

Court File No.: CV-11-9283-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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 UNIQUE
BROADBAND SYSTEMS, INC.

**MOTION RECORD
(RETURNABLE 13 JANUARY 2012)**

Date: 11 January 2012

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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 UNIQUE
BROADBAND SYSTEMS, INC.

NOTICE OF MOTION

UNIQUE BROADBAND SYSTEMS, INC. ("UBS") will make a motion to the Court on Friday, January 13 2012, at 9:30 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order in the form attached hereto as Schedule "A" extending the Stay Period (as defined in the Initial Order made in these proceedings dated 5 July 2011) to 30 March 2012.
2. Such further relief as may be required in the circumstances and this Honourable Court deems just and equitable.

THE GROUNDS FOR THE MOTION ARE:

3. The grounds set out in the Affidavit of Robert Ulicki sworn 10 January 2012;
4. Section 11.02 of the *Companies Creditor Arrangement Act*, R.S.C. 1985, c. C-36;
5. Circumstances that exist that make the extension of the Stay Period appropriate;

6. The debtor companies have acted and are acting in good faith and with due diligence; and
7. Such further and other grounds as counsel may advise and this Honourable Court may accept.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

1. Affidavit of Robert Ulicki sworn 10 January 2012.
2. Such material as counsel may advise and this Honourable Court permit.

Date: 11 January 2012

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors

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100 King Street West, Suite 1600

Toronto ON M5X 1G5

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Solicitors for the Applicant

TAB A

SCHEDULE "A"

Court File No.: CV-11-9283-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) FRIDAY, THE 13TH DAY OF
) JANUARY, 2012
)
)

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 UNIQUE
BROADBAND SYSTEMS, INC.

ORDER

(THIRD EXTENSION)

THIS MOTION, made by Unique Broadband Systems, Inc. (“**UBS**”) and UBS Wireless Services Inc. (“**UBSW**” and, together with UBS, the “**Applicants**”), pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Robert Ulicki, sworn 10 January 2012 and the Report of the Monitor, Duff & Phelps Canada Restructuring Inc. (the “**Monitor**”), dated 10 January 2012, and on hearing the submissions of counsel for the Applicants and the Monitor;

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.

EXTENSION OF STAY

[2] **THIS COURT ORDERS AND DECLARES** that the Stay Period (as defined in the Initial Order dated 5 July 2011) be and is hereby extended to 30 March 2012.

LATE CLAIM

[3] **THIS COURT ORDERS AND DECLARES** that the claim of Douglas Reeson is properly filed notwithstanding that it was filed after the Bar Date as defined in the Order dated 4 August 2011

MONITOR'S REPORT

[4] **THIS COURT ORDERS AND DECLARES** that the conduct and actions of the Monitor, as set out in its report dated 10 January 2012 be and are hereby approved.

Court File No.: CV-11-9283-00CL

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.C-36, AS AMENDED

AND IN THE MATTER OF THE A PLAN OF COMPROMISE OR ARRANGEMENT OF UNIQUE BROADBAND SYSTEMS INC.

(the "Applicant")

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

(PROCEEDING COMMENCED AT TORONTO)

ORDER
(THIRD EXTENSION)

GOWLING LAFLEUR HENDERSON LLP
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SOLICITORS FOR THE APPLICANT

TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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
UNIQUE BROADBAND SYSTEMS, INC.

**AFFIDAVIT OF ROBERT ULICKI
(Sworn 20 January 2012)**

I, ROBERT ULICKI of the City of Toronto in the Province of Ontario **MAKE
OATH AND SAY:**

1. I am a director of Unique Broadband Systems, Inc. ("**UBS**") and its wholly-owned subsidiary UBS Wireless Services Inc. ("**UBS Wireless**"). I have personal knowledge of the matters herein deposed, save and except where I refer to matters based on information and belief, in which cases I identify the source(s) of that information and believe it to be true. I have also reviewed relevant records, press releases and public filings as necessary, and rely on the information contained in those records, press releases, etc. and believe that information to be true.
2. I am swearing this Affidavit in support of a motion being brought by the Applicants seeking an extension of the Stay Period, as defined below, to 30 March 2012 in order to: (a) permit a process to be developed to determine the disputed claims against UBS; and (b) develop a plan.
3. The UBS board consists of Grant McCutcheon, Henry Eaton and myself. Messrs McCutcheon and Eaton also sit on the board of LOOK Communications Inc. ("**LOOK**"), a company in which UBS, through UBS Wireless holds a significant ownership position. Mr. McCutcheon is the CEO of UBS and LOOK.

I. CCAA Proceedings

4. On 5 July 2011, the Court made an Order (the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”) in respect of the Applicants. A true copy of the Initial Order is attached as **Exhibit “A”**.
5. Duff & Phelps Canada, Restructuring Inc., formerly RSM Richter, (the “**Monitor**”) was appointed by the Initial Order to act as monitor of the Applicants.
6. The Stay Period, as defined in the Initial Order, expired on 5 August 2011 (the “**Stay Period**”).
7. On 4 August 2011, the Court made an Order (the “**First Extension and Claims Order**”), *inter alia*, extending the Stay Period to 31 October 2011 and established a procedure for the filing of claims against the Applicants. There was no opposition to the making of the First Extension and Claims Order. A true copy of the First Extension and Claims Order is attached as **Exhibit “B”**
8. On 27 October 2011, the Court made a further Order (the “**Second Extension Order**”) extending the Stay Period to 16 January 2012. The Second Extension Order was made on consent. A true copy of the Second Extension Order is attached as **Exhibit “C”**

II. The Applicants

9. UBS is a company incorporated pursuant to the *Business Corporation Act*, R.S.O. 1990, c. B.16 (“**OBCA**”) whose shares are listed on the TSX Venture Exchange.
10. UBS owns all of the issued and outstanding shares of UBS Wireless. UBS Wireless is a company incorporated pursuant to the OBCA.
11. UBS was, until October of 2003, a designer, developer and manufacturer of high-speed mobile and fixed wireless solutions. In October of 2003, UBS sold all of its engineering and manufacturing business and transformed itself into a holding company when, through UBS Wireless, it acquired an equity interest in LOOK. The Applicant’s interest in LOOK is held by UBS Wireless.

III. DOL and Jolian

12. Aside from the Applicants, the major stakeholders in these proceedings are DOL Technologies Inc. (“**DOL**”) and Jolian Investments Limited (“**Jolian**”).
13. DOL is a company controlled by Alex Dolgonos. Mr. Dolgonos is the founder of and a former consultant to UBS¹. Mr. Dolgonos also controls 2064818 Ontario Inc. (“**206 Ontario**”). As described further below: (a) 206 Ontario brought a motion pursuant s. 11.5 of the CCAA seeking to remove Messrs McCutcheon and Eaton from the UBS board; and (b) commenced an action against UBS, and Messrs, McCutcheon, Eaton and me seeking remedies under the oppression remedy provisions of the OBCA.
14. DOL filed a proof of claim against UBS for an aggregate amount of more than \$8,042,716. This claim is, as set forth below, disputed by UBS.

¹ UBS asserts that Mr. Dolgonos was an officer of UBS, but Mr. Dolgonos denies he was an officer.

15. Jolian is a company controlled by Gerald McGoey. Mr. McGoey is a former officer and director of UBS and LOOK.
16. Jolian filed a proof of claim against UBS for in excess of \$10,122,648. This claim is, as set forth below, disputed by UBS.

IV. LOOK

17. LOOK is a company incorporated pursuant to the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 and its shares are publicly traded. LOOK no longer carries on an active business. LOOK's assets consist of, essentially: (a) cash; (b) accumulated tax losses; and (c) claims against, *inter alia*, DOL and Jolian for the return of money that LOOK asserts was improperly paid.
18. UBS plays a key role in the on-going management of LOOK. Pursuant to an Agreement between UBS and LOOK dated 19 May 2004 and amended pursuant to an Amending Agreement dated 3 December 2010 (the "**MSA**"), UBS provides certain services to LOOK. Those services include providing a person to perform the duties typically performed by, and assume the responsibilities typically assumed by, a chief executive officer – essentially LOOK's management is provided to the company by UBS. The MSA currently expires on 19 May 2012.
19. During the course of the CCAA proceedings, UBS has continued to perform its obligations under the MSA. The services provided by UBS to LOOK are important to LOOK's going-forward strategy and, given UBS Wireless's interest in LOOK, maximizing the value of LOOK's remaining assets is also vitally important to UBS and its stakeholders.
20. LOOK has commenced an action (the "**LOOK Action**") seeking to recover approximately \$20 million paid by LOOK to, *inter alia*, DOL and Jolian.

21. The value of UBS's interest in LOOK will be primarily determined by: (a) the amount of cash that LOOK has; (b) the ability of LOOK to complete a transaction to realize value for its accumulated tax losses; and (c) the outcome of the LOOK Action. While LOOK's shares are publicly traded, the price at which LOOK shares are trading does not necessarily reflect the value of LOOK – the trading price is influenced by factors other than the value of LOOK's assets.

V. Claims Process

22. The claims process established by the First Extension and Claims Order (the “**Claims Process**”) provided creditors until 19 September 2011 (the “**Bar Date**”) to deliver proofs of claim in respect of their claims against the Applicants.
23. The Claims Process was implemented in accordance with the terms of the First Extension and Claims Order and a number of claims were filed against UBS. Copies of all of the claims against UBS were provided to counsel for LOOK and DOL. No other party requested copies of the claims filed against UBS². Neither of these parties provided a position on the claims.
24. UBS's counsel analysed and considered the claims filed against UBS and a meeting was held with the Monitor to consider the process by which UBS's board would provide its position on the claims.
25. I reviewed and evaluated the claims filed against UBS and in a letter dated 9 December 2011 provided the Monitor with the Company's position with respect to the claims. A true copy of that letter is attached as **Exhibit “D”**.
26. I understand that the Monitor has, in accordance with the First Extension and Claims Order, delivered disallowance notices to those claims that UBS has

² LOOK requested copies from UBS. UBS was, through counsel, advised that DOL had requested copies of the claims from the Monitor.

indicated that it does not accept. DOL and Jolian have twenty (20) days to determine whether they will dispute the disallowance of their claims against UBS.

