

May 8, 2015

File No.: 548476-5

**DELIVERED VIA COURIER & FAX
SENT VIA E-MAIL**

TO THE ADDRESSEES ON THE ATTACHED SERVICE LIST

Dear Sirs:

**RE: Pacer Construction Holdings Corporation v. Pacer Promect Energy Corporation and
Pacer Promec Energy Construction Corporation (Court File No. 1501 02652)**

Please find enclosed for service upon you a filed copy of the Order (re: Approval and Vesting) granted by Justice B. Nixon on May 7, 2015.

Yours truly,
Dentons Canada LLP
David LeGeyt
Partner

DL/rlc

Enclosure

SERVICE LIST
(UPDATED: MAY 8, 2015)

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Clerk's stamp:



COURT FILE NUMBER 1501-02652

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT PACER CONSTRUCTION HOLDINGS CORPORATION

RESPONDENT PACER PROMEC ENERGY CORPORATION AND PACER PROMEC ENERGY CONSTSTRUCTION CORPORATION

DOCUMENT Order

(re: Approval and Vesting)

I hereby certify this to be a true copy of

the original order

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

DENTONS CANADA LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8

Dated this 08 day of May 2015
[Signature]
for Clerk of the Court

Attention: David W. Mann / David LeGeyt Ph. (403) 268-7097/3075 Fx. (403) 268-3100 File No.: 548476-5

DATE ON WHICH ORDER WAS PRONOUNCED May 7, 2015

NAME OF JUSTICE WHO MADE THIS ORDER Honourable Justice B. Nixon

ORDER
(re: Approval and Vesting)

UPON the application of FTI Consulting Canada Inc., in its capacity as receiver manager (the "Receiver") of Pacer Promec Energy Corporation and Pacer Promec Energy Construction Corporation (collectively, "PPEC") in these proceedings; **AND UPON** having read the Application of the Receiver, dated May 4, 2015, the First Report of the Receiver, dated May 1, 2015 (the "Report"), the Affidavit of Ronica Cameron, dated May 7, 2015 (the "Service Affidavit"), and such other material in the pleadings and proceedings as deemed necessary; **AND UPON** hearing counsel for the Receiver and other interested parties; **IT IS HEREBY ORDERED AND DECLARED THAT:**

Service

1. The time for service of notice of this application is abridged to the time actually given and service of the Application and supporting material as described in the Service Affidavit is good and sufficient, and this hearing is properly returnable before this Honourable Court today and further service thereof is hereby dispensed with.

2. All capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Report and the following terms shall have the following meaning:

- (a) **"Asset Purchase Agreement"** means the Asset Purchase Agreement, dated April __, 2015 respecting the sale of the Property by the Receiver to the Purchaser;
- (b) **"Closing Adjustments"** means the ordinary and specific closing adjustments described at paragraph 2.5 of the Asset Purchase Agreement;
- (c) **"Lands"** means the lands legally described as:

CONDOMINIUM PLAN 0313153
UNIT 67
AND 42 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON
PROPERTY
EXCEPTING THEREOUT ALL MINES AND MINERALS

and all appurtenances thereto;
- (d) **"Net Proceeds"** means the proceeds from the sale of the Property, less i) amounts required to pay the Closing Adjustments, and ii) all other reasonable and ordinary closing costs, including without limitation goods and services and other applicable sales taxes, property taxes, commissions, applicable warranty and condominium fees and legal fees and disbursements;
- (e) **"PPEC"** means, collectively, Pacer Promec Energy Corporation and Pacer Promec Energy Construction Corporation;
- (f) **"Property"** means all of the Vendor's right, title and interest in and to the Lands and other Assets, as defined in the Asset Purchase Agreement; and
- (g) **"Purchaser"** means Rajesh Krishna.



Approval of Sale and Vesting of the Property

- 3. The Asset Purchase Agreement is commercially reasonable and the sale and conveyance of the Property to the Purchaser in accordance with the terms of the Asset Purchase Agreement be and is hereby authorized and approved.
- 4. The Receiver is hereby authorized and directed to execute all deeds, documents, and agreements, and to do all things reasonably necessary to complete the conveyance of the Property pursuant to the terms of the Asset Purchase Agreement and carry out the terms of this Order.
- 5. Upon the Receiver delivering a certificate (the **"Receiver's Certificate"**) certifying that the sale of the Property has closed in accordance with the terms of the Asset Purchase Agreement and all purchase monies due and owing in respect of such sale have been tendered to the Receiver's solicitors, then:


