Monitor's sixth report, as follows.

[3] The management fee relates to a fee charged by UTMI to Bay LP in respect of the sale of Bay LP's 49% interest (the "Sale") in Downsview Homes Inc. ("Downsview Homes") to Mattamy Homes. A history of Downsview Homes, the Sale, the management fee and the promissory notes, is as follows:

- June 28, 2011 – Downsview Homes, a nominee for Downsview Park, which was the nominee for Bay LP, entered into agreements (the "Purchase Agreements") for the purchase of lands (the "Lands") from Parc Downsview Park Inc. ("PDP"). The Purchase Agreements were to close upon the rezoning of the Lands. The date for the closing was unknown at the time of entering into the Purchase Agreements.
- June 10, 2013 – A consulting agreement (the "Original Fee Agreement") was entered into among Bay LP, Downsview Park and UTMI. The Original Fee Agreement provided, inter alia, that Bay LP would pay UTMI a \$9.8 million fee if Bay LP successfully completed the Sale for an amount in excess of \$18 million. The fee would become payable upon an invoice being rendered by UTMI to Bay LP, which UTMI agreed would not be rendered prior to the closing of the Purchase Agreements with PDP. At the date of the Original Fee Agreement, the date of the final closings for the Purchase Agreements was unknown. The final closings, as it turned out, occurred on June 4, 2015.
- July 30, 2013 – Bay LP completed the Sale of its 49% interest to Mattamy Homes for an amount in excess of \$21 million. From the proceeds of the sale price, UTMI received approximately \$14.5 million in two separate payments (\$6.8 million and \$7.7 million).
- December 15, 2014 – An \$8 million promissory note (the "Original Promissory Note"), dated December 15, 2014 was issued by Bay LP in favour of UTMI. The debt supporting the Original Promissory Note was the unbilled balance of the fee relating to the Original Fee Agreement (i.e. \$9.8 million less \$1.8 million fee accrued in 2013). The payment terms of the Original Promissory Note differ from the payment terms of the Original Fee Agreement; the Original Promissory Note was "Due on Demand", whereas the Original Fee Agreement specifies the fee

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would be due upon the rendering of an invoice by UTMI to Bay LP, which would not be rendered prior to the final closing of the Purchase Agreements.

- June 1, 2015 – An amending agreement (the “Amended Fee Agreement”) was entered into among Bay LP, Downsview Park and UTMI. The Amended Fee Agreement reduced the fee earned on the Sale by \$3.0 million to \$6.8 million. The Amended Fee Agreement also changed the date on which the fee is to be due and payable to the date of the first advance from bcIMC Mortgage Fund (“bcIMC”) of the construction financing for the Downsview Park project. The first funding from bcIMC, although not known at the time of the Amended Fee Agreement, occurred in 2016. The financing facility provided by bcIMC closed on July 21, 2016.

- December 11, 2015 – The \$8 million Original Promissory Note was replaced by a \$6 million promissory note (the “\$6 Million Promissory Note”) and a \$2 million promissory note (the “\$2 Million Promissory Note”) (collectively the “Substituted Promissory Notes”). The Substituted Promissory Notes make reference to the Original Promissory Note (although the Substituted Promissory Notes state the Original Promissory Note had been issued on December 11, 2015 rather than December 15, 2014). The terms of the Substituted Promissory Notes appear to be the same as the Original Promissory Note except that the Substituted Promissory Notes bear interest (at 1%), whereas the Original Promissory Note stated there is no interest. The \$6 Million Promissory Note and the \$2 Million Promissory Note were assigned by UTMI on December 11, 2015 to UCI and Urbancorp Management Inc. (“UMI”), respectively; on the same day, UMI assigned the \$2 Million Promissory Note to Realtyco.

[4] UCI was incorporated to raise money in the Israeli bond market which it did in December 2015 by raising \$64 million through a public bond issuance on the Tel Aviv Stock Exchange. UCI was required as a condition of the bonds to transfer assets from Urbancorp to UCI to support UCI’s ability to pay the bonds. A number of Urbancorp entities were transferred into UCI. As well, Mr. Saskin, the owner of the various Urbancorp entities, agreed to assign to UCI \$8 million of obligations described as loan obligations. The prospectus reflected this condition as follows:

“The Rights Holders [Mr. Saskin and his family] have committed that, prior to the listing for trading [of the bonds]...they would transfer to [UCI] their rights ... in the transferred entities which indirectly hold rights to rental investment property....and would assign [UCI] their right to the repayment of loans held be [sic] them, which amounts to CAD 8,000 thousand (hereinafter together “the Transferred Rights”)...

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[5] As part of the Bond Issuance, interim pro forma consolidated financial statements of UCI as of June 30, 2015 were prepared by Brightman Almagor Zohar & Co. ("Deloitte Israel"). These unaudited interim pro forma consolidated financial statements as at June 30, 2015 and as at September 30, 2015 indicated that UCI had a current asset of \$8 million in respect of "related parties". The notes to the financial statement referred to an assignment to UCI of the right to receive loans from entities owned by Mr. Saskin and his family.

[6] Mr. Saskin was examined by counsel for the Foreign Representative. In answers to very leading questions he said that the reference in the prospectus to the right to repayment of \$8 million in loans and the reference in the pro forma unaudited statements to the current asset in respect of related parties were to the \$8 million promissory note. I find it difficult to understand why a promissory note issued in respect of obligations under the Original Fee Agreement for management fees, as acknowledged by the Foreign Representative in its factum, would be referred to as a right to repayment of loans. There is no evidence the promissory note had anything to do with loans. I do not put any reliance on the assertions of Mr. Saskin who has no real recollection of the \$8 million note or its purpose.

