

ONTARIO

SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE REGIONAL)

)

SENIOR JUSTICE MORAWETZ)

TUESDAY, THE 23RD

DAY OF FEBRUARY, 2016

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 COMARK INC.

Applicant

STAY EXTENSION AND DISTRIBUTION ORDER

THIS MOTION, made by 4240405 Canada Inc., formerly Comark Inc. (the "**Applicant**" or "**Comark**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order, *inter alia*, extending the Stay Period (as defined in paragraph 14 of the Initial Order dated March 26, 2015, as amended and restated on April 21, 2015 and further amended on June 1, 2015, the "**Initial Order**") and authorizing the Monitor, on behalf of the Applicant, to make distributions to Salus Capital Partners, LLC ("**Salus**") in accordance with the terms herein, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Gerald Bachynski sworn February 16, 2016, the Eighth Report of Alvarez & Marsal Canada Inc., in its capacity as court-appointed monitor of the Applicant (the "**Monitor**") dated February 18, 2016, and on hearing the submissions of counsel

for the Applicant and the Monitor and such other counsel as were present and on being advised that the Service List was served with the Motion Record herein;

SERVICE

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

STAY EXTENSION

2. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 14 of the Initial Order) is hereby extended until and including May 31, 2016.

DISTRIBUTION

3. **THIS COURT ORDERS** that the Monitor, on behalf of the Applicant, shall be authorized and directed, without further Order of the Court, to distribute to Salus from time to time such amounts to be determined by the Monitor in the maximum aggregate amount of Salus' remaining secured claim, and such distributions shall be free and clear of all encumbrances other than those in favour of Salus, and shall be applied against the indebtedness, liabilities and obligations owing by the Applicant to Salus under the Amended and Restated Credit Agreement dated March 26, 2015.

TERMINATION OF DIRECTORS' AND OFFICERS' CHARGE

4. **THIS COURT ORDERS** that the Directors' Charge (as defined in paragraph 21 of the Initial Order) shall be terminated, released and discharged, subject to the reservation of CAD

\$80,000 (the “**D&O Reserve**”) for the maximum potential liability of the directors and officers of the Applicant that could be secured by the Directors’ Charge in connection with the Claims Procedure (as defined in the Order of this Court dated November 30, 2015), such amount to be held by the Monitor until the final resolution of the claims received pursuant to the Claims Procedure or further order of this Court. Paragraph 22 of the Initial Order shall apply to the D&O Reserve *mutatis mutandis* and nothing herein shall affect the obligations of the Applicant’s existing directors and officers liability insurer.

ADMINISTRATION CHARGE

5. **THIS COURT ORDERS** that the amount of the Administration Charge (as defined in paragraph 42 of the Initial Order) shall be reduced from CAD \$1.2 million to \$375,000.

PAYMENT OF TRUST MONEY INTO COURT

6. **THIS COURT ORDERS** that a total amount of CAD \$17,773 be paid into court to the credit of the unlocated members of the Employees’ Pension Plan of Robinson’s, a former division of Comark Inc., as set out in the Confidential Schedule (as defined in the Affidavit of Gerald Bachynski sworn February 16, 2016).

REPORT OF THE MONITOR

7. **THIS COURT ORDERS** that the Eighth Report is approved and the activities of the Monitor as described therein are hereby approved.

SEALING

8. **THIS COURT ORDERS** that the Confidential Schedule (as defined in the Affidavit of Gerald Bachynski sworn February 16, 2016) be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.


GENERAL PROVISIONS

9. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada pursuant to section 17 of the CCAA) and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature or any province and any court or any judicial, regulatory or administrative body of the United States and of any other nation or state, to act in aid of and be complementary to this Court in carrying out the terms of this Order.



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

FEB 23 2016



**IN THE MATTER OF 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 COMARK INC.**

APPLICANT

Court File No. CV15-10920-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**PROCEEDING COMMENCED AT
TORONTO**

**STAY EXTENSION AND DISTRIBUTION
ORDER**

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