27. As described in the Monitor's Third Report dated 26 October 2011, Douglas Reeson filed his claim after the Bar Date. UBS does not object to Mr. Reeson's claim being late filed and has reviewed Mr. Reeson's claim as if it was filed by the Bar Date. UBS is requesting that the Court make a formal order permitting Mr. Reeson's claim to be filed after the Bar Date.

VI. Oppression Action

28. Pursuant to a Statement of Claim issued on 22 December 2010, 206 Ontario commenced an action against UBS, and Messrs McCutcheon and Eaton, and me (the "**Oppression Action**"). The Oppression Action was defended.
29. The Initial Order did not stay proceedings against the directors in the Oppression Action. However, on 20 December 2011, UBS brought a motion (the "**Director Stay Motion**") seeking to have the stay imposed by the Initial Order expanded to include the Oppression Action against the directors and seeking to have the Oppression Action determined as part of the CCAA proceedings. The plaintiff in the Oppression Action opposed the Director Stay Motion.
30. On 20 December 2011, the Court reserved and the decision on the Director Stay Motion has not been released.

VII. Director Removal Motion

31. On 20 December 2011, 206 Ontario brought a motion (the “**Director Removal Motion**”) in the CCAA proceedings seeking an order removing and replacing two of the directors of UBS. UBS opposed the Director Removal Motion.
32. On 20 December 2011, the Court reserved and the decision on the Director Removal Motion has not been released.

VIII. Expression of interest for LOOK shares

33. UBS has not engaged in any process to market its LOOK shares for sale and UBS has not solicited any offers for its LOOK shares. UBS has, however, been contacted by two third parties interested in purchasing the LOOK shares. UBS has had high-level discussions with these potential purchasers.
34. UBS’s chief financial officer made the Monitor aware, at a high level, of the potential purchaser’s interest in the LOOK shares.
35. UBS appreciates that any sale of UBS’s shares of LOOK would require approval from the Court.

IX. Plan of Arrangement

36. REDACTED
37. REDACTED
38. UBS has given consideration to the structure of a plan that could be presented to creditors. The structure of the plan that UBS develops will depend, *inter alia*, on the outcome of the claims process and the valuation of the claims files by DOL and Jolian, and how much money UBS requires to deal with claims.

X. Cash Flow Projection

39. UBS has prepared a cash flow projection out to 30 March 2012. Based on this cash flow statement, UBS has sufficient cash to sustain itself until 30 March 2012.
40. Depending on the procedure adopted to resolve the disputed claims against the company, UBS may require additional funds to pay professional fees. Once the procedure for resolving claims is determined, UBS will develop a revised cash flow projection that reflects the estimated cost of that procedure and will consider how that cash flow will be funded.
41. 206 Ontario and another company controlled by Mr. Dolgonos have suggested that UBS undertake some sort of rights offering to raise money and have agreed to participate in such a rights offering. UBS is considering all of its options, including a rights offering, interim financing, etc. as options for raising any required funding.

XI. Extension of Stay Period

42. Since the Initial Order was made the Applicants have continued to carry on business in the ordinary course. The Applicants have also, *inter alia*: (a) met with the Monitor to discuss the Applicants' business and operations; (b) reviewed the claims filed in the Claims Process and has met with the Monitor to discuss those claims; (c) prepared for and argued the Director Stay Motion and the Director

Removal Motion³; and (d) continued to provide services to LOOK as required by the MSA.


43. An extension of the Stay Period is required until the Applicants have a settled board of directors, which will be known following the determination of the Director Removal Motion and any subsequent appeals. The extension of the Stay Period will also permit the Applicants to complete the determination of the DOL and Jolian claims.

SWORN before me at the City of Toronto
in the Province of Ontario,
this 20th day of January 2012

Commissioner for Taking Affidavits or Notary

PSHEA

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ROBERT ULICKI

³ The Director Stay Motion and the Director Removal Motion required that UBS prepare responding materials and participate in two days of examinations.



**THIS IS EXHIBIT "A" TO THE AFFIDAVIT OF
ROBERT ULICKI, SWORN BEFORE ME ON
JANUARY 20, 2012**

A COMMISSIONER FOR TAKING OATHS



Court File No.: CV-11-9283-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR)	TUESDAY, THE 5 TH DAY
)	
JUSTICE WILTON-SIEGEL)	OF JULY, 2011

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
UNIQUE BROADBAND SYSTEMS, INC.

INITIAL ORDER

THIS APPLICATION, made by the Unique Broadband Systems, Inc. ("**UBS**"), 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 Robert Ulicki sworn 4 July 2011 and the Exhibits thereto, and on being advised that there or no secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, and on reading the consent of RSM Richter Inc. ("**Richter**" or, in its capacity as monitor, the "**Monitor**") to act as the monitor,

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that UBS and its wholly owned subsidiary UBS Wireless Services Inc. (together, the “**Applicant**”) are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. The Applicant shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:
 - (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
 - (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.
6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:
 - (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
 - (b) payment for goods or services actually supplied to the Applicant following the date of this Order.
7. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:
 - (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
 - (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.
8. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.
9. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

10. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.
11. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

12. **THIS COURT ORDERS** that until and including 4 August 2011, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

13. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies 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**”) against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

14. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

15. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

16. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

17. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

APPOINTMENT OF MONITOR

18. **THIS COURT ORDERS** that Richter is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.
19. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
- (a) monitor the Applicant's receipts and disbursements;
 - (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

APPROVED
except for Action
Cover Fee Number
00-10-9036-0021

- (c) advise the Applicant in its preparation of the Applicant's cash flow statements;
 - (d) advise the Applicant in its development of the Plan and any amendments to the Plan;
 - (e) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
 - (f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
 - (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
 - (h) perform such other duties as are required by this Order or by this Court from time to time.
20. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.
21. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary

to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

22. **THIS COURT ORDERS** that that the Monitor shall provide any creditor [or shareholder] of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.
23. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.
24. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each

case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis.

25. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.
26. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, if any, and the Applicant's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$750,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 28.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

27. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge shall not be required, and that the Administration Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.
28. **THIS COURT ORDERS** that the Administration Charge shall constitute a charge on the Property and the Administration Charge 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 Person.

29. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant or cause to be granted any Encumbrances that rank in priority to, or *pari passu* with, the Administration Charge unless the Applicant also obtains the prior written consent of the Monitor, and the beneficiaries of the Administration Charge (the “**Chargees**”), or further Order of this Court.
30. **THIS COURT ORDERS** that the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees entitled to the benefit of the Administration Charge 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 Administration Charge 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 creation of the Administration Charge; and
 - (c) the payments made by the Applicant pursuant to this Order, and the granting of the Administration 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.

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

SERVICE AND NOTICE

32. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in *The Globe & Mail* a notice containing the information prescribed under the CCAA, (b) within five days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (c) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.
33. **THIS COURT ORDERS** that the Applicant and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.
34. **THIS COURT ORDERS** that the Applicant, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email

addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at www.rsmrichter.com.

GENERAL

35. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
36. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.
37. **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.
38. **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.
39. **THIS COURT ORDERS** that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than

set aside,
AMS

seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

40. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

G. Hon. J.

TOR_LAW\ 7690019\5

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUL 05 2011

PER/PAR:

(Signature)

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.C-36, AS AMENDED
AND IN THE MATTER OF THE A PLAN OF COMPROMISE OR ARRANGEMENT OF UNIQUE BROADBAND SYSTEMS INC.

(the "Applicant")

**ONTARIO
SUPERIOR COURT OF JUSTICE**
(Commercial List)

(PROCEEDING COMMENCED AT TORONTO)

ORDER

GOWLING LAFLEUR HENDERSON LLP
Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

E. Patrick Shea
LSUC No.: 39655K
Telephone: (416) 369-7399
Facsimile: (416) 862-7661

SOLICITORS FOR THE APPLICANT

**THIS IS EXHIBIT "B" TO THE AFFIDAVIT OF
ROBERT ULICKI, SWORN BEFORE ME ON
JANUARY 20, 2012**

A COMMISSIONER FOR TAKING OATHS

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) **THURSDAY, THE 4TH DAY**
)
JUSTICE WILTON-SIEGEL) **OF AUGUST, 2011**

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 UNIQUE
BROADBAND SYSTEMS, INC.

**FIRST EXTENSION
AND
CLAIMS BAR PROCEDURE ORDER**

THIS MOTION, made by Unique Broadband Systems, Inc. ("**UBS**") and UBS Wireless Services Inc. ("**UBSW**" and, together with UBS, the "**Applicants**"), 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 Robert Ulicki sworn 22 July 2011 and the Exhibits thereto and the First Report of RSM Richter Inc. (the "**Monitor**") in its capacity as Monitor of UBS and UBSW,

SERVICE

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

EXTENSION OF STAY

- [2] **THIS COURT ORDERS AND DECLARES** that the Stay Period (as defined in the Initial Order dated 5 July 2011) be and is hereby extended to 31 October 2011.

