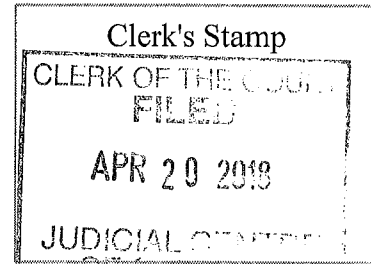


Form 27  
[Rules 6.3 and 10.52(1)]



COURT FILE NUMBER 1701-12253

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF **ACMO S.À R.L.**

DEFENDANTS **US OIL SANDS INC. and US OIL SANDS (UTAH) INC.**

DOCUMENT **APPLICATION BY RECEIVER (APPROVAL & VESTING ORDER)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **BENNETT JONES LLP**  
Barristers and Solicitors  
4500 Bankers Hall East  
855 – 2<sup>nd</sup> Street SW  
Calgary, Alberta T2P 4K7

Attention: Chris Simard  
Telephone No.: 403-298-4485  
Fax No.: 403-265-7219  
Client File No.: 76142.5

**NOTICE TO RESPONDENTS: SEE 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 master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date: Tuesday, May 1, 2018

Time: 10:00 a.m.

Where: The Calgary Courts Centre, 601 – 5<sup>th</sup> Street S.W., Calgary Alberta

Before Whom: The Honourable Madam Justice K. M. Horner

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

**Remedy claimed or sought:**

1. The Applicant, FTI Consulting Canada Inc., in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of US Oil Sands Inc. and US Oil Sands (Utah) Inc. (collectively "**US Oil Sands**"), seeks:

- (a) An Order, substantially in the form attached hereto as **Schedule "A"**:
  - (i) declaring service of this application good and sufficient, and abridging the time for notice of this application to the time actually given, if necessary;
  - (ii) approving the actions, activities and conduct of the Receiver up to the date of the Receiver's Second Report dated April 20, 2018, being filed concurrently with this application (the "**Second Report**"), as summarized in the Second Report;
  - (iii) approving and authorizing the sale of the assets, undertakings and properties of US Oil Sands (the "**Purchased Assets**") pursuant to the Amended and Restated Asset Purchase and Sale Agreement (the "**APA**") between the Receiver and USO (Utah) LLC (the "**Purchaser**") dated February 5, 2018, a copy of which is attached as Appendix "A" to the Supplemental Report to the First Report of the Receiver dated February 9, 2018, but excluding the Excluded Assets as defined in the APA; and
  - (iv) vesting in the Purchaser (or its nominee) all of US Oil Sands' right, title and interest in and to the Purchased Assets; and
- (b) Such further and other relief as counsel may advise and this Honourable Court may permit.

2. Capitalized terms used but not defined herein are intended to bear their meanings as defined in the APA.

## **Grounds for making this application:**

### **Background**

3. The Receiver was appointed as receiver and manager of US Oil Sands pursuant to an Order of this Honourable Court dated September 14, 2017 (the "**Receivership Order**").

4. Prior to the Receivership Order, US Oil Sands was engaged in the business of oilsands production and extraction. US Oil Sands holds mineral rights in two major oilsand project areas in Utah. In addition, US Oil Sands has an oilsand processing plant located in Utah and a smaller test pilot oilsand processing plant located in Grande Prairie, Alberta.

5. ACMO S.À R.L. ("**ACMO**") is the largest shareholder of US Oil Sands Inc., holding approximately 31.3% of the issued and outstanding share equity of US Oil Sands Inc. Additionally, ACMO holds outstanding convertible instruments which, if exercised, could result in ACMO holding as much as a 74.3% stake in the share equity of US Oil Sands Inc.

6. In addition to its equity interests, ACMO has loaned US \$10,000,000 to US Oil Sands Inc. and holds security over all the assets of US Oil Sands Inc. to secure repayment of that loan. US Oil Sands (Utah) Inc. has guaranteed that loan and provided security to ACMO over all its assets, to secure its obligations under the guarantee (the secured debt owed by US Oil Sands to ACMO, whether as principal or guarantor and including all interest, costs and expenses related thereto is referred to hereinafter as the "**ACMO Debt**").

7. The Receiver's Canadian and US counsel have completed opinions confirming that, subject to customary qualifications and assumptions, ACMO's security interests in the assets of US Oil Sands Inc. and US Oil Sands (Utah) Inc. are valid and enforceable.

8. ACMO has assigned the ACMO Debt and the security therefor to USO (Utah) LLC (the Purchaser).

### **Approval of Sale**

9. Pursuant to the Receivership Order, the Receiver is authorized to sell, convey, transfer, lease or assign US Oil Sands' assets, including the Purchased Assets.