[7] The Foreign Representative takes the position that UCI, as an assignee from UTMI, is a good faith holder in due course of the \$6 million note free of any defect of title and personal defences between the prior parties to the note. It also says that UCI gave value for the assignment of the note to it by issuing special shares of UCI to Urbancorp Holdco, wholly owned by Mr. Saskin.

[8] The position of the Monitor and its reason for disallowing the claim of UCI on the \$6 million promissory note is that the original \$8 million note was issued by Bay LP in favour of UTMI as evidence of the principal payment obligation under the Original Fee Agreement and was not an obligation of Bay LP independent of the obligation under the Original Fee Agreement. By the time the substituted \$6 million note was issued, Bay LP did not owe UTMI anything and UTMI owed Bay LP \$527,655. This argument is based on the accounting records of Bay LP and UTMI. The Monitor also says that that UTMI provided no new consideration to Bay LP in exchange for the issuance of the \$6 million note.

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### Analysis

[9] A promissory note is not always a promise separate from an underlying transaction. In Benjamin Geva, *Vol II, Negotiable Instruments and Banking* Toronto: Emond Montgomery Publications Ltd, 1995 it is stated at page 90:

Sometimes, an instrument is taken by a creditor from his debtor merely to evidence the debtor's undertaking under the basic transaction (e.g., sale of goods, loan of money). In such a case, as between the debtor and creditor, the instrument itself does not give rise to any liability on the debtor's part. The basic transaction remains the only effective source of the debtor's liability. The debt is neither discharged nor suspended by the giving of the instrument. The instrument is only intended to serve as evidence of the indebtedness.

Normally, however, an instrument is given by a debtor to his creditor either as collateral security to, or by way of payment of, the indebtedness arising from the basic transaction. There is moreover a presumption in favour of payment.

[10] What was the purpose of the original \$8 million promissory note? It was signed by Mr. Saskin. On his cross-examination, he said he did not know what the purpose of the note was. He said it was likely made on accounting and legal advice, but even on that he was guessing. There is no evidence from any accountant or legal advisor about the purpose of the note.

[11] Mr. Cole of MNP, the accountant for Urbancorp, was asked what the reason was for the original \$8 million note being split into two notes, one for \$6 million and one for \$2 million. He said that the original note was split into two for tax purposes to avoid a capital gain on the transfer of certain assets to UCI subsidiaries. What those certain assets were was not said. He was asked why the replacement notes provided for 1% interest when the original provided for no interest, and his response was that he did not know. This information was not sworn but contained in answer to questions posed by counsel for the Foreign Representative.

[12] I cannot find that the \$6 million note or the \$2 million note were independent obligations regardless of whether the management fees were paid. The best that can be made on the record before me is that they were issued for tax purposes.

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[13] So far as the original \$8 million note dated December 15, 2014 is concerned, it represented the balance at that time of the management fees of \$9.8 million to be paid under the Original Fee Agreement which had been reduced by the payment of \$1.8 million which was paid not by cash but by off-setting entries in the Bay LP and UTMI intercompany accounts. It had nothing to do with any outstanding loans owed by Bay LP to UTMI.

[14] The form of the \$8 million promissory note bears all of the hallmarks of a note given by a debtor to an independent holder. For example, it provides that if the note is put in the hands of a solicitor for collection the borrower shall pay all costs as between a solicitor and his own client. The note was signed by Mr. Saskin. It was in favour of UTMI. Mr. Saskin controlled both companies and the notion that he would retain a lawyer for his company UTMI to go after his company Bay LP is fanciful. There is no evidence of any intent at the time for UTMI to assign the note to any independent party who might wish to rely on such clauses.

[15] Moreover, Bay LP was not a borrower at all but had a potential liability for management fees in the future if Bay LP was successful in selling its 49% interest in two agreements to acquire property. The amount of management fees depended on the amount received by Bay LP and could be only \$3 million if the sale was for an amount up to \$10 million, or \$7 million if the sale was between \$10 million and \$18 million, or \$9.8 million if the sale was for more than \$18 million. The note was said to be a demand note, which if truly was the case meant that UTMI could demand payment of \$8 million at any time even though management fees were not yet payable or in that amount<sup>1</sup>. Under the Original Fee Agreement no management fees could be invoiced or paid until after the purchase of the underlying properties were completed, which as it turned out did not occur until June 4, 2015.

[16] I cannot find that the original \$8 million note was an obligation of Bay LP independent of the obligation of Bay LP to pay management fees to UTMI. There is simply no evidence that it was intended to be an obligation separate from the obligation to pay management fees. Like the

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<sup>1</sup> When the first payment of management fees was made in 2013, they were not yet owing as the purchase of the lands in question did not close until June 4, 2015 and no invoice for management fees was or could be rendered at the time that payment was made. It is apparent that all of the documentation was not intended to be closely followed.

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later \$6 million and \$2 million replacement notes, it is likely that the \$8 million note was made for some tax purpose of Urbancorp. The explicit terms of the \$8 million note, like the terms of the replacement \$6 million and \$2 million notes, were not intended to be binding on Bay LP or UTMI.

[17] An issue therefore is whether the balance owing by Bay LP to UTMI in management fees was paid, or paid by the time of the issuance of the replacement notes on December 11, 2015. The balance owing under the Original Fee Agreement as it turned out was \$8 million. The total management fees were amended in the Amended Fee Agreement dated June 1, 2015 which reduced the management fees to be paid by Bay LP to UTMI to \$6.8 million in total, which would leave only \$5 million outstanding.

[18] It seems clear that as between Bay LP and UTMI, the accounting treatment was the method by which accounts were settled. The first payment of \$1.8 million owing by Bay LP to UTMI was taken care of by the intercompany offsets.

[19] The 2013 Bay LP financial statements reflect a "Management fees" expense of \$1.8 million in the statement of earnings. These management fees were included in the 2013 Bay LP's balance sheet item "Accounts payable and accruals" of \$1,817,030. On December 31, 2014, the \$1.8 million accrued management fee (plus HST for a total of \$2,034,000) was entered in the intercompany account between Bay LP and UTMI as being "capitalized". It is acknowledged by the Foreign Representative that this was treated as a payment of the \$1.8 million payable for management fees.

[20] The December 31, 2014 Bay LP financial statements reflected a "Management fees" expense of \$8 million in the statement of earnings. The management fees were included in the 2014 Bay LP's balance sheet item "Accounts payable and accruals" item of \$8,150,738. As at December 31, 2014, the intercompany accounts between Bay LP and UTMI reflected \$3,537,135 owing by UTMI to Bay LP, exclusive of the \$8 million management fee accrual. If the \$8 million note was issued as an independent liability, it would be expected that the amount remaining owing for management fees would be recorded in the intercompany accounts as being paid by the note. That is not what happened.

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[21] On June 30, 2015 the intercompany account of Bay LP with UTMI recorded an accrued liability for management fees of \$8 million. On December 31, 2015 that intercompany account recorded a reduction of \$3 million that was stated to be a NMP year-end adjustment to the management fee accrued liabilities to UTMI. That is, NMP, the accountant for the Urbancorp entities, including Bay LP and UTMI, directed that year-end adjustment. At the year-end, the intercompany balance showed \$527, 654.20 owing from UTMI to Bay LP. This was net of i.e. took into account, the remaining management fee liability.

[22] The accountants for Bay LP provided the Monitor with the 2015 and 2016 Bay LP trial balances and year end adjusting entries. The December 31, 2016 Bay LP trial balance reflects a balance of \$727,655 owing by UTMI to Bay LP. The December 31, 2015 Bay LP trial balance reflects a balance of \$527,655 owing by UTMI to Bay LP. Neither the 2016 Bay LP trial balance nor the 2015 Bay LP trial balance reflects amounts owing to either UCI or Realtyco in connection with the substituted \$6 million and \$2 million promissory notes.

[23] As well, the 2015 Bay LP trial balance was the basis for Bay LP's 2015 T5013 tax information that Bay LP filed with the Canada Revenue Agency. The date of the certification of the 2015 Bay LP T5013 is "2016-03-30". Included in the 2015 Bay LP T5013 is Schedule 100, which summarizes Bay LP's assets, liabilities and partners' capital. The Monitor points out that in the Schedule 100, there is no liability listed that would support an indebtedness in respect of the \$6 million and \$2 million promissory notes. That is, the tax return of Bay LP was a statement that liability on the two notes did not exist.

[24] The Foreign Representative says the intercompany balances should not govern as year-end adjusting entries were not made and had that occurred, they would have reflected a balance owing on the \$6 million and \$2 million promissory notes. Reliance is placed on some answers provided by Mr. Cole of MNP to questions posed by the Foreign Representative's counsel. In those answers, which have not been sworn by Mr. Cole, he stated that it was his opinion that the intercompany balances were not completely accurate. In answer to a question "As the accountant to UTMI and [Bay LP], would MNP have posted year-end adjusting entries for these companies if the intent had been to keep the \$8 million debt outstanding?" Mr. Cole answered "Yes". In answer to a further

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question "If yes, can you please advise what entries you would have posted in regards to this \$8 million liability owed by [Bay LP]?" Mr. Cole stated "Unsure as did not prepare the financials".

[25] I do not take much from these unsworn answers as assisting the Foreign Representative. First, I have noted that in the 2015 intercompany Bay LP accounts, a year-end adjustment to the \$8 million management fee accrual was made by MNP to reduce it by \$3 million. Presumably it did so after discussion with management. Second, the question put to Mr. Cole was whether he would have made a year-end adjusting entry "if the intent had been to keep the \$8 million debt outstanding". The question did not provide any particular year-end. Mr. Cole did not say, nor presumably could he say, that there was an intent to keep the \$8 million debt outstanding.

[26] In yet a further question as to whether Mr. Cole would have made any adjustment to recognize the \$8 million liability in relation to the notes, he responded that he would have inquired of management whether the note remained outstanding and if management said yes, the liability would have been booked. Apart from the fact that the information was unsworn and untested, it is not any evidence that the adjustment would in fact have been made. It would require a statement from management that the note was outstanding and presumably some questions from Mr. Cole to test the reasonableness of the statement.

[27] Mr. Cole did say that MNP was engaged to prepare the tax returns and the related adjusting year-end tax entries. The tax return of Bay LP for 2016 is direct evidence that the \$8 million debt was not outstanding.

[28] Moreover, there was no question of \$8 million being outstanding at the time of the replacement notes dated December 11, 2015. On June 1, 2015 the original management fee of \$9.8 million was reduced by agreement by \$3 million to \$6.8 million, and \$1.8 million of that had already been paid. There was only \$5 million left for a management fee under the Amended Fee Agreement.

