

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF ACUVA TECHNOLOGIES INC.**

**OF THE CITY OF VANCOUVER  
IN THE PROVINCE OF BRITISH COLUMBIA**

**NOTICE OF APPLICATION  
Approval and Vesting Order and Sealing Order**

**Name of Applicant:** FTI Consulting Canada Inc., in its capacity as the trustee in bankruptcy (the “**Trustee**”) of Acuva Technologies Inc. (the “**Company**”) pursuant to the Certificate of Appointment dated August 19, 2024.

To: The Parties and their Counsel as set out hereto as **Schedule “A”**

TAKE NOTICE that an application will be made by the Applicant to the Honourable Justice G.C. Weatherill at 800 Smithe Street, in the City of Vancouver, in the Province of British Columbia, on October 22, 2024, at 10:00 a.m for the orders set out in Part 1 below.

The Applicant estimates that the application will take 2 hours

- This matter is within the jurisdiction of an Associate Judge.
- This matter is not within the jurisdiction of an Associate Judge.

**Part 1: ORDERS SOUGHT**

1. An Order abridging the time for service of this Notice of Application to the time actually given and deeming service good and sufficient.
2. An Order substantially in the form attached hereto as **Schedule “B”**, approving the sale of, and vesting title in, certain assets and real property of the Company, excluding certain leased and other assets (the “**Transaction**”), to Watersprint AB (the “**Purchaser**”), pursuant to a purchase and sale agreement (the “**Sale Agreement**”) dated October 18, 2024, and other ancillary relief.

3. Such further and other relief as counsel may request and this Court may grant.

## **Part 2: FACTUAL BASIS**

### **Background**

4. All capitalized terms used but not otherwise defined in this Notice of Application shall have the meaning given to them in the First Report of the Trustee dated October 18, 2024 (the “**First Report**”), as applicable.

### ***The Company***

5. The Company is a privately held company incorporated in the province of British Columbia on October 1, 2014 and has a registered office in Burnaby, British Columbia.<sup>1</sup>
6. The Company’s business includes the design, development and manufacturing of UV-LED filtration systems for water, air and surface applications. The Company was founded in 2014 and expanded internationally with subsidiaries in the USA, India and Europe (the “**Foreign Subsidiaries**”).<sup>2</sup>
7. The Foreign Subsidiaries were largely set up to access sales in foreign markets but have limited assets and liabilities. The director of the Foreign Subsidiaries is taking steps to liquidate and otherwise wind-down the operations and does not expect any recovery to the Company.<sup>3</sup>
8. The assets of the Company are as follows:
  - (a) cash on hand at the date of bankruptcy in the sum of approximately \$133,000.00;<sup>4</sup>
  - (b) intellectual property;
  - (c) inventory;
  - (d) accounts receivable; and
  - (e) office furniture and equipment.<sup>5</sup>
9. Based on the Trustee’s analysis of the Company’s assets, the estimated realizable value of the intellectual property and inventory is largely dependent on whether a transaction is completed with a strategic buyer. In a forced liquidation scenario, the Trustee expects

---

<sup>1</sup> First Report of the Trustee, dated October 16, 2024, para. 1.

<sup>2</sup> First Report, para. 2.

<sup>3</sup> Trustee’s Preliminary Report, dated September 6, 2024 (the “**Preliminary Report**”), para. 3.

<sup>4</sup> First Report, para. 6.

<sup>5</sup> Preliminary Report, para. 6.

that these assets, along with the office furniture and equipment, would have little to no value.<sup>6</sup>

### ***The Company's Creditors***

10. The Company entered into a loan and royalty agreement dated July 19, 2019, with Genome British Columbia ("**Genome BC**"), pursuant to which Genome BC agreed to provide a non revolving loan of \$1 million (the "**Genome BC Debt**"). The outstanding amount of the Genome BC Debt, including accrued interest, as at the bankruptcy date was estimated to be approximately \$1.3 million.<sup>7</sup>
11. Pursuant to a general security agreement dated July 16, 2019, the Genome BC Debt is secured by a security interest in all property, assets and undertakings excluding the intellectual property of the Company.<sup>8</sup>
12. With respect to the intellectual property, the Company has granted a "double negative pledge" to Genome BC whereby it has agreed:
  - (a) not to grant any security interest in its intellectual property to any other person (a "**Negative Pledge**"); and
  - (b) not to agree to a Negative Pledge with any current or future lender, without the consent of Genome BC.<sup>9</sup>

