

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) WEDNESDAY, THE 30<sup>TH</sup>  
 )  
JUSTICE MORAWETZ ) DAY OF JANUARY, 2013  
 )

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

**Applicants**

**ORDER  
(Re Approval of the Settlement Agreement and  
Vesting of the Beauharnois Property)**

**THIS MOTION**, made by Timminco Limited ("**Timminco**") and Bécancour Silicon Inc. (and together with Timminco, the "**Timminco Entities**"), for an order approving the Settlement Agreement (defined below) and vesting the Beauharnois Property (defined below) in Quonta Holdings Ltd. ("**Quonta**"), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Sean Dunphy sworn November 19, 2012 and the supplemental affidavit of Sean Dunphy sworn January 25, 2013 (the "**January 25 Affidavit**"), and on hearing the submissions of counsel for the Timminco Entities, Quonta and FTI Consulting Canada Inc. in its capacity as the court appointed monitor of the Timminco Entities (the "**Monitor**"), no one appearing for any other person on the service list, although duly served as appears from the affidavits of service of Kathryn Esaw sworn November 26, 2012, and January 28, 2013, filed:

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Amended Notice of Motion, the Motion Record and the Supplemental Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

#### **APPROVAL OF THE SETTLEMENT AGREEMENT**

2. **THIS COURT ORDERS** that the agreement between Quonta and Timminco dated January 25, 2013 (the “**Settlement Agreement**”) and attached as Exhibit “B” to the January 25 Affidavit is hereby approved and that Timminco is authorized to perform its obligations under the Settlement Agreement and to take such additional steps as are necessary and to execute, deliver and perform its obligations thereunder. Sean Dunphy of Russell Hill Advisory Services Inc. is authorized to execute the Deed of Sale provided for in the Settlement Agreement for and on behalf of Timminco Limited

#### **VESTING OF THE BEAUHARNOIS PROPERTY**

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor’s certificate to Quonta substantially in the form attached as Schedule “A” hereto (the “**Monitor’s Certificate**”), all of Timminco’s right, title and interest in and to the real property located at 54 Chemin des Hauts-Fourneaux in Beauharnois, Québec (the “**Beauharnois Property**”) shall vest, without further instrument of transfer or assignment, absolutely in Quonta 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, executions, levies, charges, or other financial or monetary claims, 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 Court, including by the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012, the Order (Re Special Payments, KERPs and Super-Priority of Administration Charge and D&O Charge) of the Honourable Mr. Justice Morawetz dated January 16, 2012, and the DIP Order of the Honourable Mr. Justice Morawetz dated February 8, 2012; and (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act*

(Ontario), the *Civil Code of Québec*, or any other personal property registry system (all of which are collectively referred to as the "Encumbrances" which term shall not include the Permitted Encumbrances, as defined in paragraph 4 of this Order).

4. **THIS COURT ORDERS** the Land Registrar of the Land Registry Office for the Registration Division of Beauharnois, upon presentation of a certified copy of this Order accompanied by the required application for registration and upon payment of the prescribed fees, but without the necessity to file a certificate of non-appeal, to publish this Order and (a) to proceed with an entry on the index of immovables to register this Order transferring to Quonta, as purchaser, all of the rights, title and interest of Timminco, in and to:

an immovable situated in the City of Beauharnois, Province of Québec, known and designated as parts of lots 267, 270 and 271 of the official cadastre for the Parish of Saint-Clément, Registration Division of Beauharnois, with all buildings thereon erected bearing civic address 54 Chemin des Hauts-Fourneaux, city of Beauharnois, province of Québec, J6N 1W5

and (b) to proceed with the radiation and cancellation of any and all Encumbrances, but not the encumbrances listed at Schedule "B" to this Order (the "Permitted Encumbrances").

5. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, 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 Timminco and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of Timminco;

the vesting of the Beauharnois Property in Quonta pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Timminco and shall not be void or voidable by creditors of Timminco, nor shall it constitute nor be deemed to be a <sup>107</sup> ~~settlement~~ <sup>97</sup> fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

**GENERAL**

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Monitor, Russell Hill Advisory Services Inc., in its capacity as Chief Restructuring Officer of the Timminco Entities (the "CRO"), and their respective 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 Monitor and to the CRO, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

ENTERED / (T) / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

 JAN 31 2013

  
\_\_\_\_\_

**Schedule "A"**  
**Form of Monitor's Certificate**

Court File No. CV-12-9539-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

**Applicants**

**MONITOR'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (the "**Court**") dated January 3, 2012, FTI Consulting Canada Inc. was appointed as the monitor (the "**Monitor**") of Timminco Limited ("**Timminco**") and Bécancour Silicon Inc. (together with Timminco, the "**Timminco Entities**"); and

B. Pursuant to an Order of the Court dated January 30, 2013, the Court approved the settlement agreement (the "**Settlement Agreement**") made and entered into as of January 25, 2013, between Timminco and Quonta Holdings Ltd. ("**Quonta**") and provided for the vesting in Quonta of Timminco's right, title and interest in and to the real property located at 54 Chemin des Hauts-Fourneaux in Beauharnois, Québec (the "**Beauharnois Property**"), which vesting is to be effective with respect to the Beauharnois Property upon the delivery by the Monitor to Quonta of a certificate certifying that the Monitor has (a) received \$500,000 from Quonta in trust and (b) received written confirmation in form and substance satisfactory to the Monitor from the Parties that the conditions precedent contained in the Settlement Agreement have been satisfied or waived by the applicable Parties (the "**Closing Certificates**").

**THE MONITOR CERTIFIES** the following:



1. The Monitor has received from Quonta the sum of \$500,000 to be held in escrow;
2. The Monitor has received the Closing Certificates;
3. The Monitor has received confirmation of registration from the Land Registrar of the Land Registry Office for the Registration Division of Beauharnois; and
4. This Certificate was delivered by the Monitor to the Timminco Entities at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**FTI Consulting Canada Inc., in its capacity as  
the Court-appointed Monitor of the Timminco  
Entities and not in its personal capacity**

Per: \_\_\_\_\_  
Name:  
Title:

**Schedule "B"**  
**Permitted Encumbrances**

A deed of legal hypothec (construction) by Timminco Limitée in favour of Quonta Holdings Limited for an amount of \$1,250,000.00, registered at the Registration Division of Beauharnois, on February 27, 2012, under number 18 860 720.

  
Any and all servitudes registered on the  
Beauharnois Property as of January 22, 2013.  


IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**ORDER  
(Re Approval of the Settlement Agreement and  
Vesting of the Beauharnois Property)**

**STIKEMAN ELLIOTT LLP**  
Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
Toronto, Canada M5L 1B9

**Ashley John Taylor** LSUC#: 39932E

Tel: (416) 869-5236

**Maria Konyukhova** LSUC#: 52880V

Tel: (416) 869-5230

**Kathryn Esaw** LSUC#: 58264F

Tel: (416) 869-5230

Fax: (416) 947-0866

Lawyers for the Applicants