

Province of Ontario
Division No. 09-Toronto
Court No. CV-18-592741-00CL

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

IN THE MATTER OF THE BANKRUPTCY OF
BIONX CANADA INC.
OF THE MUNICIPALITY OF AURORA, IN THE PROVINCE OF ONTARIO

**MOTION RECORD OF BIONX INTERNATIONAL CORP.
(Re: Extension of Time to File a Proof of Claim)
(Returnable September 23, 2019)**

September 3, 2019

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Lee Nicholson LSO# 66412I
Tel: (416) 869-5604
Email: leenicholson@stikeman.com
Fax: (416) 947-0866

Lawyers for BionX International Corp.

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**ONTARIO
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(COMMERCIAL LIST)**

IN THE MATTER OF THE BANKRUPTCY OF
BIONX CANADA INC.
OF THE MUNICIPALITY OF AURORA, IN THE PROVINCE OF ONTARIO

MOTION RECORD OF BIONX INTERNATIONAL CORP.

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TAB 1

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

IN THE MATTER OF THE BANKRUPTCY OF
BIONX CANADA INC.
OF THE MUNICIPALITY OF AURORA, IN THE PROVINCE OF ONTARIO

**NOTICE OF MOTION
(Extension of Time to File a Proof of Claim)**

BionX International Corp. ("**BIC**" or the "**Company**") will make a motion, that is to be heard before a Judge presiding over the Commercial List (Toronto) on September 23, 2019 at 10:00 a.m. or as soon after that time as the motion can be heard at the Court House, 330 University Avenue, Toronto, Ontario, M5G 1R7.

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

THE MOTION IS FOR:

1. An Order, in the form attached in draft as Schedule "**A**", extending the time for BIC to file a proof of claim against BionX Canada Inc. ("**BionX**") pursuant to section 149(2) of the *Bankruptcy and Insolvency Act* (the "**BIA**").
2. In the alternative, an Order in such other form as this Honourable Court deems just, extending the time for BIC to file a proof of claim against BionX pursuant to section 149(2) of the BIA.
3. Such further and other relief as counsel may advise and to this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

Background

4. Prior to its bankruptcy, BionX was in the business of designing, manufacturing, and selling electronic propulsion system for bicycles. It was previously operated from a production facility located in Aurora, Ontario.

5. BionX is a wholly owned subsidiary of BIC. SCC owns 60.50% of the voting shares of BIC while the remaining voting shares (39.50%) are owned by 1593057 Ontario Inc. While operating, BionX was primarily financed by SCC either directly or through advances from BIC using funds that SCC advanced to BIC.

6. On February 27, 2018, on application brought by SCC, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order appointing Grant Thornton Limited (“**GTL**”) as receiver and manager (the “**Receiver**”) of all of the assets, undertakings, and properties of BionX.

7. On October 31, 2018, the Court issued an order authorizing the Receiver to file an assignment into bankruptcy on behalf of BionX. On March 12, 2019, GTL assigned BionX into bankruptcy and GTL was appointed as the trustee (the “**Trustee**”) in bankruptcy.

8. On May 1, 2019 the Trustee mailed to the Company by ordinary mail, a notice requiring the Company and other creditors to prove their claims (the “**Notice to Prove Claim**”) pursuant by June 3, 2019 (the “**Deadline**”).

9. A proof of claim on behalf of BIC could not be provided by the Deadline.

10. BIC's claim against BionX is \$47,353,494.00.

Reasons for Delay in Filing

11. After BionX was assigned into bankruptcy, SCC received a copy of the Notice of Prove Claim from the Trustee. Counsel for SCC sent Mr. Fred Gingl, the former sole director of BIC, the Notice of Bankruptcy along with a request to execute the proof of claim on behalf of BIC.

12. On March 28, 2019, counsel for Mr. Gingl replied on his behalf explaining that Mr. Gingl that he could not execute any documents on behalf of BionX or BIC because he was no longer an officer or director for either of the companies.

