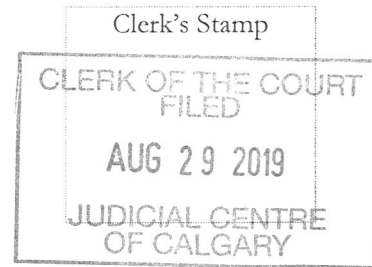


COURT FILE NO. 1901-03824
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF ROYAL BANK OF CANADA
DEFENDANTS SURFACE PRO SERVICES INC., ATKINS
KUNTZ CONSTRUCTION GROUP INC.,
2049829 ALBERTA INC., DOUGLAS ATKINS,
DAVID KUNTZ and ROGER LEADER



IN THE MATTER OF THE RECEIVERSHIP
OF SURFACE PRO SERVICES INC., ATKINS
KUNTZ CONSTRUCTION GROUP INC. and
2049829 ALBERTA INC.

APPLICANT DELOITTE RESTRUCTURING INC. in its
capacity as court-appointed receiver and manager of
the assets, undertakings and properties of
SURFACE PRO SERVICES INC., ATKINS
KUNTZ CONSTRUCTION GROUP INC. and
2049829 ALBERTA INC.

DOCUMENT **AFFIDAVIT**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Torys LLP
4600 Eighth Avenue Place East
525 - Eighth Ave SW
Calgary, AB T2P 1G1

Attention: Kyle Kashuba
Telephone: +1 403.776.3744
Fax: +1 403.776.3800
Email: kkashuba@torys.com
File No. 39279-2002

AFFIDAVIT OF TRACY HUTCHINGS

Sworn on August 26th, 2019

I, Tracy Hutchings, of the City of Calgary, in the Province of Alberta, Canada, MAKE OATH AND SAY THAT:

1. I am a Legal Assistant at Torys LLP and as such have personal knowledge of the matters herein deposed to, except where stated to be based upon information in which case I do verily believe the same to be true.
2. Attached as Exhibit "A" is a letter from Kyle Kashuba of Torys LLP addressed to Gene Bodnar and Lukas Frey of Scott Venturo Rudakoff LLP dated June 25th, 2019.
3. Attached as Exhibit "B" is a letter from Kyle Kashuba of Torys LLP addressed to Gene Bodnar of Scott Venturo Rudakoff LLP dated August 23rd, 2019.
4. Attached as Exhibit "C" is a letter from Eugene J. Bodnar of Scott Venturo Rudakoff LLP dated August 23rd, 2019.
5. Attached as Exhibit "D" is an email from Gene Bodnar of Scott Venturo Rudakoff LLP dated August 25th, 2019.
6. Attached as Exhibit "E" is a letter from Kyle Kashuba of Torys LLP addressed to Gene Bodnar of Scott Venturo Rudakoff LLP dated August 26, 2019.
7. I make this Affidavit in respect of the service of an Application by the Receiver for certain advice and directions from the Court.
8. I make this Affidavit for no improper purpose.

SWORN BEFORE ME at Calgary, Alberta, this 26th)
 day of August, 2019.)

B. Schur)
 Commissioner for Oaths in and for the Province of)
 Alberta)

T. Hutchings)
 Tracy Hutchings)

Brandon Schur
 Barrister & Solicitor

June 25, 2019

BY EMAIL

Scott Ventura Rudakoff LLP
1500, 222 3rd Avenue SW
Calgary, AB T2P 0B4

Attention: Gene Bodnar and Lukas Frey

Dear Sirs:

**Re: In the Matter of the Receivership of Surface Pro Services Inc. (“SPS”), Atkins Kuntz Construction Group Inc. (“AKC”) and 2049829 Alberta Inc. (“204”).
Alberta Court of Queen’s Bench Action No. 1901-03824**

THIS IS EXHIBIT “ A ”
to the Affidavit of
TRACY HUTCHINGS
Sworn before me this 26
day of August A.D. 2019
B. Schur
A Commissioner for Oaths/Notary Public
in and for the Province of Alberta

Brandon Schur
Barrister & Solicitor

We are in receipt of your correspondence dated June 21, 2019. As you are aware, my office acts as legal counsel to Deloitte Restructuring Inc., in its capacity as Court-appointed receiver and manager (the “Receiver”) of the property, assets and undertakings of SPS, AKC and 204 (collectively, the “Companies”), such appointment being made pursuant to the terms of the Receivership Order that was granted on March 20, 2019 by the Honourable Mr. Justice K.D. Yamauchi of the Court of Queen’s Bench of Alberta (the “Receivership Order”).

My client on a number of occasions has requested from the Companies’ various directors and officers any and all paper documentation, electronic records and other property (the “Property”) of the Companies, that those individuals have in their possession. Further, the Receiver understands that certain of this Property was removed from the Companies’ premises following the granting of the Receivership Order. To be clear, such conduct is in direct and flagrant violation of the Receivership Order.

