

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)
JUSTICE NEWBOULD)
MONDAY, THE 9TH
DAY OF MAY, 2016

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
FIRSTONSITE G.P. INC.

Applicant

APPROVAL AND VESTING ORDER

THIS MOTION, made by FirstOnSite G.P. Inc. (the "**Applicant**"), for an order, *inter alia*:
(i) approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale dated April 20, 2016 (the "**Sale Agreement**") between FirstOnSite Restoration L.P. by its general partner FirstOnSite G.P. Inc. (the "**Vendors**") and 3297167 Nova Scotia Limited (the "**Purchaser**") and appended to the Affidavit of Kevin McElcheran dated April 26, 2016 (the "**Sale Approval Affidavit**"); and (ii) vesting in the Purchaser the Vendors' right, title and interest in and to the assets described in the Sale Agreement ("**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicant, the Sale Approval Affidavit and the Exhibits attached thereto, the affidavit of Adam Zalev, sworn April 26, 2016 and the Exhibits attached thereto (the "**Financial Advisor's Affidavit**"), the Second Report of FTI Consulting Canada Inc., in its capacity as Monitor of the Vendors (the "**Monitor**"), and on being advised that those parties disclosed on the Service List attached to the Motion Record were given notice, and on hearing the submissions of counsel for the Monitor, the Vendors and the Purchaser and

[NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of Vlad Calina, sworn May ●, 2016 filed:

1. **THIS COURT ORDERS** that, unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meaning given to them in the Sale Agreement.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Vendors is hereby authorized and approved, with such minor amendments as the Vendors and the Purchaser, with the approval of the Monitor, may agree upon. The Vendors are hereby authorized and directed, and the Monitor is authorized and empowered, to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. **THIS COURT ORDERS** that the Vendors are authorized and directed to perform their obligations under the Sale Agreement and any ancillary documents related thereto.
4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Monitor's Certificate**"), all of the Vendors' right, title and interest in and to the Purchased Assets and the proceeds thereof (including, for greater certainty, any funds received by the Purchaser on account of any Accounts Receivable) shall vest absolutely in the Purchaser, free and clear of and from any and all ownership claims, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, pledges, trusts, constructive trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, encumbrances, obligations, liabilities, claims, demands, guarantees, set-off, liens, executions, levies, charges, or other financial or monetary claims, adverse claims, or rights of use, puts or forced sale provisions exercisable as a consequence of or arising from closing of the Transaction whether arising prior to or subsequent to the commencement of the CCAA proceedings, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured, legal equitable, possessory or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Newbould dated April 21, 2016, and any subsequent charges created by the Court; (ii) all

charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Personal Property Security Act* (Alberta), the *Personal Property Security Act* (British Columbia), the *Personal Property Security Act* (Manitoba), the *Personal Property Security Act* (New Brunswick), the *Personal Property Security Act* (Nova Scotia), the *Personal Property Security Act* (Prince Edward Island), the Civil Code of Quebec, the *Personal Property Security Act* (Saskatchewan) or any other personal property registry system; and (iii) those Claims listed on Schedule "B" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the Permitted Encumbrances) and, 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.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall be paid to the Monitor as set out in the Sale Agreement and shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale 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 sale. The Monitor is hereby authorized and empowered to hold the net proceeds from the sale of the Purchased Assets delivered to it pursuant to the Sale Agreement pending further order of the Court.

6. **THIS COURT ORDERS AND DIRECTS** the Monitor, in its capacity as Escrow Agent, to:

- (a) from and after the Closing Time, hold the Potential Trust Claimant Reserve in escrow as set out in the Escrow Agreement; and
- (b) release the Potential Trust Claimant Reserve, or any portion thereof, at such times and in such amounts as are contemplated by the Escrow Agreement or as otherwise ordered by the Court,

and in each case the Monitor shall incur no liability with respect to the foregoing.

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

8. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Vendors and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement, and shall incur no liability with respect to the delivery of the Monitor's Certificate.

9. **THIS COURT ORDERS** that, provided that the Sale Agreement has not been terminated, any plan of compromise or arrangement that may be filed by the Vendors shall not derogate or otherwise affect any right or obligation of the Vendors or the Purchaser under the Sale Agreement unless otherwise agreed by the Vendors and the Purchaser.

10. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), the Vendors and the Monitor are authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Vendors' records pertaining to the Vendors past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Vendors.

11. **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 the Vendors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Vendors;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Vendors and shall not be void or voidable by creditors of the Vendors, nor shall it constitute nor be deemed to be a 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.

12. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

13. **THIS COURT ORDERS** that (i) on or after the Closing Date, the Vendors are hereby permitted to execute and file articles of amendment or such other documents or instruments as may be required to change their respective legal names in accordance with section 10.3 of the Sale Agreement, and such articles, documents or other instruments shall be deemed to be duly authorized, valid and effective and shall be accepted by the applicable Governmental Authority without the requirement (if any) of obtaining director, partner or shareholder approval pursuant to any federal or provincial legislation; and (ii) upon the official change to the legal names of the Vendors that is occur in accordance with section 10.3 of the Sale Agreement, the names of the Vendors in the within title of proceedings shall be deleted and replaced with the new legal names of the Vendors, and any document filed thereafter in these proceedings (other than the Monitor's Certificate) shall be filed using such revised title of proceedings.

