



Court File No. 08-CL-7888-00-CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) THURSDAY, THE 8TH DAY OF
)
JUSTICE CAMPBELL) JANUARY, 2009

**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 BURLINGTON TECHNOLOGIES INC.**

ORDER

THIS MOTION, made by Burlington Technologies Inc. (the "**Applicant**"), for an order in the form attached as schedule "A" to the notice of motion of the Applicant dated January 5, 2009 (the "**Notice of Motion**") *inter alia*: (i) abridging and validating the timing and method of service of this Motion Record so that this Motion is properly returnable; (ii) extending the Stay Period, as defined by the Order of the Honourable Mr. Justice Campbell in these proceedings made on December 9, 2008 (the "**Initial Order**") until January 30, 2009; (iii) approving the First Report to Court of BDO Dunwoody Limited the Monitor dated January 5, 2008 (the "**First Report**") and the activities of the Monitor as set out therein; (iv) amending the Initial Order in accordance with Notice of Motion; (v) approving the engagement letter (the "**Trenwith Engagement Letter**") entered into between the Applicant and Trenwith Group, LLC dated December 17, 2008, a redacted version of which is attached to the First Report; (vi) approving the marketing and sales process for both the core assets and operations and redundant assets

as described in the First Report (the “**Marketing and Sales Process**”); (vii) approving the letter agreement between Reko Automation & Machine Tool a division of REKO Tool & Mould (1987) Inc. and the Applicant dated December 18, 2008 (the “**Reko Automation Agreement**”) regarding the expedited installation of certain tools; (viii) approving a DIP Loan Amendment Agreement dated January 5, 2009 extending the DIP Loan Agreement (as defined in the Initial Order) until January 30, 2009 (the “**DIP Loan Amendment Agreement**”); and (ix) sealing and treating as confidential Appendix “C” to the First Report, being the REKO Automation Agreement, until further order of the Court or the expiry of the Stay Period; was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report, the supplement to the First Report dated January 7, 2009 (the “**Supplement to the First Report**”) and the Affidavit of Erwin A. Overmeyer sworn January 5, 2009, and on hearing the submissions of counsel for the Applicant, Royal Bank of Canada, the Monitor, Export Development Canada, no one else appearing although duly served as appears from the affidavit of service of Laura Bowles-Dove sworn January 5, 2009;

SERVICE

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

EXTENSION OF STAY OF PROCEEDINGS

2. **THIS COURT ORDERS** that the terms of the Initial Order including, without limitation, the “Stay Period” as defined in paragraph 15 to the Initial Order, be and are hereby extended to January 30, 2009, subject to the terms of this Order.

APPROVAL OF MONITOR’S REPORT

3. **THIS COURT ORDERS** that the First Report and the activities of the Monitor as set out therein, be and are hereby approved.

AMENDMENTS TO INITIAL ORDER

4. **THIS COURT ORDERS** that the Initial Order be and is hereby amended as follows:

- (i) Paragraph 6(c) of the Initial Order be and is hereby amended to increase the maximum aggregate amount of permitted payments for good or services actually supplied to the Applicant prior to the date of the Initial Order to \$300,000;
- (ii) Paragraph 6(d) of the Initial Order be and is hereby amended to increase the permitted cumulative amount of payments for key employee retention bonuses to \$200,000; and
- (iii) Paragraph 48 of the Initial Order be and is hereby deleted in its entirety and replaced with the following:

“48. THIS COURT ORDERS AND DECLARES that, notwithstanding the other terms of this Order, Maple Trade shall have a first ranking charge and interest, including, without limitation, priority to the Charges created pursuant to this Order, in the accounts receivable of the Applicant which are assigned to Maple Trade and/or Maple Trade finances under the Maple Finance Arrangements (as defined in the DIP Loan Agreement), both during the Stay Period and thereafter, provided that Maple Trade continues to make such financing available to the Applicant on existing terms during the Stay Period.”

APPROVAL OF MARKETING PROCESS

5. **THIS COURT ORDERS** that the Trenwith Engagement Letter be and is hereby approved and that the Applicant is authorized to take such actions as may be necessary to give effect to the terms of the Trenwith Engagement Letter.

6. **THIS COURT ORDERS** that the Marketing and Sales Process be and is hereby approved.

APPROVAL OF REKO AUTOMATION AGREEMENT

7. **THIS COURT ORDERS** that the Reko Automation Agreement be and is hereby approved and that the Applicant be and is hereby authorized to take such actions as may be necessary to give effect to the terms of the Reko Automation Agreement and that the Reko Automation Agreement hereby approved is in addition to the critical payments permitted to be paid by the Applicant in accordance with paragraph 6(c) of the Initial Order (as amended by this Order).

APPROVAL DIP LOAN AMENDMENT AGREEMENT

8. **THIS COURT ORDERS** that the DIP Loan Amendment Agreement, substantially in the form attached to the First Report, be and is hereby approved.

SEALING

9. ~~**THIS COURT ORDERS** that Appendix "C" to the First Report be and is hereby sealed and treated as confidential until further order of this Court or the expiry of the Stay Period.~~ *Intentionally Deleted RAC*

APPROVAL OF EDC CONFIRMATION AGREEMENT

10. **THIS COURT ORDERS AND DECLARES** that the Confirmation Agreement between the Applicant and EDC dated January 7, 2009, substantially in the form attached as Appendix "A" to the Supplement to the First Report (the "**EDC Confirmation Agreement**"), be and is hereby approved, that the Initial Order shall be amended as necessary to give full effect to the EDC Confirmation Agreement, and that:

- (a) the Lender Financed Portion of Tooling A/R (as those terms are defined in the EDC Confirmation Agreement) shall be held in trust by the Applicant for EDC, shall not constitute property of the Applicant and shall be remitted to EDC within two (2) business days of receipt of same;

- (b) one-half of the Borrower Financed Portion of Tooling A/R (as that term is defined in the EDC Confirmation Agreement), net of any payments expended by the Applicant in order to complete or secure the release of the applicable tooling, received after the date hereof shall be held in trust by the Applicant for EDC, shall not constitute property of the Applicant and shall be remitted to EDC within two (2) business days of receipt of same; and
- (c) EDC's security interest in the EDC Collateral in respect of the amount of the Post-Filing Advances only (as those terms are defined in the EDC Confirmation Agreement) shall rank in priority to all Court-ordered charges granted pursuant to the Initial Order and subsequent orders of the Court including, without limitation, the DIP Lender's Charge, the Administration Charge and the Directors' Charge (as those terms are defined in the Initial Order).

11. **THIS COURT ORDERS AND DECLARES** that the trust obligations set out in paragraph 10(a) and 10(b) and the EDC Confirmation Agreement shall impose no liability on RBC in respect of the administration by the Applicant of such trust funds.



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ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JAN 08 2009

PER / PAR:



Joanne Nicoara
Registrar, Superior Court of Justice

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SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
TORONTO

ORDER

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