I will direct your client to the clear terms of the Receivership Order, and in particular paragraph 4 thereof, under which the Companies’ directors, officers, employees and shareholders are strictly required to deliver possession of the Companies’ Property to the Receiver:

4. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “Persons” and each being a “Person”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver’s request.

Further, the Companies' directors and officers must advise the Receiver of the existence of any and all books, documents, securities, contracts, orders, corporate and accounting records related to the Companies' business or affairs. The directors have been advised of this by the Receiver previously, but Mr. Atkins can consider this letter his formal notice of this requirement.

With regards to the proposed en bloc offer for the Companies' assets that Mr. Atkins has suggested is forthcoming, we have been advised that this offer was in the process of being completed over five weeks ago, starting on or about May 2, 2019. Mr. Atkins' contention that this offer "could provide for a far greater recovery to the Royal Bank of Canada" as secured creditor is pure speculation. Further, if anyone had/had a good idea of what the Companies' assets include, and the condition of the same, that would be Mr. Atkins himself.

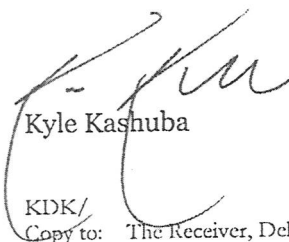
The Receiver has had considerable difficulty in identifying and locating all of the Companies' assets. My client advises that AKC and SPS never kept a master asset list. As at the date of the Receivership Order, the Receiver compiled a master asset list by pulling PPR search results and reviewing whiteboards located at the Companies' head office. The Receiver is currently in possession of 30 owned units and 13 leased/financed units between AKC and SPS (my client has returned 31 leased/financed units to the applicable lessor(s), where it was clear that there was no equity in the units). There are 12 units that are still missing. The Receiver had provided the directors of AKC and SPS with its asset spreadsheet and requested assistance in locating and returning equipment- these requests were never specifically responded to by Mr. Atkins or the other directors of the Companies. There are clearly certain units that have not been delivered to the Receiver, and this is concerning for a number of reasons.

Mr. Atkins is hereby formally directed, pursuant to the Receiver's authority under the Receivership Order and at law, to immediately deliver any Property of the Companies to the Receiver.

With respect to the appraisal that was requested by Mr. Atkins and by your office, there are other appraisers apart from Century Services operating in Calgary. It should also be noted that the appraisal obtained by the Receiver includes leased/financed equipment that has since been returned to the applicable lessors. The Receiver needed to obtain the forced liquidation value of all the assets to understand whether there is equity in the individual pieces of equipment. In other words, the appraisal will have information included within it that will not be relevant for the making of any en bloc offer of the remaining assets of the Companies. Lastly, the estimation of 3 to 6 weeks to complete an appraisal is not reasonable. Your client has had more than ample time since the granting of the Receivership Order to source such an appraisal. Nonetheless, he has failed to do so. In any event, the Receiver will release the Century Services asset appraisal on the condition that Mr. Atkins executes a non-disclosure agreement and pays the Receiver the sum of \$3,150, which represents one-half of the appraisal's cost.

I trust that the foregoing is clear, but should you have any questions, you may contact me directly to discuss the same.

Sincerely,



Kyle Kashuba

KDK/

Copy to:

The Receiver, Deloitte Restructuring Inc., Attention: Ryan Adlington and Cassie Poon (via email)
Borden Ladner Gervais LLP, Attention: Robyn Gurofsky (via email)

TORYS
LLP

THIS IS EXHIBIT “ B ”
to the Affidavit of
TRACI HUTCHINGS
Sworn before me this 26
day of August A.D. 2019
B. Sol
A Commissioner for Oaths/Notary Public
in and for the Province of Alberta

525 - 8th Avenue S.W., 46th Floor
Eighth Avenue Place East
Calgary, Alberta T2P 1G1 Canada
P. 403.776.3700 | F. 403.776.3800
www.torys.com

Kyle Kashuba
kkashuba@torys.com
P. 403.776.3744

Brandon Schur
Barrister & Solicitor

August 23, 2019

Gene Bodnar
Scott Venturo Rudakoff LLP
1500, 222 3 Avenue SW
Calgary, AB T2P 0B4

Dear Sir:

**Re: In the Matter of the Receivership of Surface Pro Services Inc., Atkins Kuntz Construction Group Inc. and 2049829 Alberta Inc.
Alberta Court of Queen’s Bench Action No. 1901-03824**

We are in receipt of your correspondence dated as at today’s date. We are confused by its contents and the position of your client.

As you are aware, my office acts as counsel to Deloitte Restructuring Inc., in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) of the property, assets and undertakings of Atkins Kuntz Construction Group Inc., 2049829 Alberta Inc. and Surface Pro Services Inc. (the “**Debtors**”), pursuant to the Receivership Order that was granted on March 20, 2019 by the Honourable Mr. Justice K.D. Yamauchi of the Court of Queen’s Bench of Alberta (the “**Receivership Order**”).