### **The Bankruptcy Assignment**

13. The Company was unable to achieve profitable operations or raise capital sufficient to address its funding requirements and was unable to meet its obligations as they became due.
14. As a result, on August 19, 2024, the Company filed an assignment in bankruptcy (the "**Assignment**") pursuant to section 49(1) of the Bankruptcy and Insolvency Act (the "**BIA**"). A Certificate of Bankruptcy for the Company was issued on the same date by the Official Receiver appointing FTI Consulting Canada Inc. as the Trustee.<sup>10</sup>
15. The amounts recorded as owing by the Company as the time of the Assignment are summarized as follows:
  - (a) WEPPA priority claims relating to the termination of former employees of approximately \$26,000;
  - (b) a secured claim from Genome BC of approximately \$1.3 million; and

---

<sup>6</sup> Preliminary Report, para. 8.

<sup>7</sup> Preliminary Report, para. 11.

<sup>8</sup> Preliminary Report, para. 12.

<sup>9</sup> Preliminary Report, para. 12;

<sup>10</sup> First Report, para. 4.

- (c) unsecured claims totaling approximately \$5.5 million which relate primarily to loans from the Government of Canada including the Ministers responsible for Pacific Economic Development Canada and Western Economic Diversification Canada.<sup>11</sup>

### **The Pre-Assignment Sales and Marketing Process**

16. Throughout 2022 to 2023 the Company had engaged with various investment banking advisory firms, including Canaccord Genuity, Fort Capital, and DrakeStar, to assist with soliciting interest in a financing or sale transaction, but was unsuccessful in selling the Company and/or raising sufficient capital in the business to support operations.<sup>12</sup>
17. As a final effort prior to an Assignment, the Company initiated an informal marketing and sales process (the “**Pre-Bankruptcy Sales Process**”), whereby.<sup>13</sup>
- (a) On August 1, 2024, the Company’s management reached out to its shareholder base (approximately 103 contacts) seeking interest in providing financing to the Company, purchasing its assets or otherwise facilitating a financing or sale<sup>14</sup>; and
- (b) On August 2, 2024, Management distributed the same notice to 22 strategic contacts (competitors, suppliers and customers) of various companies in the industry seeking interest.<sup>15</sup>
18. As a result of these inquiries, the Company executed four non-disclosure agreements with prospective purchasers, including Watersprint AB (“**Watersprint**”) and Clear Inc. (“**Clear**”).
19. Of these prospective purchasers that executed a non-disclosure agreement, only Watersprint conducted thorough due diligence.<sup>16</sup> While the prospective purchasers showed interest in the Company’s intellectual property, the Pre-Bankruptcy Sales Process did not generate any offers prior to the Assignment.<sup>17</sup>

### **Insufficient Funding for Further Formal Sales Process**

20. As shown in the Interim R&D, the estate does not have sufficient liquidity to run a formal sales process without further funding.<sup>18</sup>

---

<sup>11</sup> First Report, para. 5.

<sup>12</sup> First Report, paras. 18 and 19.

<sup>13</sup> First Report, paras. 18 and 19.

<sup>14</sup> First Report, para. 19.

<sup>15</sup> First Report, para. 19.

<sup>16</sup> First Report, para. 18.

<sup>17</sup> First Report, para. 20.

<sup>18</sup> First Report, para. 21.

