Court File No. CV-20-00642010-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE	)	THURSDAY, THE 20TH
	)	
JUSTICE CONWAY	)	DAY OF AUGUST, 2020

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 PERASO TECHNOLOGIES INC.

(the "**Applicant**")

ORDER

(Approval of Second DIP Agreement)

THIS MOTION, made by the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), proceeded on this day by way of videoconference due to the COVID-19 crisis.

ON READING the unredacted affidavit of Ronald Glibbery affirmed August 19, 2020 (the "**Sixth Glibbery Affidavit**") and the Exhibits thereto, the unredacted Fourth Report of Ernst & Young Inc., in its capacity as monitor (the "**Monitor**") to the Applicant, dated August 20, 2020 (the "**Fourth Report**"), and on hearing the submissions of counsel for the Applicant and counsel for the Monitor and those other parties listed on the counsel slip;

SERVICE

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

DIP FINANCING

2. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from Roadmap Capital General Partner Ltd. and Roadmap Peraso LP III (U.S. and Offshore) (collectively, the "**Second DIP Lenders**") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, all as specifically provided for in the Second DIP Agreement (as defined in paragraph 3 hereof).

3. **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the Debtor-in-Possession Credit Agreement between the Applicant and the Second DIP Lenders dated as of August 18, 2020 (the "**Second DIP Agreement**"), filed.

4. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the Second DIP Agreement or as may be reasonably required by the Second DIP Lenders pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the Second DIP Lenders under and pursuant to the Second DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

5. **THIS COURT ORDERS** that the Second DIP Lenders shall be entitled to the benefit of and are hereby granted a charge (the "**Second DIP Lenders' Charge**"), which Second DIP Lenders' Charge shall not secure an obligation that exists before this Order is made. The Second DIP Lenders' Charge shall have the priority set out in paragraphs 8 and 10 hereof.

6. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

(a) the Second DIP Lenders may take such steps from time to time as they may deem necessary or appropriate to file, register, record or perfect the Second DIP Lenders' Charge or any of the Definitive Documents;

(b) upon the occurrence of an event of default under the Second DIP Agreement, on no less than two business days' notice to the Applicant and the Monitor, the Second DIP Lenders may apply to the Court to exercise any and all of their rights and remedies against the Applicant or the Property (as that term is defined in the Amended and Restated Initial Order) under or pursuant to the Second DIP Agreement, Definitive Documents and the Second DIP Lenders' Charge; and

(c) the foregoing rights and remedies of the Second DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

7. **THIS COURT ORDERS AND DECLARES** that the Second DIP Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act of Canada* (the "**BIA**"), with respect to any advances made under the Second DIP Agreement.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

8. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Directors' Charge (as each of those terms is defined in the Amended and Restated Initial Order), the DIP Lenders' Charge (as that term is defined in the Approval of DIP Agreement & Extension of the Stay of Proceedings Order granted July 2, 2020) and the Second DIP Lenders' Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $725,000);

Second - Directors' Charge (to the maximum amount of $650,000);

Third – Second DIP Lenders' Charge; and

Fourth - DIP Lenders' Charge.

9. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the Directors' Charge, the Second DIP Lenders' Charge or the DIP Lenders' Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

10. **THIS COURT ORDERS** that each of the Administration Charge, the Directors' Charge, the Second DIP Lenders' Charge and the DIP Lenders' Charge shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**").

11. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Administration Charge, the Directors' Charge, the Second DIP Lenders' Charge or the DIP Lenders' Charge, unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the Administration Charge, the Directors' Charge, the Second DIP Lenders' Charge and the DIP Lenders' Charge, or further Order of this Court.

12. **THIS COURT ORDERS** that the Directors' Charge, the Administration Charge, the Second DIP Agreement, the Definitive Documents, the Second DIP Lenders' Charge, and the DIP Lenders' Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the Second DIP Lenders thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of

creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

(a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Second DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the Second DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

(c) the payments made by the Applicant pursuant to this Order, the Second DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

13. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

SEALING

14. **THIS COURT ORDERS** that the unredacted Sixth Glibbery Affidavit, the unredacted Second DIP Agreement and the unredacted Fourth Report are hereby sealed and shall not form part of the public record until further order of the Court.

GENERAL

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 Applicant, 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 Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

16. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

17. **THIS COURT ORDERS** that this Order and all of its provisions are effective from the date it is made without any need for entry and filing.

SUPERIOR COURT OF JUSTICE
ENTERED

AUG 21 2020

VS

COUR SUPÉRIEURE DE JUSTICE
ENTRÉ

Conway J.

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(COMMERCIAL LIST)
Proceeding commenced at Toronto

ORDER
(Approval of Second DIP Agreement)

Stikeman Elliott LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Maria Konyukhova LSO#: 52880V
Tel: (416) 869-5230
Email: mkonyukhova@stikeman.com

Nicholas Avis LSO#: 76781Q
Tel: (416) 869-5504
Email: navis@stikeman.com
Fax: (416) 947-0866

Lawyers for the Applicant