In your correspondence, you reference an Affidavit that is forthcoming from your client, Douglas Atkins. We would appreciate if this Affidavit could be provided as soon as possible, even if in an unexecuted form. The Receiver may well need an opportunity to respond, and I understand that counsel to the Royal Bank of Canada has been in communication with you to this end as well.

You have also referenced certain “misinformation” included in the March 2019 Affidavit of Mr. Coonan, as well as being allegedly contained in the Receiver’s First Report. The Receiver views such allegations as being very serious, and requires Mr. Atkins to set out in detail the issue that he takes with this evidence.

With respect to the possibility of an adjournment of Monday’s Application, this is a request that the Receiver cannot consent to. There is a sale of certain real property being proposed, of which you are aware, which requires Court approval on Monday. This Application has been brought in accordance with the terms of the Receivership Order, and in the ordinary manner expected in such circumstances. It would be contrary to the interest of the receivership estate, its secured creditor, and of the Receiver to consent to such an adjournment that could potentially result in this sale falling by the wayside. Further, there is absolutely no evidence of a better offer or any offer whatsoever that could possibly result in a better recovery to the Debtors’ estate and any delay will necessarily result in increased costs to the estate and decreased recoveries to the stakeholders.

The auction proposal that is being proposed has been sourced, diligently investigated, and put forward at a significant cost to the estate. The proposed auction company requires some advance lead-time in order for the auction to properly be arranged and conducted. Any delay could negatively impact sale prices and the recovery to the estate.

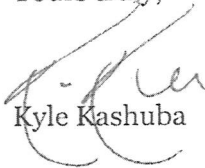
We note that despite providing Mr. Atkins a copy of the Debtors' equipment appraisal on June 27, 2019, we have heard nothing from your client in respect thereof. Since that point in time, neither the Receiver nor my office have received any contact, correspondence or anything from your office or Mr. Atkins relating to any bid on the subject equipment. Now, we are told that your client's financial advisor "is very close to lining up financing and that a conditional term sheet will likely be in place by Monday [the date of the Receiver's Application]." While the Receiver will consider any information or documentation you provide in advance of the Application, the Receiver will not agree to delay Monday's Application given the amount of effort and costs incurred to date to negotiate and finalize the proposed transactions.

The Receiver also notes that it has contacted your office a number of times requesting information pertaining to questionable transactions involving your client, for which no satisfactory or justifiable answers have yet been provided. Further such questionable transactions have also been referenced in the Receiver's Report, including with respect to the PEI property. Any attempt by your client to frustrate the commercially reasonable efforts of the Receiver to monetize the estate for the benefit of stakeholders will be met with opposition.

With the above being said, we intend on proceeding with the Receiver's Application on Monday, and look forward to seeing your client's evidence in opposition. We reserve all rights to cross-examine Mr. Atkins on his purported evidence, and to file further evidence of the Receiver in response thereto.

We look forward to hearing from you.

Yours truly,



Kyle Kashuba

KDK/

Copy to: The Receiver, Deloitte Restructuring Inc., Attention: Ryan Adlington (via email)

SCOTT VENTURO RUDAKOFF LLP
LAWYERS

THIS IS EXHIBIT "C"
to the Affidavit of
TRACI HUTCHINGS

Sworn before me this 26
day of August A.D. 2019

August 23, 2019

Via Email: kkashuba@torys.com

B. Schur
A Commissioner for Oaths / Notary Public
in and for the Province of Alberta

Eugene J. Bodnar
Direct Line: 403.231.8209
Email: g.bodnar@svrlawyers.com
Assistant: Ginger Campbell
Direct Line: 403.231.3456
Email: g.campbell@svrlawyers.com

Torys LLP
46th Floor Eighth Avenue Place East
525 – 8th Avenue S.W.
Calgary, Alberta T2P 1G1

Brandon Schur
Barrister & Solicitor

Attention: Kyle Kashuba

Dear Sir:

Re: Royal Bank of Canada v. Surface Pro Services Inc.
Court File No. 1901-03824
Our File No. 68949.001

Thank you for providing me with the materials for your application returnable August 26, 2019.

Mr. Atkins has continued to source financing through Sarah Hawco of Hawco Peters & Associates for an *en bloc* offer to purchase the assets out of receivership. This task has been unnecessarily difficult as a result of certain misinformation regarding Mr. Atkins contained in the original affidavit of Mr. Coonan, which subsequently was put out into the market by *Insolvency Insider*. This recently has been compounded by additional misinformation contained in the recent report of the Receiver. All of this will be clarified in an affidavit which I expect to be able to get to you over the weekend or on Monday morning at the latest.

In any event, I am advised that Ms. Hawco is now very close to lining up financing and that she is hoping to have a term sheet in place by Monday. This will be subject to due diligence and we will require a period of 2-3 weeks for that. Accordingly, I would ask you to kindly let me know whether your client is prepared to adjourn its application, failing which I am instructed to apply for one on Monday.