21. Accordingly, the Trustee was unable to initiate any further sales process or provide further due diligence aside from what had been conducted in respect of the Company and its assets.<sup>19</sup>

### **Offers Received**

22. Upon the Trustee's appointment, the Trustee reviewed and worked with the Company to generate offers from the interested parties generated from the Pre-Bankruptcy Sales Process.
23. At the recommendation of the Company's CEO, and with approval from Genome BC, prior to the first meeting of creditors, the Trustee granted access to Watersprint during the week of August 26, 2024 to complete the due diligence it had partially completed prior to the bankruptcy.<sup>20</sup> This due diligence included a site visit to the premises in Burnaby, B.C. and some discussions with former management, all at the cost of Watersprint.<sup>21</sup>
24. On or about September 5, 2024, Watersprint submitted a term sheet (the "**Watersprint Offer**") for the proposed asset purchase transaction pursuant to which Watersprint would acquire all or substantially all of the assets of the Company, other than the Company's cash and account receivable and shares owned by the Company in any subsidiaries.<sup>22</sup>
25. The Trustee did not engage in any negotiations or provide any feedback or information to Watersprint in respect of the Watersprint Offer.<sup>23</sup>
26. Subsequent to the first meeting of creditors, where it was disclosed that the Watersprint Offer was received by the Trustee, Clear inquired with the Trustee whether a data room and/or other information would be made available as part of any sales process. The Trustee confirmed it had no funding or ability to conduct a further sales process or provide such information or resources.<sup>24</sup>
27. The Trustee has inquired with various parties, including Genome BC, Watersprint and Clear, to determine whether any of those parties would be willing to fund the Trustee to conduct a further sales process. However, none of the parties expressed interest in providing any such funding.<sup>25</sup> Accordingly, the Trustee was unable to initiate any further sales process or provide further due diligence aside from what had been conducted in respect of the Company and its assets.

---

<sup>19</sup> First Report, para. 25.

<sup>20</sup> First Report, para. 22.

<sup>21</sup> First Report, para. 22.

<sup>22</sup> First Report, para. 23.

<sup>23</sup> First Report, paras. 23 and 26.

<sup>24</sup> First Report, para. 24.

<sup>25</sup> First Report, para. 25.

28. Clear submitted a non-binding term sheet (the “**Clear Offer**”) for the Company’s assets on September 16, 2024.<sup>26</sup> Clear subsequently revised the Clear Offer to increase the purchase price on September 20, 2024.
29. On September 20, 2024, both the Watersprint Offer and the Clear Offer (as revised) were presented to the inspectors of the estate for the purposes of voting on a resolution to approve an offer and pursuing a transaction. The inspectors unanimously resolved to approve the Trustee to pursue the Watersprint Offer.<sup>27</sup>

### **The Sale Agreement**

30. On or about October 18, 2024, Watersprint and the Trustee entered into an Asset and Purchase Agreement (the “**Sale Agreement**”). A copy of the Sale Agreement is attached as Appendix “**B**” to the First Report.<sup>28</sup>

### ***Key Commercial Terms of the Sale Agreement***

31. The key commercial terms of the Sale Agreement are detailed in the table below<sup>29</sup>:

<b>Parties</b>	- The Trustee (Vendor) and the Purchaser, Watersprint (Purchaser)
<b>Purchase Price</b>	- \$2,800,000, plus all applicable sales tax or any other applicable transfer taxes.  - Deposit of \$280,000 (the deposit is payable upon execution of the Sale Agreement and is refundable if certain conditions to closing are not met)
<b>Purchased Assets</b>	- all the right, title and interest of the Trustee and the Company, if any, in, to and under the properties and assets of every kind and description, wherever located, real, personal or mixed, tangible or intangible, owned, leased, or licensed, including without limitation, the Equipment, the Intellectual Property, the Inventory and the Books and Records, but excluding the Excluded Assets.  - The Purchaser is acquiring the Purchased Assets on an “as-is, where-is” basis.

<sup>26</sup> First Report, para. 26.

<sup>27</sup> First Report, para. 27.

<sup>28</sup> First Report, para. 28.

<sup>29</sup> First Report, para. 29.

