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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	WEDNESDAY, THE 2ND
	)	
JUSTICE HAINEY	)	DAY OF SEPTEMBER, 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 Third 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 September 2, 2020 (the "**Eight Glibbery Affidavit**") and the Exhibits thereto, the unredacted Sixth Report of Ernst & Young Inc., in its capacity as Monitor (the "**Monitor**"), dated September 2, 2020 (the "**Sixth Report**"), and on hearing the submissions of counsel for the Applicant and counsel for Ernst & Young Inc., in its capacity as monitor (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.

EXTENSION OF STAY PERIOD

2. **THIS COURT ORDERS** that the stay period referred to in the Amended and Restated Initial Order of the Honourable Justice Hainey dated June 12, 2020 (the "**Amended and Restated Initial Order**") is extended until and including October 2, 2020 in respect of the Applicant.

DIP FINANCING

3. **THIS COURT ORDERS** that, notwithstanding any prior Orders in these proceedings, the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from Ubiquiti Networks Canada Inc. (the "**Third DIP Lender**") 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 Third DIP Agreement (as defined in paragraph 4 hereof).

4. **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the DIP Financing Term Sheet between the Applicant and the Third DIP Lender dated as of September 2, 2020 (the "**Third DIP Agreement**"), filed.

5. **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 "**Third DIP Definitive Documents**"), as are contemplated by the Third DIP Agreement or as may be reasonably required by the Third DIP Lender 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 Third DIP Lender under and pursuant to the Third DIP Agreement and the Third DIP Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

6. **THIS COURT ORDERS** that, notwithstanding any prior Orders in these proceedings, the Third DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Third DIP Lender's Charge**") on all the assets, property and undertaking of the Applicant (the "**Property**"), which Third DIP Lender's Charge shall not secure an obligation that exists before

this Order is made. The Third DIP Lender's Charge shall have the priority set out in paragraphs 9 and 11 hereof.

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

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

(b) upon the occurrence of an event of default under the Third DIP Agreement, on no less than two business days' notice to the Applicant and the Monitor, the Third DIP Lender may apply to the Court to exercise any and all of its 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 Third DIP Agreement, Third DIP Definitive Documents and the Third DIP Lender's Charge; and

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

8. **THIS COURT ORDERS AND DECLARES** that the Third DIP Lender 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 Third DIP Agreement.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

9. **THIS COURT ORDERS** that, notwithstanding any prior Orders in these proceedings, 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), the Second DIP Lenders' Charge (as that term is defined in the Approval of Second DIP Agreement Order granted August 20, 2020) and the Third DIP Lender's 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 - Third DIP Lender's Charge;

Fourth - Second DIP Lenders' Charge; and

Fifth - DIP Lenders' Charge.

10. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the Directors' Charge, the Third DIP Lender's 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.

11. **THIS COURT ORDERS** that each of the Administration Charge, the Directors' Charge, the Third DIP Lender's 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**").

12. **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 Third DIP Lender's 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 Third DIP Lender's Charge, the Second DIP Lenders' Charge and the DIP Lenders' Charge, or further Order of this Court.

13. **THIS COURT ORDERS** that the Third DIP Agreement, the Third DIP Definitive Documents and the Third DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Third DIP Lender 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 Third DIP Lender's Charges nor the execution, delivery, perfection, registration or performance of the Third DIP Agreement or the Third DIP Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;

(b) the Third DIP Lender shall have no liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the Third DIP Agreement, the creation of the Third DIP Lender's Charge, or the execution, delivery or performance of the Third DIP Definitive Documents; and

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

14. **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

15. **THIS COURT ORDERS** that the unredacted Eight Glibbery Affidavit and the exhibits thereto and the unredacted Sixth Report are hereby sealed and shall not form part of the public record until further order of the Court.

GENERAL

16. **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.

17. **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.

18. **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.

Hainey J.

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ONTARIO
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(COMMERCIAL LIST)
Proceeding commenced at Toronto

ORDER
(Approval of Third DIP Agreement)

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