I look forward to hearing from you with respect to the foregoing. Please do not hesitate to call me should you wish to discuss this matter in more detail.

Yours very truly,

SCOTT VENTURO RUDAKOFF LLP

EUGENE J. BODNAR
EJB/gmc

Page 2
August 23, 2019

cc: Robyn Gurofsky, Borden Ladner Gervais LLP
Counsel for Royal Bank of Canada [via email]

cc: Doug Atkins [via email]

cc: Sarah Hawco
Hawco Peters & Associates [via email]

THIS IS EXHIBIT " 0 "
to the Affidavit of
IRAGI HUTCHINGS

Sworn before me this 26
day of August A.D. 2019

B. Sol
A Commissioner for Oaths / Notary Public
in and for the Province of Alberta

Kashuba, Kyle

From: Eugene J. Bodnar <E.Bodnar@svrlawyers.com>
Sent: Sunday, August 25, 2019 9:20 PM
To: Kashuba, Kyle; Gurofsky, Robyn
Cc: Lukas Frey
Subject: Surface Pro Receivership
Attachments: 2019_08_25_Loan Proposal .pdf

Brandon Schur
Barrister & Solicitor

Counsel:

Attached is a copy of a term sheet that I received this evening. This will be exhibited to an affidavit that Mr. Atkins will be swearing tomorrow morning. As I still need to discuss and finalize the affidavit with Mr. Atkins, I unfortunately cannot send you a draft version tonight. But I'll send it to you as early as I can tomorrow.

Also, I'd ask that Kyle kindly provide me with the following information as soon as possible:

- With respect to paragraph 13(aa) of the Receiver's Report, full details regarding the stated attempt(s) to remove Assets from the Premises, including (i) when this occurred; (ii) who intervened on behalf of the Receiver; (iii) who were the "other former employees" involved; (iv) what Assets were involved; (v) the nature and outcome of the intervention; and (vi) any notes, photos, video, statements or other evidence regarding the incident(s).
- With respect to paragraph 13(cc) of the Receiver's Report, copies of the police reports.

Regards,

Gene

GENE BODNAR
Partner
Ph: 403.231.8209
g.bodnar@svrlawyers.com

1500, 222 3rd Avenue SW
Calgary, Alberta T2P 0B4
Tel: 403.261.9043
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SCOTT VENTURO RUDAKOFF LLP
LAWYERS



**SUMMARY OF TERMS FOR SENIOR SECURED CREDIT FACILITY
(DISCUSSION PURPOSES)**

DATE: August 25, 2019

TO: 2213107 Alberta Ltd.
31 Heritage Cove
Heritage Pointe, AB, T1S 4J1

FROM: Shaka Miller
Vice President
Maynbridge Capital Inc.
Suite 2500, 645 7th Avenue SW
Calgary, AB T2P 4G8

We are pleased to provide this Loan Proposal for 2213107 Alberta Ltd. outlining the terms and conditions under which Maynbridge Capital Inc. would consider the proposed financing of the senior secured facility as set out herein.

This summary of terms and conditions is for convenience of reference only and shall not be considered to be exhaustive as to the final terms and conditions of the Credit Facility, which shall be set out in the Credit Financing Agreement (as defined below). In the event of a conflict between the provision of this summary and the Credit Financing Agreement, the latter shall govern.

Borrower: 2213107 Alberta Ltd. (the "Borrower")

Guarantors: Mr. Doug Atkins & Mrs. Dianne Atkins (the "Guarantors")

Lender: Maynbridge Capital Inc. (the "Lender")

Purpose: Loan Facility: senior secured 1st lien credit facility of up to CDN \$3,200,000.00 (the "Credit Facility").

Maximum Availability: The Credit Facility amount shall not exceed at any time the maximum of (i) CDN \$3,200,000.00, or (ii) 65% of the Forced Liquidation Value of the acquired equipment and commercial real estate assets as approved by the Lender.

Eligible Assets: "Eligible Assets" means a 1st position lien on all equipment assets that are owned by the Borrower supported by clear evidence title and ownership and located in Canada or pre-approved jurisdictions; and as otherwise approved by the Lender.

Documentation: Any commitment by the Lender in respect of the Credit Facility would be subject to the negotiation, execution and delivery of a credit agreement containing the terms and conditions outlined herein, as well as standard representations and warranties, conditions precedent, affirmative and negative covenants, events of default, and other clauses usual and customary for a financing of this nature (the "Credit Facility Agreement") and such other

documents as are customary for a financing of this nature, including without limitation, guarantees and security documents.

Availability: Subject to the Maximum Availability, and provided that no Default or Event of Default has occurred and is then continuing, on and after the date on which the Conditions Precedent (as defined below) shall have been satisfied, the Borrower may request the advancement under the Credit Facility.

Termination Date: The maturity of the Credit Facility (the "Termination Date") shall be:

- i. 12 months from the date of restructuring;

Renewal: Subject to the terms and conditions in the Credit Facility Agreement and receipt of 2.0% of the Credit Facility amount, the Credit Facility may be renewed for another 12 months from the Termination Date outlined above, at the satisfaction of the Lender.