DEFINITIONS

- [3] **THIS COURT ORDERS** that the following terms in this Order shall, unless otherwise indicated, have the following meanings ascribed thereto:

- a) **“Business Day”** means a day, other than a Saturday, a Sunday, or a day when banks are not open for business in the Province of Ontario;
 - b) **“CCAA Proceedings”** means the proceedings in respect of the UBS and UBSW before the Court commenced pursuant to the CCAA;
 - c) **“Claim”** means any right or claim of any Person against any of the Applicants in connection with any indebtedness, liability or obligation of any kind whatsoever of any of the Applicants, owed to such Person and any interest accrued thereon or costs payable in respect thereof, whether reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, together with any other claims of any kind that, if unsecured, would have
-

been claims provable in bankruptcy had the Applicants become bankrupt on the Determination Date;

- d) **"Claims Bar Date"** means 19 September 2011 at 1700 Eastern Time;
- e) **"Claims Officer"** means the individual(s) appointed as claims officer(s) pursuant to paragraph [11] of this Order;
- f) **"Claims Package"** means the document package which shall include the Notice to Creditors, the Proof of Claim Form and the Creditors' Instructions;
- g) **"Court"** means the Ontario Superior Court of Justice (Commercial List);
- h) **"Creditor"** means any Person having a Claim and may, where the context requires, include the assignee of a Claim or a trustee, interim receiver, receiver, receiver and manager, or other Person acting on behalf of such Person.
- i) **"Creditors' Instructions"** means an instruction letter substantially in the form attached hereto as **Schedule "A"** regarding the completion of a Proof of Claim Form;
- j) **"Creditors' List"** means the list of Creditors prepared in accordance with s. 23(1) of the CCAA;
- k) **"Determination Date"** means 5 July 2011;
- l) **"Dispute Package"** means, with respect to any Claim, a copy of the related Proof of Claim Form, Notice of Revision or Disallowance and Notice of Dispute;
- m) **"Disputed Claim"** means a Claim in respect of which a Notice of Dispute has been delivered.

- n) **“Initial Order”** means the order of this Court made under the CCAA on 5 July 2011, as amended and/or restated from time to time thereafter;
- o) **“Known Creditor”** means the Creditors listed on the Creditors’ List;
- p) **“Notice of Dispute”** means the notice that may be delivered by a Creditor who has received a Notice of Revision or Disallowance disputing such Notice of Revision or Disallowance, which notice shall be substantially in the form attached hereto as **Schedule “B”**;
- q) **“Notice of Revision or Disallowance”** means the notice advising a Creditor that the Monitor has revised or rejected all or part of such Creditor’s Claim set out in its Proof of Claim Form and setting out the reasons for such revision or disallowance, which notice shall be substantially in the form attached hereto as **Schedule “C”**;
- r) **“Notice to Creditors”** means the notice substantially in the form attached hereto as **Schedule “D”**;
- s) **“Person”** means any individual, partnership, firm, joint venture, trust, entity, corporation, limited or unlimited liability company, body corporate, unincorporated association or organization, governmental body or agency, or similar entity, howsoever designated or constituted and any individual or other entity owned or controlled by or which is the agent of any of the foregoing;
- t) **“Plan”** means a plan of compromise or arrangement filed or to be filed by one or more of the Applicants pursuant to the CCAA, as such plan may be amended or supplemented from time to time;
- u) **“Proof of Claim Form”** means the form to be completed and filed by a Creditor setting forth its purported Claim, which Proof of Claim Form shall be substantially in the form attached hereto as **Schedule “E”**;

- v) **“Proven Claim”** means the amount of any Claim of any Creditor as of the Determination Date, filed and determined in accordance with the provisions of the CCAA and this Order;
- w) **“Publication Date”** means the date on which the publication of the Newspaper Notice in accordance with this Order has been completed.

NOTICE OF CLAIMS

- [4] **THIS COURT ORDERS** that the Monitor shall cause the Notice to Creditors to be placed in *The Globe & Mail* (National Edition) as soon as possible following the issuance of this Order, but in any event no later than 15 August 2011.
- [5] **ORDERS** that the Monitor shall send a copy of the Claims Package to each Known Creditor at the last known address for each Known Creditor by no later than 15 August 2011.
- [6] **THIS COURT ORDERS** that the Monitor shall cause a copy of the Claims Package to be sent to any Person requesting a Claims Package.
- [7] **THIS COURT ORDERS** that the publication of the Notice to Creditors, the posting of the Claims Package on the Monitor’s website and the mailing of the Claims Package to the Known Creditors as well as to any other Person requesting such material in accordance with the requirements of this Order shall constitute good and sufficient service and delivery of notice of this Order and the Claims Bar Date on all Persons who may be entitled to receive notice and who may wish to assert Claims and that no other notice or service need be given or made and no other document or material need be sent to or served upon any Person in respect of this Order.

FILING OF PROOFS OF CLAIM

- [8] **THIS COURT ORDERS** that every Creditor asserting a Claim against the Applicants shall complete a Proof of Claim Form and deliver it to the Monitor so that it is actually received by the Monitor by no later than the Claims Bar Date.
- [9] **THIS COURT ORDERS** that, unless otherwise authorized by this Court, any Creditor who does not file a Proof of Claim Form in respect of a Claim in accordance with this Order by the Claims Bar Date shall be forever barred from asserting such Claim against any of the Applicants and such Claim shall be forever extinguished and any holder of such Claim shall not be entitled to participate as a Creditor in the CCAA Proceedings or receive any further notice in respect of those proceedings and shall not be entitled to vote on any matter in those proceedings, including any Plan, or from advancing a Claim against the Applicants or from receiving a distribution under any Plan or otherwise from the Applicants, or the Monitor on behalf of the Applicants, in respect of such Claim.

REVIEW AND DETERMINATION OF CLAIMS

- [10] **THIS COURT ORDERS** that the following procedure shall apply where a Creditor delivers a Proof of Claim Form to the Monitor on or before the Claims Bar Date:
- a) the Monitor, together with the Applicants, shall review the Proof of Claim Form and the terms set out therein;
 - b) where the Applicants advise the Monitor that they dispute a Claim or the quantum asserted as owing by a Creditor, the Monitor shall a Notice of Revision or Disallowance to that Creditor;
 - c) a Creditor who receives a Notice of Revision or Disallowance and wishes to dispute it shall, within twenty (20) Business Days of receipt by the Creditor of the Notice of Revision or Disallowance, send a Notice of Dispute to the Monitor setting out the basis for the dispute;

- d) unless otherwise authorized by this Court, if the Creditor does not provide a Notice of Dispute to the Monitor within the time period provided for above, such Creditor shall be deemed to have accepted the value of its Claim as set out in the Notice of Revision or Disallowance;
- e) within fifteen (15) Business Days of receipt of a Notice of Dispute, the Monitor shall, after consulting with the Applicants and the applicable Creditor as to whether the matters set out in the Notice of Revision or Disallowance and the Notice of Dispute are most appropriate for determination by a Claims Officer or a Judge of the Court, the Monitor shall:
 - (i) if the Applicant and the Creditor agree that the Disputed Claim should be determined by a Claims Officer: either (A) bring a motion to have a Claims Officer appointed to determine the Disputed Claim, or (B) assign the Disputed Claim to a Claims Officer already appointed by the Court to determine Disputed Claims;
 - (ii) if the Creditor and the Applicant agree that the Disputed Claim should be determined by a Judge of the Court, bring a motion seeking to have a Judge of the Court assigned to determine the Disputed Claim; or
 - (iii) if there is a dispute between the Creditor and the Applicant as to how the Disputed Claim should be determined, bring a motion to the Court to obtain advice and directions as to whether the Disputed Claim should be determined by a Claims Officer or a Judge of the Court;
- f) the Monitor shall deliver a Dispute Package to the Claims Officer or the Judge assigned to determine the Claim; and
- g) the Monitor shall not be required to send to any Creditor a confirmation of receipt by the Monitor of any document provided by a Creditor pursuant to this Order and each Creditor shall be responsible for obtaining proof of delivery, if they so require, through their choice of delivery method.

CLAIMS OFFICER

- [11] **THIS COURT ORDERS** that the Court may appoint a person or persons to act as Claims Officers for the purpose of resolving any Disputed Claims.
- [12] **THIS COURT ORDERS** that the Claims Officer shall incur no liability or obligation as a result of its appointment or the fulfilling of its duties in carrying out of the provisions of this Claims Order, save and except for any gross negligence or willful misconduct on its part. The Applicants shall indemnify and hold harmless the Claims Officer with respect to any liability or obligation as a result of its appointment or the fulfilling of its duties in carrying out the provisions of this Claims Order, save and except for any gross negligence or willful misconduct on its part. No action, application or other proceeding shall be commenced against the Claims Officer as a result of, or relating in any way to its appointment as the Claims Officer, the fulfillment of its duties as the Claims Officer or the carrying out of any Order of this Court except with leave of this Court being obtained, and notice of any such motion seeking leave of this Court shall be served upon the Applicants, the Monitor and the Claims Officer at least seven (7) days prior to the return date of any such motion for leave.
- [13] **THIS COURT ORDERS** that, subject to further Order of the Court, the parties to the Disputed Claim may offer evidence in support of or in opposition to the Disputed Claim, and the Claims Officer shall, after consultation with the Applicants and the Creditor, determine the manner in which any such evidence may be brought before him by the parties, as well as any other procedural or evidentiary matter that may arise in respect of the hearing of a Disputed Claim, including, without limitation, the production of documents by any of the parties involved in the hearing of a Disputed Claim; provided, for greater certainty, that the hearing of the Disputed Claim and all such determinations made therein and in connection therewith, including procedural or evidentiary matter, shall be made in accordance with applicable common law in the Province of Ontario.
- [14] **THIS COURT ORDERS** that the Claims Officer may, at any time, engage such advisors as it deems necessary or appropriate to inquire into and report on any question of fact, opinion or law relating to the hearing of a Disputed Claim.

- [15] **THIS COURT ORDERS** that the Claims Officer shall have the discretion to determine by whom and to what extent the costs of any hearing before the Claims Officer shall be paid.

APPEAL OF CLAIMS OFFICER DETERMINATION

- [16] **THIS COURT ORDERS** that the Applicants or the Creditor may, at his/her/its/their own expense, appeal the Claims Officer's determination of a Disputed Claim to this Court within twenty-one (21) calendar days of notification of the Claims Officer's determination of such Creditor's Claim by serving upon the Applicants or the Creditor, as applicable, and the Monitor and filing with this Court a notice of motion returnable on a date to be fixed by this Court as soon as practicable. If an appeal is not filed within such period in strict accordance with this Order, then the Claim Officer's determination shall, subject to further order of this Court, be final and binding in all respects, with no further right of appeal.
- [17] **THIS COURT ORDERS** that findings of fact made by a Claims Officer in respect of a Disputed Claim shall be final and binding and shall not be subject to review on appeal to this Court, unless the Court determines that said findings of fact made by the Claims Officer constitute a palpable and overriding error.

