No. B-250186
Estate 11-3209217
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL BY ECOATION INNOVATIVE SOLUTIONS INC.

NOTICE OF APPLICATION

Names of applicants: Ecoation Innovative Solutions Inc. ("**Ecoation**")

To: Service List, attached as **Schedule "A"**

TAKE NOTICE that an application will be made by the applicants to the presiding judge at the courthouse at 800 Smithe Street, Vancouver, BC on April 15, 2025, at 9:45 a.m. for the orders set out in Part 1 below.

The applicants estimate that the application will take 1 hour.

☐ This matter is within the jurisdiction of an associate judge.

☒ This matter is not within the jurisdiction of an associate judge.

Part 1: ORDERS SOUGHT

1. An order substantially in the form attached hereto as **Schedule "B"** (the "**Initial Order**"):

   (a) granting a first priority charge in the maximum amount of $150,000 on the property, assets and undertakings of Ecoation, to rank ahead of all other charges, claims and encumbrances (the "**Administration Charge**") in favour of KPMG Inc. as the "**Proposal Trustee**", McCarthy Tetrault LLP as counsel to the Proposal Trustee, and Osler, Hoskin & Harcourt LLP as counsel to Ecoation;

   (b) approving an interim lending term sheet for debtor-in-possession financing (the "**DIP Term Sheet**") to be entered into between Ecoation and 1001199137 Ontario Limited (the "**DIP Lender**"); and

(c) granting a charge in the maximum principal amount of $1,000,000 (the "**DIP Lender's Charge**") on the assets, undertakings and properties of Ecoation in favour of the DIP Lender, ranking ahead of all other charges other than the Administration Charge.

2. Such other orders, directions, and declarations as counsel for Ecoation may advise and this Court may deem appropriate in the circumstances.

Part 2: FACTUAL BASIS

3. On April 8, 2025, Ecoation filed a notice of intention ("**NOI**") to make a proposal under Section 50.4 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 ("***BIA***") with the Office of Superintendent of Bankruptcy, commencing these proceedings (the "**NOI Proceedings**"). KPMG Inc. was appointed to act as the Proposal Trustee.

A. Background

4. Ecoation is an industry-leading technology platform for greenhouse growers. Through the real-time collection of data, Ecoation's customers can assess risk and make informed decisions about their crops, supported by the findings of Ecoation's expert agri-analysis team. Ecoation's platform services include integrated pest management (IPM), yield assessment and harvest planning, crop quality check, remote consultation, 3D climate, task management, and remote viewing of crops.

5. Ecoation sells both direct to customers and through its sales channel partners.

6. Ecoation had approximately 17 employees and 9 independent contractors at the time of filing these NOI Proceedings. Its headcount has since been reduced to 10 employees and 8 independent contractors.

7. Ecoation's offices are in West Vancouver, British Columbia (the "**BC Office**"), and Kingsville, Ontario (the "**Ontario Office**"). Ecoation has customers in Canada, the United States, Mexico, Europe, and Morocco.

B. Company finances

i. Secured creditors

8. Ecoation has no material secured creditors. Ecoation is subject to a general security agreement with the Royal Bank of Canada ("**RBC**"), registered in the British Columbia Personal Property Registry as 440418L. This registration secures the balance of Ecoation's RBC credit cards. The current outstanding balance on Ecoation's RBC credit cards is approximately $30,394.

ii. Unsecured creditors

9. Ecoation has the following material unsecured creditors:

   (a) **Unsecured loan**: on March 31, 2021, Ecoation entered into a Repayable Contribution Agreement (the "**AAF Loan**") with His Majesty the King in Right of Canada, as represented by the Minister of Agriculture and Agri-Food (the "**AAF**"). The AAF Loan is interest-free and is repayable in monthly installments. The current outstanding balance under the AAF Loan is approximately $3.3 million.