[29] The Foreign Representative relies on a provision in both the original \$8 million promissory note and the replacement \$6 million and \$2 million notes that state that all payments to be made by Bay LP pursuant to the promissory note are to be made in freely transferrable and immediately



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available funds and without set-off. Therefore it says there is no basis to contend that the notes were paid by the management fees being set-off in the Bay LP and UTMI intercompany accounts by amounts owing by UTMI to Bay LP. The problem with this argument is that this provision is part of promissory notes that as previously stated were never intended to be binding on Bay LP or UTMI. It makes no sense for two companies controlled by Mr. Saskin to act on the basis of such a set-off provision and there is no evidence at all that Mr. Saskin at the time of the notes wanted to prevent set-off of payments owing between Bay LP and UCI. The whole history of the affairs of the Urbancorp companies is that accounts were set-off each year.

[30] Moreover, the notes were not independent obligations but reflective and given in connection with the management fee agreement, and the payments made were not made pursuant to the notes but by way of entries in the intercompany accounts.

[31] I find that the management fees owing by Bay LP to UTMI have been paid and were paid by the time the replacement notes of the \$6 million and \$2 million were issued.

[32] The \$6 million note was assigned by UTMI to UCI. The Foreign Representative says UCI is a holder of that note "in due course" and that under section 73 of the *Bills of Exchange Act* ("BEA") a holder of a note in due course is entitled to enforce it in accordance with its terms free from any defect of title and personal defences that UTMI might have had on the note. Section 57(2) of the BEA provides that every holder of a bill, in the absence of evidence to the contrary, is deemed to be a holder in due course. The same argument is made with respect to the \$2 million note that was assigned by UTMI to Urbancorp Management Inc. and then to Urbancorp Realtyco Inc.

[33] A holder in due course is defined in section 55 of the BEA as follows

**55(1) Holder in due course**

A holder in due course is a holder who has taken a bill, complete and regular on the face of it, under the following conditions, namely,

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(a) that he became the holder of it before it was overdue and without notice that it had been previously dishonoured, if such was the fact; and

(b) that he took the bill in good faith and for value, and that at the time the bill was negotiated to him he had no notice of any defect in the title of the person who negotiated it.

[34] I do not see this defence assisting the Foreign Representative. The assignments of the notes were all signed by Mr. Saskin on behalf of companies he controlled and to companies he controlled. The notes were not intended to be acted on by the parties to them and the assignee companies are not able to suggest they were independent of the assignor and not aware of that. In any event, by the time of the assignments of the notes, the underlying obligation to pay management fees had been fulfilled and nothing was owing under the notes. The assignees did not take the assignments before the notes were overdue, which is a requirement of being a holder in due course.

[35] Real (or absolute) defences do not constitute a defect of title and are available against a holder in due course. One such absolute defence is the discharge of the instrument by payment in due course. See Benjamin Geva, *supra*, at p. 133 and Crawford, B., *Law of Banking and Payment in Canada* (loose-leaf), Toronto: Carswell, which states at §26:30.30(1):

It is fundamental to any law of negotiable instruments that there be a distinction between the substance of real, or absolute, defences on the one hand, and defects of title and personal defences on the other. The former are the defences that apply against all persons, no matter whether the holder has or has not had notice of them, whether or not he took for value, whether before or after maturity, and whether or not the instrument is complete and regular in form.

[36] The Foreign Representative acknowledges that Mr. Saskin is the principal and controlling mind of Bay LP, UTMI and UCI. He argues, however, that Mr. Saskin's involvement with the three entities does not disqualify UCI from having obtained the \$6 million promissory note in good faith because at all material times, he believed, and continues to believe, that the \$6 million and \$2 million notes are valid and enforceable. Reliance for this argument is placed on evidence Mr. Saskin gave on his examination by counsel for the Foreign Representative. I have a great deal of difficulty with this argument. Mr. Saskin made representations in the prospectus for the Israeli

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bond offering and it is in his interest to say the notes are good and outstanding. As well, virtually all of his evidence was given to leading questions by counsel for a party in interest with Mr. Saskin.

[37] Mr. Saskin asserted that the replacement \$6 million and \$2 million notes dated December 11, 2015 were good and that the \$8 million was owed then and continues to be owed. That however could not be the case. Apart from the fact that Mr. Saskin did not know what the purpose of the original \$8 million note was, and could not know what the purpose of the two replacement notes were, it is clear and admitted that the \$8 million note was given in respect of the \$8 million balance owing for management fees and that before the replacement notes were issued for tax purposes, the management fee had been reduced on June 1, 2015 to reduce the total management fee to \$6.8 million, \$1.8 million of which had already been paid. Mr. Saskin signed the Amended Fee Agreement on behalf of all of the parties, being UTMI, Urban Downsview Park Development Inc. and Bay LP and had to know that \$8 million could not have been owing. I do not put any store in Mr. Saskin's assertions of a present day belief that the notes are valid and enforceable or were at the time he signed them.

[38] The Foreign Representative argues that even if it is determined that Mr. Saskin was aware of a risk to the enforceability and validity of the 2015 \$6 million and \$2 million promissory notes, this knowledge should not be imputed to UCI because while Mr. Saskin was the controlling mind of UCI, the circumstances do not warrant discounting the lack of knowledge of other UCI stakeholders, namely, the bondholders. I do not accept this. The bondholders have an interest in seeing the claim on the notes succeed, but it is UCI and not its creditors that is relevant to whether UCI can be considered to have taken the notes with or without knowledge of their validity. The bondholders did not take any assignment of the notes.