NOTICES AND COMMUNICATIONS

- [18] **THIS COURT ORDERS** that any notice or other communication to be given in connection with this Order by the Applicants or the Monitor to a Creditor, other than the Notice to Creditors to be published as provided by this Order, will be sufficiently given to a Creditor if given by registered mail, by courier, by delivery or by facsimile transmission or electronic mail to the Creditor to such address, facsimile number or e-mail address appearing in the books and records of the Applicants or in any Proof of Claim Form filed by the Creditor. Any such notice or other communication (a) if given by registered mail, shall be deemed received on the third (3rd) Business Day after mailing to a destination within Ontario, the fifth (5th) Business Day after mailing to a destination elsewhere within Canada or to the United States and the tenth (10th) Business Day after mailing to

any other destination; (b) if given by courier or delivery, shall be deemed received on the Business Day following dispatch; (c) if given by facsimile transmission or electronic mail before 1700, on a Business Day, shall be deemed received on such Business Day; and (d) if given by facsimile transmission or electronic mail after 1700 on a Business Day, shall be deemed received on the following Business Day.

[19] **THIS COURT ORDERS** that, in the event that the day on which any notice or communication required to be delivered pursuant to this Order is not a Business Day, then such notice or communication shall be required to be delivered on the next Business Day.

[20] **THIS COURT ORDERS** that, if during any period during which notices or other communication are being given pursuant to this Order, a postal strike or postal work stoppage of general application should occur, such notices or other communications then not received or deemed received shall not, absent further Order of this Court, be effective. Notices and other communications given hereunder during the course of any such postal strike or postal work stoppage of general application shall only be effective if given by electronic mail, courier, delivery or facsimile transmission in accordance with this Order.

GENERAL PROVISIONS

[21] **THIS COURT ORDERS** that for the purposes of this Order, all Claims that are denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon spot rate of exchange for exchanging currency to Canadian dollars on the Determination Date.

[22] **THIS COURT ORDERS** that the Monitor shall use reasonable discretion as to the adequacy of completion and execution of any document completed and executed pursuant to this Order and, where the Monitor is satisfied that any matter to be proven under this Order has been adequately proven, the Monitor may waive strict compliance with the requirements of this Order as to the completion and execution of documents.

[23] **THIS COURT OREDERS** that the Monitor may apply to this Court for directions regarding its obligations in respect of the claims process provided for in this Claims Order.

A. Den. M.J.

SCHEDULE "A"

INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE FOR

UNIQUE BROADBAND SYSTEMS, INC. ("UBS") AND UBS WIRELESS SERVICES
INC. ("UBSW" AND, TOGETHER WITH UBS, THE "APPLICANTS")

CLAIMS PROCESS

By Order dated 4 August 2011 (as may be amended from time to time, the "**Claims Order**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "**CCAA**"), RSM Richter Inc. in its capacity as Court-appointed Monitor of the Applicants, has been authorized to conduct a claims process (the "**Claims Process**"). A copy of the Claims Order can be obtained from the Monitor's website at www.rsmrichter.com

This letter provides general instructions for completing the Proof of Claim form. As of the date of this instruction letter, there have been no proposed plans of arrangement or compromise pursuant to the CCAA. Capitalized terms not defined within this instruction letter shall have the meaning set out in the Claims Order. You should review the Claims Order carefully for all terms defined therein.

The Claims Process is intended for any Person with a Claim of any kind or nature whatsoever, against any or all of the Applicants arising on or prior to 5 July 2011, whether unliquidated, contingent or otherwise.

All notices and inquiries with respect to the Claims Process should be directed to the Monitor at the address below:

RSM Richter Inc.
200 King Street West, Suite 1100
Toronto ON M5H 3T4

Attention: Lana Bezner
Telephone: 416-932-6009
Fax: 416-932-6200
Email: lbezner@rsmrichter.com

FOR CREDITORS SUBMITTING A PROOF OF CLAIM FORM

If you believe that you have a Claim against any or all of the Applicants you must file a Proof of Claim form with the Monitor. All Proofs of Claim for Claims arising prior to 5 July 2011 must be received by the Monitor **before 5:00 pm (Eastern Standard Time) on 19 September 2011 (the "Claims Bar Date")**, unless the Monitor and the Applicants agree in writing or the Court orders that the Proof of Claim be accepted after that date. If your claim is not received by the Claims Bar Date, it will be forever barred and extinguished and you will not be entitled to participate in any Plan.

Additional Proof of Claim forms can be obtained from the Monitor's website at www.rsmrichter.com or by contacting the Monitor at **416-932-6009** or lbezner@rsmrichter.com and by providing the particulars as to your name, address, facsimile number, email address and contact person. Once the Monitor has this information, you will receive, as soon as practicable, additional Proof of Claim forms.

DATED this _____ day of _____, 2011.

SCHEDULE "B"

NOTICE OF DISPUTE

**UNIQUE BROADBAND SYSTEMS, INC. ("UBS") AND UBS WIRELESS SERVICES
INC. ("UBSW" AND, TOGETHER WITH UBS, THE "APPLICANTS")**

Applicant(s) against which a Claim is asserted:

☐

USB

☐

USBW

1. Particulars of Creditor

(a) Full Legal Name of Creditor (include trade name, if different):

(the "Creditor").

(b) Full Mailing Address of the Creditor:

(c) Other Contact Information of the Creditor:

Telephone Number:

Email Address:

Facsimile Number:

Attention (Contact Person):

2. Particulars of original Creditor from whom you acquired the Claim, if applicable:

(a) Have you acquired this Claim by assignment? If yes, if not already provided, attach documents evidencing assignment.

☐ Yes☐ No

(b) Full Legal Name of original creditor(s):

3. **Dispute of Revision or Disallowance of Claim for Voting and/or Distribution Purposes**

The Creditor hereby disagrees with the value of its Claim as set out in the Notice of Revision or Disallowance and asserts a Claim as follows:

**Amount Allowed by Monitor
Amount Claimed by Creditor**

Secured Claim

Unsecured Claim

If you are Disputing a Claim against more than one of the Applicants, please complete a Dispute Notice for each disputed Claim.

REASON(S) FOR THE DISPUTE (ATTACHED)

(You must include a list of reasons as to why you are disputing your Claim as set out in the Notice of Revision or Disallowance.)

SERVICE OF DISPUTE NOTICES

If you intend to dispute the Notice of Revision or Disallowance, you must deliver to the Monitor this Dispute Notice **by 5:00 p.m. (Eastern Standard Time) on the date that is twenty (20) Business Days after receipt of this Notice of Revision or Disallowance** to the following address.

RSM Richter Inc.
200 King Street West, Suite 1100
Toronto ON M5H 3T4

Attention: Lana Bezner
Telephone: 416-932-6009
Fax: 416-932-6200
Email: lbezner@rsmrichter.com

THE TIMING FOR THE DEEMED RECEIPT OF CORRESPONDENCE IS SET OUT IN THE CLAIMS ORDER.

[SEE NEXT PAGE FOR SIGNATURE]

DATED this _____ day of _____ 2011.

Name of Creditor:

(Name)

Witness

Per: _____
Name:
Title:
(*please print*)

SCHEDULE "C"

NOTICE OF REVISION OR DISALLOWANCE

**UNIQUE BROADBAND SYSTEMS, INC. ("UBS") AND UBS WIRELESS SERVICES
INC. ("UBSW" AND, TOGETHER WITH UBS, THE "APPLICANTS")**

TO:

(Name of Creditor)

Capitalized terms not defined within this Notice of Revision or Disallowance shall have the meaning ascribed thereto in the order of the Ontario Superior Court of Justice (Commercial List) dated 4 August 2011 (the "**Claims Order**").

Pursuant to the Claims Order, RSM Richter Inc., in its capacity as Court-appointed Monitor of the Applicants, hereby gives you notice that the Applicants, with the assistance of the Monitor, has reviewed your Proof of Claim and has revised or disallowed your Claim. Subject to further dispute by you in accordance with the Claims Order, your Claim will be allowed or disallowed as follows:

(a) UBS

Amount Claimed by Creditor	Amount Allowed by Monitor
-----------------------------------	----------------------------------

Secured Claim

Unsecured Claim

(b) UBSW

Amount Claimed by Creditor	Amount Allowed by Monitor
-----------------------------------	----------------------------------

Secured Claim

Unsecured Claim

REASON(S) FOR THE REVISION OR DISALLOWANCE**SERVICE OF DISPUTE NOTICES**

If you intend to dispute this Notice of Revision or Disallowance, you must deliver to the Monitor a Dispute Notice (in the form enclosed) **by 5:00 p.m. (Eastern Standard Time) on the date that is twenty (20) Business Days after receipt of this Notice of Revision or Disallowance** to the following address.

RSM Richter Inc.
200 King Street West, Suite 1100
Toronto ON M5H 3T4

Attention: Lana Bezner
Telephone: 416-932-6009
Fax: 416-932-6200
Email: lbezner@rsmrichter.com

THE TIMING FOR THE DEEMED RECEIPT OF CORRESPONDENCE IS SET OUT IN THE CLAIMS ORDER.

IF YOU FAIL TO FILE YOUR DISPUTE NOTICE BY 5:00 P.M. (EASTERN STANDARD TIME) ON THE DATE THAT IS TWENTY (20) BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE OF REVISION OR DISALLOWANCE THE VALUE OF YOUR CLAIM WILL BE DEEMED TO BE ACCEPTED AS FINAL AND BINDING AS SET OUT IN THIS NOTICE OF REVISION OR DISALLOWANCE.

DATED this _____ day of _____, 2011.