13. Mr. Gingl's resignation prevented BIC from successfully filing a proof of claim before the Deadline as he was the sole director of the Company capable of executing a proof of claim.

14. On June 24, 2019, Mr. Gregory Harnish was elected as the sole director of BIC. His election was effective after the Deadline.

15. As BIC now has a representative able to execute documents on its behalf, if granted an extension by the Court, BIC intends to file a proof of claim against BionX in the amount of \$47,353,494.00.

16. The Trustee has not completed any distributions to creditors and does not plan to complete any distributions until at least October 2019.

General

17. Section 149(2) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3;

18. Rules 1.04, 1.05, 2.03, 3.02, 30.02, 37 of the *Rules of Civil Procedure*; and

19. Such further and other grounds as the lawyers may advise.

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

20. The Affidavit of Gregory Harnish, sworn August 23, 2019 and the Exhibits attached thereto;

21. Such further and other materials as counsel may advise and this Court may permit.

September 3, 2019

STIKEMAN ELLIOTT LLP
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Lee Nicholson LSO# 66412I
Tel: (416) 869-5604
Email: leenicholson@stikeman.com
Fax: (416) 947-0866

Lawyers for BionX International Corp.

TAB “A”

Province of Ontario
Division No. 09-Toronto
Court No. CV-18-592741-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) THE 23RD DAY
JUSTICE) OF SEPTEMBER, 2019

IN THE MATTER OF THE BANKRUPTCY OF
BIONX CANADA INC.
OF THE MUNICIPALITY OF AURORA, IN THE PROVINCE OF ONTARIO

ORDER

THIS MOTION, made by BionX International Corp. ("**BIC**") pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, (the "**BIA**") for an Order extending the time for BIC to file a proof of claim with Grant Thornton Limited (the "**Trustee**"), in its capacity as trustee-in-bankruptcy of BionX Canada Inc. ("**BionX**").

ON READING the Affidavit of Gregory Harnish sworn August 23, 2019;

AND UPON HEARING the submissions of counsel for BIC, the Trustee and those other parties present, no one else appearing although duly served as appears from the affidavit of service of ●, filed.

EXTENSION OF TIME TO FILE PROOF OF CLAIM

1. **THIS COURT ORDERS** that the time for BIC to file a proof of claim with the Trustee against the estate of BionX Canada Inc. shall be extended until ten (10) days after the date of this Order and upon filing a proof of claim BIC shall be permitted to participate in distributions to creditors of the BionX estate in the amount of its accepted claim as determined in accordance with the BIA.

**IN THE MATTER OF THE BANKRUPTCY OF BIONX CANADA INC.
OF THE MUNICIPALITY OF AURORA, IN THE PROVINCE ON ONTARIO**

Court File No.: CV-18-592741-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

STIKEMAN ELLIOTT LLP

Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Lee Nicholson LSO# 664121

Tel: (416) 869-5604

Email: leenicholson@stikeman.com

Fax: (416) 947-0866

Lawyers for the BionX International Corp.

**IN THE MATTER OF THE BANKRUPTCY OF BIONX CANADA INC.
OF THE MUNICIPALITY OF AURORA, IN THE PROVINCE ON ONTARIO**

Court File No.: CV-18-592741-00CL

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

Proceeding commenced at Toronto

**NOTICE OF MOTION
(Returnable September 23, 2019)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Lee Nicholson LSO# 66412I
Tel: (416) 869-5604
Email: leenicholson@stikeman.com
Fax: (416) 947-0866

Lawyers for BionX International Corp.

TAB 2

Province of Ontario
Division No. 09-Toronto
Court No. CV-18-592741-00CL

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

IN THE MATTER OF THE BANKRUPTCY OF
BIONX CANADA INC.
OF THE MUNICIPALITY OF AURORA, IN THE PROVINCE OF ONTARIO

AFFIDAVIT OF GREGORY HARNISH
(Sworn August 23, 2019)

I, Gregory Harnish, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Chief Legal Officer and Secretary of Stronach Consulting Corp. ("**SCC**") and the sole director of BionX International Corp. ("**BIC**" or the "**Company**"). As such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated.