- (a) the Property shall be vested in the name of the Purchaser free of all estate, right, title, interest, royalty, rental, and equity of redemption of PPEC and all persons who claim by, through or under PPEC in respect of the Property, subject only to the permitted encumbrances outlined in Schedule "A" of this Order (the "**Permitted Encumbrances**");
 - (b) PPEC and all persons who claim by, through or under PPEC in respect of the Property, save and except the Permitted Encumbrances, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental, and equity of redemption of the Property and, to the extent that any such person remains in possession or control of any of the Property, they shall forthwith deliver possession of same to the Purchaser or its nominee;
 - (c) the Purchaser shall be entitled to enter into and upon, hold and enjoy the Property for its own use and benefit without any interference of or by PPEC, or any person claiming by or through or against PPEC; and
 - (d) the Registrar of the Land Titles Office of Alberta shall discharge all encumbrances in respect of the Lands, save and except the Permitted Encumbrances, and shall register the Property in the name of the Purchaser notwithstanding the requirements of section 191 of the *Land Titles Act* (Alberta) (the "**LTA**").
6. The Receiver is authorized and empowered, in respect of the Property, to execute and deliver: (a) such additional, related and ancillary documents and assurances governing or giving effect to the conveyance of the Property, which, in the Receiver's discretion are reasonably necessary or advisable to conclude the transactions contemplated in or in furtherance of the transfer of the Property and/or this Order; and (b) any and all instruments and documents in respect of the Property as may be required by the Registrar of the Land Titles Office of Alberta or deemed necessary by the Receiver, and the Registrar is hereby directed, notwithstanding any restrictions in the LTA, including but not limited to s. 191(1) of the LTA, to effect registration of any such instrument or document so executed by the Receiver or the Receiver's solicitors.
 7. Upon the filing of the Receiver's Certificate, the Receiver shall discharge, or authorize the discharge of, any security registration or registrations in the Personal Property Registry of the Province of Alberta as may be required to properly convey clear title of the Property to the Purchaser.
 8. Upon the filing of the Receiver's Certificate, the Net Proceeds shall be held by the Receiver in the place and stead of the Property transferred pursuant to this Order, and not disbursed to any party without the consent of the Receiver or upon further Order of this Honourable Court (the "**Claims Reserve**").
 9. All claims of whatsoever nature or kind, including without limitation, all real property taxes not subject to adjustment under the Asset Purchase Agreement, liens, claims, encumbrances, mortgages, proprietary claims, trust claims, lease claims, royalty claims, and other interests, other than the Permitted Encumbrances, (the "**Claims**") shall attach solely to the Claims Reserve with the same validity, priority and in the same amounts and subject to the same defences that were or may have been available when the Claims were attached to the Property itself.

Miscellaneous

10. Any conveyance or transfer of the Property made pursuant to the provisions of this Order shall be valid and enforceable and not be rendered invalid or unenforceable and the rights and remedies of the parties thereto shall not otherwise be limited or impaired in any way by: (i) the pendency of these receivership proceedings and the declaration of PPEC's insolvency made herein; (ii) any Bankruptcy Order sought or issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) ("BIA") in respect of PPEC; or (iii) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances, contained in any existing agreement, lease, sub-lease, offer to lease or other arrangement which binds PPEC (a "Third Party Agreement"), and notwithstanding any provision to the contrary in any Third Party Agreement:
 - (a) the transaction contemplated hereby shall not create or be deemed to constitute a breach by PPEC of any Third Party Agreement to which they are a party; and
 - (b) the Purchaser shall not have liability to any person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation, execution, delivery or performance of any transaction contemplated hereby.
11. Notwithstanding (i) the pendency of these proceedings and the declaration of PPEC's insolvency made herein, (ii) any Bankruptcy Order sought or issued pursuant to the BIA in respect of PPEC, and (iii) the provisions under the BIA, or any other applicable federal or provincial legislation or common law, the purchase and transaction contemplated hereby shall constitute legal, valid and binding obligations of PPEC enforceable against it in accordance with the terms thereof, and no transaction contemplated herein will be void or voidable at the instance of creditors and claimants and do not constitute nor shall they be deemed to constitute settlements, fraudulent preferences, assignments, fraudulent conveyances, oppressive conduct, or other reviewable transactions under the BIA, or any other applicable federal or provincial legislation or common law.
12. The Receiver, the Purchaser, or any interested party may apply to this Court for advice and direction on notice to any party likely to be affected by the Order sought or on such notice as this Court directs.

General

13. The Receiver's activities, as set out in the Receiver's First Report, are approved.
14. The Receiver shall serve, by courier, facsimile transmission, e-mail transmission, or ordinary post, a copy of this Order on all parties present at this application and on all parties who received notice of this application or who are presently on the service list established in these proceedings, and service on any or all other parties is hereby dispensed with. Service affected as aforesaid shall be good and sufficient service.



Justice of the Court of Queen's Bench of Alberta

SCHEDULE A
(ORDER RE: APPROVAL AND VESTING)

PERMITTED ENCUMBRANCES

Nil.