Closing Date: The date on which the Conditions Precedent shall have been satisfied (the "Closing Date"). The commitment (if any) of the Lender to provide the Credit Facility shall expire and terminate if the Closing Date has not occurred on or before September 30th, 2019, or such a later date as the Lender may approve.

Permitted Uses of Proceeds: The Credit Facility may only be used for the following purposes:

- i. for restructuring of the current term and operating debt;
- ii. for approved working capital, capital expenditures, and other ordinary course expenditures of the Borrower; and
- iii. to pay Permitted Fees and Expenses;

"Permitted Fees and Expenses" means, collectively, (i) the Credit Facility Expenses (as hereinafter defined), (ii) all recoverable fees, expenses and costs incurred by the Lender in connection with the Credit Facility; and (iii) the fees and expenses of the Borrower associated with the Credit Facility.

Interest Rate: 15.00 % per annum.

Fees: **Commitment Fee** - the Borrower shall pay a one-time Borrower commitment fee of 2.0% (\$64,000.00) of the Maximum Availability Amount. Of this commitment fee, \$20,000 is to be paid in advance on acceptance of this Credit Facility proposal ("Good Faith Deposit") and will be credited towards the Commitment Fee due and payable on funding, or may be financed in addition to the Maximum Available amount detailed above. Should the Lender, upon completion of its due diligence, decide in its sole discretion not to provide the Borrower with a commitment substantially in the form outlined herein, the Lender will return the Good Faith Deposit to the Borrower net of any costs incurred.

Payments: The Credit Facility will be serviced by:

- 12 monthly payments of principal and interest of CDN\$56,000;
- followed by remaining principal plus accrued interest;

Security:

- The obligations of the Borrower under the Credit Facility Agreement are to be subject to a fully perfected first-ranking specific charge on all equipment (the "Collateral"), evidenced by applicable PPSA registrations, pursuant to the definitive Credit Facility Agreement;
- 2nd charge on all Accounts Receivable and Inventory;
- 1st Collateral Mortgage charge over the subject real estate;

- Continuing personal guarantees of Mr. Doug Atkins and Mrs. Dianne Atkins;

Covenants: The Credit Facility Agreement would contain affirmative, negative and financial covenants, including without limitation, the following:

- i. The Borrower shall not undertake any actions with respect to their business operations and/or capital structure which would, in the determination of the Lender, have a material adverse effect on the Borrower;
- ii. The Borrower shall not incur, create or suffer to exist any lien on any Collateral now owned or hereafter acquired other than (i) Permitted Encumbrances;
- iii. Without the prior written consent of the Lender, the Borrower shall not declare or any dividends, or make any other distributions (whether by reduction of capital or otherwise) with respect to any of their issue and outstanding shares or other equity interest;
- iv. The Borrower shall pay all recoverable fees, expenses and costs incurred by the Lender, in connection with the Credit Facility;

Conditions Precedent to Closing:

- Physical inspection by Maynards Industries Ltd. supporting a minimum Forced Sale Valuation of at least \$2,061,000.00 on all equipment;
- Physical inspection by Colliers Intl. supporting a minimum appraised value with a 3 month exposure time, of \$2,800,000 on the real estate;
- Execution of the Credit Facility Agreement;
- Perfected security interests in the Collateral with the priorities described above, together with the execution and delivery of security documentation and perfection filing from the Lender by the Closing Date;
- Satisfactory completion of the collateral review with respect to all equipment assets;
- Receipt by the Lender, of an initial monthly cash flow forecast for the upcoming 12-month period (the "Cash Flow Forecast"), satisfactory to the Lender;
- The Borrower shall have paid all fees then owing to the Lender.

Reporting:

The Credit Facility Agreement would contain regular monthly reporting requirements, including without limitation, the following:

- Monthly financial statements including profit & loss, balance sheet, schedule of accounts receivable and accounts payable.
- Monthly statement of account from the Receiver General supporting all priority payables are in good standing and up to date.

Representations and Warranties:

Standard Representations and Warranties for a Loan transaction of this nature

Events of Default:

Standard Events of Default for a Loan transaction of this nature

Transaction Expenses:

From the date of acceptance of this Loan Proposal, the Borrower will be responsible for all reasonable third party expenses incurred by the Lender in connection with the transaction, including, but not limited to, legal fees (on a solicitor and own client full indemnity basis), appraisals, due diligence and physical inspections.

Assignability: The Borrower and the Guarantors may not assign any of their rights or obligations. The Lender may assign or transfer, in whole or in part, its rights or pledge its rights thereunder without the Borrower's consent.

No Obligation Created: By executing this Loan Proposal, you acknowledge that it represents a proposed transaction and does not constitute an offer or a commitment.

Confidential: This Loan proposal is being provided to you on the further condition that its existence and contents will be kept confidential and will not be disclosed without the Lender's prior written consent except to those individuals who have a need to know as a result of their being specifically involved in the proposed transaction.