<b>Excluded Assets</b>	<ul style="list-style-type: none"> <li>- means the Company’s cash, the Company’s accounts receivable, and any shares owned by the Company in any subsidiaries.</li> </ul>
<b>Closing Conditions</b>	<ul style="list-style-type: none"> <li>- the Purchaser shall have entered into an agreement with the University of British Columbia (“UBC”) regarding the licensing and use of certain intellectual property previously licensed by the Company from UBC, , and on terms that are satisfactory to the Purchaser;</li> <li>- execution and delivery by the Trustee to the Purchaser on or before closing of short form assignment agreements in respect of the intellectual property in form and in substance satisfactory to the Purchaser, acting reasonably;</li> <li>- approval of the Watersprint Offer by inspectors in accordance with the BIA; and</li> <li>- the Approval and Vesting Order shall have been granted by this Honourable Court and shall be a Final Order;</li> </ul>
<b>Closing Date</b>	<ul style="list-style-type: none"> <li>- three business days following the date on which all of the Mutual Conditions, Trustee’s Conditions, and Purchaser’s Conditions are satisfied or waived or such other date as agreed in writing by the Parties.</li> </ul>

### **The Trustee’s Review and Assessment of the Proposed Transaction**

32. The Trustee’s review and assessment of the proposed Transaction involved consideration of the following factors:
- (a) The fact that the Watersprint Offer originated in large part from the Pre-Bankruptcy Sales Process that was conducted by the Company;
  - (b) The extent to which Genome BC was consulted in the process surrounding the proposed Transaction;
  - (c) The effect of the proposed Transaction on affected secured and unsecured creditors and other stakeholders;

- (d) Whether the purchase consideration under the proposed Transaction is fair and commercially reasonable taking into account the circumstances of this particular case.
33. While the Trustee has not undertaken a formal sales process in the bankruptcy proceedings due to a lack of estate funding for the same, the Company did seek to exhaust all avenues for a potential sale or investment prior to the Assignment.<sup>30</sup> Further, the Trustee attempted to find funding for a formal sales process in the bankruptcy but no party was interested or willing to provide the same.
34. The proposed Transaction resulted in part from a sales process initiated by the Company and was subject to the governance and oversight of well-qualified and experienced business professionals.
35. The Trustee considers the Transaction and the Sale Agreement to be commercially reasonable in the circumstances based on the following:<sup>31</sup>
- (a) in the circumstances, and as compared to the Clear Offer, the Watersprint APA provides the following:
    - (i) a strategic buyer who values the assets at a much higher rate than would be received in a liquidation scenario; and
    - (ii) a Purchase Price that is significantly higher than the Clear Offer.
  - (b) the Sale Agreement is supported by Genome BC, the primary secured creditor;
  - (c) the Watersprint Offer was unanimously approved by the inspectors of the estate on September 20, 2024;
  - (d) the timelines and conditions and other key terms of the Watersprint APA are commercially reasonable in the circumstances, based on the Trustee's experience with similar transactions in the context of insolvency and restructuring proceedings;
  - (e) if the Transaction is not completed shortly, the value of the Company's assets will likely deteriorate as there is insufficient funding to maintain the intellectual property portfolio and current operations;
  - (f) the Trustee is not aware of any reason or information to suggest that the Watersprint Offer does not reflect market value for these unique assets or is otherwise not in the best interests of the creditors of the estate; and
  - (g) the Trustee is satisfied that Watersprint has the wherewithal to complete the transaction and is an arm's-length party acting in good faith.

---

<sup>30</sup> First Report, para. 30.

<sup>31</sup> First Report, para. 30.



### Part 3: LEGAL BASIS

#### *Approval of the Purchase Agreement and the Transaction*

36. Section 30(1)(a) of the *Bankruptcy and Insolvency Act* provides that:

30 (1) The trustee may, with the permission of the inspectors, do all or any of the following things:

(a) sell or otherwise dispose of for such price or other consideration as the inspectors may approve all or any part of the property of the bankrupt, including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt, by tender, public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels...

37. The trustee has a duty to maximize the yield for the assets of the bankrupt estate, subject to practicalities and honesty. The trustee should strive to obtain fair market value, i.e., the price that an arm's length willing vendor and a willing purchaser would probably negotiate. Individual circumstances, such as a thin market, an unusual asset or heavy carrying charges may require the trustee to sell for less than fair market value.

