

COURT FILE NUMBER

KBG-SA-1071-2023

COURT OF KING'S BENCH FOR SASKATCHEWAN  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE

SASKATOON

APPLICANT

CONEXUS CREDIT UNION 2006

RESPONDENT

CROFT AGGREGATES LIMITED

IN THE MATTER OF THE RECEIVERSHIP OF CROFT AGGREGATES LIMITED

ORIGINATING APPLICATION

(Receivership Order)

**NOTICE TO RESPONDENTS: ALL RECIPIENTS LISTED IN THE PRELIMINARY SERVICE LIST**

This application is 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, 520 Spadina Crescent East<br>Saskatoon, Saskatchewan |
| Date  | Wednesday, September 27, 2023                                     |
| Time  | 10:00 a.m.  |

Go to the end of this document to see what you can do and when you must do it.

**The applicant seeks the following remedy or order:**

1. An Order pursuant to section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**"), section 64(8) of *The Personal Property Security Act*, 1993, SS 1993, c P-6.2, and section 10-5(1) of *King's Bench Act*, SS 2023, c 28, appointing Deloitte Restructuring Inc. ("**Deloitte**") as Receiver of all assets, undertakings, and properties of Croft Aggregates Limited (the "**Debtor**") acquired for or used in relation to the business of the Debtor.
2. Such further and other relief as counsel may request and this Honourable Court may allow.

**The material facts and the applicant's grounds for making this application are:**

Background, Loans and Security

3. The Debtor is a corporation incorporated pursuant to the laws of Saskatchewan that carried on business of production and sale of aggregates. The Debtor no longer directly operates as an

aggregate producer, and now permits one or more third parties to extract aggregates from the Debtor's lands.

4. Conexus Credit Union 2006 ("**Conexus**") made credit available and advanced funds the Debtor pursuant the following credit agreement documentation (collectively, the "**Credit Agreements**"):
  - (a) Offer to Finance dated April 6, 2009;
  - (b) Offer to Finance for Mortgage dated July 23, 2015;
  - (c) Offer to Finance dated August 9, 2016;
  - (d) Farm/Business Revolving Line of Credit Agreement dated August 29, 2016;
  - (e) Application to Amend Term Loan dated October 12, 2017; and
  - (f) Amendment Agreement – Mortgage dated June 15, 2018.
  
5. The Debtor's performance of its obligations to Conexus under the Credit Agreements are secured by the following security (together, the "**Security**"):
  - (a) Mortgage dated June 4, 2012 in the principal amount of \$168,914.50, pursuant to which the Debtor mortgaged to and in favour of Conexus all of its estate and interest in Surface Parcel #111654918, NW 06-18-18 W2 Ext. 15 and Surface Parcel #111654895, Blk/Par B Plan No 101145114 Ext. 13 (collectively, the "**2012 Mortgaged Lands**");
  - (b) Mortgage dated August 26, 2015 in the principal amount of \$1,875,000.00, pursuant to which the Debtor mortgaged to and in favour of Conexus all of its estate and interest in Surface Parcel #111654884, NE 06-18-18 W2 Ext. 12 (the "**2015 Mortgaged Lands**", and together with the 2012 Mortgaged Lands, the "**Mortgaged Lands**");
  - (c) Assignment of Leases and Rents dated August 26, 2015, pursuant to which the Debtor assigned to and created a security interest in favour of Conexus in all of its right, title, benefit, and interest in the leases and rents from the 2015 Mortgaged Lands;
  - (d) Collateral Mortgage dated December 12, 2022 in the principal amount of \$8,500,000.00, pursuant to which the Debtor mortgaged to and in favour of Conexus all of its estate and interest in the Mortgaged Lands;
  - (e) Assignment of Rent Agreement dated December 12, 2022, pursuant to which the Debtor assigned to and created a security interest in favour of Conexus in all of its right, title, benefit, and interest in the leases and rents from the Mortgaged Lands;
  - (f) General Security Agreement dated April 5, 2005, pursuant to which the Debtor granted to Conexus a security interest in all of its present and after-acquired personal property; and

- (g) Specific Security Agreement dated August 26, 2015, pursuant to which the Debtor granted to Conexus a security interests in all of its equipment (including “all stove, refrigerators, elevators and other equipment necessary to the operation of a building”) situated at or used in connection with the 2015 Conexus Mortgage Lands.

#### Default and Demand

6. The Debtor defaulted on its obligations to Conexus under the Credit Agreement in or around July 2020 by failing to make payments as they became due and Conexus’ determination that there had been a material adverse change in risk or and adverse change in the financial condition of the Debtor.
7. On July 30, 2020, Conexus demanded that the Debtor make repayment in full of the amounts owing under the Credit Agreements. The Debtor has failed, neglected, or refused retire its indebtedness to Conexus in response to the demand.
8. As at August 28, 2023, the Debtor’s indebtedness to Conexus totalled **\$8,974,802.57**.

#### Appointment of Receiver

9. Conexus has a reasonable apprehension that its security is in jeopardy because, without limitation, of the substantial property tax arrears owed to the Rural Municipality of Edenwold No. 158, the arrears and judgments in favour of the Federal and Provincial Governments, the judgment in favour of Prairie Ag Petroleum Ltd., the commercial lien in favour of KF Aggregates Inc., and the commercial lien in favour of JD Trucking Ltd. Accordingly, Conexus seeks to enforce its receiver by obtaining an Order of this Honourable Court appointing a receiver over all assets, undertakings, and properties of the Debtor.
10. The Debtor has consented to enforcement of its security by Conexus by appointment of a receiver over all of its assets, undertakings, and properties.
11. Deloitte is a licensed insolvency trustee and has consented to being appointed as receiver over all assets, undertakings, and properties of the Debtor.

#### **In support of this application, the applicant relies on the following material or evidence:**

12. This Originating Application, with proof of service;
13. Affidavit of Lindsey Cooper sworn on September 1, 2023;
14. Consent to Appointment of Deloitte Restructuring Ltd.;

15. Draft Receivership Order;
16. Redline of Draft Receivership Order to Saskatchewan Template Receivership Order; and
17. Such further and other materials as counsel may advise and this Honourable Court may allow.

DATED at Saskatoon, Saskatchewan, this 5th day of September, 2023.

**MLT AIKINS LLP**

Per: 

Paul Olfert and Shay Brehm  
Solicitors for the Applicant, Conexus Credit Union  
2006

This application is issued at the above-noted judicial centre on the 5<sup>th</sup> day of September, 2023.

**LOCHANI BALA**  
Deputy Local Registrar

(Deputy) Local Registrar

#### NOTICE

You are named as a respondent because you have made or are expected to make an adverse claim with respect to this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant and against all persons claiming under the applicant. You will be bound by any order the Court makes, or another order might be given or other proceedings taken, which the applicant is entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form.

The rules require that a party moving or opposing an originating application must serve any brief of written argument on each of the other parties and file it at least 3 days before the date scheduled for hearing the originating application.

If you intend to rely on an affidavit or other evidence when the originating application is heard or considered, you must serve a copy of the affidavit and other evidence on the originating applicant at least 10 days before the originating application is to be heard or considered.

#### CONTACT INFORMATION AND ADDRESS FOR SERVICE:

|                           |  |
|---------------------------|--|
| Name of firm:             | MLT Aikins LLP   |
| Lawyer in charge of file: | Paul Olfert and Shay Brehm                               |
| Address of firm:          | 1201, 409 3 <sup>rd</sup> Avenue S, Saskatoon SK S7K 5R5 |
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| File No:                  | 55100.17   |