SCHEDULE "D"

NOTICE TO CREDITORS AND OTHERS OF FILING CLAIMS AS AGAINST UNIQUE BROADBAND SYSTEMS, INC. ("UBS") AND UBS WIRELESS SERVICES INC. ("UBSW" AND, TOGETHER WITH UBS, THE "APPLICANTS")

RE: NOTICE OF CLAIMS PROCESS AND CLAIMS BAR DATE

PLEASE TAKE NOTICE that this notice is being published pursuant to an Order of the Superior Court of Justice of Ontario made 4 August 2011 (the "**Claims Order**"). The Court has ordered that the Court-appointed Monitor of the Applicants, RSM Richter Inc. (the "**Monitor**"), send Proof of Claim Document Packages to the Known Creditors of the CCAA Parties as part of the Court-approved claims process (the "**Claims Process**"). All capitalized terms shall have the meaning given to those terms in the Claims Order.

The Claims Order, the Proof of Claim Document Package, additional Proofs of Claim and related materials may be accessed from the Monitor's website at www.rsmrichter.com.

Please take notice that any person who believes that they have a Claim against Applicants that existed as at the date of the 5 July 2011 must send a Proof of Claim to the Monitor to be received **before 5:00 p.m. (Eastern Standard Time) on 19 September 2011 (the "Claims Bar Date")**.

PROOFS OF CLAIM MUST BE RECEIVED BY THE MONITOR BY THE CLAIMS BAR DATE OR THE APPLICABLE CLAIM WILL BE FOREVER BARRED AND EXTINGUISHED.

Reference should be made to the Claims Order for the complete definition of "Claim" to which the Claims Process applies.

The Monitor can be contacted at the following address to request a Proof of Claim Document Package for any other notices or enquiries with respect to the Claims Process:

RSM Richter Inc.
200 King Street West, Suite 1100
Toronto ON M5H 3T4

Attention: Lana Bezner
Telephone: 416-932-6009
Fax: 416-932-6200
Email: lbezner@rsmrichter.com

SCHEDULE "E"

PROOF OF CLAIM

FOR CREDITORS OF UNIQUE BROADBAND SYSTEMS, INC. ("UBS") AND UBS WIRELESS SERVICES INC. ("UBSW" AND, TOGETHER WITH UBS, THE "APPLICANTS")

Please read carefully the enclosed Instruction Letter for completing this Proof of Claim form. Capitalized terms not defined within this Proof of Claim form shall have the meaning ascribed thereto in the Order of the Ontario Superior Court of Justice (Commercial List) dated 4 August 2011, as may be amended from time to time (the "**Claims Order**").

4. **PARTICULARS OF CREDITOR:**

(a) Full Legal Name of Creditor (include trade name, if different):

(the "**Creditor**"). The full legal name should be the name of the Creditor of the Applicant(s), notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred prior to or following 5 July 2011.

(b) Full Mailing Address of the Creditor:

The mailing address should be the mailing address of the Creditor and not any assignee.

(c) Other Contact Information of the Creditor:

Telephone Number:

Email Address:

Facsimile Number:

Attention (Contact Person):

- (d) Has the claim set out herein been sold, transferred or assigned by the Creditor to another party?

☐ Yes ☐ No

5. **PARTICULARS OF ASSIGNEE(S) (IF APPLICABLE)**

If the Claim set out herein has been sold, transferred or assigned, complete the required information set out below. If there is more than one assignee, please attach a separate sheet that contains all of the required information set out below for each assignee.

- (a) Full Legal Name of Assignee:

- (b) Full Mailing Address of the Assignee:

Other Contact Information of the Assignee:

Telephone Number: _____

Email Address: _____

Facsimile Number: _____

Attention (Contact Person): _____

6. **PROOF OF CLAIM – CLAIM AGAINST THE APPLICANT(S)**

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

- (a) That I:

☐ am a Creditor of one or more of the Applicants; **OR**

☐ Am

(state position or title)

Of

(name of Creditor)

- (b) That I have knowledge of all the circumstances connected with the Claim described and set out below;
- (c) The Applicant(s) was and still is indebted to the Creditor as follows (include all Claims that you assert against the Applicant(s). Claims should be filed in the currency of the transactions, with reference to the contractual rate of interest, if any, and such currency should be indicated as provided below in respect of the following Claim(s):

(complete using original currency and amount)

	Amount of Claim	Currency	Secured	Unsecured
<input type="checkbox"/> USB			<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> USBW			<input type="checkbox"/>	<input type="checkbox"/>

7. NATURE OF CLAIM – Complete ONLY if you are asserting a Secured Claim

Applicant: _____

☐ Secured Claim of \$ _____
(Original Currency and amount)

In respect of this debt, I hold security over the assets of the Applicant(s) valued at

\$ _____
(Original Currency and amount)

the particulars of which security and value are attached to this Proof of Claim form.

(Give full particulars of the security, including the date on which the security was given, the value which you ascribe to the assets charged by your security, the basis for such valuation and attach a copy of the security documents evidencing the security.)

(If you are asserting multiple secured claims, against one or more of the Applicants, please provide full details of your security against each of the Applicants)

8. PARTICULARS OF CLAIM

Other than as already set out herein, the particulars of the undersigned's total Claim against the Applicant(s) are attached on a separate sheet.

Provide all particulars of the Claim and supporting documentation that you feel will assist in the determination of your claim. at a minimum, you are required to provide (if applicable) the invoice date, invoice number, the amount of each outstanding invoice and the related purchase order number. Further particulars may include the following if applicable: a description of the transaction(s) or agreement(s) giving rise to the Claim; contractual rate of interest (if applicable); name of any guarantor which has guaranteed the Claim; details of all credits, discounts, etc. claimed; and description of the security if any, granted by the affected Applicant(s) to the Creditor and, the estimated value of such security and the basis for such valuation.

9. FILING OF CLAIM

This Proof of Claim form must be received by the Monitor by no later than **5:00 p.m. (Eastern Standard Time) on 19 September 2011**, to the following address:

RSM Richter Inc.
200 King Street West, Suite 1100
Toronto ON M5H 3T4

Attention: **Lana Bezner**
Telephone: **416-932-6009**
Fax: **416-932-6200**
Email: **lbezner@rsmrichter.com**

THE TIMING FOR THE DEEMED DELIVERY OF CORRESPONDENCE IS SET OUT IN THE CLAIMS ORDER.

DATED this _____ day of _____, 2011.

Name of Creditor: _____
(Name)

Per: _____
Name:
Title:
(please print)

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.C-36, AS AMENDED

AND IN THE MATTER OF THE A PLAN OF COMPROMISE OR ARRANGEMENT OF UNIQUE BROADBAND SYSTEMS INC.

(the "Applicant")

ONTARIO

SUPERIOR COURT OF JUSTICE
(Commercial List)

(PROCEEDING COMMENCED AT TORONTO)

ORDER

GOWLING LAFLEUR HENDERSON LLP
Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

E. Patrick Shea
LSUC No.: 39655K
Telephone: (416) 369-7399
Facsimile: (416) 862-7661

SOLICITORS FOR THE APPLICANT

**THIS IS EXHIBIT "C" TO THE AFFIDAVIT OF
ROBERT ULICKI, SWORN BEFORE ME ON
JANUARY 20, 2012**



A COMMISSIONER FOR TAKING OATHS

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.
JUSTICE WILTON-SIEGEL

)
)
)

THURS DAY, THE 27th DAY *MS*
OF OCTOBER, 2011

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 UNIQUE
BROADBAND SYSTEMS, INC.

SECOND EXTENSION

THIS MOTION, made by Unique Broadband Systems, Inc. ("**UBS**") and UBS Wireless Services Inc. ("**UBSW**" and, together with UBS, the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Robert Ulicki sworn 26 October 2011;

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 property returnable today and hereby dispenses with further service thereof.


EXTENSION OF STAY

- [2] **THIS COURT ORDERS AND DECLARES** that the Stay Period (as defined in the Initial Order dated 5 July 2011) be and is hereby extended to 16 January 2012.

ENTERED AT / RASANT A TORONTO
BY / BOOK NO:
LE / DANG L. / REL. STAGE NO.:

OCT 28 2011

W. Hon - L. J.

PER/PAR 

**THIS IS EXHIBIT "D" TO THE AFFIDAVIT OF
ROBERT ULICKI, SWORN BEFORE ME ON
JANUARY 20, 2012**



A COMMISSIONER FOR TAKING OATHS

9 December 2011

DELIVERED BY E-MAIL

Lax O'Sullivan Scott Lisus
145 King Street West, Suite 1920
Toronto, ON M5H 1J8

E. Patrick Shea
Direct 416-369-7399
patrick.shea@gowlings.com
File No. T979173

Attention: Matthew Gottlieb

Dear Mr. Gottlieb:

Re: Claims filed against Unique Broadband Systems Inc. ("UBS")

Proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA") in respect of UBS and an affiant were commenced pursuant to an Initial Order dated 5 July 2011. The Initial Order appointed RSM Richter Inc. (the "**Monitor**") as the monitor of UBS and UBS Wireless.

On 4 August 2011, the Court made an Order (the "**Claims Order**"), *inter alia*, establishing a process to determine claims against UBS and UBS Wireless.

Thirteen (13) proofs of claim¹ were filed with the Monitor by the Bar Date, as defined in the Claims Order, asserting claims against UBS. We understand that one (1) proof of claim asserting a claim against UBS was filed subsequent to the Bar Date and the that Monitor will request an Order permitting that creditor to file a proof of claim subsequent to the Bar Date.

UBS is required to review the claims submitted pursuant to the Claims Order and determine whether it disputes any such claims and advise the Monitor of its position. Where UBS advises the Monitor that it disputes a claim or the quantum asserted as owing by a creditor, the Monitor is required to deliver a Notice of Revision or Disallowance to that creditor.

The purpose of this letter is to advise the Monitor of UBS's determination with respect to the thirteen (13) claims filed against UBS by the Bar Date.