2. This affidavit is sworn in support of a motion brought by the Company seeking an order extending the time for the Company to file a proof of claim against BionX Canada Inc. ("**BionX**") pursuant to section 149(2) of the *Bankruptcy and Insolvency Act* (the "**BIA**").

A. BACKGROUND

3. Prior to its bankruptcy, BionX was in the business of designing, manufacturing, and selling electronic propulsion system for bicycles. It was previously operated from a production facility located in Aurora, Ontario.

4. BionX is a wholly owned subsidiary of BIC. SCC owns 60.50% of the voting shares of BIC while the remaining voting shares (39.50%) are owned by 1593057 Ontario Inc. While operating, BionX was primarily financed by SCC either directly or through advances from BIC

using funds that SCC advanced to BIC. A corporate organizational chart for the group of companies is attached hereto as Exhibit "**A**".

5. On February 27, 2018, on application brought by SCC, the Ontario Superior Court of Justice (Commercial List) (the "**Court**") granted an order appointing Grant Thornton Limited ("**GTL**") as receiver and manager (the "**Receiver**") of all of the assets, undertakings, and properties of BionX.

6. The Receiver commenced a sale process during the receivership to sell the business of BionX. At the conclusion of the sale process, the Receiver had sold the majority of inventory and all fixed assets. Subsequently, the Receiver ran a second sale process to market and sold the remaining inventory and all intellectual property.

7. On October 31, 2018, the Court issued an order authorizing the Receiver to file an assignment into bankruptcy on behalf of BionX. On March 12, 2019, GTL assigned BionX into bankruptcy and GTL was appointed as the trustee (the "**Trustee**") in bankruptcy.

8. On May 1, 2019 the Trustee mailed to the Company by ordinary mail, a notice requiring the Company and other creditors to prove their claims (the "**Notice to Prove Claim**") pursuant by June 3, 2019 (the "**Deadline**"). A copy of the Notice to Prove Claim mailed by the Trustee to creditors is attached as Exhibit "**B**".

9. As explained below, a proof of claim on behalf of BIC could not be provided within the time required by the Notice to Prove Claim as the Company had no authorized representative that was able to execute the proof of claim due the resignation of the former CEO and sole director of BIC.

10. BIC's claim against BionX is \$47,353,494.00.

B. REASONS FOR DELAY IN FILING

11. After BionX was assigned into bankruptcy, SCC received a copy of the Notice of Prove Claim from the Trustee. To ensure that BIC, a subsidiary of SCC, filed its substantial claim against BionX, counsel for SCC sent Mr. Fred Gingl, the former sole director of BIC, the Notice of Bankruptcy along with a request to execute the proof of claim on behalf of BIC.

12. On March 28, 2019, counsel for Mr. Gingl replied on his behalf explaining that Mr. Gingl that he could not execute any documents on behalf of BionX or BIC because he was no longer an officer or director for either of the companies. SCC previously did not have any record of Mr. Gingl's resignation as director of BIC. Attached hereto as Exhibit "C" is the email correspondence between counsel to SCC and counsel to Mr. Gingl.

13. Mr Gingl's resignation prevented BIC from successfully filing a proof of claim before the Deadline as he was the sole director of the Company capable of executing a proof of claim. Attached as Exhibit "D" is the formal resignation of Mr. Gingl, dated February 27, 2018 which was delivered to SCC on March 28, 2019.

14. On June 24, 2019, I was elected as the sole director of BIC. My election was effective after the Deadline. The resolution of shareholders dated June 24, 2019 appointing me as a director of BIC is attached hereto as Exhibit "E".

15. As BIC now has a representative able to execute documents on its behalf, if granted an extension by the Court, BIC intends to file a proof of claim against BionX in the amount of \$47,353,494.00. A copy of the draft proof of claim that BIC intends to file is attached hereto as Exhibit "F".

16. I understand from Lee Nicholson, counsel to SCC and inspector of the BionX estate, that the Trustee has not completed any distributions to creditors and does not plan to complete any distributions until at least October 2019.