[39] I agree with the Monitor that given that UCI and Realtyco were controlled completely by Mr. Saskin, as were UTMI and Bay LP, and all relevant documents were signed by him, it cannot be reasonably held that UCI or Realtyco were unaware of this state of affairs between UTMI and Bay LP. I agree with the Monitor that neither UCI nor Realtyco can be said to be holders in due course. They cannot be said to have not had actual notice of the state of their own intercompany affairs and the fact that the management fee pursuant to the Original Fee Agreement, as amended, had been fully booked as an expense against reported taxable income and "settled" or "paid" via

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postings to the intercompany account, especially given that UTMI administered the internal affairs of all of them.

[40] The Foreign Representative argues that if UCI was not a holder in due course when the \$6 million note was assigned to it by UTMI, UCI was a holder for value of the note and that under section 73 of the BEA, UCI can enforce the note subject to any defects in title and mere personal defences. In effect, it argues that the rights of a holder for value are greater than the rights of a holder in due course, as a holder in due course is subject to real, or absolute, defences. Assuming without deciding that UCI gave value for the assignment of the note to it, I cannot agree with the Foreign Representative. Section 73 of the BEA does not provide that a holder in value can sue subject only to any defects in title or mere personal defences. It simply says that a holder of a bill may sue on the bill in his own name and says nothing of what defences are available to a holder that is not a holder in due course. It provides:

**73. Rights and powers of holder**

The rights and powers of the holder of a bill are as follows:

- (a) he may sue on the bill in his own name;
- (b) where he is a holder in due course, he holds the bill free from any defect of title of prior parties, as well as from mere personal defences available to prior parties among themselves, and may enforce payment against all parties liable on the bill;
- (c) where his title is defective, if he negotiates the bill to a holder in due course, that holder obtains a good and complete title to the bill; and
- (d) where his title is defective, if he obtains payment of the bill, the person who pays him in due course gets a valid discharge for the bill.

[41] A holder for value that is not a holder in due course is subject to real, or absolute, defences.

**Conclusion**

[42] The motion of the Foreign Representative to dismiss the Monitor's disallowance of UCI's claim against Bay LP on the basis of the \$6 million promissory note is dismissed. The motion of

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the Foreign Representative to confirm the validity and enforceability of the \$2 million promissory note is also dismissed.

[43] The Monitor has not claimed costs in its material. There will be no order as to costs.

[44] The assets of Bay LP have been sold. The Monitor reports that after admitted claims and a reserve for expenses, \$7,844,500 remains. There are disputed claims that if successful would eat up those remains. It is possible that the disputed claims would ultimately be dismissed, leaving equity available for the partners of Bay LP. One partner with a 20% interest is Vestaco Investment Inc. as a nominee of Doreen Saskin, the wife of Alan Saskin<sup>2</sup>. Mr. Saskin himself is a 79.99% partner in Bay LP. An agreement among all partners on May 15, 2008 provided Vestaco with a priority return of \$7 million plus interest at 7% compounded annually.

[45] The Foreign representative has contended in its factum that if the disallowance of the claim on the \$6 million note is upheld, any equity in Bay LP after payment of all debts should not go to Doreen Saskin. That argument was by agreement adjourned as other parties are interested in the issue and it will come on for hearing when fully briefed. I would note that until all claims against Bay LP are determined, the issue may be academic.



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Newbould J.

**Date:** May 11, 2017

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<sup>2</sup> On December 9, 2016 Doreen Saskin transferred her beneficial partnership interest to DS (BAY) Holdings Inc. whose sole officer and director is Doreen Saskin.

**TAB D**

Court File No. CV-16-11549-00CL

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

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF URBANCORP (WOODBINE) INC. AND URBANCORP (BRIDLEPATH) INC., THE TOWNHOUSES OF HOGG'S HOLLOW INC., KING TOWNS INC., NEWTOWNS AT KINGTOWNS INC. AND DEAJA PARTNER (BAY) INC. (COLLECTIVELY, THE "APPLICANTS")**

**AND IN THE MATTER OF TCC URBANCORP (BAY) LIMITED PARTNERSHIP**

**MINUTES OF SETTLEMENT**

**PARTIES:**

**GUY GISSIN**, in his capacity as Israeli court-appointed functionary ("**Functionary**") of Urbancorp Inc. ("**UCI**"), and not in his personal capacity, of the First Part

**TERRA FIRMA CAPITAL CORPORATION**, an Ontario corporation ("**Terra Firma**"), of the Second Part

**RECITALS:**

- A. TFCC has a motion before the Ontario Superior Court of Justice (Commercial List) (the "**Ontario Court**") seeking to appeal the disallowance of its claim as against the Applicants ("**TFCC Motion**").
- B. The TFCC Motion is currently adjourned *sine die*.
- C. The Functionary has brought a motion seeking to allow the late filing of a proof of claim on behalf of UCI's bondholders as a result of an earlier decision of the Court that disallowed a claim the Functionary previously submitted on behalf of UCI in relation to

\$8 million in promissory notes that the Functionary asserts were to have been assigned directly and indirectly for the benefit of UCI and a motion for a declaration that the first \$8 million, plus interest, of funds that Vestaco Investments Inc., DS (Bay) Holdings, or any of their successors and assigns (collectively, “DSCo”) would otherwise receive from TCC Urbancorp (Bay) Limited Partnership be held in trust for UCI and be paid to the Functionary on behalf of UCI (collectively, the “UCI Motions”).

D. The UCI Motions have yet to be scheduled.

E. TFCC and the Functionary on behalf of UCI want to resolve matters so as to allow KSV Kofman Inc., in its capacity as monitor (“Monitor”) of the Applicants, to distribute the proceeds that the Monitor currently holds and to otherwise settle matters between UCI and Terra Firma.

NOW THEREFORE, FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby irrevocably acknowledged, UCI and TFCC hereby agree as follows:

1. TFCC shall receive a distribution of \$3 million from the proceeds in the Applicants’ estate in full and final satisfaction of all claims that TFCC has related to the TCC Motion or the Applicants, including but not limited to those filed in its proof of claim filed in these proceedings.
2. UCI shall be entitled to receive, in satisfaction of the claims related to the UCI Motions all other amounts to be distributed from the Applicants’ estate, other than validly determined claims previously asserted against the Applicants, and claims for which the Monitor has currently reserved funds.
3. This settlement shall be subject to UCI receiving an initial distribution of not less than \$5.5 million concurrently with the \$3 million distribution to TFCC referred to in paragraph 1.
4. This settlement shall be subject to approval of the Ontario Court and the Israeli District Court for Tel Aviv-Jaffa (“Israeli Court”) and shall take effect on the first Business Day following the expiry of the applicable appeal period in both Ontario



and Israel (or if any appeal is taken upon the appeal having finally been dealt with upholding the approval of the settlement). Business Day shall mean a day, other than Saturday or Sunday, when banks are generally open for business in Toronto, Ontario and Tel Aviv, Israel.

5. TFCC and UCI shall jointly seek approval of the Ontario Court for this settlement and the proposed distributions provided herein on notice to all affected parties. The form of order approving the settlement from the Ontario Court ("**Ontario Approval Order**") shall be in a form acceptable to both Parties. UCI shall seek approval of the Israeli Court ("**Israeli Approval Order**") and the form of the Israeli Approval Order shall also be in a form acceptable to both Parties. The Ontario Approval Order shall direct the Monitor to forthwith bring a motion for an order transferring all of the disputed claims reserves in this proceedings to the *Companies' Creditors Arrangement Act* proceedings bearing court file number CV-16-11389-00CL and upon such order being granted, make the distributions provided in paragraphs 1 and 3, on the same day, and not more than 30 days after the Orders (as defined below) become final. The Ontario Approval Order shall be sought first and shall provide that the order be conditional on the Israeli Approval Order also being granted.
6. The provisions of these minutes of settlement are not severable.
7. Upon the Ontario Approval Order and the Israeli Approval Order (collectively, the "**Orders**") becoming a final order then the TFCC Motion and the UCI Motions shall both be considered settled with no orders as to costs. Further upon the Orders becoming final, each Party hereby remises, releases and forever discharges the other Party (which includes their officers and directors) of and from all actions, causes of action, suits, debts, dues, accounts, contracts, claims and demands whatsoever, in law or in equity, which that Party ever had, now has or may hereafter have against the other Party in any way related to UCI.
8. In the event that final Orders approving these minutes of settlement are not obtained from both the Ontario Court and the Israeli Court within 90 days hereof (unless extended by the mutual consent of TFCC and UCI), these minutes of settlement shall

become null and void and shall not be admissible for the purpose of adjudicating either the TFCC Motion or the UCI Motion and each of the TFCC Motion and the UCI Motion shall be made returnable before the Ontario Court forthwith.

9. These minutes of settlement shall be interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

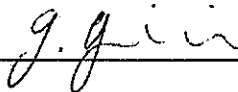
10. Time shall be of the essence herein.

11. These minutes of settlement may be executed in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of such counterparts shall together constitute one and the same instrument. Any party may execute these minutes of settlement via scanned portable document format sent via electronic mail.

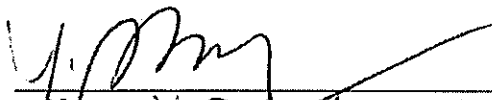
12. These minutes of settlement, together with any agreements and other documents to be delivered pursuant hereto, constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties.

DATED as of the   13   day of February, 2018

**GUY GISSIN, in his capacity as Court-Appointed Functionary and Foreign Representative of URBANCORP INC., and not in his personal or corporate capacity**

  
\_\_\_\_\_

**TERRA FIRMA CAPITAL CORPORATION**

By:   
Name: Y. Dar Meyer  
Title: Executive Vice Chairman

**TAB 3**

Court File No. CV-16-11549-00CL

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

THE HONOURABLE MR.	)	MONDAY, THE 26TH
	)	
JUSTICE MYERS	)	DAY OF FEBRUARY, 2018

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.  
1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
URBANCORP (WOODBINE) INC. AND URBANCORP (BRIDLEPATH) INC., THE  
TOWNHOUSES OF HOGG'S HOLLOW INC., KING TOWNS INC., NEWTOWNS AT  
KINGTOWNS INC. AND DEAJA PARTNER (BAY) INC. (COLLECTIVELY, THE  
"APPLICANTS")**

**AND IN THE MATTER OF TCC URBANCORP (BAY) LIMITED PARTNERSHIP**

**ORDER**

**THIS MOTION**, made by Guy Gissin, the Israeli Court-appointed functionary officer and foreign representative (the "**Foreign Representative**") of Urbancorp Inc. ("**UCI**") and Terra Firma Capital Corporation ("**TFCC**"), for an Order: (i) approving the settlement agreement dated February 13, 2018 (the "**Settlement Agreement**"), between UCI and TFCC with respect to the within proceedings; and, (ii) deeming the Foreign Representative to have a valid late filed claim (the "**UCI Bondholder Claim**") on behalf of UCI's bondholders with KSV Kofman Inc., in its capacity as Court-appointed monitor (the "**Monitor**") of TCC Urbancorp (Bay) Limited Partnership ("**TCC Bay**"), on the basis of negligence and negligent misrepresentation in relation to the \$6 million promissory note, dated December 11, 2015, originally issued by TCC Bay in favour of Urbancorp Toronto Management Inc. ("**UTMI**") and then assigned to UCI, and the \$2 million promissory note, dated December 11, 2015, originally issued by TCC Bay in favour of

UTMI and then assigned by UTMI to Urbancorp Realtyco Inc. for the benefit of UCI, was heard on February 26, 2018 at 330 University Avenue, Toronto, Ontario.