   (b) **Accounts payable**: Ecoation has approximately $27,714 in outstanding accounts payable to various service vendors.

iii. Government grants

10. Ecoation has received funding from several government grants. Ecoation's material government grants are:

   (a) a $100,000 grant from His Majesty the King in Right of Canada as represented by the Minister responsible for Western Economic Diversification Canada, entered on March 19, 2019;

   (b) a $6,417,804.05 grant from the Canada Foundation for Sustainable Development Technology, entered on April 26, 2019 (including $200,000 from the BC Innovative Clean Energy Fund);

(c) a $49,000 grant from the National Research Council Canada as represented by its Industrial Research Assistance Program (the "**NRCC-IRAP**"), entered on July 5, 2021;

(d) a $627,898 grant from the Canadian Agri-Food Automation and Intelligence Network, entered on May 1, 2022;

(e) a $25,000 grant from the NRCC-IRAP, entered on June 12, 2023;

(f) a $47,780 grant from the NRCC-IRAP, entered on January 3, 2024; and

(g) a $16,000 grant from the NRCC-IRAP, entered on November 5, 2024.

iv. Share structure

11. The authorized capital of Ecoation consists of: (i) an unlimited number of Common Shares; (ii) an unlimited number of Class Seed 1 Preferred Shares, issuable in series, of which an unlimited number are designated as Series 1 Seed 1 Preferred Shares and an unlimited number are designated as Series 2 Seed 1 Preferred Shares; and (iii) an unlimited number of Class Seed 2 Preferred Shares, issuable in series, of which an unlimited number are designated as Series 1 Seed 2 Preferred Shares and an unlimited number are designated as Series 2 Seed 2 Preferred Shares.

12. Of such authorized capital: (i) 1,472,424 Common Shares; (ii) 173,284 Series 1 Seed 1 Preferred Shares; (iii) 175,594 Series 2 Seed 1 Preferred Shares; (iv) 60,118 Series 1 Seed 2 Preferred Shares; and (v) 114,798 Series 2 Seed 2 Preferred Shares, are issued and outstanding in the name of Ecoation's founders, certain personnel, and certain investors.

13. Ecoation has issued simple agreements for future equity to certain investors for the aggregate purchase amount of $13,500,000 (the "**SAFEs**"). The SAFEs provide such investors with the right to certain shares in the capital of Ecoation, or certain payments, upon the occurrence of prescribed events. In these circumstances, the SAFEs are contractually junior to the payment of outstanding indebtedness and creditor claims.

v. Total assets and liabilities

14. Ecoation's most recent unaudited financial statements are for the year ended August 31, 2024. As of this date, Ecoation had approximately:

(a) $4,389,107 in total assets; and

(b) $17,398,440 in total liabilities (of which, approximately $13.5 million is the SAFEs).

C. Solvency and liquidity issues

15. Ecoation's revenues suffered from impacts of the COVID-19 pandemic beginning in 2020, and the Russian invasion of Ukraine beginning in 2022. These events caused financial hardship or uncertainty for many of Ecoation's customers, including global shortages of fertilizers and agricultural materials. As a result, many of Ecoation's customers prioritized spending their available capital on stockpiling supplies, rather than technology investment.

16. In response, Ecoation moved to selling simpler, lower cost products. These products saw increased demand, but did not generate sufficient revenue to meet company expenses.

17. In January 2025, Ecoation's largest creditor, the AAF, required a 1-year lump-sum payment on Ecoation's loan. This payment further reduced Ecoation's available liquidity.

D. Pre-filing restructuring efforts

18. Ecoation undertook restructuring efforts prior to these NOI proceedings. Beginning approximately 1 year ago, Ecoation began pitching its business to potential buyers and investors. 16 interested parties were shortlisted for further negotiation.

19. Ecoation and a special committee of its board of directors ultimately selected an entity related to the DIP Lender (the "**Stalking Horse Bidder**") as the best strategic option for a sale transaction. Unfortunately, delays in the diligence process and the liquidity issues discussed above required Ecoation to enter these NOI proceedings.

E. NOI restructuring plan

20. Ecoation believes that its business has significant potential value and wishes to continue working with the Stalking Horse Bidder, but it has become clear that a Court supervised insolvency process is required given the company's solvency and liquidity issues.

21. Ecoation has entered into a Stalking Horse Purchase Agreement Term Sheet (the "**Stalking Horse Term Sheet**") with the Stalking Horse Bidder, pursuant to which the Stalking Horse Bidder proposes to acquire a significant portion of Ecoation's business (the "**Purchased Business**").