SWORN BEFORE ME at the City of
Toronto, on August 23, 2019.



Commissioner for taking affidavits



Gregory Harnish

**Shanice Renee Prendergast, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires April 25, 2021.**

EXHIBIT “A”

EXHIBIT "A"

referred to in the Affidavit of

GREGORY HARNISH

Sworn August 23, 2019

A handwritten signature in black ink, appearing to read 'G. Harnish', is written over a horizontal line.

Commissioner for Taking Affidavits

BionX International Corp. and subsidiaries

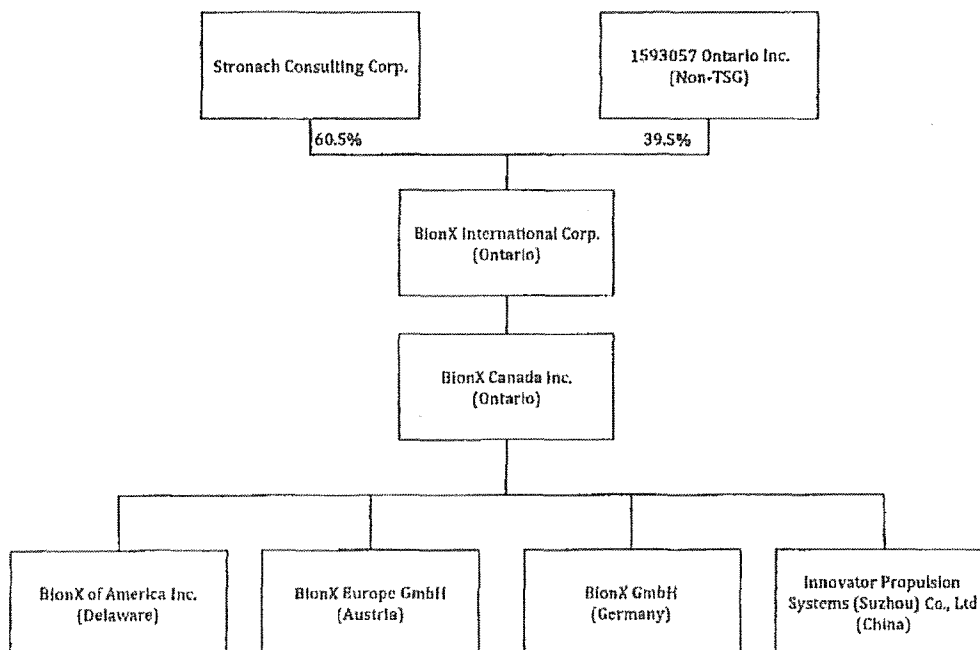


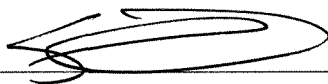
EXHIBIT “B”

EXHIBIT "B"

referred to in the Affidavit of

GREGORY HARNISH

Sworn August 23, 2019

A handwritten signature in black ink, appearing to read 'G. Harnish', is written over a horizontal line.

Commissioner for Taking Affidavits

BionX International Corporation
455 Magna Drive
Aurora ON L4G 7A9

District of: Ontario
Division No. 09 - Toronto
Court No. 31-2484607
Estate No. 31-2484607

Notice requiring person to prove claim (sec. 149)

In the matter of the bankruptcy of
BionX Canada Inc.
of the Town of Aurora, in the Province of Ontario
Insolvency Date: March 12th, 2019

Take notice that a final dividend is intended to be declared in the above matter and that if you do not prove your claim on or before the 3rd day of June 2019 or within such further time as the Court may allow, we shall proceed to make a final dividend without regard to claims which have not been filed.

Dated at the City of Toronto in the Province of Ontario, this 1st day of May 2019.