For the purpose of considering the claim made against UBS, only Robert Ulicki reviewed and considered the proofs of claim filed with the Monitor. The board of directors of UBS consists of Mr. Ulicki, Henry Eaton and Grant McCutcheon. However, 2064818 Ontario Inc. ("**206 Ontario**"), a shareholder of UBS, has brought a motion pursuant to s. 11.5 of the CCAA to remove Mr. Eaton and Mr. McCutcheon from the board and has taken the position that Mr. Eaton and Mr. McCutcheon

¹ In some cases the proofs of claim comprise multiple claims, which are discussed separately below.

should not review any of the claims filed against UBS. For that reason it was determined that, Mr. Ulicki alone would review the claims filed against UBS². This position was reflected in Mr. Ulicki's Affidavit sworn 15 November 2011.

I. Admitted Claims

There are a number of claims that UBS believes should be admitted as filed.

A. Stellarbridge Management Inc. – \$150,000

Stellarbridge Management Inc. (“**Stellarbridge**”) has filed a proof of claim asserting a claim of \$150,000 in respect of a settlement evidenced by Minutes of Settlement dated 26 May 2011. Stellarbridge asserted a claim against UBS in connection with damage to premises leased by UBS from Stellarbridge. UBS and Stellarbridge settled that claim on the basis that UBS would pay Stellarbridge \$600,000 in two installments. The first payment was made by UBS and Stellarbridge's claim relates to the obligation of UBS to pay the second installment of \$150,000 before 15 January 2012.

B. Gorrissen Federspiel – 177,146.58DF

Gorrissen Federspiel (“**GF**”) filed a claim against UBS in the amount of 177,146.58DF in respect of an account for legal services. GF is a law firm in Denmark. GF was retained by UBS in connection with a legal proceeding in Denmark. The services performed by GF were authorized by UBS and UBS does not dispute the account rendered by GF for those services.

C. Heenan Blaikie LLP – \$6,194.48

Heenan Blaikie LLP (“**Heenan**”) filed a claim against UBS for \$6,194.48. Heenan's claim is based on unpaid invoices rendered to UBS. Heenan had a retainer and \$6,194.48 remains outstanding. The services performed by Heenan were authorized by UBS and UBS does not dispute the account rendered by Heenan for those services.

D. Goldman Sloan Nash & Haber LLP – \$22,397.59

Goldman Sloan Nash & Haber LLP (“**GSNH**”) filed a claim against UBS for \$22,397.59. GSNH's claim is based on unpaid invoices for services supplied to UBS. UBS retained GSNH in connection with the litigation with Stellarbridge. The services performed by GSNH were authorized by UBS and UBS does not dispute the account rendered by GSNH for those services.

² UBS does not believe that Mr. Eaton or Mr. McCutcheon have a conflict in reviewing claims other than their own claims and the claim filed by LOOK Communications Inc. The decision that Mr. McCutcheon and Mr. Eaton would not review the other claims was to avoid any issues being raised by 206 Ontario with respect to the operation of the claims process. 206 Ontario is related to one of the parties that has filed a claim and that claim is disputed by UBS.

II. Disputed Claims

There are a number of claims that UBS disputes.

A. DOL Technologies Inc. – \$8,042,716 plus

DOL Technologies Inc. (“**DOL**”) filed a proof of claim against UBS for an aggregate amount of more than \$8,042,716. DOL’s claim against UBS is comprised of four (4) separate claims:

- (a) \$6,195,450 plus taxes in respect of a payment (the “**DOL Termination Payment**”) that DOL asserts is owing under a certain Technology Development and Strategic Marketing Agreement dated 12 July 2008 (the “**Technology Agreement**”);
- (b) a \$ 1,256,667 unpaid bonus awarded to DOL by UBS (the “**DOL Bonus**”) plus taxes;
- (c) \$345,586 plus taxes in respect of the cancellation of a certain share appreciation rights plan (the “**SAR Plan**”) asserted to be owing to DOL (the “**DOL SAR Termination Payment**”); and
- (d) \$245,003 in legal costs for which DOL claims indemnification under the Technology Agreement plus interest.

i. DOL Termination Payment

The Technology Agreement provides for UBS to retain DOL as an independent service provider to perform the duties typically performed by and assume the responsibilities typically assumed by a “chief technology officer”. The Technology Agreement was terminated by DOL after the board of UBS was replaced in July, 2010. DOL then commenced an action (the “**DOL Action**”) against UBS seeking, *inter alia*, to recover the DOL Termination Payment. UBS defended the DOL Action and counter-claimed against DOL.

Following the board of UBS being replaced, DOL terminated the Technology Agreement. UBS understands that DOL is asserting that the removal of the board of directors of UBS entitled DOL to terminate the Technology Agreement and receive the DOL Termination Payment.

The termination provision of the Technology Agreement provides that if DOL terminates the Technology Agreement for “Good Reason” following a “Change-in-Control” or UBS terminates the Technology Agreement other than for cause, DOL is entitled to a lump sum payment equal to 300% of the base annual compensation provided for in the DOL Termination Payment. For the sake of clarify, the DOL Termination Payment is not payable if DOL terminates the Technology Agreement on any basis other than for “Good Reason” after a “Change-in-Control”.

On 5 July 2010, a special meeting of shareholders of UBS requisitioned by a group of shareholders of UBS, including Clareste LP (the “**Shareholder Group**”) was held. The purpose of that meeting

was to remove the directors of UBS pursuant to s. 122 (1) of the Ontario *Business Corporations Act* (the “**OBCA**”).

It is UBS’s position that the DOL Termination Payment was not triggered when DOL terminated the Technology Agreement. The DOL Termination Payment is payable only if: (a) there was a “Change-in-Control” of UBS; **and** (b) DOL terminated the Technology Agreement for “Good Reason” following that “Change-in-Control”.

It is UBS’s position that there was no “Change-in-Control” or “Good Reason”.

The Technology Agreement defines “Change-in-Control” to mean that “control (control includes a person or group of Persons acting in concert holding more than 20% of the voting shares of the Company) of the Company has transferred to another Person or Persons acting in concert”. UBS is not aware of any transfer of 20% of the shares of UBS having occurred between July of 2008 and the date of termination of the Technology Agreement.

The Technology Agreement defines “Good Reason” to mean that DOL’s “business relationship with UBS has been substantially altered by the UBS board”. Subsequent to being elected, the new UBS board did not alter the business relationship with DOL. DOL terminated the Technology Agreement before the new UBS board had an opportunity to fully consider the Technology Agreement and DOL’s continuing role with UBS.

UBS asserts that the Technology Agreement is oppressive or unfairly prejudicial to or unfairly disregards the interests of UBS’s shareholders. UBS asserts that the appropriate remedy is a declaration that the Technology Agreement is void and not enforceable.

UBS also disputes the calculation of the Termination Agreement. DOL has, for example, included the DOL SAR Termination Payment in the DOL Termination Payment. This is not correct.

ii. DOL Bonus

UBS is of the view that it has “after acquired” cause to terminate DOL and, on that basis, to refuse to pay the bonus that was awarded to DOL. UBS has, for example: (a) determined that personal expenses for Mr. Dolgonos were inflated and improper amounts were claimed as business expenses; and (b) that Mr. Dolgonos does not appear to have performed for UBS to justify a bonus to DOL and it is not clear on what basis a the DOL Bonus was declared.

UBS has asserted that the award of the DOL Bonus is oppressive or unfairly prejudicial to or unfairly disregards the interests of UBS’s shareholders. UBS notes that, *inter alia*, no independent advice was sought with respect to the quantum of the bonus awarded. UBS asserts that the appropriate remedy is a declaration that the DOL Bonus is void and not enforceable.

Mr. Dolgonos did not comply with s. 132 of the OBCA with respect to the Technology Agreement. UBS acknowledges that Mr. Dolgonos disputes that he was an officer of UBS notwithstanding that

he was appointed by the Technology Agreement to perform the functions performed by a “chief technology officer”.

iii. DOL SAR Termination Payment

The payments made on the cancellation of the SAR Plan reflected a (notional) UBS share price of \$0.40. At the time, UBS's shares were trading at \$0.16. There is no apparent justification for the board to pay the amount that it did to terminate the SAR units. Under the SAR Plan, when the conditions for an award of SAR units were met, UBS was required to pay the participant an amount equal to the “value” of the SAR units at that date, less all required statutory deductions. The “value” of SAR units was defined in the SAR Plan as the average closing board lot sale price of the common shares of UBS on the TSX Venture Exchange on the last preceding day on which the common shares were traded.

UBS has asserted that the award of the DOL SAR Termination Payment is oppressive or unfairly prejudicial to or unfairly disregards the interests of UBS's shareholders. UBS asserts that the appropriate remedy is a declaration that the DOL SAR Termination Payment is void and not enforceable or that the payment should be reduced to reflect the actual market price of UBS's shares on the date the SAR was terminated – \$0.16 as opposed to \$0.40.

iv. Indemnification

The claims for indemnification are contingent and is discussed below

B. Jolian Investments Limited – \$10,122,648 plus

Jolian Investments Limited (“**Jolian**”) filed a proof of claim against UBS for in excess of \$10,122,648. That claim can be broken into four (4) sub-claims:

- (a) \$7,632,300 plus taxes in respect of a payment (the “**Jolian Termination Payment**”) that Jolian asserts is owing under a certain Management Services Agreement dated 3 May 2006 between Jolian and UBS (the “**Jolian MSA**”);
- (b) a \$1,256,677 unpaid bonus awarded to Jolian by UBS (the “**Jolian Bonus**”) plus taxes;
- (c) \$628,338 plus taxes in amounts owing in respect of the cancelation of the SAR Plan (the “**Jolian SAR Termination Payment**”);
- (d) \$595,333 in legal costs for which Jolian claims indemnification under the Jolian MSA plus interest.

i. Jolian Termination Payment

Pursuant to the Jolian MSA, UBS engaged Jolian as an independent service provider to provide certain services to UBS. Those services included providing Mr. McGoey to perform the duties typically performed by and assume the responsibilities typically assumed by a chief executive officer.