22. Pursuant to the Stalking Horse Term Sheet, Ecoation and the Stalking Horse Bidder intend that, among other things:

    (a) Ecoation will conduct a sales process (administered by the Proposal Trustee) within these NOI Proceedings on customary terms (the "**Sales Process**"), with the bid deadline not to exceed 30 days from the commencement of the Sales Process;

    (b) the Stalking Horse Bidder will act as a stalking horse bidder to acquire all of Ecoation's assets, source code, intellectual property, employees and contractors, and material contracts that are necessary to own and operate the Purchased Business;

    (c) in lieu of a deposit, the Stalking Horse Bidder will provide Ecoation with interim financing pursuant to the DIP Term Sheet; and

    (d) if the Stalking Horse Bidder's stalking horse bid is successful, the contemplated transaction will be closed by way of an approval and vesting order.

23. Accordingly, Ecoation has worked with the Proposal Trustee to file the NOI. On this application, Ecoation is seeking:

    (a) approval of the DIP Loan and the DIP Lender's Charge; and

    (b) approval of the Administration Charge.

24. If the relief sought on this application is granted, Ecoation intends to return to this Court to seek approval of the Sales Process and the Stalking Horse Bidder's stalking horse bid. Ecoation and the Proposal Trustee agree that this is the best path forward to restructure Ecoation's business.

i. DIP Loan and DIP Lender's Charge

25. The DIP Lender has agreed to provide Ecoation with the DIP Term Sheet. The material terms of the DIP Term Sheet are as follows:

(a) Maximum principal amount: $1,000,000;

(b) Interest rate: 12%;

(c) Fees: $20,000 commitment fee, (being 2% of the maximum principal amount);

(d) Recoverable Expenses: Ecoation shall pay all reasonable and documented fees and expenses of the DIP Lender;

(e) Security: a super priority charge on the property, assets, and undertakings of Ecoation in the amount of $1,000,000 subject only to the Administration Charge;

(f) Conditions precedent: issuance of the Initial Order by this Court; and

(g) Maturity: the earlier of:

(i) the selection of a superior transaction under the Sales Process;

(ii) The occurrence of an "Event of Default" under the DIP Term Sheet;

(iii) the date the intended purchase agreement amongst Ecoation and the Stalking Horse Bidder is terminated;

(iv) the date on which these proceedings are terminated or converted into a bankruptcy proceeding; and

(v) July 31, 2025.

26. The financing associated with the DIP Term Sheet will provide sufficient liquidity to allow Ecoation to continue as a going concern during these NOI Proceedings.

27. Ecoation, with the assistance of the Proposal Trustee, has prepared a 12-week cash flow forecast (the "**Cash Flow Forecast**") demonstrating Ecoation's intended use of the funds provided for in the DIP Term Sheet.

28. It is a condition of the DIP Term Sheet that the DIP Lender be granted a priority charge on Ecoation's assets. Ecoation believes this charge is appropriate in the circumstances.

ii. Administration Charge

29. Ecoation requires the assistance of the Proposal Trustee and counsel to pursue the financing associated with the DIP Term Sheet, implement the Sales Process, and to conduct these NOI Proceedings generally.

30. Ecoation supports the Administration Charge and believes $150,000 is reasonable and appropriate in the circumstances. Given Ecoation's liquidity issues discussed above, the payment of a retainer to professionals is not feasible.

31. The Administration Charge will only be called upon if there are unpaid fees and costs owing to the Proposal Trustee, its counsel, or Ecoation's counsel.

32. Pursuant to the terms of the attached proposed Initial Order and the terms of the DIP Term Sheet, the Administration Charge will rank in priority to all other claims and encumbrances, including the DIP Lender's Charge.

Part 3: LEGAL BASIS

33. Ecoation relies upon:

(a) *BIA*, Part III, Division I;

(b) *Bankruptcy and Insolvency Rules*, C.R.C., c. 368, Rules 11 to 13;

(c) the inherent jurisdiction of this Court; and

(d) such further and other legal basis as counsel may advise and this Court may allow.

A. Approval of the DIP Loan and the DIP Lender's Charge

34. Section 50.6 of the *BIA* expressly authorizes the Court to approve interim financing and order a priority charge as security for amounts advanced under interim financing in NOI proceedings.

