

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE M R.)
JUSTICE R. Raikes) FRIDAY, THE 12TH DAY
) OF NOVEMBER, 2021

**IN THE MATTER OF THE PROPOSAL
OF DREXLER CONSTRUCTION LIMITED
OF THE TOWN OF ROCKWOOD
IN THE PROVINCE OF ONTARIO**

ORDER APPROVING PROPOSAL

UPON THE APPLICATION of Albert Gelman Inc., Licensed Insolvency Trustee (the "Trustee") in the Amended Proposal of Drexler Construction Limited, filed October 22, 2021;


AND UPON reading the Report of the Trustee on Proposal dated October 26, 2021 (the "Report");

AND UPON hearing submissions of counsel for the Trustee, no one else attending although duly served with the Report, and the Court being satisfied that the required majority of creditors duly accepted the Amended Proposal dated October 22, 2021 in terms contained in the paper writing marked Schedule "A" and annexed hereto,

AND BEING SATISFIED THAT the said terms are reasonable and calculated to benefit the general body of creditors;

AND THAT no offences or facts have been proved to justify the Court in withholding its approval;

- 1. THIS COURT ORDERS THAT the Amended Proposal dated October 22, 2021 be and hereby is approved.



SCHEDULE "A"

District of Ontario
Division No.: 08 - Waterloo
Estate No.: 35-2721716
Court No.: 35-2721716

**ONTARIO
SUPERIOR COURT OF JUSTICE
(In Bankruptcy and Insolvency)**

In the matter of the proposal of
Drexler Construction Limited
of the Town of Rockwood, in the Province of Ontario

AMENDED PROPOSAL

(Dated October 22, 2021)

Drexler Construction Limited, the above named Debtor, hereby submits the following Proposal under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. (1985), c.B-3, as amended (the "BIA").

1. DEFINITIONS

In this Proposal, the following terms have the meaning herein set out:

- (a) **Claim.** Any right of any person against the Debtor in connection with any indebtedness, liability or obligation of the Debtor of any kind which was in existence at the NOI Date, whether or not reduced to judgement, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, surety or otherwise, and whether or not such a right is executory in nature, including, without limitation, any claim referred to in this Proposal in respect of the termination or disclaimer by the Debtor of a lease, any product warranty liability and the right or ability of any person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause of action or chose in action, whether existing at present or commenced in the future based in whole or in part on facts which existed prior the NOI Date;
- (b) **Debtor.** Drexler Construction Limited;
- (c) **Final Approval.** Approval of the Proposal by the Creditors and the Court and any appeal period with respect to the Court Approval having expired;
- (d) **NOI Date.** Date of the filing of the Notice of Intention to Make a Proposal with the Official Receiver being March 18, 2021;

- (e) **Ordinary Creditors.** Unsecured Creditors, excluding the Preferred Creditors;
- (f) **Preferred Creditors.** Creditors with proven claims for which the BIA prescribes payment in priority to claims of Ordinary Creditors;
- (g) **Proposal.** This Proposal, as it may be amended from time to time;
- (h) **Proposal Date.** Date of the filing of the Proposal with the Official Receiver;
- (i) **Proven Claim.** Any claim which was the subject of a proof of claim in accordance with the BIA, filed with the Trustee and considered admissible by it;
- (j) **Real Property.** Collectively the following:
 - i. 5270 Wellington Rd 27, Township of Guelph/Eramosa (Commercial),
 - ii. 5270 Wellington Rd 27, Township of Guelph/Eramosa (Residential),
 - iii. 183 Catherine St, Township of Guelph/Eramosa (Development Land)
- (k) **Secured Creditors.** Those creditors with a security interest in the assets of the Debtor;
- (l) **Trustee.** Albert Gelman Inc., as Trustee to the Proposal of the Debtor;
- (m) **Trustee's Fees and Disbursements.** The Trustee's Fees and Disbursements are comprised of all fees and out of pocket disbursements, including legal fees, of Albert Gelman Inc. incidental to the Proposal. The Trustee's fees shall be billed on a time and hourly rate basis and shall include HST. The Trustee shall be at liberty to withdraw and pay its fees and disbursements from the Proposal Fund, from time to time. The Trustee's hourly billing rates for its professional and administrative staff are subject to change without notice.
- (n) **Unsecured Creditors.** Collectively, the Preferred Creditors, the Ordinary Creditors;

2. DEBTS OWED TO THE CROWN

- (a) Proven claims of Her Majesty in right of Canada or a province of all amounts of a kind that could be subject to a demand under subsection 224(1.2) of the Income Tax Act or under any substantially similar provision of provincial legislation that were outstanding on the NOI Date shall be paid in full within six (6) months of Court approval of this Proposal unless Her Majesty in Right of Canada or a province consents to some other arrangement. The amount payable pursuant to this section of the Proposal will be paid directly by the Debtor to the CRA. The Trustee will not be responsible to monitor payment of this provision of the Proposal.

3. SECURED CREDITORS

- (a) This Proposal is not made to Secured Creditors. Payment of the claims of Secured Creditors shall be made in the usual manner or as may be agreed between the Debtor and the Secured Creditors.

4. PREFERRED CREDITORS

- (a) Proven Claims of Preferred Creditors, without interest, shall be paid in full in priority to all Unsecured Creditors;
- (b) Claims of employees and former employees of amounts equal to the amounts that they would be qualified to receive under paragraph 136(1)(d) of the BIA as well as wages, salaries, commissions or compensation for services rendered after the NOI Date and before Final Approval of this Proposal, together with, in the case of travelling salesmen, disbursements properly incurred by those salesmen in and about the Debtor's business during the same period shall be paid by the Debtor immediately after Final Approval of this Proposal.

5. UNSECURED CREDITORS

- (a) The Debtor shall remit to the Trustee the total sum of \$1,481,994.24 (the "Proposal Fund"), to be remitted in 24 consecutive monthly payments of \$61,749.76 each commencing in the month following Final Approval.
- (b) The Trustee shall distribute the Proposal Fund in the following order:
 - i. Proven Claims of Preferred Creditors;
 - ii. To Ordinary Creditors with Proven Claims under the Proposal on a *pro rata pari passu* basis, less the required levy payable to the Office of the Superintendent of Bankruptcy.
- (c) Creditors shall accept these payments as full, final and complete satisfaction of their claims.
- (d) The Debtor shall have the right to prepay the balance due under the Proposal prior to the expiration of the scheduled payment terms.

6. TRUSTEE'S FEES AND DISBURSEMENTS

- (a) In addition to the Proposal Fund, the Debtor has agreed to fund the Trustee's Fees and Disbursements. The funds paid by the Debtor to fund the Trustee's Fees and Disbursements are in addition to the Proposal Fund. The Debtor shall fund the entirety of the Trustee's Fees and Disbursements before the Trustee issues a certificate of full completion.

7. REAL PROPERTY

- (a) The Debtor owns the Real Property, which is comprised of three parcels of land:
 - i. commercial the land and building which it operates from;
 - ii. a residential dwelling located adjacent to the commercial land and building; and,
 - iii. a parcel of undeveloped residential development land.
- (b) Subsequent to the filing of the NOI, the Debtor applied to the Court and obtained an order authorizing it to proceed with mortgage financing, secured against the Real Property, through its lender Corwin Mortgage Capital Inc. for \$1.5 million ("Corwin Facility"). The Corwin Facility was needed to fund the Debtor's operating cash flow and ultimately used to payout debts owing to RBC, totaling approximately \$1.4 million, secured against the Debtor's assets.
- (c) As of the date of the filing of the Proposal, the RBC has been paid out in full and the Debtor will be applying to the Court on September 10, 2021 seeking an increase in the Corwin Facility to \$2.5 million. The additional funds are needed to replace the working capital used by the Debtor to payout RBC.
- (d) The Debtor is in the process of finalizing long-term financing through Canadian Equipment Finance & Leasing Inc. ("CEFL") in the amount of \$3.5 million, in order to payout the Corwin Facility and provide sufficient working capital. This transaction will be subject to Court approval and is expected to close in October 2021.

8. GENERAL PROVISIONS

- (a) The Trustee is acting in its capacity as trustee under this Proposal and shall not be responsible or liable for any obligations of the Debtor. The Trustee shall have the powers granted to it by the Proposal, by the BIA, and by any order of the Court. The Trustee will be exempt from all personal liability in fulfilling any duties or exercising any powers conferred upon it by the Proposal or generally in carrying out the terms of this Proposal unless such acts have been carried out in bad faith and constitute a wilful or wrongful act or default. Sections 91 to 101 of the BIA (with the exception of Section 97(3)) shall not apply in connection with this Proposal or any dealing by the Debtor prior to the NOI Date, and the Trustee shall have no responsibility, liability or authority whatsoever in connection therewith. The Trustee shall not monitor or in any way manage the Debtor's business or financial affairs.
- (b) The Trustee under this Proposal is acting solely as Trustee and not in its personal capacity and shall not be responsible or liable for any obligations of the Debtor.