*Canada (A.G.) v. Russell*, 1999 ABCA 232, paras. 11-15

38. The factors that the Court ought to consider with respecting to the approval of a sale in receivership proceedings are set out in *Royal Bank of Canada v. Soundair Corp.* ("*Soundair*"). The factors to be considered are:

- (a) whether the receiver has made a sufficient effort to get the price and has not acted improvidently;
- (b) the interests of all parties;
- (c) the efficacy and integrity of the process by which the offers are obtained; and
- (d) whether there has been unfairness in the working out of the process.

*Royal Bank of Canada v. Soundair Corp.*, 1991 CanLII 2727 (ON CA) at p. 8-9.

39. While a receiver's primary concern is the interest of the debtor's creditors, other persons' interests require consideration as well. This may include the interests of a purchaser who has negotiated an agreement with a court appointed receiver or the interests of the debtor.

*Soundair* at p. 16.

40. In the present circumstance, the Pre-Bankruptcy Sales Process initiated by the Company generated the Watersprint Offer, which is a commercially reasonable offer that benefits all stakeholders. The Trustee does not have the ability to run a formal sales process in the bankruptcy given the following factors:

- (a) **Financial Constraints:** The Company's estate lacks the resources to cover the costs of a formal sales process or to pay ongoing liabilities over the next month, including essential expenses like rent and infrastructure;
- (b) **Liquidity Issues:** There is insufficient liquidity to fund the sale process, and there has been no interest from third parties to provide the necessary funding for any such process;
- (c) **Asset Value Concerns:** The Company's primary value lies in its intellectual property, the value of which will likely depreciate or dissipate completely if renewal deadlines are missed due to a lack of financial resources.

41. The factors discussed above closely align with the Alberta Court of King's Bench decision in *OEL Projects LTD (Re)*, where the court deemed the informal sales process initiated by the bankrupt company to be reasonable in the circumstances. The court approved the sales transaction despite its limitations, taking into account the extenuating circumstances of the case—such as financial distress, liquidity challenges, relationship risks, and unfavorable market conditions—which made a formal sales process impractical.

*OEL Projects Ltd (Re)*, 2020 ABQB 365, para. 27.

42. The Pre-Bankruptcy Sales Process was undertaken to solicit fair and reasonable offers with a view to maximizing the realization of the Company. The Purchaser and other potential targets were initially identified during that process.

43. The Trustee notes that the Pre-Bankruptcy Sales Process included the involvement of the Company's management team, and the review of the Watersprint Offer and the Clear Offer (being the only offers received for the Company's assets) involved the inspectors representing the interests of the unsecured creditors, and Genome BC, the sole secured creditor—all of whom are experienced and well-qualified business professionals. The Court has no reason to question their commercial judgment or business decisions.

*AbitibiBowater Inc.*, 2010 QCCS 1742 at para. 71.

44. The process leading to the inspectors' approval of the Watersprint Offer was conducted in a fair manner recognizing the interest of all parties. Genome BC, the Company's sole secured creditor and a key stakeholder in the proposed Transaction, has been actively consulted throughout the process, have been informed about this application and support the proposed Transaction. Additionally, the Company's inspectors, who represent the interests of the unsecured creditors, unanimously voted to proceed with the proposed Transaction.

45. There are significant advantages to the stakeholders that will flow from approving the proposed Transaction. In particular, the Purchase Price for the Transaction represents the highest and most advantageous offer received by the Trustee.

46. In light of the foregoing, the Trustee submits that all reasonable efforts have been made to get the best price in light of the circumstances of the Company, using an efficient

process that resulted in the Sale Agreement. Ultimately, the process leading to the sale was conducted prudently and in a fair and commercially reasonable manner with respect to the Sale Agreement and the Transaction.

**Part 3: MATERIAL TO BE RELIED ON**

1. The Trustee's Preliminary Report to Court, dated September 6, 2024.
2. The Trustee's First Report to Court, dated October 18, 2024.
3. Such further and other materials as this Honourable Court may accept.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application.

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed Application Response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person; if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated at the City of Vancouver, in the Province of British Columbia, this 18<sup>th</sup> day of October 2024.