35. Section 50.6 states:

> **50.6(1)** On application by a debtor in respect of whom a notice of intention was filed under section 50.4 or a proposal was filed under subsection 62(1) and on notice to the secured creditors who are likely to be affected by the security or charge, a court may make an order declaring that all or part of the debtor's property is subject to a security or charge — in an amount that the court considers appropriate — in favour of a person specified in the order who agrees to lend to the debtor an amount approved by the court as being required by the debtor, having regard to the debtor's cash-flow statement referred to in paragraph 50(6)(a) or 50.4(2)(a), as the case may be. The security or charge may not secure an obligation that exists before the order is made.
>
> **50.6(3)** The court may order that the security or charge rank in priority over the claim of any secured creditor of the debtor.
>
> **50.6(5)** In deciding whether to make an order, the court is to consider, among other things:
>
> (a) the period during which the debtor is expected to be subject to proceedings under this Act;
>
> (b) how the debtor's business and financial affairs are to be managed during the proceedings:
>
> (c) whether the debtor's management has the confidence of its major creditors;
>
> (d) whether the loan would enhance the prospects of a viable proposal being made in respect of the debtor;
>
> (e) the nature and value of the debtor's property;
>
> (f) whether any creditor would be materially prejudiced as a result of the security or charge; and
>
> (g) the trustee's report referred to in paragraph 50(6)(b) [...]
>
> BIA, s. 50.6.

36. Courts have recognized that, while interim financing and an associated charge will invariably impact other creditors to some degree, in circumstances where the debtor's operations would cease if the relief were not granted, any prejudice is outweighed by the benefits to all stakeholders of a successful proposal.

> *P.J. Wallbank Manufacturing Co. (Re)*, 2011 ONSC 7641 ["***Wallbank***"] at para 24.
>
> *OVG Inc. (Re),* 2013 ONSC 1794 at para 34.

37. To this extent, courts have granted charges such as the DIP Lender's Charge where:

(a) declining to approve interim financing and an attendant charge would result in the cessation of the debtor's business;

(b) the interim financing and a corresponding charge were supported by the proposal trustee; and

(c) the interim financing provided at least the prospect of increased value and a successful proposal.

> *Wallbank* at para 24.
>
> *Mustang GP Ltd. (Re)*, 2015 ONSC 6562 ["***Mustang***"] at paras 28-29.
>
> *Eureka 93 Inc. et. Al. (Re)*, 2020 ONSC 1482 at para 24.

38. The following factors support the approval of the DIP Term Sheet and the DIP Lender's Charge:

(a) Ecoation expects to be in these NOI Proceedings until at least June 20, 2025 (pending any further extension by this Court), which is supported by the Cash Flow Forecast;

(b) Ecoation will continue to operate its business with a view of completing the Sales Process and implementing a successful proposal to its creditors with oversight from the Proposal Trustee;

(c) The DIP Lender is supportive of the DIP Term Sheet and the efforts of Ecoation to restructure its affairs;

(d) Ecoation has no significant secured creditors;

(e) it is clear from the Cash Flow Forecast that approval of the DIP Term Sheet is necessary for Ecoation to continue its operations during these proceedings; and

(f) Ecoation understands that the Proposal Trustee is supportive of the DIP Term Sheet and the DIP Lender's Charge, in addition to the other relief sought on this application.

39. As such, the approval of the DIP Term Sheet and the corresponding DIP Lender's Charge is appropriate in these circumstances.

B. Approval of the Administration Charge

40. Section 64.2 of the *BIA* authorizes the Court to grant a super-priority charge in respect of the fees and expenses of the Proposal Trustee, its counsel, and the debtor's counsel.

41. Section 64.2 states:

> **64.2(1).** On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(l) is subject to a security or charge, in an amount that the court considers appropriate, in respect of the fees and expenses of:
>
> (a) the trustee, including the fees and expenses of any financial, legal or other experts engaged by the trustee in the performance of the trustee's duties:
>
> (b) any financial legal or other experts engaged by the person for the purpose of proceedings under this Division; and
>
> (c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for the effective participation of that person in proceedings under this Division.
>
> **64.2(2)** The court may order that the security or charge rank in priority over the claim of any secured creditor of the person.

BIA, s. 64.2.

42. Ecoation requires the specialized expertise, knowledge and continuing participation of the Proposal Trustee, the Proposal Trustee's counsel, and its counsel. In particular, the services of each professional is essential to the formulation of Ecoation's restructuring in these proceedings. Ecoation submits that the quantum of the proposed charge is appropriate given its business, outstanding liabilities, and the nature of the work involved in its proposal.

Colossus Minerals Inc., (Re) 2014 ONSC 514, at paras. 11-14.