14. **THIS COURT ORDERS** that the Confidential Exhibits to the Sale Approval Affidavit and the Financial Advisor Affidavit shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court File, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

15. **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 Vendors and the Monitor 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 Vendors and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Vendors and the Monitor and their respective agents in carrying out the terms of this Order.

Schedule A - Form of Monitor's Certificate

Court File No. CV-16-11358-00CL

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Applicant

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Newbould of the Ontario Superior Court of Justice (the "**Court**") dated April 21, 2016, FTI Consulting Canada Inc. was appointed as the monitor (the "**Monitor**") of FirstOnSite G.P. Inc. and FirstOnSite Restoration L.P. (collectively, the "**Vendors**") in respect of these CCAA Proceedings.

B. Pursuant to an Order of the Court dated May 9, 2016 (the "**Approval and Vesting Order**"), the Court approved the sale transaction contemplated by the agreement of purchase and sale made as of April 20, 2016 (the "**Sale Agreement**") between the Vendors and 3297167 Nova Scotia Limited (the "**Purchaser**") and provided for the vesting in the Purchaser of the Vendors' 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 Monitor to the Purchaser of a certificate confirming: (i) the Monitor has received the Closing Cash Payment to be delivered to it in accordance with Section 3.2(b) of the Sale Agreement; and (ii) that the conditions to Closing under the Sale Agreement have been satisfied or waived by the Vendors and the Purchaser (as applicable).

C. Pursuant to the Approval and Vesting Order, the Monitor may rely on written notice from the Vendors and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement.

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

THE MONITOR CERTIFIES the following:

1. The Vendors and the Purchaser have each delivered written notice to the Monitor that all applicable conditions under the Sale Agreement have been satisfied and/or waived, as applicable; and

2. The Monitor has received that portion of the Closing Cash Payment to be delivered to it in accordance with Section 3.2(b) of the Sale Agreement.

3. This Certificate was delivered by the Monitor at _____ [TIME] on _____, 2016.

**FTI Consulting Canada Inc., in its capacity as
Monitor of the Vendors, and not in its
personal or corporate capacity**

Per: _____

Name:

Title:

Schedule B - Claims to be released, discharged and expunged from Purchased Assets upon delivery of the Monitor's Certificate

1. The security granted by one or both of the Vendors under the following personal property system registrations:

Secured Party	Jurisdiction of Personal Property Registration								
	Alberta Reg. No.	BC Reg. No.	Manitoba Reg. No.	NB Reg. No.	Nova Scotia Reg. No.	Ontario Reg. No.	PEI Reg. No.	Quebec Reg. No.	Sask. Reg. No.
Torquest Partners Fund II, L.P.	10122318161	926057F (with renewal #593659G and #244785H)	201021420102	19617349	17547563	201012231124 1590 4247	2597513		300670830
2123101 Ontario Inc.	10122318199	926059F (with amendment #593492G, and renewal #593654G and #244807H)	201021420307	19617398	17547589	201012231126 1590 4248 (with amendment #20120217 1159 1590 6405, and renewal #20120217 1451 1590 6436 and #20130319 1044 1590 7241)	2597522		300670832
1347605 Ontario Ltd	10122318232	926071F (with renewal #593662G)	201021420900	19617406	17547613	201012231131 1590 4251 (with renewal #20120217 1451 1590 6435)	2597531		300670833
Edenvale Restoration Specialists Ltd.	10122318310	926073F	201021421303	19617414	17547639	201012231132 1590 4252	2597540		300670835
Boulanger, Andrew, William	10122318411	926076F	201021424205	19617422	17547670	201012231138 1590 4256	2597559		300670837
2149530 Ontario Ltd.	10122318566	926078F	201021425104	19617430	17547704	201012231138 1590 4257	2597568		300670838
2976367 Manitoba Ltd.	10122318624	926082F	201021425503	19617455	17547746	201012231138 1590 4258	2597577		300670839
330214 Ontario Inc.	10122318689	926085F	201021426003	19617463	17547753	201012231139 1590 4259	2597586		300670840