Grant Thornton Limited - Licensed Insolvency Trustee
Per:



Michael Creber - Licensed Insolvency Trustee
11 th Floor, 200 King Street West, Box 11
Toronto ON M5H 3T4
Phone: (416) 366-0100 Fax: (416) 360-4948

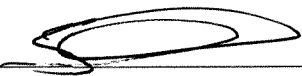
EXHIBIT “C”

EXHIBIT "C"

referred to in the Affidavit of

GREGORY HARNISH

Sworn August 23, 2019



Commissioner for Taking Affidavits

Keisha Lackpatiah-Sealy

From: Ground, Colin <CGround@CasselsBrock.com>
Sent: Thursday, March 28, 2019 4:40 PM
To: Lee Nicholson
Cc: 'Fred Gingl'; Dietrich, Jane; Harnish, Greg; Brookes, Michael
Subject: RE: BionX Canada/BionX International [IWOV-LEGAL.FID2696935]
Attachments: Bionx International Corporation - Resignation - Manfred Gingl - February 27, 2018 (signed).DOCX; Bionx Canada Inc. - Resignation - Manfred Gingl - February 27, 2018 (signed).DOCX

Lee,

See attached.



Colin Ground

Direct: +1 416 860 6742 • Fax: +1 416 350 6941 • cground@casselsbrock.com
2100 Scotia Plaza, 40 King Street West, Toronto, Ontario, M5H 3C2
www.casselsbrock.com

From: Lee Nicholson [mailto:leenicholson@stikeman.com]
Sent: Thursday, March 28, 2019 2:08 PM
To: Ground, Colin
Cc: 'Fred Gingl'; Dietrich, Jane; Harnish, Greg; Brookes, Michael
Subject: RE: BionX Canada/BionX International [IWOV-LEGAL.FID2696935]

Thanks for the response Colin. We have no record of any resignation. Was any resignation delivered to the shareholders? Can you please provide a copy?

Thanks,

Lee

Lee Nicholson

Direct: +1 416 869 5604
Mobile: +1 647 821 1931
Email: leenicholson@stikeman.com

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Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.

From: Ground, Colin <CGround@CasselsBrock.com>
Sent: Thursday, March 28, 2019 1:42 PM
To: Lee Nicholson <leenicholson@stikeman.com>
Cc: 'Fred Gingl' <fgingl1966@gmail.com>; Dietrich, Jane <jdietrich@casselsbrock.com>
Subject: RE: BionX Canada/BionX International [IWOV-LEGAL.FID2696935]

Lee,

Mr. Gingl has sent me your email below. I can advise that Mr. Gingl will not be able to sign any documents on behalf of either BionX International Corp. or BionX Canada Inc. Mr. Gingl is no longer an officer or director of these companies and therefore has no capacity or authority to sign any documents for these companies.

Best regards,



Colin Ground

Direct: +1 416 860 6742 • Fax: +1 416 350 6941 • cground@casselsbrock.com

2100 Scotia Plaza, 40 King Street West, Toronto, Ontario, M5H 3C2

www.casselsbrock.com

From: Fred Gingl [<mailto:fgingl1966@gmail.com>]

Sent: Thursday, March 28, 2019 1:04 PM

To: Ground, Colin

Subject: Fwd: BionX Canada/BionX International

Sent from my iPhone

Begin forwarded message:

From: Lee Nicholson <leenicholson@stikeman.com>

Date: March 27, 2019 at 7:34:17 PM EDT

To: "Fgingl1966@gmail.com" <Fgingl1966@gmail.com>

Cc: "Brookes, Michael" <Michael.Brookes@stronachgroup.com>, "Harnish, Greg"

<Greg.Harnish@stronachgroup.com>

Subject: BionX Canada/BionX International

Hi Fred,

I am counsel to Stronach Consulting Corp. in respect of the BionX Canada Inc. insolvency proceedings. BionX Canada Inc. was recently assigned into bankruptcy by Grant Thornton, the previous receiver of the company. A copy of the notice of bankruptcy from Grant Thornton that we received is attached. In order to vote and participate at the first meeting of creditors, BionX International Corp. needs to file a proof of claim signed by an authorized representative and we think that you are only person who can currently execute documents on behalf BionX International Corp. We have prepared a draft proof of claim and would appreciate if you could execute on pages 2 & 3 and fill in the missing info on page 1 (your residency information). The first meeting of creditors is on Friday so I need to submit the proof of claim to Grant Thornton tomorrow.

The proof of claim contemplates that I would act as BionX International Corp.'s proxy at the first meeting of creditors and would receive information in respect of the bankruptcy on behalf of BionX International Corp. Let me know if you are ok with that. We thought that would be most efficient given that I will be attending the meeting on behalf of Stronach Consulting Corp. regardless. Also it may make sense to appoint a new director of BionX International Corp. going forward given your new position and the need for someone to act on behalf of the company on ongoing basis. We may be back to you on a proposal on how to resolve the governance of the company at a later date but currently just need the proof of claim executed.

Let me know if you have any questions and happy to discuss.

Regards,

Lee

Lee Nicholson

Direct: +1 416 869 5604
Mobile: +1 647 821 1931
Email: leenicholson@stikeman.com

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EXHIBIT “D”

EXHIBIT "D"

referred to in the Affidavit of

GREGORY HARNISH

Sworn August 23, 2019

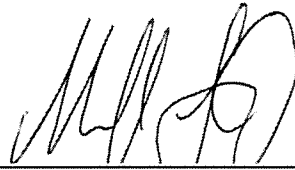


Commissioner for Taking Affidavits

TO: Bionx Canada Inc.
and to the director and shareholders thereof

The undersigned hereby resigns as a director, President and Chief Executive Officer of Bionx Canada Inc. effective immediately.

DATED as of the 27th day of February, 2018.

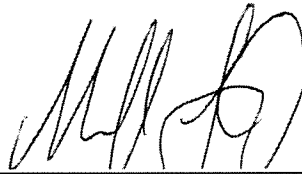
A handwritten signature in black ink, appearing to read 'M. Gingl', written over a horizontal line.

Manfred Gingl

TO: Bionx International Corporation
and to the director and shareholders thereof

The undersigned hereby resigns as a director, President and Chief Executive Officer of Bionx International Corporation effective immediately.

DATED as of the 27th day of February, 2018.

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

Manfred Gintl

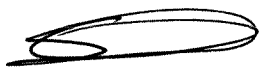
EXHIBIT “E”

EXHIBIT "E"

referred to in the Affidavit of

GREGORY HARNISH

Sworn August 23, 2019



Commissioner for Taking Affidavits

**RESOLUTIONS OF THE SHAREHOLDERS
OF
BIONX INTERNATIONAL CORPORATION**

ELECTION OF DIRECTOR

WHEREAS Fred Gingl has resigned as a director of the Corporation effective February 27, 2018.

RESOLVED that:

1. the resignation of Fred Gingl as a director of the Corporation is hereby accepted effective February 27, 2018.
2. the following person, who has consented in writing to act in such capacity, is hereby elected as a director of the Corporation effective as of the date hereof, to hold office until the close of the next annual meeting of shareholders of the Corporation or until his successor has been duly elected or appointed:

Greg Harnish

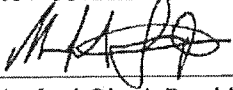
3. the directors of the Corporation, in their entirety, as of the date hereof, are hereby confirmed to be the following:

Greg Harnish

[signatures on next page]

The foregoing resolutions are hereby consented to by the shareholders of the Corporation, pursuant to the *Business Corporations Act* (Ontario), this June 24, 2019.

1593057 ONTARIO INC.

By: 
Manfred Gingl, President

STRONACH CONSULTING CORP.

By: _____
Colin Chapin, CFO

By: _____
Greg Harnish, Secretary

The foregoing resolutions are hereby consented to by the shareholders of the Corporation, pursuant to the *Business Corporations Act* (Ontario), this June 24, 2019.

1593957 ONTARIO INC.

By: _____
Manfred Gingl, President

STRONACH CONSULTING CORP.