43. It is not expected that there will be any duplication of the roles of the beneficiaries of the charge. Each has a distinct focus in the proceedings and the advancement of Ecoation's restructuring efforts. Their joint efforts will produce a better result overall.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Saber Miresmailli made April 9, 2025;

2. The First Report of the Proposal Trustee; and

3. Such further and other material as counsel may advise and this Court may allow.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

(a) file an application response in Form 33,

(b) file the original of every affidavit, and of every other document, that

(i) you intend to refer to at the hearing of this application, and

(ii) has not already been filed in the proceeding, and

(c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:

(i) a copy of the filed application response;

(ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing

of this application and that has not already been served on that person;

(iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Dated: April 10, 2025

Signature of ☐ Applicant(s)
☒ Lawyer for applicant(s)
Christian Garton
For: Mary Buttery, K.C.

To be completed by the court only:

Order made

[ ] in the terms requested in paragraphs ..... of Part 1 of this notice of application

[ ] with the following variations and additional terms:

.....

.....

.....

Date: .....[*dd/mmm/yyyy*].....

.....

Signature of [ ] Judge [ ] Associate Judge

Appendix

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ none of the above

SCHEDULE A

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL BY ECOATION INNOVATIVE SOLUTIONS INC.

SERVICE LIST

Osler, Hoskin & Harcourt LLP Suite 3000, Bentall Four 1055 Dunsmuir Street Vancouver, BC V7X 1K8 **Mary Buttery, K.C.** Direct: 604.692.2752 Email: mbuttery@osler.com **Christian Garton** Direct: 604.692.2719 Email: cgarton@osler.com *Counsel for Ecoation Innovative Solutions Inc.*	**McCarthy Tetrault LLP** 745 Thurlow Street Suite 2400 Vancouver, BC V6E 0C5 **Lance Williams** Direct: 604.643.7154 Email: lwilliams@mccarthy.ca **Ashley Bowron** Direct: 604.643.7973 Email: abowron@mccarthy.ca **Sue Danielisz (paralegal)** Email: sdanielisz@mccarthy.ca *Counsel for the Proposal Trustee*
KPMG Inc. 777 Dunsmuir St. Vancouver, BC V7Y 1K3 **Pritesh Patel** Direct: 416.468.7923 Email: pritpatel@kpmg.ca **Huey Lee** Direct: 604.646.6398 Email: hueylee@kpmg.ca **Mackenzie Wong** Direct: 416.777.8146 Email: mackenziewong@kpmg.ca *The Proposal Trustee*	**Canada Revenue Agency** Surrey National Verification and Collection Centre 9755 King George Boulevard Surrey BC V3T 5E1 Phone: 1-866-891-7403 Fax: 1-833-697-2389

Gowling WLG 1 First Canadian Place 100 King Street West, Suite 1600 Toronto, Ontario M5X 1G5 **Asim Iqbal** Direct: 647.202.6621 Email: asim.iqbal@gowlingwlg.com *Counsel for the DIP Lender*	

SCHEDULE B
Initial Order

(see attached)

No. B-250186
Estate 11-3209217
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL FILED BY ECOATION INNOVATIVE SOLUTIONS INC.

NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE *BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1995 c b-3*

ORDER MADE AFTER APPLICATION

BEFORE) THE HONOURABLE _____) 2025/04/15

ON THE APPLICATION of Ecoation Innovative Solutions Inc. ("**Ecoation**") coming on for hearing at Vancouver, British Columbia on the 15th day of April, 2025 AND ON HEARING Mary Buttery, K.C., counsel for Ecoation, and those other counsel listed in **Schedule "A"** hereto (if any); AND UPON READING the material filed AND PURSUANT TO the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 as amended (the "***BIA***") and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES that:

ADMINISTRATION CHARGE

1. For the fees incurred in connection with these proceedings, including those incurred prior to commencement of these proceedings, KPMG Inc., in its capacity as the "**Proposal Trustee**", McCarthy Tétrault LLP, in its capacity as counsel to the Proposal Trustee, and Osler, Hoskin & Harcourt LLP, in its capacity as counsel to Ecoation, shall be entitled to the benefit of, and are hereby granted, a charge (the "**Administrative Charge**") on all

current and future assets, undertakings and properties of Ecoation, of every nature and kind whatsoever, and wherever situated including all proceeds thereof (collectively, the "**Charged Property**"), which Administrative Charge shall not exceed an aggregate amount of $150,000, as security for their professional fees and disbursements incurred at their standard rates and charges, both before and after making of this Order in respect of these proceedings. The Administrative Charge shall have the priority set out in paragraph 9 below.