The Jolian MSA purports to acknowledge that, to perform the services required to be performed by Jolian, Mr. McGoey must be elected as a member of the UBS board, appointed as Chief Executive Officer of UBS and nominated as Executive Chairman of UBS. The Jolian MSA requires that UBS include Mr. McGoey on the management slate for election to the board, and request that the board of UBS appoint Mr. McGoey as Chief Executive Officer.

The Jolian MSA provides that in certain limited circumstances, UBS is to pay to Jolian an amount equal to 300% of the annual payment required to be made to Jolian under the Jolian MSA in the event the Jolian MSA is terminated (the “**Jolian Termination Payment**”). The Jolian Action seeks payment of the Jolian Termination Payment and, as set forth further below, UBS does not believe that the obligation to pay the Jolian Termination Payment has been triggered and, if it has, the requirement in the Jolian MSA in that regard is oppressive and disregards the interests of UBS’s shareholders.

Mr. McGoey was removed as a director of UBS at the special meeting of shareholders held 5 July 2010, pursuant to s. 122(1) of the OBCA. After Mr. McGoey was removed as a director pursuant to s. 122 of the OBCA (and before the new board of UBS appointed pursuant to s. 122(3) had an opportunity to meet as a board), Jolian terminated the Jolian MSA and commenced an action claiming, inter alia, payment of the Jolian Termination Payment.

Subsequent to board of UBS being replaced, Jolian terminated the Jolian MSA immediately on the grounds that there was “Company Default” and “Termination without Cause”. Jolian did not provided UBS with a default notice and did not provided notice of termination to UBS.

Jolian asserts that it has the right to the Jolian Termination Payment pursuant to Section 5.3(1) of the Jolian MSA.

Section 5.3 (1) of the Jolian MSA provides:

*Entitlement – Jolian may terminate this Agreement **for a Change-in-Control (which is not a Jolian Voluntary Change in Control) or a Company Default** or UBS may terminate this Agreement at any time without Jolian Default or upon the Disability or Death of the CEO Designee. If this Agreement is terminated pursuant to this Section 5.3(1), Jolian shall be entitled to a lump sum payment equal to three hundred percent (300%) of the aggregate of:*

(a) the Base Fee;

- (b) *a performance incentive equal to the greater of:*
 - (i) *the performance incentive in the immediately preceding fiscal year;*
 - (ii) *the performance incentive in the immediately preceding calendar year;*
 - (iii) *the average of the performance incentive paid in the two immediately preceding fiscal years;*
 - (iv) *or the average of the performance incentive paid in the two immediately preceding calendar years; or*
 - (v) *U.S. \$180,000; and*
- (c) *the annualized Expenses of Jolian as per Appendix A, items, 1, 2, 3 and 4.*

The failure of the shareholders of the Company to re-elect the CEO Designee to the Board or the failure of the Board to appoint the CEO Designee as the Chief Executive Officer of UBS or the failure of the Board to nominate the CEO Designee for the position of Executive Chairman of UBS shall constitute a “Termination without Cause” for the purposes of this Agreement.

The foregoing aggregate amount is a genuine pre-estimate of damages to Jolian and is not a penalty. (emphasis added)

Section 5.2 of the Jolian MSA provides that if Jolian terminates the Jolian MSA for any reason other than in response to a “Company Default”³ or a “Change-in-Control” the Jolian Termination Payment is not required to be paid by UBS. It is significant that section 5.3 of the Jolian MSA does not required payment of the Jolian Termination Payment based on “termination without cause”.

The Jolian MSA defines “Company Default” to mean:

*...the failure of UBS to respect any of its obligations hereunder including without limitation the failure of the CEO Designee to be elected to the Board of Directors of UBS (provided that Jolian has voted its Company Shares in favour of the CEO Designee), the failure of the Board of Directors of UBS to appoint the CEO Designee as Chief Executive Officer, the failure of the Board of Directors of UBS to nominate the CEO Designee for the position of Executive Chairman of UBS or any substantial diminution of the responsibilities of the CEO Designee, **after having received written notice of such failure and having been given reasonable time to correct same**, which failure has not been waived by Jolian. (emphasis added)*

³ The definition of “Change-in-Control” in the Jolian MSA requires that there must have been a transfer of twenty (20) per cent of the shares of UBS. Jolian is not asserting there was a “Change-in-Control” as the basis for the termination of the Jolian MSA – as a factual matter there was no “Change-in-Control” of UBS.

There was no “Company Default” as defined by the Jolian MSA:

1. Mr. McGoey was elected as a director at UBS’s 2010 annual meeting, but was subsequently removed from the UBS board by the UBS shareholders pursuant to s. 122 of the OBCA. Nothing in the Jolian MSA prohibits UBS’s shareholders from exercising their statutory right to remove Mr. McGoey or provides for the payment of the Jolian Termination Payment in circumstances where Mr. McGoey is removed from the board pursuant to s. 122 of the OBCA⁴.
2. Under the terms of the Jolian MSA, a “Company Default” does not arise unless Jolian provides written notice of the asserted default and provides UBS with a reasonable opportunity to correct the asserted default. Jolian did not provide UBS with notice that it was asserting that a default had occurred or provide UBS with a reasonable opportunity to correct any asserted default. There were vacancies on the UBS board and UBS could have cured any default resulting from the failure of Mr. McGoey to be re-elected after being removed by the shareholders under s. 122 or sought a determination by the Court as to whether it was required to appoint Mr. McGoey to the UBS board under the Jolian MSA to avoid the obligation to pay the Jolian Termination Payment⁵.

UBS notes that if the Jolian MSA is to be interpreted in the manner suggested by Jolian, the Jolian MSA would be prejudicial to, and disregard the interests of, the shareholders of UBS. If the Jolian Termination Payment is required to be paid where Mr. McGoey is removed from the board by shareholders pursuant to s. 122(1) of the OBCA, the practical effect would be to prevent the shareholders of UBS – who are not party to the Jolian MSA and who did not ratify or approve the Jolian MSA – from exercising their statutory right to remove Mr. McGoey from the UBS board unless they are prepared to pay Mr. McGoey a sum of money that is so large, in the circumstances, that it is punitive.

The shareholders of UBS are not party to the Jolian MSA and did not ratify or approve the entering into of the Jolian MSA by UBS. UBS did not, to the best of my knowledge, retain an outside consultant to review the Jolian MSA to determine whether it was reasonable. At the time the Jolian MSA was negotiated, Mr. McGoey was a director of UBS and was acting as the Chief Executive Officer of UBS.

UBS has asserted that the Jolian MSA is oppressive or unfairly prejudicial to or unfairly disregards the interests of UBS's shareholders. UBS asserts that the appropriate remedy is a declaration that the Jolian MSA is void and not enforceable.

⁴ The failure to re-elect Mr. McGoey under s. 122 of the OBCA **might** be interpret as “termination without cause” under the Jolian MSA – UBS believes this refers to failure to re-elect at annual meetings and not failure to be re-elected after removal under s. 122 – but “termination without cause” does not entitle Jolian to the Jolian Termination Payment.

⁵ Jolian’s actions denied UBS the ability to: (a) determine whether there was a default or potential default; and (b) cure any such default, and unless UBS has a right to cure and fails to do so, there can be no “Company Default”.

Jolian also breached its obligation under the Jolian MSA to provide UBS with four (4) months prior notice of the termination of the Jolian MSA.

UBS disputes Jolian's calculation of the Jolian Termination Payment. Jolian appears, for example, to have included the Jolian SAR Termination Payment in calculating the quantum of the Jolian Termination Payment. This is not correct.

ii. Jolian Bonus

UBS disputes Jolian's right to the Jolian Bonus on, essentially, the same grounds that it disputes DOL's right to receive a bonus.

UBS asserted that the award of the Jolian Bonus is oppressive or unfairly prejudicial to or unfairly disregards the interests of UBS's shareholders. UBS notes that, *inter alia*, no independent advice was sought with respect to the quantum of the bonus awarded. UBS asserts that the appropriate remedy is a declaration that the Jolian Bonus is void and not enforceable.

iii. Jolian SAR Termination Payment

UBS disputes Jolian's right to the Jolian SAR Termination Payment on the same basis as it disputes DOL's right to the Jolian SAR Termination Payment.

In addition, Mr. McGoeys is the principal of Jolian – he has a material interest in Jolian – and sat on the UBS board at the time the SAR Plan was terminated. UBS understands that Mr. McGoeys did not comply with his obligations under s. 132 of the OBCA in connection with the termination of the SAR Plan. UBS takes the position that the termination of the SAR Plan was a material transaction and that Mr. McGoeys should have: (a) disclosed in writing to UBS or request to have entered in the minutes of meetings of directors the nature and extent of his interest; (b) not attended any part of a meeting of directors during which the termination of the SAR was discussed; and (c) not voted on the resolution to approve the termination of the SAR. UBS does not believe that the termination of the SAR Plan was a transaction relating primarily to Mr. McGoeys's remuneration as a director of UBS⁶.

UBS has asserted that the award of the termination of the SAR Plan is oppressive or unfairly prejudicial to or unfairly disregards the interests of UBS's shareholders. UBS asserts that the appropriate remedy is a declaration that the Jolian SAR Termination Payment is void and not enforceable or that the payment should be reduced to reflect the actual market price of UBS's shares on the date the SAR Plan was terminated.

iv. Indemnification

Jolian's claim for indemnification is contingent and is discussed below.

⁶ The termination of the SAR Plan was not a *quid pro quo* for services rendered as a director of UBS.

C. Douglas Reeson – \$585,000

Douglas Reeson, a former director of UBS, has filed a claim against UBS for \$585,000. Mr. Reeson's claim consists of two (2) claims:

- (a) \$465,000 in respect of the termination of Mr. Reeson's SARs (the “**Reeson SAR Termination Payment**”); and
- (b) \$120,000 in costs based on UBS's obligation to indemnify Mr. Reeson pursuant to an agreement dated 25 January 2007.

i. Reeson SAR Termination Payment

The same analysis is applicable to the Julian SAR Termination Payment is applicable to the Reeson SAR Termination Payment.

ii. Indemnification

Mr. Reeson's claim for indemnification is contingent and is discussed below.