10. On February 6, 2018, this Honourable Court granted an Order approving the APA as a stalking horse bid, and a Sales Solicitation Process (the "SSP") for the purpose of marketing the property of the Debtors.

11. The Receiver has carried out the Court-approved SSP substantially in accordance with its terms. While the Receiver received one bid in the SSP and granted substantial extensions of time at the request of that bidder, the bid did not satisfy the requirements set out in the SSP to constitute a Qualified Bid, and this was confirmed by the bidder.

12. As such, the Receiver is seeking an approval and vesting order in relation to the APA.

13. The Receiver, through the SSP, has made sufficient effort to obtain the best price for the Purchased Assets, has not acted improvidently, has accounted for the interests of all parties and the efficacy and integrity of the process by which offers have been obtained, and there has not been unfairness in the working out of the SSP.

14. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**Material or evidence to be relied on:**

15. The First Report of the Receiver, dated February 1, 2018.

16. The Supplemental Report to the First Report of the Receiver, dated February 9, 2018.

17. The Second Report of the Receiver, dated April 20, 2018.

18. The pleadings previously filed in these proceedings.

**Applicable rules:**

19. *Alberta Rules of Court*, AR 124/2010.

20. *Bankruptcy and Insolvency General Rules*, CRC, c 368.

21. Such further and other rules as counsel may advise and this Honourable Court may permit.

**Applicable Acts and regulations:**

22. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended.

23. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

**Any irregularity complained of or objection relied on:**

24. None.

**How the application is proposed to be heard or considered:**

25. In person, before the Honourable Madam Justice K. M. Horner, with some or all of the parties present.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Schedule "A"

**SCHEDULE "A"**

CLERK'S STAMP

COURT FILE NUMBER 1701-12253

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF **ACMO S.À R.L.**

DEFENDANTS **US OIL SANDS INC. and US OIL SANDS (UTAH) INC.**

DOCUMENT **APPROVAL & VESTING ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **BENNETT JONES LLP**  
Barristers and Solicitors  
4500 Bankers Hall East  
855 – 2<sup>nd</sup> Street SW  
Calgary, AB T2P 0R3

Attention: Chris Simard  
Telephone No.: 403-298-4485  
Fax No.: 403-265-7219  
Client File No.: 76142.5

**DATE ON WHICH ORDER WAS PRONOUNCED:** Tuesday May 1, 2018

**LOCATION WHERE ORDER WAS PRONOUNCED:** Calgary, Alberta

**NAME OF JUSTICE WHO MADE THIS ORDER:** The Honourable Madam Justice K. M. Horner

UPON the Application of FTI Consulting Canada Inc. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of US Oil Sands Inc. and US Oil Sands (Utah) Inc. (collectively "**US Oil Sands**" or the "**Debtors**"), for an Order approving the sale transaction (the "**Transaction**") contemplated by the Amended and Restated Asset Purchase and Sale Agreement (the "**APA**") between the Receiver, as vendor (the "**Vendor**"), and USO (Utah) LLC, as purchaser (the "**Purchaser**"), dated February 5, 2018, a copy of which is attached as **Appendix "A"** to the Supplemental Report to the First Report of the Receiver dated February 9,

2018, and vesting in the Purchaser (or its nominee), the Debtors' right, title and interest in and to the assets described in the APA (the "**Purchased Assets**"); **AND UPON** having read the Receivership Order dated September 14, 2017 (the "**Receivership Order**"), the Second Report of the Receiver dated April 20, 2018, filed (the "**Second Report**"), the Affidavit of Service of [●], filed, and the pleadings and proceedings previously filed herein; **AND UPON** hearing counsel for the Receiver and any other interested party appearing at the application;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

1. 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.

**CAPITALIZED TERMS**

2. Capitalized terms not otherwise defined herein shall have the respective meanings ascribed to them in the APA.

**ACTIONS OF THE RECEIVER**

3. The actions taken by the Receiver to date, and in particular the actions of the Receiver regarding the sale of the Purchased Assets, as reported in the Second Report, are hereby approved and ratified.

**APPROVAL OF THE TRANSACTION**

4. The Transaction is commercially reasonable and in the best interests of the Debtors and their stakeholders. The Transaction is hereby approved, and the execution of the APA by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction or for the conveyance of the Purchased Assets to the Purchaser (or its nominee).