By: 
Colin Chapin, CFO

By: 
Greg Harnish, Secretary

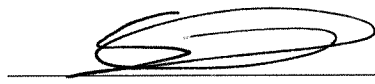
EXHIBIT “F”

EXHIBIT "F"

referred to in the Affidavit of

GREGORY HARNISH

Sworn August 23, 2019



Commissioner for Taking Affidavits

District of: Ontario
Division No. 09 - Toronto
Court No. 31-2484607
Estate No. 31-2484607

FORM 31
Proof of Claim
(Sections 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1),
and Paragraphs 51(1)(e) and 66.14(b) of the Act)

In the matter of the bankruptcy of
BionX Canada Inc.
of the Town of Aurora, in the Province of Ontario

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

Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto ON, M5L 1B9

Attention: Lee Nicholson

In the matter of the bankruptcy of BionX Canada Inc. of the Town of Aurora in the Province of Ontario and the claim of
BionX International Corporation, creditor.

I, Gregory Harnish (name of creditor or representative of the creditor), of the city of Toronto in the
province of Ontario, do hereby certify:

1. That I am a creditor of the above named debtor (or I am Director (position/title) of BionX International Corporation
creditor).

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

3. That the debtor was, at the date of bankruptcy, namely the 12th day of March 2019, and still is, indebted to the creditor in the sum of
\$ 47,353,494.00

4. (Check and complete appropriate category.)

☒ A. UNSECURED CLAIM OF \$ 47,353,494.00

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

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

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

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

☐ B. CLAIM OF LESSOR FOR DISCLAIMER OF A LEASE \$ _____

That I hereby make a claim under subsection 65.2(4) of the Act, particulars of which are as follows:

(Give full particulars of the claim, including the calculations upon which the claim is based.)

☐ C. SECURED CLAIM OF \$ _____

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

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

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

- ☐ E. CLAIM BY WAGE EARNER OF \$ _____
- ☐ That I hereby make a claim under subsection 81.3(8) of the Act in the amount of \$ _____.
- ☐ That I hereby make a claim under subsection 81.4(8) of the Act in the amount of \$ _____.
- ☐ F. CLAIM BY EMPLOYEE FOR UNPAID AMOUNT REGARDING PENSION PLAN OF \$ _____
- ☐ That I hereby make a claim under subsection 81.5 of the Act in the amount of \$ _____.
- ☐ That I hereby make a claim under subsection 81.6 of the Act in the amount of \$ _____.
- ☐ G. CLAIM AGAINST DIRECTOR \$ _____

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

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

- ☐ H. CLAIM OF A CUSTOMER OF A BANKRUPT SECURITIES FIRM \$ _____

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

5. That, to the best of my knowledge, I _____ (am/am not) (or the above-named creditor _____ (is/is not)) related to the debtor within the meaning of section 4 of the Act, _____

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

7. (Applicable only in the case of the bankruptcy of an individual.)

- ☐ Whenever the trustee reviews the financial situation of a bankrupt to redetermine whether or not the bankrupt is required to make payments under section 68 of the Act, I request to be informed, pursuant to paragraph 68(4) of the Act, of the new fixed amount or of the fact that there is no longer surplus income.
- ☐ I request that a copy of the report filed by the trustee regarding the bankrupt's application for discharge pursuant to subsection 170(1) of the Act be sent to the above address.

Dated at _____, this _____ day of _____, _____.

 Witness

 Creditor

Phone Number: _____

Fax Number : _____

E-mail Address : _____

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

WARNINGS: A trustee may, pursuant to subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 20(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.

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

Proceeding commenced at Toronto

**AFFIDAVIT OF GREGORY HARNISH
(Sworn August 23, 2019)**

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Lawyers for BionX International Corp.

**IN THE MATTER OF THE BANKRUPTCY OF BIONX CANADA INC.
OF THE MUNICIPALITY OF AURORA, IN THE PROVINCE ON ONTARIO**

Court File No.: CV-18-592741-00CL

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

Proceeding commenced at Toronto

**MOTION RECORD OF
BIONX INTERNATIONAL CORP.
(Re: Extension of Time to File a Proof of Claim)
(Returnable September 23, 2019)**

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