---

Lawson Lundell LLP, Scott Boucher

This Notice of Application is filed by Scott Boucher, of the law firm of Lawson Lundell LLP, whose place of business and address for delivery is 1600 – 925 West Georgia Street, Vancouver, BC, V6C 3L2; Telephone No: 604-631-3623; Email: [sboucher@lawsonlundell.com](mailto:sboucher@lawsonlundell.com).

*To be completed by the court only:*

Order made

in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this Notice of Application

with the following variations and additional terms:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date:

\_\_\_\_\_  
Signature of  Judge  Master

## APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

### THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts
- none of the above

**SCHEDULE “A”**

No. 11-3117708  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF ACUVA TECHNOLOGIES INC.**

**OF THE CITY OF VANCOUVER  
IN THE PROVINCE OF BRITISH COLUMBIA  
SERVICE LIST for October 22, 2024 Application**

<b>Parties</b>	<b>Contact Information</b>
FTI Consulting Canada Inc., in its capacity as the trustee in bankruptcy (the “Trustee”) of Acuva Technologies Inc. (the “Company”)	Scott Boucher Lawson Lundell LLP 1600 – 925 W Georgia St. Vancouver, BC V6C 3L2 Email: <a href="mailto:sboucher@lawsonlundell.com">sboucher@lawsonlundell.com</a>
Genome British Columbia	Tony Brooks 400 – 575 West 8 <sup>th</sup> Ave Vancouver, BC V5Z 0C4 Email: <a href="mailto:tbrooks@genomebc.ca">tbrooks@genomebc.ca</a>
Watersprint AB	Vicki Tickle Cassels Brock LLP 2200 - 885 West Georgia St. Vancouver, BC V6C 3E8 Email: <a href="mailto:vtickle@cassels.com">vtickle@cassels.com</a>
Clear Inc.	John Salmas/Birpal Benipal Dentons LLP 400 – 77 King St W Toronto, ON M5K 0A1 Email: <a href="mailto:john.salmas@dentons.com/">john.salmas@dentons.com/</a> <a href="mailto:birpal.benipal@dentons.com">birpal.benipal@dentons.com</a>
University of British Columbia	Paul Cyr University-Industry Liaison Office 103-6190 Agronomy Road Vancouver, BC

	Email: <a href="mailto:paul.cyr@uilo.ubc.ca">paul.cyr@uilo.ubc.ca</a>
CrayoNano AS	Elinora Nogueira Sluppenvegen 6 Trondheim 7037 Norway 998682525MVA Email: <a href="mailto:ellinora.nogueira@crayonano.com">ellinora.nogueira@crayonano.com</a>

**Schedule “B” – Draft Approval and Vesting Order**

No. \_\_\_\_\_  
Estate No. 11-3117708  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF ACUVA TECHNOLOGIES INC.**

**OF THE CITY OF VANCOUVER  
IN THE PROVINCE OF BRITISH COLUMBIA**

**ORDER MADE AFTER APPLICATION**

**APPROVAL AND VESTING ORDER**

BEFORE THE HONOURABLE )  
 ) TUESDAY, THE 22<sup>ND</sup> DAY OF  
 ) OCTOBER, 2024

THE APPLICATION of FTI Consulting Canada , in its capacity as the trustee in bankruptcy (the “Trustee”) of Acuva Technologies Inc. (the “Company”) coming on for hearing at Vancouver, British Columbia, on the 22<sup>nd</sup> day of October 2024; AND ON HEARING, Scott Boucher, counsel for the Trustee, and those other counsel listed on **Schedule “A”** hereto, and no one else appearing although duly served; AND UPON READING the material filed, including the First Report of the Trustee dated October 18, 2024 (the “Report”);

THIS COURT ORDERS AND DECLARES THAT:

- 1) The time for service of this Notice of Application and supporting materials is hereby abridged so that the application is properly returnable today, and the need for further service of the Notice of Application and supporting materials is hereby dispensed with.
- 2) The sale transaction (the “Transaction”) contemplated by the Agreement of Purchase and Sale, dated October 18, 2024 (the “Sale Agreement”) between the Trustee and Watersprint AB (the “Purchaser”), a copy of which is attached as Appendix “B” to the Report is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Trustee is hereby authorized and approved, and the Trustee 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 and for the conveyance to the Purchaser of the assets described in the Sale Agreement (the “**Purchased Assets**”).

