

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) THURSDAY, THE 22ND
)
JUSTICE KOEHNEN) DAY OF APRIL, 2021
)

IN THE MATTER OF Section 101 of the *Courts of Justice Act*, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended

B E T W E E N:



EXPORT DEVELOPMENT CANADA

Applicant

- and -

UNIQUE BROADBAND SYSTEMS LTD. and UBS-AXCERA INC.

Respondent

**ORDER
(Re Discharge of the Receiver)**

THIS MOTION made by BDO Canada Limited as receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of Unique Broadband Systems Ltd. and UBS-Axcera Inc. (together, the "**Debtors**"), for an order (i) approving the Settlement and Release Agreement between the Receiver and Dol Technologies Inc. and the Dol Payment (as defined below) thereunder, (ii) authorizing the Receiver to make the WEPPA Distribution (as defined below), (iii) approving the Receiver's final statement of receipts and disbursements, (iv) confirming that the Receiver may retain the Non-Refundable Portion of the Deposit (as defined below), (v) discharging the Receiver, and (vi) approving the

activities and fees of the Receiver and its counsel as described in the Receiver's Third Report to the Court dated April 12, 2021 (the "**Third Report**") was heard this day by Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Third Report and the Appendices thereto, the fee affidavit of Gary Cerrato sworn April 12, 2021 (the "**Cerrato Affidavit**") and the fee affidavit of D.J. Miller sworn April 12, 2021 (the "**Miller Affidavit**") and on hearing the submissions of counsel for the Receiver, no one else appearing although duly served as appears from the affidavit of service of Rachel Bengino sworn April 13, 2021,

SERVICE

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

APPROVAL OF SETTLEMENT

2. THIS COURT ORDERS that the Settlement and Release Agreement between the Receiver and Dol Technologies Inc. (the "**Dol Settlement Agreement**"), as described in and appended to the Third Report, is hereby ratified and approved and the execution of the Dol Settlement Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary.

3. THIS COURT ORDERS that the Receiver is authorized and directed to pay to Dol Technologies Inc. the amount of \$55,774.32 (the "**Dol Payment**") pursuant to the terms of the Dol Settlement Agreement.

DISTRIBUTIONS

4. THIS COURT ORDERS that the Receiver is authorized and directed to pay to Service Canada the amount of \$45,546.22 (the "**WEPPA Distribution**") in respect of Service Canada's priority entitlement under the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1, and section 81.4(4) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.

RETENTION OF NON-REFUNDABLE PORTION OF DEPOSIT

5. THIS COURT ORDERS AND DECLARES that the Receiver's retention of the Non-Refundable Portion of the Deposit (as each term is defined in the Third Report) paid to it by Thomson Broadcast US Inc. and Phenixya SAS (together "**Thomson**") in the amount of \$100,000 is hereby confirmed and approved, and such amount shall not be returned to Thomson by the Receiver and shall form part of the Debtors' estates.

APPROVAL OF ACTIVITIES AND FEES OF THE RECEIVER

6. THIS COURT ORDERS that the Third Report and the activities, decisions and conduct of the Receiver as set out in the Third Report are hereby authorized and approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

7. THIS COURT ORDERS that the Receiver's final statement receipts and disbursements for the period May 28, 2019 to April 8, 2021, as set out in the Third Report, is hereby approved.

8. THIS COURT ORDERS that the professional fees and disbursements of the Receiver for the period between December 1, 2019 to April 8, 2021 in the amount of \$154,565.75 for fees and disbursements, including Harmonized Sales Tax ("**HST**") of \$17,781.90, plus an estimate of fees to completion of the Receivership Proceedings in the amount of \$4,500 plus HST, as further set out in the Third Report and the Cerrato Affidavit attached as Appendix "J" to the Third Report, are hereby approved.

9. THIS COURT ORDERS that the professional fees and disbursements of Thornton Grout Finnigan LLP, counsel to the Receiver, for the period between December 1, 2019 to April 11, 2021, in the amount of \$61,880.00, plus HST of \$7,463.49, for a total of \$98,506.17, which includes an estimate of fees to completion of the Receivership Proceedings in the amount of \$5,000 plus HST, as further set out in the Third Report and the Miller Affidavit attached as Appendix "K" to the Third Report, are hereby approved.

DISCHARGE OF RECEIVER

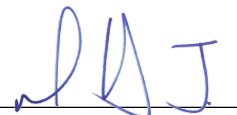
10. THIS COURT ORDERS that upon completion of the Remaining Activities described in the Third Report and upon the Receiver filing a certificate in the form of Schedule "A" attached hereto (the "**Receiver's Discharge Certificate**"), the Receiver shall be discharged as Receiver of the assets, properties and undertakings of the Debtors, provided, however, that notwithstanding its discharge herein, the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of BDO Canada Limited in its capacity as Receiver.

11. THIS COURT ORDERS AND DECLARES that upon filing of the Receiver's Discharge Certificate, BDO Canada Limited is hereby released and discharged from any and all liability that BDO Canada Limited now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of BDO Canada Limited while acting in its capacity as Receiver of the Debtors, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, BDO Canada Limited is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings with respect to the Debtors, save and except for any gross negligence or wilful misconduct on the Receiver's part.

GENERAL

12. THIS COURT ORDERS that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

13. 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 Receiver and its 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF Section 101 of the *Courts of Justice Act*, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended

B E T W E E N:

EXPORT DEVELOPMENT CANADA

Applicant

- and -

UNIQUE BROADBAND SYSTEMS LTD. and UBS-AXCERA INC.

Respondent

RECEIVER'S DISCHARGE CERTIFICATE

RECITALS

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated April 15, 2019, as issued and entered on May 28, 2019, BDO Canada Limited was appointed as receiver and manager (in such capacities, the "**Receiver**") of the assets, undertakings and properties of Unique Broadband Systems Ltd. and UBS-Axcera Inc. (together with UBS, the "**Debtors**").
2. Pursuant to an Order of the Court dated April 22, 2021 (the "**Discharge Order**"), BDO Canada Limited was to be discharged as Receiver of the Debtors to be effective upon the filing by the Receiver with the Court of a certificate confirming that all remaining matters as described in the Third Report of the Receiver dated April 12, 2021 (the "**Third Report**") to be attended to in connection with the receivership have been completed to the satisfaction of the Receiver.

THE RECEIVER CERTIFIES the following:

- A. All remaining matters as described in the Third Report to be attended to in connection with the receivership of the Debtors have been completed to the satisfaction of the Receiver.

- B. This Certificate was filed by the Receiver with the Court on the ____ day of ____, 2021 at ____.

BDO Canada Limited, in its capacity as Receiver of the undertaking, property and assets of Unique Broadband Systems Ltd. and UBS-Axcera Inc. and not in its personal or corporate capacity

Per: _____

Name:

Title:

I have authority to bind the corporation.

IN THE MATTER OF Section 101 of the *Courts of Justice Act*, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended

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AXCERA INC.

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Respondents

Court File No.: CV-19-620769-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceedings commenced at Toronto

ORDER
(Re Discharge of Receiver)

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