**ON READING** the Motion Record of the Foreign Representative, filed, the Ninth Report to the Court of the Foreign Representative dated February 15, 2018 (the “**Ninth Report**”), filed, the \_\_\_\_\_ report of the Monitor and upon hearing the submissions of counsel for the Foreign Representative, TFCC, and the Monitor, no one else appearing although duly served as appears from the affidavit of service of Vanja Ginic sworn February \_\_, 2018,

**SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the Motion Record be and is hereby abridged so that this Motion is properly returnable today and any further service of the Motion Record on any interested party is hereby dispensed with.

**UCI BONDHOLDER CLAIM**

2. **THIS COURT ORDERS** that the Foreign Representative be and is hereby deemed to have validly late filed the UCI Bondholder Claim with the Monitor in the within proceedings.

**SETTLEMENT AGREEMENT**

3. **THIS COURT ORDERS** that, subject to paragraph 4 of this Order, the Settlement Agreement, attached hereto as Schedule “A”, be and is hereby approved.

4. **THIS COURT ORDERS** that this Order shall not take effect until such time as the entering into of the Settlement Agreement receives approval from the District Court of Tel Aviv-Jaffa (the “**Israeli Court**”).

5. **THIS COURT ORDERS AND DIRECTS** the Monitor, after being advised that the Israeli Court has granted the order referenced in paragraph 4 of this Order, to carry out the steps required of it under the Settlement Agreement.

6. **THIS COURT ORDERS** that upon the Monitor making the distribution of \$3 million to TFCC pursuant to the Settlement Agreement, the motion of TFCC as set out in its notice of motion dated May 8, 2017 in this proceeding be and is hereby dismissed without costs.

**MISCELLANEOUS**

7. **THIS COURT REQUESTS** the aid, recognition and assistance of other courts in Canada in accordance with Section 17 of the *Companies' Creditors Arrangement Act* (Canada), and requests that the Federal Court of Canada and the courts and judicial, regulatory and administrative bodies of or by the provinces and territories of Canada, the Parliament of Canada, the United States of America, the states and other subdivisions of the United States of America including, without limitation, the U.S. Bankruptcy Court, and other nations and states act in aid, recognition and assistance of, and be complementary to, this Court in carrying out the terms of this Order and any other Order in this proceeding. The Applicant shall be at liberty, and is hereby authorized and empowered, to make such further applications, motions or proceedings to or before such other court and judicial, regulatory and administrative bodies, and take such other steps, in Canada or the United States of America, as may be necessary or advisable to give effect to this Order.

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**Schedule "A"**

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Court File No. CV-16-11549-00CL

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

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT  
ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF URBANCORP (WOODBINE) INC. AND  
URBANCORP (BRIDLEPATH) INC., THE TOWNHOUSES OF HOGG'S  
HOLLOW INC., KING TOWNS INC., NEWTOWNS AT KINGTOWNS  
INC. AND DEAJA PARTNER (BAY) INC. (COLLECTIVELY, THE  
"APPLICANTS")**

**AND IN THE MATTER OF TCC URBANCORP (BAY) LIMITED  
PARTNERSHIP**

**MINUTES OF SETTLEMENT**

**PARTIES:**

**GUY GISSIN**, in his capacity as Israeli court-appointed functionary ("**Functionary**") of Urbancorp Inc. ("**UCI**"), and not in his personal capacity, of the First Part

**TERRA FIRMA CAPITAL CORPORATION**, an Ontario corporation ("**Terra Firma**"), of the Second Part

**RECITALS:**

- A. TFCC has a motion before the Ontario Superior Court of Justice (Commercial List) (the "**Ontario Court**") seeking to appeal the disallowance of its claim as against the Applicants ("**TFCC Motion**").
- B. The TFCC Motion is currently adjourned *sine die*.
- C. The Functionary has brought a motion seeking to allow the late filing of a proof of claim on behalf of UCI's bondholders as a result of an earlier decision of the Court that disallowed a claim the Functionary previously submitted on behalf of UCI in relation to



\$8 million in promissory notes that the Functionary asserts were to have been assigned directly and indirectly for the benefit of UCI and a motion for a declaration that the first \$8 million, plus interest, of funds that Vestaco Investments Inc., DS (Bay) Holdings, or any of their successors and assigns (collectively, “DSCo”) would otherwise receive from TCC Urbancorp (Bay) Limited Partnership be held in trust for UCI and be paid to the Functionary on behalf of UCI (collectively, the “UCI Motions”).

D. The UCI Motions have yet to be scheduled.

E. TFCC and the Functionary on behalf of UCI want to resolve matters so as to allow KSV Kofman Inc., in its capacity as monitor (“Monitor”) of the Applicants, to distribute the proceeds that the Monitor currently holds and to otherwise settle matters between UCI and Terra Firma.