- 3) Upon delivery by the Trustee to the Purchaser of a certificate substantially in the form attached as **Schedule “B”** hereto (the “**Trustee’s Certificate**”), all of the Company’s right, title and interest in and to the Purchased Assets described in the Sale Agreement [and listed on **Schedule “C”** hereto] shall vest absolutely in the Purchaser in fee simple, 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: any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system (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.
- 4) In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Purchase Agreement. Presentment of this Order and the Trustee’s Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances. No authorization, 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 Trustee of the Purchase Agreement.
- 5) For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Trustee’s Certificate all Claims 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 had possession or control immediately prior to the sale.
- 6) The Trustee is to file with the Court a copy of the Trustee’s Certificate forthwith after delivery thereof.
- 7) Pursuant to Section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* or Section 18(10)(o) of the *Personal Information Protection Act* of British Columbia, the Trustee is hereby authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the company’s records pertaining to the Company’s 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 Company.

- 8) Subject to the terms of the Sale Agreement, vacant possession of the Purchased Assets, shall be delivered by the Trustee to the Purchaser at 12:00 noon on the Closing Date (as defined in the Sale Agreement).
- 9) The Trustee, with the consent of the Purchaser, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court.
- 10) Notwithstanding these proceedings, 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 Company and shall not be void or voidable by creditors of the Company, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* 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.
- 11) THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Trustee 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 Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.
- 12) The Trustee or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

13) Endorsement of this Order by counsel appearing on this application other than counsel for the Applicant is dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

\_\_\_\_\_  
Signature of Scott Boucher  
Lawyer for the Trustee

BY THE COURT

\_\_\_\_\_  
REGISTRAR

**Schedule A -List of Parties/Counsel Appearing**

Party Represented	Counsel/Person Appearing
FTI Consulting Canada Inc., in its capacity as the trustee in bankruptcy (the “Trustee”) of Acuva Technologies Inc. (the “Company”)	Scott Boucher Lawson Lundell LLP 1600 – 925 W Georgia St. Vancouver, BC V6C 3L2 Email: <a href="mailto:sboucher@lawsonlundell.com">sboucher@lawsonlundell.com</a>

**Schedule B - Trustee's Certificate**

No. 11-3117708  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF ACUVA TECHNOLOGIES INC.**

**OF THE CITY OF VANCOUVER  
IN THE PROVINCE OF BRITISH COLUMBIA**

**Certificate**

RECITALS

- A. Pursuant to the Certificate of Appointment dated August 19, 2024.
- B. Pursuant to an Order of the Court dated October 22, 2024 (the “**Approval and Vesting Order**”), the Court approved the Contract of Purchase and Sale dated October 18, 2024 (the “**Sale Agreement**”) between the Trustee and Water Sprint AB (the “**Purchaser**”), for the sum of \$2,800,000, and provided for the vesting in the Purchaser of all of the 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 Trustee 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 Section ● of the Sale Agreement have been satisfied or waived by the Trustee and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Trustee.
- C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Approval and Vesting Order or the Sale Agreement, as applicable.

THE TRUSTEE CERTIFIES the following:

1. The Purchasers have paid and the Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
- 14) The conditions to Closing set out in Section ● of the Sale Agreement have been satisfied or waived by the Trustee and the Purchaser; and
2. The Transaction has been completed to the satisfaction of the Trustee.

This Certificate was delivered by the Trustee at Vancouver, BC this \_\_\_\_ day of \_\_\_\_\_, 2024.

FTI Consulting Canada Inc  
in its capacity as the trustee in bankruptcy of Acuva Technologies  
and not in its personal capacity

Per: \_\_\_\_\_

**Schedule C – Purchased Assets**





No. 11-3117708  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH  
COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF  
ACUVA TECHNOLOGIES INC.**

**OF THE CITY OF VANCOUVER  
IN THE PROVINCE OF BRITISH COLUMBIA**

---

**APPROVAL AND VESTING ORDER**

---