Governing Law: This Loan Proposal is governed by and interpreted in accordance with the laws of the Province of Alberta and the Borrower and the each of the Guarantors hereby irrevocably attorn to the jurisdiction of the courts of the Province of Alberta.

Counterpart Execution: This Loan proposal and all other documents related thereto or arising therefrom may be executed in any number of counterparts (including by facsimile transmission) and by different parties in separate counterparts, each of which when so executed will be deemed to be an original and all of which taken together will constitute one and the same instrument.

This Loan proposal will expire on August 30th, 2019.

Please feel free to contact the undersigned if you have any questions or concerns.

Yours truly,

MAYNBRIDGE CAPITAL INC.

Shaka Miller
Vice President

ACCEPTED this _____ day of _____, 2019.

2213107 Alberta Ltd.

2213107 Alberta Ltd.

By: _____

By: _____

Name:
Title:

Name:
Title:

I have authority to bind the corporation

I have authority to bind the corporation

THIS IS EXHIBIT “ E ”
to the Affidavit of
TRACI HUTCHINGS
Sworn before me this 26
day of August A.D. 2019
B. Schur
A Commissioner for Oaths/Notary Public
in and for the Province of Alberta

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Kyle Kashuba
kkashuba@torys.com
P. 403.776.3744

August 26, 2019

Brandon Schur
Barrister & Solicitor

Gene Bodnar
Scott Venturo Rudakoff LLP
1500, 222 3 Avenue SW
Calgary, AB T2P 0B4

Dear Sir:

**Re: In the Matter of the Receivership of Surface Pro Services Inc., Atkins Kuntz Construction Group Inc. and 2049829 Alberta Inc.
Alberta Court of Queen’s Bench Action No. 1901-03824**

Further to your email from the late evening of August 25, 2019, my client, Deloitte Restructuring Inc., in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) of the property, assets and undertakings of Atkins Kuntz Construction Group Inc., 2049829 Alberta Inc. and Surface Pro Services Inc., has provided certain information in response to the inquiries that you have set out in the said email, and in response to the term sheet from Maynbridge Capital that was attached to that email.

The Receiver advises that around late March and early April, 2019, Mr. Joseph Sithole was contacted regarding the personal items of Mr. Doug Atkins located at 8916 44 Street SE, Calgary (the “**Premises**”). Mr. Sithole met with Mr. John Vandenberg, who was acting under the direction of Mr. Atkins to walk through the Premises and identify personal items belonging to Mr. Doug Atkins (the “**Walk Through**”). Mr. Vandenberg advised that personal items were located: (i) in the office, and (ii) in two sea-cans located in the yard of the Premises. Used clothing and wine making tools belonging to Mr. Doug Atkins were identified in the office, and because they were clearly personal in nature, Mr. Sithole released the items to Mr. Vandenberg the same day. During the time of the Walk Through, the sea-cans located at the Premises were locked and Mr. Sithole was unable to view and/or verify their contents. Mr. Vandenberg advised that only Mr. Atkins had access to the sea-cans. Accordingly, Mr. Sithole advised that the sea-cans and their contents would need to be inspected along with receipts, photographs, and proof of ownership prior to release (“**Proof of Ownership**”).

On May 30, 2019, Ms. Dana Gaspar of the Receiver’s office attended at the Premises at around 8:30 a.m. Upon Ms. Gaspar’s arrival, she noted that the gate to the yard (previously secured and locked) was open and a truck was pulling in to the yard. Ms. Gaspar was not expecting any visitors to the Premises or yard at that time. Ms. Gaspar intervened and prevented the truck from accessing the yard. The driver of the truck (from a third party moving company) advised Ms. Gaspar that he was instructed to meet Mr. John Atkins (the brother of Mr. Doug Atkins) at the Premises to retrieve two sea-cans. Ms. Gaspar was never contacted or notified by Mr. Doug Atkins, Mr. John Atkins, Mr. Vandenberg, or any other party about removal of any property on the Premises. Ms. Gaspar further contacted Mr. Sithole to inquire whether he or any other person from the Receiver’s office had knowledge of this. Mr. Sithole confirmed that neither he nor other individuals from the Receiver’s office were notified of this removal.

On the same day, May 30, 2019, Ms. Gaspar had a discussion with Mr. John Atkins (who identified himself as Mr. Doug Atkins' brother and former employee of the Debtors). Mr. John Atkins advised Ms. Gaspar that Mr. Doug Atkins was out of the country and had instructed him to attend at the Premises to retrieve the two sea-cans. At this time, the two sea-cans had been opened and Ms. Gaspar was able to inspect the contents. She identified the contents as assorted lawn furniture and a dining table. Mr. John Atkins informed Ms. Gaspar that another former employee, Mr. Vandenberg was also involved in coordinating the removal of the sea cans under Mr. Doug Atkins' direction. Ms. Gaspar also spoke to Mr. Vandenberg on the phone and he informed her that Mr. Doug Atkins had asked him to coordinate the removal, and hire a truck to pick up the sea-cans. Mr. Vandenberg advised that he was under the impression that Mr. Doug Atkins had obtained approval from the Receiver to remove the sea-cans. Ms. Gaspar informed Mr. John Atkins and Mr. Vandenberg that Receiver had not received any Proof of Ownership documents from Mr. Doug Atkins (despite requests to do so). Ms. Gaspar further advised that until such documents are received, the two sea-cans would not be released to any party.