DIP LENDER CHARGE

2. Ecoation is authorized and empowered to enter into an agreement under substantially similar terms to the term sheet dated for reference April 7, 2025 (the **"DIP Term Sheet"**) between Ecoation as borrower, and 1001199137 Ontario Limited as lender (in such capacity, the "**DIP Lender**").

3. Ecoation is authorized and empowered to perform its obligations under the DIP Term Sheet (subject to obtaining such Court and other approvals as may be required in connection with any step or transaction contemplated therein) and to obtain and borrow under the financing associated with the DIP Term Sheet, provided that borrowing under such credit facility shall not exceed the principal amount of $1,000,000.

4. Ecoation is authorized and empowered to execute and deliver such mortgages, charges, hypothecs and security documents and other definitive documents (such documents, together with the DIP Term Sheet, collectively, the **"Definitive Documents"**), as is contemplated by the DIP Term Sheet or as may reasonably be required by the DIP Lender pursuant to the terms thereof, and Ecoation is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Definitive Documents as and when the same become due and are to be performed.

5. The DIP Lender shall be entitled to the benefit of and is granted a charge (the "**DIP Lender Charge**") on the Charged Property, which DIP Lender Charge shall not secure an

obligation that exists before this Order is made. The DIP Lender Charge shall attach to the Charged Property and shall secure all obligations under the Definitive Documents.

6. Notwithstanding any other provisions of this Order, the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender Charge or any of the Definitive Agreements.

7. All claims of the DIP Lender pursuant to the Definitive Documents are not claims that may be compromised pursuant to any proposal under the *BIA* or the *Companies' Creditors Arrangement Act*, R.S.C. 1985 C-36 ("***CCAA***") filed by Ecoation without the consent of the DIP Lender and the DIP Lender shall be treated as unaffected in any proposal filed by Ecoation under the *BIA* or the *CCAA* with respect to any obligations outstanding to the DIP Lender under or in respect of the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

8. The Administrative Charge and the DIP Lender Charge (together, the "**Charges**") each constitute a mortgage, security interest, assignment by way of security and charge on the Charged Property and shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, the "**Encumbrances**"), in favour of any person, notwithstanding the order of perfection or attachment.

9. The priorities as among the Charges shall be:

(a) First – the Administrative Charge, up to the maximum amount of $150,000; and

(b) Second – the DIP Lender Charge up to the maximum principal amount of $1,000,000.

10. Any security documentation evidencing, or the filing, registration or perfection of, the Charges shall not be required, and the Charges shall be effective as against the Charged Property and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect such Charges.

11. The Charges and Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the beneficiaries of the Charges (the "**Chargees**") 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 the *BIA* or any bankruptcy order made pursuant to such application(s); (c) the filing of any assignments for the general benefit of creditors made pursuant to the *BIA*; (d) the filing by Ecoation for relief pursuant to the *CCAA*; (e) the provisions of any federal or provincial statutes; or (f) 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, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (each, an "**Agreement**") which binds Ecoation, and notwithstanding any provision to the contrary in any Agreements:

(a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or deemed to constitute a breach by Ecoation of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any person entity whatsoever as a result of any breach of any Agreement caused by or resulting from Ecoation entering into the Definitive Documents, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

(c) the payments made by Ecoation pursuant to this Order, the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

12. The Charges created by this order over leases of real property in Canada shall only be a charge of Ecoation's interest in such real property leases.

GENERAL

13. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to

assist each of Ecoation or the Proposal Trustee, as the case may be, 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 Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.

14. Ecoation or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

15. Endorsement of this Order by counsel appearing on this application, other than counsel for Ecoation, is hereby dispensed with.

16. Leave is hereby granted for counsel to appear at future hearings in this matter remotely by video.

THE FOLLOWING PARTIES APPROVE OF THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

APPROVED BY:

_____

Signature of Mary Buttery, K.C., lawyer for the Applicant

_____

BY THE COURT

REGISTRAR IN BANKRUPTCY

SCHEDULE "A"

Appearance List

NAME	APPEARING FOR