NOW THEREFORE, FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby irrevocably acknowledged, UCI and TFCC hereby agree as follows:

1. TFCC shall receive a distribution of \$3 million from the proceeds in the Applicants’ estate in full and final satisfaction of all claims that TFCC has related to the TCC Motion or the Applicants, including but not limited to those filed in its proof of claim filed in these proceedings.
2. UCI shall be entitled to receive, in satisfaction of the claims related to the UCI Motions all other amounts to be distributed from the Applicants’ estate, other than validly determined claims previously asserted against the Applicants, and claims for which the Monitor has currently reserved funds.
3. This settlement shall be subject to UCI receiving an initial distribution of not less than \$5.5 million concurrently with the \$3 million distribution to TFCC referred to in paragraph 1.
4. This settlement shall be subject to approval of the Ontario Court and the Israeli District Court for Tel Aviv-Jaffa (“Israeli Court”) and shall take effect on the first Business Day following the expiry of the applicable appeal period in both Ontario

and Israel (or if any appeal is taken upon the appeal having finally been dealt with upholding the approval of the settlement). Business Day shall mean a day, other than Saturday or Sunday, when banks are generally open for business in Toronto, Ontario and Tel Aviv, Israel.

5. TFCC and UCI shall jointly seek approval of the Ontario Court for this settlement and the proposed distributions provided herein on notice to all affected parties. The form of order approving the settlement from the Ontario Court ("**Ontario Approval Order**") shall be in a form acceptable to both Parties. UCI shall seek approval of the Israeli Court ("**Israeli Approval Order**") and the form of the Israeli Approval Order shall also be in a form acceptable to both Parties. The Ontario Approval Order shall direct the Monitor to forthwith bring a motion for an order transferring all of the disputed claims reserves in this proceedings to the *Companies' Creditors Arrangement Act* proceedings bearing court file number CV-16-11389-00CL and upon such order being granted, make the distributions provided in paragraphs 1 and 3, on the same day, and not more than 30 days after the Orders (as defined below) become final. The Ontario Approval Order shall be sought first and shall provide that the order be conditional on the Israeli Approval Order also being granted.
6. The provisions of these minutes of settlement are not severable.
7. Upon the Ontario Approval Order and the Israeli Approval Order (collectively, the "**Orders**") becoming a final order then the TFCC Motion and the UCI Motions shall both be considered settled with no orders as to costs. Further upon the Orders becoming final, each Party hereby remises, releases and forever discharges the other Party (which includes their officers and directors) of and from all actions, causes of action, suits, debts, dues, accounts, contracts, claims and demands whatsoever, in law or in equity, which that Party ever had, now has or may hereafter have against the other Party in any way related to UCI.
8. In the event that final Orders approving these minutes of settlement are not obtained from both the Ontario Court and the Israeli Court within 90 days hereof (unless extended by the mutual consent of TFCC and UCI), these minutes of settlement shall

become null and void and shall not be admissible for the purpose of adjudicating either the TFCC Motion or the UCI Motion and each of the TFCC Motion and the UCI Motion shall be made returnable before the Ontario Court forthwith.

9. These minutes of settlement shall be interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

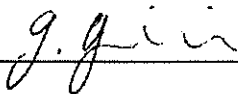
10. Time shall be of the essence herein.

11. These minutes of settlement may be executed in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of such counterparts shall together constitute one and the same instrument. Any party may execute these minutes of settlement via scanned portable document format sent via electronic mail.

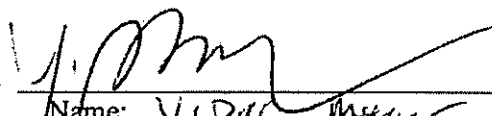
12. These minutes of settlement, together with any agreements and other documents to be delivered pursuant hereto, constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties.

DATED as of the   13   day of February, 2018

**GUY GISSIN, in his capacity as Court-Appointed Functionary and Foreign Representative of URBANCORP INC., and not in his personal or corporate capacity**

  
\_\_\_\_\_

**TERRA FIRMA CAPITAL CORPORATION**

By:   
\_\_\_\_\_  
Name: Y. Dar Meyer  
Title: Executive Vice Chairman

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF URBANCORP (WOODBINE) INC. AND  
URBANCORP (BRIDLEPATH) INC., THE TOWNHOUSES OF HOGG'S HOLLOW INC., KING TOWNS INC., NEWTOWNS AT  
KINGTOWNS INC. AND DEAJA PARTNER (BAY) INC. (COLLECTIVELY, THE "APPLICANTS")  
AND IN THE MATTER OF TCC URBANCORP (BAY) LIMITED PARTNERSHIP**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

**ORDER**  
**(February 26, 2018)**

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*Lawyers for the Moving Party, Guy Gissin, the Israeli  
Court-appointed functionary officer and foreign  
representative of Urbancorp Inc.*

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. c-36, AS AMENDED, AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF URBANCORP (WOODBINE) INC. AND URBANCORP (BRIDLEPATH) INC., THE TOWNHOUSES OF HOGG'S HOLLOW INC., KING TOWNS INC., NEWTOWNS AT KINGTOWNS INC. AND DEAJA PARTNER (BAY) INC. (COLLECTIVELY, THE "APPLICANTS") AND IN THE MATTER OF TCC URBANCORP (BAY) LIMITED PARTNERSHIP**

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

Proceedings Commenced at Toronto

**MOTION RECORD  
(returnable February 26, 2018)**

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foreign representative of Urbancorp Inc.*