III. Other Claims

There are number of claims that: (a) Mr. McCutcheon did not consider; and/or (b) are contingent and have not been valued by UBS on the basis that it is premature, and not necessary, to do so at this point in time.

A. Robert Ulicki – TBD

Robert Ulicki filed a claim against UBS for an undetermined amount. Mr. Ulicki's claim is based on the assertion that UBS is obliged to indemnify Mr. Ulicki and is identical to the claims filed by Mr. Eaton and Mr. McCutcheon.

UBS is not able to take a position with respect to Mr. Ulicki's claim. Mr. Ulicki is a director of UBS and, as set forth above, in light of the motion by 206 Ontario to remove Grant McCutcheon and Henry Eaton, Mr. Ulicki is the only director of UBS who has considered the claims made against UBS. Mr. Ulicki has a conflict *vis-à-vis* his own claim against UBS and did not consider his own claim.

We note that it is not necessary to determine Mr. Ulicki's claim at this time.

B. Henry Eaton – TBD

Henry Eaton filed a claim against UBS for an undetermined amount. Mr. Eaton's claim is based on the assertion that UBS is obliged to indemnify Mr. Eaton and is identical to the claims filed by Mr. Ulicki and Grant McCutcheon.

UBS has chosen to not take a position on the validity of Mr. Eaton's claim. As set forth above, Mr. Ulicki is the only director that considered the claims filed against UBS and, in light of the fact that his own claim is identical to the claim filed by Mr. Eaton, Mr. Ulicki did not believe it was appropriate to consider Mr. Eaton's claim.

UBS notes that it is not necessary to determine the validity of Mr. Eaton's claim at this time. counsel.

C. Grant McCutcheon – TBD

Grant McCutcheon filed a claim against UBS for an undetermined amount. Mr. McCutcheon's claim is based on the assertion that UBS is obliged to indemnify Mr. McCutcheon and is identical to the claims filed by Mr. Eaton and Mr. Ulicki.

UBS has chosen to not take a position on the validity of Mr. McCutcheon's claim. Mr. McCutcheon's claim is identical to the claim filed by Mr. Ulicki. As set forth above, Mr. Ulicki is the only director that considered the claims filed against UBS and, in light of the fact that his own claim is identical to the claim filed by Mr. McCutcheon, Mr. Ulicki did not believe it was appropriate to consider Mr. McCutcheon's claim.

UBS notes that it is not necessary to determine the validity of Mr. McCutcheon's claim at this time.

D. Alex Dolgonos – TBD

Mr. Dolgonos filed a proof of claim against UBS claiming an amount to be determined. Mr. Dolgonos's claim is based on the assertion that he is entitled to be indemnified by UBS pursuant to an indemnification agreement dated 25 January 2007. Mr. Dolgonos also relies on the Judgment of Mr. Justice Marrocco dated April 27, 2011.

Mr. Dolgonos' claim for indemnification is contingent and no amounts have been identified as owing.

UBS has appealed Mr. Justice Marrocco's Judgment and the obligation of UBS to indemnify Mr. Dolgonos is not absolute – UBS asserts that there are grounds for UBS to not indemnify Mr. Dolgonos. If UBS's appeal is not successful and it is determined that Mr. Dolgonos is entitled to be indemnified his claim will be valid, subject to the determination that the amounts he is claiming are reasonable.

UBS notes that it is not necessary to determine the validity of Mr. Dolgonos's claim at this time.

E. Gerald McGoe – TBD

Mr. McGoe filed a proof of claim against UBS claiming an amount to be determined. Mr. McGoe's claim is based on the assertion that he is entitled to be indemnified by UBS pursuant to an indemnification agreement dated 25 January 2007 and the Jolian MSA. Mr. McGoe also relies on the Judgment of Mr. Justice Marrocco dated April 27, 2011.

Mr. McGoe's claim for indemnification is contingent and no amounts have been identified as owing.

UBS has appealed Mr. Justice Marrocco's Judgment and the obligation of UBS to indemnify Mr. McGoe is not absolute – UBS asserts that there are grounds for UBS to not indemnify Mr. McGoe. If UBS's appeal is not successful and it is determined that Mr. McGoe is entitled to be indemnified his claim will be valid, subject to the determination that the amounts he is claiming are reasonable.

UBS notes that it is not necessary to determine the validity of Mr. McGoe's claim at this time.

G. Peter Minaki – \$92,861.24

Peter Minaki filed a proof of claim against UBS claiming \$92,861.24. Mr. Minaki's claim is based on an Indemnification Agreement dated 25 January 2007. Mr. Minaki's is claiming indemnification in respect of costs incurred in defending a third-party action brought against Mr. Minaki's by, *inter alia*, Mr. Dolgonos.

Mr. Minaki's claim for indemnification is contingent. UBS's obligation to indemnify Mr. Minaki is dependent on the factual finding made in connection with the proceedings in respect of which Mr. Minaki seeks indemnification.

H. Douglas Reeson (Indemnification) – See above

Mr. Reeson seeks indemnification in respect of legal fees incurred in defending proceeding brought against him by UBS based on assertions of, *inter alia*, oppression and improper conduct. This is the same action referenced in the claims filed by Jolian and DOL.

I. DOL (Indemnification) – See above

DOL seeks indemnification in respect of legal fees incurred: (a) in pursuing proceedings against UBS to recover the DOL Termination Payment, the DOL Bonus and the DOL SAR Termination Payment; and (b) in defending proceeding brought against him by UBS based on assertions of, *inter alia*, oppression and improper conduct.

J. Jolian (Indemnification) – See above

Jolian seeks indemnification in respect of legal fees incurred: (a) in pursuing proceedings against UBS to recover the Jolian Termination Payment, the Jolian Bonus and the Jolian SAR Termination Payment; and (b) in defending proceeding brought against him by UBS based on assertions of, *inter alia*, oppression and improper conduct.

K. LOOK Communications Inc. – TBD

LOOK Communications (“**LOOK**”) has filed a proof of claim against UBS in respect of a contingent claim that LOOK might have against UBS should UBS be unable to continue to perform services that it is obliged to provide to LOOK..

Pursuant to an Agreement between UBS and LOOK dated 19 May 2004 (the “**MSA**”) and amended pursuant to an Amending Agreement dated 3 December 2010 (the “**MSA Amending Agreement**” and together with the MSA, the “**LOOK MSA**”), UBS provides certain services to LOOK. Those services include providing a person to perform the duties typically performed by, and assume the responsibilities typically assumed by, a chief executive officer. The LOOK MSA expires on May 19, 2012. LOOK is obliged to pay UBS \$146,000 per month through to May 1, 2012. LOOK has, however, pre-paid UBS for the services to be provided through to the expiry of the LOOK MSA.

LOOK’s claim against UBS is based on the assertion that should UBS cease to perform its obligations under the LOOK MSA LOOK would be entitled to a claim against UBS equal to \$146,000 per month from the time UBS ceased to perform its obligations through to May 19, 2012.

It is UBS’s position that LOOK’s claim is contingent and that it is premature to determine the validity and quantum of LOOK’s claim.

LOOK’s claim is premised on UBS not performing its obligations under the LOOK MSA. UBS has continued to provide the services required by the LOOK MSA since the CCAA proceedings were commenced and intends to continue to provide those services to LOOK through to May of 2012.

L. 206 Ontario – TBD

206 Ontario does not appear to be asserting a liquidated claim against UBS. 206 Ontario filed a claim for an amount to be determined.

206 Ontario’s claim is based on an action commenced by 206 Ontario against UBS, Mrs. McCutcheon, Mr. Eaton and Mr. Ulicki (the “**Oppression Action**”) and the factual assertions made by 206 Ontario as against UBS in the CCAA claims process are identical to the factual assertions made by 206 Ontario in the Oppression Action.

The Oppression Action has not been heard and none of the issues raised in the Oppression Action have been determined.

UBS is bringing a motion to have the stay of proceedings imposed by the Initial Order extended to include the claim against Mr. McCutcheon, Mr. Eaton and Mr. Ulicki in the Oppression Action. If successful, this will facilitate the determination of the Oppression Action as part of the CCAA proceedings. That motion is scheduled to be heard on 20 December 2011.

IV. Determination of Disputed Claims

UBS believes that certain of the disputed claims can be determined on motions seeking either advice and directions or a determination of isolated issues. For example, DOL's claim for the DOL Termination Payment is, in UBS's view, dependent on their being a "Change-in-Control" of UBS within the meaning of the Technology Agreement. That is, in UBS's view, an isolated – and easily determined – factual matter that should be subject to being determined by the Court on a motion. Similarly, Jolian's claim for the Jolian Termination Payment is dependent on their being a "Company Default" within the meaning of the Jolian MSA. While perhaps more complicated than the determination as to whether there was a Change-in-Control of UBS, UBS believes that this matter can also be determined on a motion.

We would be pleased to meet with you to discuss any of the foregoing.

Sincerely,

GOWLING LAFLEUR HENDERSON LLP

A handwritten signature in black ink, appearing to read 'E. Patrick Shea', with a stylized, cursive script.

E. Patrick Shea
EPS:fs

cc: Client

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.C-36, AS AMENDED

AND IN THE MATTER OF THE A PLAN OF COMPROMISE OR ARRANGEMENT OF UNIQUE BROADBAND SYSTEMS INC.

(the "Applicant")

ONTARIO

SUPERIOR COURT OF JUSTICE
(Commercial List)

(PROCEEDING COMMENCED AT TORONTO)

AFFIDAVIT OF ROBERT ULICKI

(Sworn 20 January 2012)

GOWLING LAFLEUR HENDERSON LLP

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SOLICITORS FOR THE APPLICANT

Court File No.: CV-11-9283-00CL

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**MOTION RECORD
(RETURNABLE 13 JANUARY 2012)**

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