On May 31, 2019, Ms. Gaspar attended at the Premises. Mr. Doug Atkins was present and presented Ms. Gaspar with an affidavit proving ownership of the sea-cans and their contents. Upon review of Mr. Doug Atkin's affidavit, and discussions with Mr. Sithole, Ms. Gaspar released the sea-cans to Mr. Doug Atkins the same day.

You have requested copies of the police reports relating to the 3 incidents of documents being removed from the Premises. There were 3 break-ins at the Premises, however, only 2 police reports were filed. The Receiver had discovered a break-in on June 11 and another one on June 13, 2019, but only one police report was filed. Attached is a witness statement prepared by the Receiver on June 14, 2019. Subsequently, a break-in and theft of trailer and skidsteer occurred on or about June 24 and was discovered and a witness statement was prepared by the Receiver on June 26, 2019. The 2 witness statements are enclosed with this letter.

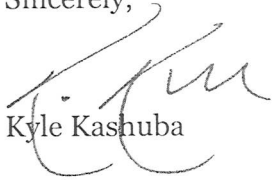
With respect to the term sheet from Maynbridge Capital dated August 25, 2019 (the "**Loan Proposal**"), the Receiver notes the following:

- The Receiver had numerous discussions with Mr. Atkins and/or his representatives in April and May 2019 regarding a potential en bloc offer/purchase. During these discussions, the Receiver reiterated multiple times that they would require an offer in writing to move these discussions forward. The Loan Proposal received late August 25, 2019 was the first written proposal to be provided.
- The potential loan value of the real estate of \$1.82MM (\$2.8MM x 65%) is materially less than the current offer to purchase which is before the Court. The Receiver also notes that the \$1.82MM proposed amount is also significantly less than the Royal Bank of Canada debt of \$2.62MM before costs to realize and receivership costs.
- The Loan Proposal includes a condition precedent to closing of at least a forced liquidation value of \$2.1MM in equipment. As outlined in my letter to your office dated June 25, 2019, the forced liquidation value of \$2.1MM was based on approximately 73 units (30 owned and 43 leased). Over the course of the receivership the Receiver has returned approximately 30 units which had negative equity. The remaining assets (approximately 30 owned and 13 leased) have a net estimated forced liquidation value (after payments of amounts owed on leased assets) of approximately \$700,000. Assuming a 65% lending value the additional lending value would be approximately \$450,000.

Based on the Receiver's analysis, the Receiver does not believe the Loan Proposal represents a

superior bid when compared to the current real estate offer before the Court and their forecast proceeds from auction.

Sincerely,



Kyle Kashuba

KDK/ enclosures

Copy to: The Receiver, Deloitte Restructuring Inc., Attention: Ryan Adlington (via email)
Borden Ladner Gervais LLP, Attention: Robyn Gurofsky (via email)

28335334.1



Occurrence Number (s)
CA19247305

Date & Time Statement Taken
2019/06/14 11:05

Name (provide contact information only in space provided below)

Joseph Sithole

Victim
Deloitte Restructuring Inc.

Date of Occurrence

D	Su	M	Tu	W	Th	F	Sa	Y	M	D	D	H
A	Su	M	Tu	W	Th	F	Sa	E	O	A	A	O

2019 06 14 11:05

NOTE TO POLICE OFFICER: Check content to ensure statement includes: WHO, WHAT, WHERE, WHEN, WHY, HOW, DESCRIPTIONS OF SUSPECTS AND PROPERTY STOLEN OR DAMAGED INCLUDING APPROXIMATE VALUE OF PROPERTY.

NOTICE TO WITNESS: Law requires that this statement be disclosed to the accused and/or defence counsel, which is the responsibility of the Crown Prosecutor's office WHEN A CHARGE IS LAID. You are under no obligation to speak to defence counsel or the accused.

Deloitte was court appointed as Receiver of Atkins Kuntz Construction Group, Surface Pro Services, and 204 9800 AB on March 19, 2019. We allowed the owners and employees access to the premises until May 31, 2019. On that date, my co-worker (Doug Casper) informed them that they no longer had access to the premises, and front door locks were changed. Doug Atkins made a comment saying he has ways of getting in, and is experienced with lockpicking. On June 11, I attended the premises to check the property. I noticed that one of the front doors was unlocked. Some office items were missing: 4 desks, some chairs, and ~ 4 computer towers. I met with Doug Atkins on June 13. When I arrived at the premises, I again noticed that one of the front doors was unlocked. I asked Doug about the unauthorized access, he said he knows nothing about it.