Secured Party	Jurisdiction of Personal Property Registration								
	Alberta Reg. No.	BC Reg. No.	Manitoba Reg. No.	NB Reg. No.	Nova Scotia Reg. No.	Ontario Reg. No.	PEI Reg. No.	Quebec Reg. No.	Sask. Reg. No.
2356723 Nova Scotia Limited	1012231 8743	926087F (with renewal #593669G)	20102142 6500	1961747 1	17547761	20101223 1140 1590 4260 (with renewal #20120217 1451 1590 6434)	2597602		3006708 41
Barry-Robert Enterprises Ltd.	1012231 8809	926089F (with renewal #593674G)	20102142 7301	19617 497	17547787	20101223 1140 1590 4261 (with renewal #20120217 1451 1590 6433)	2597611		3006708 42
1640334 Ontario Inc.	1012231 8838	926090F	2010214284 05	1961752 1	17547795	20101223 1141 1590 4262	2597620		3006708 43
Spring Fresh Cleaning & Restoration Canada Inc.	1012231 8891	926092F	2010214289 01	1961753 9	17547803	20101223 1141 1590 4263	2597639		3006708 44
Demos Canada Limited	1012231 8932	926093F (with renewal #593678G and #244792H)	2010214294 01	1961754 7	17547829	20101223 1141 1590 4264 (with renewal #20120217 1451 1590 6432 and #20130319 1044 1590 7239)	2597648		3006708 45
Jackson, Mark	1106151 2297	200467G	2011098797 09	2022341 8	18199166	20110615 1206 1590 3376	2696728		3007369 81
Walpole, Noel	1106151 2319	200471G	2011098811 00	2022344 2	18199232	20110615 1207 1590 3377	2696737		3007369 90
Fournier Brothers Holdings Inc.	1202171 3422	593645G	20120271 7603	2113711 2	1917663 5	20120217 1157 1590 6403	2848057		3008315 15
101109 P.E.I. Inc.	1202171 3478	593650G	2012027180 06	2113713 8	19176684	20120217 1157 1590 6404	2848066		3008315 21
JJAB Holdings Inc.	1303191 3602	244822H	2013044905 06	22731 335	20953907	20130319 0954 1590 7207	3132158		3009980 53
Ross, Barry	1408053 4885	107915I	2014145417 00	2474642 2	23142250	20140805 1432 1590 7735	3485320		3012236 38
Wells Fargo Capital Finance Corporation Canada, As Agent	1411121 6898	282633I	20142144 9703	2515308 1	2357187 0	20141112 1103 1862 4890 and 20141112 1106 1862 4893	3555272	14-1078395-0001	3012681 60

Secured Party	Jurisdiction of Personal Property Registration								
	Alberta Reg. No.	BC Reg. No.	Manitoba Reg. No.	NB Reg. No.	Nova Scotia Reg. No.	Ontario Reg. No.	PEI Reg. No.	Quebec Reg. No.	Sask. Reg. No.
Business Development Bank Of Canada	14111227954	283397	201421483405	25154428	23573462	201411121420 17930277 and 201411131648 17930324	3555496	14-1079832-0001	301268347
BDC Capital Inc.	14111228010	283394I	201421483502	25154436	23573496	201411121423 17930279 and 201411131650 17930325	3555511	14-1080142-0002	301268348
Bank Of Montreal, As Agent						200701250952 15908846 (with amendment #200702161317 15900120 and #200712191005 15905550 and #201411261002 15904545) and renewal #201309261704 14629640)			
A.F. MacPhee Holdings Limited				20209227	18184952 18184937				
MacPhee Pontiac Buick GMC Ltd							2654862 3649966		
De Lage Landen Financial Services Canada Inc.						201109151054 15292934			
Toshiba Finance									300594820
National Leasing Group Inc.						201304161542 60056632			

Secured Party	Jurisdiction of Personal Property Registration								
	Alberta Reg. No.	BC Reg. No.	Manitoba Reg. No.	NB Reg. No.	Nova Scotia Reg. No.	Ontario Reg. No.	PEI Reg. No.	Quebec Reg. No.	Sask. Reg. No.
Element Fleet Management Inc.						[20131017 1033 1529 6944 and 20011109 1454 1254 8730 (with amendme nt #20030429 1834 1531 0707 and 20070222 1125 1254 2869 and 20070223 1116 1254 2870 and 20080117 1254 1254 3252 and 20131017 1033 1529 6944 and other #20141117 1045 1529 9941)(wit h renewal #20061106 0956 1254 2660 and 20111024 1002 1254 3922)]		[14- 0089984- 0001 and 15- 0504620- 0002 and 15- 0504622- 0002 and 15- 0504612- 0002 and 15- 0504620- 0002]	
Element Fleet Services LP								11- 0684838- 0001 and 13- 0492746- 0001	
Element Fleet Services GP Limited								15- 0504612- 0004 and 15- 0504612- 0004	
Element Fleet Lease Receivables L.P.								15- 0504622- 0002 and 15- 0504624- 0002	
Roynat Inc.	11051019 468	856513G				20120719 1325 1902 1599			

Secured Party	Jurisdiction of Personal Property Registration								
	Alberta Reg. No.	BC Reg. No.	Manitoba Reg. No.	NB Reg. No.	Nova Scotia Reg. No.	Ontario Reg. No.	PEI Reg. No.	Quebec Reg. No.	Sask. Reg. No.
XEROX Canada Ltd.		681797H				20110621 1401 1462 3571 and 20110617 1703 1462 2858			
[RCAP Leasing Inc.]	13081521 126 and 14063006 550							[13-0230636-0003 and 13-0265837-0005]	
La Garantie de Construction Résidentielle (GCR)								16-0106478-0001	

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

Court File No. CV-16-11358-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF FIRSTONSITE G.P. INC.

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

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

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