

COURT FILE NUMBER 1801-05326
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



**IN THE MATTER OF THE RECEIVERSHIP OF
GEMINI CORPORATION AND GEMEC SERVICES
LTD.**

PLAINTIFF ATB FINANCIAL
DEFENDANTS GEMINI CORPORATION AND GEMEC SERVICES LTD.
DOCUMENT SALE APPROVAL AND VESTING ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Fasken Martineau DuMoulin LLP
Barristers & Solicitors
3400 First Canadian Centre
350 - 7 Avenue S.W.
Calgary, AB T2P 3N9

I hereby certify this to be a true copy of the original Sale Approving & Vesting Ord
Dated this 17 day of Sept, 2018
[Signature]
for Clerk of the Court

Attention: Travis Lysak / John Grieve/ Mihai Tomos
Telephone: (403) 261-5350 / (587) 233-4107 / (604) 631-4772
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File No.: 301498.00003

APPROVAL AND VESTING ORDER

DATE ON WHICH ORDER WAS PRONOUNCED: September 17, 2018
LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta
NAME OF THE JUDGE WHO MADE THIS ORDER: The Honourable Justice C.M. Jones

UPON the application of FTI Consulting Canada Inc. (the "Receiver"), in its capacity as the court-appointed receiver of all of the assets, properties and undertakings of Gemini Corporation ("Gemini") and Gemec Services Ltd., (collectively, with Gemini, the "Debtors") for an Order approving the sale transaction (the "Transaction") contemplated by the Purchase and Sale Agreement dated September 10, 2017 (the "Purchase Agreement") entered into between Gemini, by and through the Receiver, and 2129156 Alberta Ltd. (the "Purchaser");

AND UPON having read the Application, the First Report of the Receiver dated September 11, 2018 (the “**First Report**”), the Confidential Supplemental to the First Report of the Receiver dated September 11, 2018 (the “**Confidential Supplemental Report**”), the Affidavit of Service and other materials filed in the within proceedings; **AND UPON** hearing the submissions of counsel for the Receiver and any other interested parties appearing at the hearing of the within application, **IT IS HEREBY ORDERED THAT:**

1. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement.
2. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

RECEIVER’S ACTIVITIES

3. The actions, conduct and activities of the Receiver, as reported in the First Report, are hereby authorized and approved.

APPROVAL OF PURCHASE AGREEMENT

4. The Transaction as contemplated by the Purchase Agreement which is attached as Appendix “A” to the Confidential Supplemental Report is hereby approved and the Purchase Agreement is determined to be commercially reasonable and the Purchase Price contained therein represents, in the present circumstances, the best possible and realizable value for the subject matter of the Transaction.
5. The Purchase Agreement and the execution and acceptance thereof by the Receiver, (including any amendments that may be agreed upon by the parties), is hereby authorized and approved and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as the Receiver considers to be necessary or desirable for the completion of the Purchase Agreement, for the assignment and conveyance of the Purchased Assets to the Purchaser and to otherwise complete the Transaction.
6. The Receiver is hereby further authorized and directed, subject to the terms and conditions of this Order and the Purchase Agreement, to take such additional steps as the

Receiver considers to be necessary or desirable for the completion of the Transaction, and for the assignment and conveyance of Gemini's right, title and interest in the Purchased Assets to the Purchaser substantially as contemplated by the terms and conditions of this Order and the Purchase Agreement, and for greater certainty, the sale of the Purchased Assets is also approved pursuant to the Receivership Order granted on April 19, 2018 (the "Receivership Order").

VESTING PROVISIONS

7. Effective immediately upon the delivery by the Receiver to the Purchaser of a Receiver's Certificate substantially in the form attached hereto as **Schedule "A"** confirming the closing of the Transaction contemplated by the Purchase Agreement, all of Gemini's right, title, estate and interest in and to the Purchased Assets shall vest and is hereby vested ^{absolutely} in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens whether contractual, statutory or otherwise (including without limitation any statutory or builders' liens), executions, levies, charges, or other financial or monetary claims, taxes and arrears of taxes, executions, levies and other rights, limitations, restrictions, interests and encumbrances, whatsoever, howsoever and wheresoever created or arising whether absolute or contingent, fixed or floating, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing:

- a. any encumbrances or charges created by the Receivership Order or any further orders granted in this action; and
- b. all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system,

(all of which are collectively referred to as the "**Encumbrances**").

For greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

8. For greater certainty, the Purchaser shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever to any entity having a Claim.

CLOSING OF THE SALE TRANSACTION

9. The closing of the Transaction shall be effected in accordance with the terms of the Purchase Agreement and such amendments to the Purchase Agreement as may be agreed to in writing between the Purchaser and the Receiver.

10. For the purposes of determining the nature and priority of Claims, the net proceeds arising out of the Purchase Agreement shall stand in the place and stead of the Purchased Assets and all Claims shall attach solely to such net proceeds with the same validity, priority and in the same amounts and subject to the same defences that were or may have been available immediately prior to the closing of the Transaction as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the closing of the Transaction.

11. Upon the closing of the Transaction, Gemini and all persons who claim by, through, or under Gemini in respect of the Purchased Assets, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Purchased Assets and, to the extent that any such person other than the Receiver remains in possession or control of any of the Purchased Assets, they shall forthwith deliver possession of same to the Purchaser or its nominee.

12. If the Transaction is for any reason not completed the Receiver and the Purchaser are hereby given leave to re-apply to this Honourable Court for such variations and modifications to the within Order as may be necessary and prudent in the circumstances, including without limitation reinstatement of affected Claims.

GENERAL

13. Notwithstanding:

- a. the pendency of these proceedings;

- b. any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- c. any assignment in bankruptcy made in respect of any of the Debtors,

the vesting of the Purchased Assets and the assignment and conveyance of the Purchased Assets to the Purchaser pursuant to the Purchase Agreement as approved by this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable, shall not constitute or be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. No authorization or approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the Purchase Agreement, other than authorizations, approvals or exemptions from requirements therefor previously obtained and currently in force, if any.

15. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, United States or elsewhere to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

SERVICE OF THIS ORDER

16. This Order shall be sufficiently served by serving the same on the service list, in the same manner as the Application was served and by posting a copy of the same on the Receiver's website at: <http://cfcanda.fticonsulting.com/Gemini>.

17. Service of this Order on any other interested person in any other manner than set out above is hereby dispensed with.



Justice of the Court of Queen's Bench of Alberta

Schedule "A"

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JUDICIAL CENTRE CALGARY

**IN THE MATTER OF THE RECEIVERSHIP OF
GEMINI CORPORATION AND GEMEC SERVICES
LTD.**

PLAINTIFF ATB FINANCIAL
DEFENDANTS GEMINI CORPORATION AND GEMEC SERVICES LTD.

DOCUMENT **RECEIVER'S CERTIFICATE**

ADDRESS FOR **Fasken Martineau DuMoulin LLP**
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INFORMATION OF 350 - 7 Avenue S.W.
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 Facsimile: (403) 261-5351
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 mtomos@fasken.com
 File No.: 301498.00003

RECITALS

A. Pursuant to an Order of the Honourable Justice B.E.C. Romaine of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**") dated April 19, 2018 FTI Consulting Canada Inc. was appointed as the receiver (the "**Receiver**") of assets, properties and undertakings of Gemini Corporation ("**Gemini**") and Gemec Services Ltd.

B. Pursuant to an Order of the Court dated September 17, 2018, the Court approved the Purchase and Sale Agreement made as of September 10, 2018 (the "**Purchase Agreement**") between the Receiver and 2129156 Alberta Ltd. (the "**Purchaser**") and provided for the vesting in the Purchaser of Gemini's right, title and interest in and to the Purchased Assets, which

vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) that the conditions to closing as set out in the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and (ii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Purchase Agreement.

THE RECEIVER CERTIFIES the following:

1. The conditions to closing as set out in the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee);
2. The Transaction has been completed to the satisfaction of the Receiver; and
3. This Certificate was delivered by the Receiver at _____ on _____, 2018.

FTI Consulting Canada Inc., in its capacity as Receiver of the assets, properties and undertakings of Gemini Corporation and Gemec Services Ltd. and not in its personal capacity.

Per: _____

Name:

Title: