



Court File No. CV-19-629552-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) THURSDAY, THE 27<sup>TH</sup>  
 )  
JUSTICE HAINEY ) DAY OF FEBRUARY, 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 DEL EQUIPMENT INC.**

Applicant

**STAY EXTENSION, KERP AND LITIGATION PROTOCOL APPROVAL ORDER**

**THIS MOTION**, made by Del Equipment Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Douglas Lucky sworn February 22, 2020 (the "**Lucky Affidavit**"), and the Exhibits thereto and the Second Report (the "**Second Report**") of MNP Ltd. in its capacity as monitor of the Applicant (the "**Monitor**"), and on hearing the submissions of counsel for the Applicant, the Monitor, and those other parties present as indicated on the counsel sheet, and on reading the affidavit of service of Andrew Harnes sworn February 24, 2020, filed:

**SERVICE AND DEFINITIONS**

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

2. **THIS COURT ORDERS** that capitalized terms used herein and not otherwise defined have the meanings given to them in the Initial Order of this Court made in the within proceedings dated October 22, 2019 (as amended, the “**Initial Order**”) or the Lucky Affidavit, as applicable.

#### **EXTENSION OF STAY PERIOD**

3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended to and including 11:59 p.m. (Toronto time) on May 29, 2020, and that all other terms of the Initial Order shall remain in full force and effect during the Stay Period.

#### **KEY EMPLOYEE RETENTION PROGRAM**

4. **THIS COURT ORDERS** that the key employee retention program (the “**KERP**”) described in the Lucky Affidavit is hereby authorized and approved *nunc pro tunc*, and the Applicant (and any other person that may be appointed to act on behalf of the Applicant, including without limitation, any trustee, liquidator, receiver, interim receiver, receiver manager or other person acting on behalf of any such person) is hereby authorized to perform the obligations under the KERP, including making all payments to the Eligible Employees of amounts due and owing under the KERP in accordance with the terms and conditions of the KERP.
5. **THIS COURT ORDERS** that the Applicant is hereby authorized to execute and deliver such documents as may be necessary to give effect to the KERP, subject to prior approval of such documents by the Monitor or as may be ordered by this Court.
6. **THIS COURT ORDERS** that confidential appendix 3 to the Second Report be sealed in its entirety, kept confidential and not form part of the public record, unless otherwise ordered by this Court.

#### **LITIGATION PROTOCOL**

7. **THIS COURT ORDERS** that the Litigation Protocol, a copy of which is attached as Exhibit “A” to the Lucky Affidavit, is hereby approved, and shall govern the conduct and resolution of the Payment Dispute (including, for greater certainty, the conduct and

resolution of the Set-Off Dispute and, if applicable, the Claim Amount Dispute (each as defined in the Litigation Protocol)).

8. **THIS COURT ORDERS** that the Applicant, the Monitor or Gin-Cor may, on reasonable notice to the other parties, move before the Court for advice and directions regarding the implementation of the Litigation Protocol.

#### **CLAIMS OFFICER**

9. **THIS COURT ORDERS** that Andrew Diamond, or such other person as may be appointed by the Court from time to time on the application of the Applicant or the Monitor (the “**Claims Officer**”), is hereby appointed as the claims officer for the resolution of the Claim Amount Dispute in accordance with the Litigation Protocol
10. **THIS COURT ORDERS** that the Claims Officer shall determine the Claim Amount Dispute in accordance with the Litigation Protocol, as applicable, and shall provide written reasons. The Claims Officer shall determine all procedural matters which may arise in respect of his determination of the Claim Amount Dispute, including the manner in which any evidence may be adduced. The Claims Officer shall have the discretion to determine by whom and to what extent the costs of any hearing before the Claims Officer (including the costs of the Claims Officer) shall be paid.
11. **THIS COURT ORDERS** that the Monitor, the Applicant or Gin-Cor may, within ten (10) days of such party receiving notice of the Claims Officer’s determination of the Claim Amount Dispute, appeal such determination by serving and filing a notice of motion with this Court.
12. **THIS COURT ORDERS** that if no party appeals the determination of the Claim Amount Dispute by the Claims Officer within the time set out in paragraph 11, above, the decision of the Claims Officer in determining the Claim Amount Dispute shall be final and binding upon the Applicant, the Monitor, and Gin-Cor, and there shall be no further right of appeal, review or recourse to the Court from the Claims Officer’s final determination.

### **PAYMENT OF THE ACCOUNTS OF CLAIMS OFFICER**

13. **THIS COURT ORDERS** that the accounts of the Claims Officer shall be delivered to the Monitor on a monthly basis or in such other intervals as the Monitor may agree, and shall be reviewed by the Monitor, who shall approve the reasonable fees and expenses of the Claims Officer incurred in the carrying out of his role.
14. **THIS COURT ORDERS** that upon approval of the Claims Officer's account by the Monitor, such account shall promptly be paid by the Applicant.
15. **THIS COURT ORDERS** that nothing in this Order shall prevent the Claims Officer from making a cost award against or in favour of any party to the Claim Amount Dispute, and such cost award may include an order that the fees and expenses of the Claims Officer must be paid by a party to the Claim Amount Dispute, provided however that (i) the Applicant shall remain obligated to pay the accounts of the Claims Officer rendered and approved in accordance with this Order, and (ii) upon payment of any such cost award by any party to the Claim Amount Dispute, any amount paid by such party on account of the fees and disbursements of the Claims Officer incurred in the Claim Amount Dispute shall be paid to the Applicant as reimbursement for its payment of such fees and disbursements.

### **DIRECTIONS**

16. **THIS COURT ORDERS** that the Claims Officer may, at any time, and with such notice as this Court may require, seek directions from the Court with respect to this Order.

### **PROTECTIONS FOR CLAIMS OFFICER**

17. **THIS COURT ORDERS** that the Claims Officer shall incur no liability or obligation as a result of his or her appointment or in acting as a Claims Officer pursuant to the provisions of this Order. No proceeding or enforcement process in any court or tribunal shall be commenced against or in respect of a Claims Officer, except with the prior leave of this Court granted in the within proceedings.

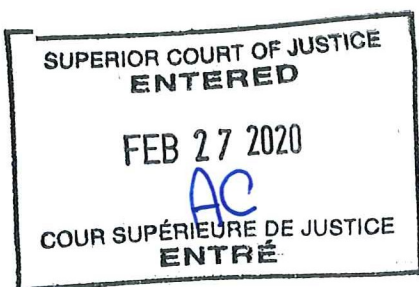
**RESIDUAL ASSETS**

18. **THIS COURT ORDERS** that the Applicant, in consultation with the Monitor, is hereby authorized to continue to explore opportunities for the sale of its property and assets that are not subject to the Transaction (as defined in the Lucky Affidavit) (the “**Residual Assets**”) and, with the prior approval of the Monitor, to enter into and complete any transaction for the Residual Assets (a “**Residual Asset Transaction**”) for proceeds equal to or less than \$250,000 provided that the Applicant shall seek this Court’s approval for any Residual Asset Transaction in excess of such amount.

**GENERAL**

19. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or any other foreign jurisdiction, 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, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

20. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and are 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.



A handwritten signature in blue ink, written over a horizontal line. The signature is cursive and appears to read "Hardy".

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Proceeding commenced at Toronto

**STAY EXTENSION, KERP AND LITIGATION  
PROTOCOL APPROVAL ORDER  
(February 27, 2020)**

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