- (c) All monies payable under the terms of this Proposal, unless otherwise stated herein, shall be paid over to the Trustee who shall make all payments in accordance with the terms of this Proposal.
- (d) The Creditors, at the meeting of creditors to consider this Proposal, may appoint up to five Inspectors who will have, in addition to any powers of Inspectors under the BIA, the power to:
- i. receive any notice of default in the performance of the Proposal and waive any such default;
 - ii. advise the Trustee in respect of such matters as may be referred to the inspectors by the Trustee; and,
 - iii. extend the time for any payment due under this Proposal provided that any such extension does not lengthen the total term of the Proposal.
- (e) Upon the issuance of the Certificate of Full Performance by the Trustee to the Debtor, the Directors shall be released and discharged by all Creditors from all Claims, which any Preferred Creditors or Ordinary Creditors may have or have been entitled to assert against any of the directors for which they would be, by law, liable in their capacity as directors for the payment of such claims which arose prior to the NOI Date, provided that nothing herein shall release or discharge any of the directors from Claims that:
- i. Relate to contractual right of one or more of the Ordinary Creditors arising from contract with one or more of the directors; or
 - ii. Are based on allegations of misrepresentation made by the directors to the Ordinary Creditors or of wrongful or oppressive conduct by the directors.
- (f) All proper claims against the Debtor arising with respect to goods supplied, services rendered, or other consideration given or provided after the NOI Date, up to the date of approval of this Proposal by the Superior Court of Justice in Bankruptcy, and not otherwise dealt with pursuant to this Proposal, shall be paid in full by the Debtor in the ordinary course, in priority to the claims of all other Creditors.
- (g) The provisions of this Proposal will be binding on the creditors with Claims and the Debtor, and their respective heirs, executors, administrators, successors and assigns, upon issuance of the Final Approval.
- (h) The following creditor(s) have agreed not to file a Claim in this Proposal and will not participate in distributions to Unsecured Creditors under this Proposal:
- Folmur Construction (2004) Ltd.
 - 2602763 Ontario Ltd.
 - Drexcon III Ltd.

(i) Any notices or communication to be made or given in this Proposal shall be in writing and shall refer to this Proposal and may, subject as hereinafter provided, be made or given by personal delivery, by prepaid mail or by e-mail.

i. if addressed to the Debtor use the following address:

Goldman, Sloan, Nash and Haber LLP, counsel to the Debtor
480 University Ave Suite 1600
Toronto, Ontario M5G 1V2
Attention: Brendan Bissell
E-mail: bissell@gsnh.com

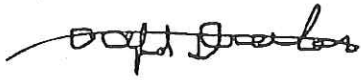
ii. if addressed to the Trustee use the following address:

Albert Gelman Inc.
100 Simcoe St. Suite 125
Toronto, Ontario M5H 3G2
Attention: Bryan Gelman
E-mail: bgelman@albertgelman.com

(j) For purposes of this Proposal, Claims denominated in a currency other than Canadian funds will be converted to Canadian Dollars at the closing spot rate of exchange of the Bank of Canada on the NOI Date.

Dated at Toronto, Ontario, this 22nd day of October, 2021,

Drexler Construction Limited

Per: 
Alfred Drexler

I have the authority to bind the corporation.

District of Ontario
Division No.: 08 - Waterloo
Estate No.: 35-2721716
Court No.: 35-2721716

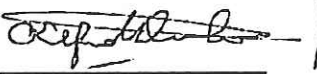
**ONTARIO
SUPERIOR COURT OF JUSTICE
(In Bankruptcy and Insolvency)**

In the matter of the proposal of
Drexler Construction Limited
of the Town of Rockwood, in the Province of Ontario

CREDITOR ACKNOWLEDGEMENT

Pursuant to the Debtor's Proposal, the following creditors hereby confirm that they will not file a Claim in this Proposal and will not participate in any distributions to Unsecured Creditors under this Proposal.

Folmur Construction (2004) Ltd.

Per: 
Anthony Alfred Drexler

I have authority to bind the corporation.

2602763 Ontario Ltd.

Per: 
Peter Drexler

I have authority to bind the corporation

Drexcon III Ltd.

Per: 
Jerome Drexler

I have authority to bind the corporation.

IN THE MATTER OF THE PROPOSAL OF DREXLER CONSTRUCTION LIMITED
OF THE TOWN OF ROCKWOOD, IN THE PROVINCE OF ONTARIO

Court File No. 35-2721716

ONTARIO
SUPERIOR COURT OF JUSTICE

ORDER APPROVING PROPOSAL

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