

**Form 6-5**  
(Rule 6-5)

|                   |  |
|-------------------|--|
| COURT FILE NUMBER | QB No. 783 of 2017   |
| COURT             | QUEEN'S BENCH FOR SASKATCHEWAN<br>IN BANKRUPTCY AND INSOLVENCY |
| JUDICIAL CENTRE   | SASKATOON  |
| PLAINTIFF         | AFFINITY CREDIT UNION 2013                                     |
| DEFENDANT         | VORTEX DRILLING LTD.   |

IN THE MATTER OF THE RECEIVERSHIP OF VORTEX DRILLING LTD.

**NOTICE OF APPLICATION**

**(Sale Approval, Vesting, and Distribution Order)**

**NOTICE TO RESPONDENTS – ALL PARTIES NAMED ON THE SERVICE LIST  
ESTABLISHED IN THESE PROCEEDINGS**

This application is being made against you. You are a respondent. You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

|        |  |
|--------|--|
| Where: | Court House<br>520 Spadina Crescent<br>Saskatoon, Saskatchewan |
| Date:  | Wednesday, October 25, 2017                                    |
| Time   | 9:00 am. Saskatchewan time                                     |

**Remedy claimed or sought:**

1. This is an application by Deloitte Restructuring Inc. (the “**Receiver**”) for an Order or Orders:
  - (a) declaring the time for service of this application (the “**Application**”) is abridged and that the Application is properly returnable on October 25, 2017;

- (b) approving, authorizing and directing Deloitte Restructuring Inc., in its capacity as the Court-appointed Receiver, of the undertaking, property and assets of Vortex Drilling Ltd. ("**Vortex**") to complete the proposed purchase and sale transaction (the "**Transaction**") respecting the property of Vortex (the "**Purchased Assets**") more particularly described in the asset purchase agreement dated October 13, 2017 (the "**Agreement**") between the Receiver, in its sole capacity as court-appointed Receiver of Vortex, and not in its personal or corporate capacity (as Vendor), and Matrxix Energy Technologies Inc. (the "**Purchaser**") attached to the First Confidential Report of the Receiver dated October 20, 2017 (the "**Confidential Report**"), in accordance with the Agreement and with the Order of the Honourable Mr. Justice B.J. Scherman granted on July 24, 2017 in these proceedings (the "**Receivership Order**");
- (c) the vesting in the Purchaser of all right, title and interest of Vortex in and to the Purchased Assets free and clear of all liens, charges, security interests and other encumbrances;
- (d) authorizing the Receiver to distribute amounts to creditors in the amounts and in the manner described in the Receiver's First Report dated October 20, 2017 (the "**First Report**");
- (e) approving the Receiver's activities, actions, conduct, fees, disbursements, and proposed courses of action, including the legal fees of the Receiver's legal counsel, as outlined in the First Report;
- (f) sealing the Confidential Report until further Order of the Court, or upon the filing of the Receiver's Certificate as contemplated by the draft Order filed herein; and
- (g) such further and other relief as counsel may request and this Honourable Court may allow.

**Grounds for making this application:**

2. Paragraph 3(l) of the Receivership Order contemplates the sale of property of Vortex by the Receiver.
3. The Receiver undertook a sale process, and in doing so considered the interests of the stakeholders. None of the proposals received under this sales process were deemed acceptable, and the Receiver later received an offer to purchase the Purchased Assets from the Purchaser, which is being recommended for the reasons described in the First Report and Confidential Report.
4. The Agreement provides for the following:

- (a) the Purchaser acquiring the Purchased Assets on an “as is” and “where is” basis;
  - (b) a 20% deposit, currently held by the Receiver, which becomes non-refundable if the Court approves the Agreement; and
  - (c) a purchase price that is superior to all other cash offers received.
5. The Receiver recommends that this Honourable Court approve the Transaction and the Agreement for the following reasons:
- (a) the purchase price is fair and reasonable;
  - (b) the Purchased Assets will be sold within a reasonable timeframe, in a manner consistent with processes common in similar insolvency proceedings;
  - (c) the Receiver acted reasonably, prudently, fairly, and not arbitrarily in its efforts to obtain the best price and the process was carried out with efficacy and integrity;
  - (d) the Receiver’s request for proposals was fair to all persons who expressed interest in the Purchased Assets, and the process considered the interests of all stakeholders; and
  - (e) the Receiver understands that primary secured creditor, Affinity Credit Union 2013, supports the proposed sale.
6. The Confidential Report contains certain information respecting the Receiver’s assessment of the proposals made to carry out the Transaction, and as to the amount of the proceeds that might be derived from the Transaction. Publicly disclosing certain information, prior to the approval and completion of the Transaction, would be prejudicial to any further sale efforts in the event the Court does not approve the Transaction or the same does not close.
7. The Receiver has obtained a legal opinion from its independent legal counsel confirming the validity and enforceability of the security held by Affinity Credit Union 2013.
8. The Receiver has carried out its mandate honestly, in good faith and in compliance with the Receivership Order and the duties imposed on the Receiver by the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, *The Queen’s Bench Act, 1998*, SS 1998, c. Q-1.02, the PPSA and at common law.
9. Proof of compliance with General Application Practice Directive #3 will be filed prior to the hearing of the Application.

10. Such further and other considerations as counsel may advise and this Honourable Court allow.

**Material or evidence to be relied on:**

11. The Receiver relies upon:
  - (a) this Notice of Application;
  - (b) the Service List;
  - (c) the First Report;
  - (d) the Confidential Report, unfiled;
  - (e) a proposed form of draft Order;
  - (f) Brief of Law filed on behalf of the Receiver;
  - (g) Affidavit of Service;
  - (h) proof of compliance with General Application Practice Directive #3;
  - (i) the pleadings and proceedings herein; and
  - (j) such further and other material as this Honourable Court may allow.

**Applicable Rules**

12. N/A

**Applicable Acts and Regulations:**

13. *The Queen's Bench Act, 1998*, SS 1998, c Q-1.02.
14. *The Personal Property Security Act, 1993*, SS 1993, c P-6.2.
15. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.
16. Such further acts and regulations as counsel for the Receiver may advise and this Honourable Court may permit.

**Any Irregularity Complained of or Objection Relied Upon**

17. There are no irregularities complained of or objections relied upon.

DATED at Saskatoon, Saskatchewan this 20<sup>th</sup> day of October, 2017.

**MCDUGALL GAULEY LLP**

Per: 

Ian A. Sutherland,  
Solicitors for Deloitte Restructuring Inc. in  
its capacity as Receiver

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

|                                   |   |
|-----------------------------------|---|
| Name of firm:                     | McDougall Gauley LLP  |
| Name of lawyer in charge of file: | Ian A. Sutherland   |
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