Address of premises is 8916 44 St SE, Calgary
Approx value taken was \$500

I checked the property on June 6, I noticed nothing missing. Items were taken between June 6, 8am - June 11, 5:00pm.

Statement Taken By (print name) <u>CSJ Adolph</u>	Reg. No. <u>4318</u>	Work Area <u>6-5</u>	Dates Witness NOT Available For Court	Witness/Victim Signature <u>X Joseph Sithole</u>
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NOTICE TO VICTIMS OF CRIME:
If you have been harmed or if you have suffered physical or emotional loss as a result of the commission of the offence, you have the opportunity to prepare a Victim Impact Statement. If a charge is laid, and if the accused is found guilty, your Victim Impact Statement and Restitution Request will be considered by the Judge at the time of sentencing. For more details on the Victim Impact Statement Program, contact the Calgary Police Service, Victim Assistance Unit at 403-428-8398.

Acknowledgement of Notice by Victim

Victim Services provides emotional and practical support, information regarding police files, criminal court updates and referrals to community agencies. Please contact Victim Services with any changes of address information.
403-428-8398

WITNESS/VICTIM CONTACT INFORMATION

Print Witness/Victim's Full Name <u>Joseph Sithole</u>	Driver's Licence Number	D.O.B. (YYYY-MM-DD) <u>1983-05-28</u>
Home Address <u>206-525 13 ave SW</u>	Employer Name and Address <u>Deloitte Restructuring Inc</u>	
Home Phone (include area code) <u>403-401-1418</u>	Work Phone (include area code) <u>587-297-2203</u>	Cell Phone (include area code)
		Email Address <u>jcsithole@deloitte.ca</u>

Witness/Victim Contact Person: Please provide the name and phone numbers for a person who will be able to contact you regardless of your whereabouts or circumstances.

Person's Name	Relationship	Home Phone (include area code)	Work Phone (include area code)
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WITNESS STATEMENT

PD 275A (R2015-08)

Occurrence Number (s)
CA 1926 7118

Date & Time Statement Taken
2016.06.26 1315

Name (provide contact information only in space provided below)

Victim
Deloitte Restructuring Inc.

Date of Occurrence

D	Su	M	Tu	W	Th	F	Sa	Y	2016	M	06	D	24	H	1000
A	Su	M	Tu	W	Th	F	Sa	A		O		A	26	O	1000

NOTE TO POLICE OFFICER:

Check content to ensure statement includes: WHO, WHAT, WHERE, WHEN, WHY, HOW, DESCRIPTIONS OF SUSPECTS AND PROPERTY STOLEN OR DAMAGED INCLUDING APPROXIMATE VALUE OF PROPERTY.

NOTICE TO WITNESS:

Law requires that this statement be disclosed to the accused and/or defence counsel, which is the responsibility of the Crown Prosecutor's office WHEN A CHARGE IS LAID. You are under no obligation to speak to defence counsel or the accused.

I visited the premises on Monday, June 24th, at 10am. Everything was fine at that time, gate was locked. Today I visited at 10am, and noticed the lock on the gate was missing, I suspect it was cut. I checked the yard, and noticed a trailer and John Deere Bobcat was missing.

Cost of damages: \$50
L to gate

Value of John Deere: \$25,000

Value of Trailer: \$4,000

— Joseph Sithole, Manager of Deloitte Restructuring Inc.

Statement Taken By (print name) PRINT GAVILLOUX	Reg. No. 5331	Work Area 610	Dates Witness NOT Available For Court	Witness/Victim Signature X Joseph Sithole
<p>NOTICE TO VICTIMS OF CRIME: If you have been harmed or if you have suffered physical or emotional loss as a result of the commission of the offence, you have the opportunity to prepare a Victim Impact Statement. If a charge is laid, and if the accused is found guilty, your Victim Impact Statement and Restitution Request will be considered by the Judge at the time of sentencing. For more details on the Victim Impact Statement Program, contact the Calgary Police Service, Victim Assistance Unit at 403-428-8398.</p>			<p>Victim Services provides emotional and practical support, information regarding police files, criminal court updates and referrals to community agencies. Please contact Victim Services with any changes of address information. 403-428-8398</p>	

WITNESS/VICTIM CONTACT INFORMATION

Print Witness/Victim's Full Name Joseph Sithole		Driver's Licence Number		D.O.B. (YYYY-MM-DD)	
Home Address		Employer Name and Address Deloitte Restructuring Inc.			
Home Phone (include area code) 403-401-1418	Work Phone (include area code) 587-293-3203	Cell Phone (include area code)	Email Address josithole@deloitte.ca		

Witness/Victim Contact Person: Please provide the name and phone numbers for a person who will be able to contact you regardless of your whereabouts or circumstances.

Person's Name	Relationship	Home Phone (include area code)	Work Phone (include area code)
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