## VESTING OF PROPERTY

5. Upon the delivery of a Receiver's Certificate to the Purchaser (or its nominee), substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Certificate**"), subject only to the Permitted Encumbrances, caveats, and interests listed in **Schedule "B"** hereto (the "**Permitted Encumbrances**"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the APA shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all security interests (whether contractual, statutory, registered or otherwise), hypothecs, caveats, interests, mortgages, trusts or deemed trusts (whether contractual, statutory, registered or otherwise), liens, executions, levies, charges, or other financial or monetary claims, assignments, actions, taxes, judgments, writs of execution, options, agreements, disputes, debts, debentures, easements, covenants, encumbrances or other rights, limitations or restrictions of any nature whatsoever including, without limitation, any rights or interests of any creditors of the Debtors, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured, registered or otherwise and whether by payment, set-off or otherwise, whether liquidated, unliquidated or contingent (collectively, the "**Claims**") including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Receivership Order;
- (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; and
- (c) all other Claims other than 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.

6. From and after the closing of the Transaction (including the payment of the purchase price by the Purchaser to the Receiver), the Receiver is authorized to discharge from the Personal Property Registry any claim registered against any of the Personal Property being purchased by the Purchaser (or its nominee), to the extent the security interest is registered against the interests of the Debtors.

7. Upon the delivery of the Receiver's Certificate, and upon the filing of a certified copy of this Order, together with any applicable registration fees, the Registrar or Registrars of the Alberta Land Titles Office, the Alberta Department of Energy and the Minister of Energy of Alberta, and all other government ministries and authorities in Alberta, respectively, exercising jurisdiction with respect to or over the Purchased Assets (collectively, the "**Government Authorities**"), as applicable, are hereby authorized, requested and directed to (in each case as applicable):

- (a) enter the Purchaser (or its nominee) as the owner, lessee, and/or licensee of the Purchased Assets;
- (b) cancel the existing Certificates of Title to the Purchased Assets and issue new Certificates of Title for the Purchased Assets, in the name of the Purchaser (or its nominee);
- (c) delete and expunge from the existing title documents concerning the Purchased Assets all applicable Claims including encumbrances; and
- (d) register such transfers, discharges, discharge statements, or conveyances, as may be required to convey clear title to the Purchased Assets to the Purchaser (or its nominee), subject only to the Permitted Encumbrances.

8. This Order shall be registered and the steps set out in Paragraph 7 shall be carried out by the applicable Registrar and/or Government Authorities notwithstanding the requirements of the applicable federal and provincial legislation including but not limited to the requirements of section 191(1) of the *Land Titles Act*, and notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period is expressly waived.

9. Upon the delivery of the Receiver's Certificate, and upon the filing of a certified copy of this Order and any parallel order entered by a bankruptcy court having jurisdiction over the Purchased Assets located in the United States, together with any applicable filing or recording fees, the Grand County, Utah Recorder, the Uintah County, Utah Recorder, the Utah State Institutional and Trust Lands Administration, the Utah Division of Water Rights, the Utah Department of Environmental Quality, the Utah Division of Oil, Gas and Mining, and all other government agencies and authorities in the United States exercising jurisdiction with respect to or

over the Purchased Assets (collectively, the "United States Government Authorities"), as applicable, are hereby authorized, requested and directed to (in each case as applicable):

- (a) enter the Purchaser (or its nominee) as the owner, lessee, and/or licensee of the Purchased Assets;
- (b) transfer all permits, licenses, bonds and similar authorizations related to the Purchased Assets to the Purchaser (or its nominee);
- (c) record this Order in the real property records; and
- (d) record or file such transfers, discharges, discharge statements, or conveyances, as may be required to convey clear title to the Purchased Assets to the Purchaser (or its nominee), subject only to the Permitted Encumbrances.

10. The Receiver is hereby authorized and directed to take all necessary steps and execute any and all documents to effect any and all discharges and the Registrars and all other persons in control of or otherwise supervising such offices of registration or recording shall forthwith remove and discharge all such registrations.

11. No further authorization or approval or any other action by any authority or regulatory body exercising jurisdiction over the Purchased Assets shall be required for the closing and post-closing implementation of the Transaction contemplated in the APA.

12. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver'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.

13. Except as provided for in the APA, the Purchaser (and its nominee, if any) shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against the Vendor, Debtors or any Affiliate of the Vendor or the Debtors, and the Purchaser (or its nominee) shall not be deemed a successor of or to the Debtors or any of their Affiliates for any Claims of any kind or nature whatsoever against the Debtors or any of their Affiliates or against the Purchased Assets.

14. The Debtors and all persons who claim by, through or under the Debtors in respect of the Purchased Assets, save and except for the persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental and equity of redemption in respect of or to the Purchased Assets and, to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any certificates, instruments or other indicia of title representing or evidencing any right, title, estate or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).

15. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit, without any interference of or by the Debtors or any person claiming by or through or against the Debtors.

16. Immediately after the closing of the Transaction, the holders of the Permitted Encumbrances shall have no claim whatsoever against the Receiver or the Debtors.

17. The Receiver is to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof to the Purchaser (or its nominee).

18. Pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* and section 20(e) of the *Alberta Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees, including personal information of those employees listed in the Sale Agreement. The Purchaser (or its nominee) 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 Debtors.

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

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to 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 by creditors of the Debtors, nor shall it constitute nor be deemed to be a settlement, 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.

20. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

#### **MISCELLANEOUS MATTERS**

21. 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 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 as 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.

22. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.

23. Service of this Order on any party not attending this application is hereby dispensed with.

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Justice of the Court of Queen's Bench of Alberta

**SCHEDULE "A"**

**FORM OF RECEIVER'S CERTIFICATE PURSUANT TO PARAGRAPH 5 OF THIS  
APPROVAL AND VESTING ORDER**

COURT FILE NUMBER	1701-12253
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	<b>ACMO S.À R.L.</b>
DEFENDANTS	<b>US OIL SANDS INC. and US OIL SANDS (UTAH) INC.</b>
DOCUMENT	<b><u>RECEIVER'S CERTIFICATE</u></b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<b>BENNETT JONES LLP</b> Barristers and Solicitors 4500 Bankers Hall East 855 – 2 <sup>nd</sup> Street SW Calgary, Alberta T2P 4K7  Attention: Chris Simard Telephone No.: 403-298-4485 Fax No.: 403-265-7219 Client File No.: 76762-1

**RECITALS:**

- A. Pursuant to an Order of the Honourable Mr. Justice J.T. Eamon of the Court of Queen's Bench of Alberta (the "**Court**") dated September 14, 2017, FTI Consulting Canada Inc. was appointed as the receiver and manager (the "**Receiver**") of the assets, undertakings, and properties of US Oil Sands Inc. and US Oil Sands (Utah) Inc. ("**US Oil Sands**").
- B. Pursuant to an Order of the Court dated May 1, 2018, the Court approved the Amended and Restated Asset Purchase and Sale Agreement (the "**APA**") made between the Receiver and USO (Utah) LLC (the "**Purchaser**") dated February 5, 2018, and provided for the vesting in the Purchaser of US Oil Sands' right, title and interest in and to the Purchased Assets as defined in the APA, 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) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the APA have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, capitalized terms not otherwise defined have the meanings attributed to them in the APA.

**THE RECEIVER CERTIFIES THE FOLLOWING:**

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Purchased Assets, payable at the Closing pursuant to the APA;
2. Any conditions to Closing as set out in the APA have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver at Calgary, Alberta on \_\_\_\_\_, 2018.

**FTI Consulting Canada Inc.**, in its capacity as Court-appointed receiver and manager of the assets, undertakings, and properties of US Oil Sands Inc. and US Oil Sands (Utah) Inc. and not in its personal or corporate capacity.

Per: \_\_\_\_\_  
Deryck Helkaa  
Senior Managing Director, CA, CPA, CIRP



## SCHEDULE "B"

### PERMITTED ENCUMBRANCES

"Permitted Encumbrances" as defined in Article 1.1(ddd) of the Asset Purchase and Sale Agreement dated February 5, 2018:

(ddd) "**Permitted Encumbrances**" means:

- (i) Encumbrances given as security to a public utility or any Governmental Authority when required in the ordinary course of business but only insofar as they relate to any obligations or amounts not due as at the Closing Date;
- (ii) applicable municipal by-laws, development agreements, subdivision agreements, site plan agreements, servicing agreements, cost sharing reciprocal agreements and building and zoning restrictions and other similar agreements which do not materially impair the use of the Real Property (based on the current use of such affected property) affected thereby;
- (iii) any easements, servitudes, rights-of-way, licenses, agreements, restrictions that run with the land and other Encumbrances (including easements, rights-of-way and agreements for railways, sewers, drains, gas and water mains or electric light and power or telephone, telecommunications or cable conduits, poles, wires and cables) which do not materially impair the use, operation or marketability of the Real Property (based on the current use of such affected property) affected thereby;
- (iv) any privilege in favour of any lessor, licensor or permitter for rent to become due or for other obligations or acts, the performance of which is required under contracts of the Debtors (including in respect of the Leased Equipment) so long as the payment or the performance of such other obligation or act is not delinquent and provided that such Encumbrances or privileges do not materially affect the use or the operation of the assets affected thereby;
- (v) any Encumbrance for Taxes that are not yet delinquent; and
- (vi) any Encumbrances permitted by an order of the Court;