

District of Ontario  
Division No. 09  
Court No.  
Estate No.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE PROPOSAL OF  
LAZERTHERM MARKETING INC.  
OF THE CITY OF PICKERING  
IN THE PROVINCE OF ONTARIO

PROPOSAL

October 15, 2010

Lazertherm Marketing Inc. (hereinafter called the "**Debtor**" or "**LAZERTHERM**") hereby submits the following Proposal under the provisions of the *Bankruptcy and Insolvency Act*.

Definitions

1. In this Proposal:

- (a) "**Act**" means the Bankruptcy and Insolvency Act R.S.C. 1985, c B-3, as amended and in force as at the Date of the Proposal.
- (b) "**Approval**" means the Approval of the Proposal by the statutory majorities of the Creditors under the Act.
- (c) "**Approval Date**" means the date upon which the Approval Order occurs.
- (d) "**Approval Order**" means an Order of the Court approving the Proposal.
- (e) "**Claim**" means any right of any Person against the Debtor in connection with any indebtedness, liability or obligation of any kind of the Debtor which indebtedness, liability or obligation is in existence on, or which is based in whole or



in part on any act, omission or fact that occurred or existed prior to the Date of the Proposal, whether or not reduced to judgment, liquidation, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, unsecured, present, future, known, unknown, by guarantee, by surety or otherwise, at law or inequity, and whether or not such a right is executor in nature, including, without limitation, the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action;

- (f) "**Court**" means the Ontario Superior Court of Justice, in Bankruptcy.
- (g) "**CRA**" means Canada Revenue Agency
- (h) "**Creditors**" means any person having a Claim.
- (i) "**Date of the Proposal**" means **October 15, 2010**, the date of the filing of the Proposal with the Official Receiver.
- (j) "**Inspectors**" means one or more inspectors appointed pursuant to the Act as provided for in the Proposal.
- (k) "**Ordinary Creditors**" means being those Persons with Claims not referred to in paragraphs 2, 3, 4 or 5 hereof, including Claims of every nature and kind whatsoever, whether due or not due for payment as of the Date of the Proposal, and including contingent or liquidated claims arising out of any transaction entered into by the Debtor, or in which it was involved, prior to the Date of the Proposal;
- (l) "**Performance of the Proposal**" means the payment of all amounts to be paid to the Trustee for distribution to Creditors in respect of Claims and the implementation of all other provisions of this Proposal.
- (m) "**Person**" means any individual, partnership, joint venture, trust, Debtor, unincorporated organization, government or any agency or instrumentality thereof, or any other entity howsoever designated or constituted.
- (n) "**Preferred Claim**" means a Claim for which Section 136 of the Act prescribes payment in priority to Ordinary Creditors.



(o) "**Preferred Creditor**" means a Creditor with Proven Claims and which are, subject to the rights of Secured Creditors, required by the Act to be paid in priority to all other Claims under a proposal made by a debtor.

(p) "**Proposal**" means this Proposal and all schedules or appendices hereto, including as the same may be amended or supplemented from time to time, and all uses of the words "hereto", "herein", "hereof" and "hereunder" and similar expressions refer to this Proposal as a whole rather than any portion of it;

(q) "**Proven Claim**" means the amount of the Claim of such Creditor finally determined in accordance with the Act.

(r) "**Secured Creditors**" means any Creditor holding a valid and enforceable security interest in the assets and property of the Debtor, to the extent of the value of the security.

(s) "**Trustee**" means Meyers Norris Penny Limited or its duly appointed successor or successors.

### **Purpose of Proposal**

2. The purpose of this Proposal is to effect a restructuring of the business and affairs of the Debtor in the expectation that all Creditors will derive a greater benefit from the continued operation of the business and affairs of the Debtor than would result from a forced liquidation of its assets.

### **Deemed Trust Claims**

3. (a) The Debtor shall, within six months after court approval of this Proposal, pay in full, by equal monthly installments, all amounts of any kind that could be subject to a demand under subsection 224 (1.2) of the Income Tax Act or under any substantial similar provision of the provincial legislation that were outstanding at the Date of the Proposal.

(b) The Debtor shall file, at or prior to the hearing of the application for approval of the Proposal, full particulars with the Court and CRA of any default in any remittance of



an amount referred to in section 60 (1.1) of the Act that became due after to Date of the Proposal.

**Secured Creditors**

4. The Claims of Secured Creditors shall be paid as may be arranged between the Debtor and the holder(s) of such claims.

**Preferred Creditors**

5. (a) Subject to paragraph 5(b), all proven Claims of Preferred Creditors shall be paid in full priority to all proven Claims of Ordinary Creditors.

(b) In the case of employees and former employees of the Debtor, amounts equal to the amounts, if any, that they would be entitled to receive under section 136(1)(d) of the Act, if the Debtor became bankrupt on the Date of the Proposal, shall be paid in the ordinary course after approval of the Proposal by the Court.

**Proposal Professionals**

6. All proper fees and expenses of the Trustee, incidental to the proceedings arising out of the Proposal and in connection with the preparation of the Proposal, including advice to the Debtor in connection therewith, which is estimated between \$60,000 to \$70,000 plus HST, shall be paid, in priority to all Claims of creditors. Upon Court Approval of the Proposal the Trustee will be entitled to an interim draw of \$30,000 plus HST.

**Goods or Services Given After Filing Date**

7. (a) Claims arising in respect of goods supplied, services rendered or other consideration given to the Debtor on or after the Date of the Proposal shall be paid in full by the Debtor in the ordinary course of business.

(b) If applicable, the Debtor shall, during the course of the Proposal:

(i) Remit current year payroll deductions (Employment Insurance premiums, Canada Pension Plan contributions, and Income tax deductions) as required;



(ii) Remit current HST payments and file HST returns as required by the *Excise Tax Act*; and

(iii) Remit any other current amounts and file any other returns as required by the Income Tax Act.

**Ordinary Creditors**

8. The Debtor shall pay \$500,000 (the "**Funds**") to the Trustee for the sole purpose of distributing same in accordance with the terms of the Proposal. The Funds shall be paid in three installments, in trust as follows:

- (a) \$100,000 15 business days subsequent to Court Approval;
- (b) \$200,000 within 90 days of Court Approval; and
- (c) \$200,000 within 260 days of Court Approval.

Ordinary Creditors shall accept the proceeds in full and complete satisfaction of their Claims. The net proceeds will only be distributed to Ordinary Creditors after the full payment of Deemed Trust claims referred to in paragraph 3(a).

Subject to finalizing Proven Claims, it is the intention to distribute the net proceeds, together with interest earned in the estate trustee account to Ordinary Creditors, after the claims referred to in paragraphs 5 and 6, as follows:

- (i) Claims of \$3,000 or less are to be paid in full; and
- (ii) Claims in excess of \$3,000, their pro rata share, of the net proceeds, after deductions of the Claims noted in paragraph 8 (i) above.

**Debtor's Right under the Proposal**

9. The Debtor shall have the right, pursuant to the Act, to terminate any contract for the purchase of goods or services or any contract for the rental or lease of equipment, and any affected creditor or lessor, as the case may be, shall have the right to seek to prove a Claim as an Ordinary Creditor for any amount due together with any claim for damages. For any contract terminated under this provision, the Claims of such persons shall be a Claim provable in the Proposal and such Creditors shall have no further right to



pursue their respective Claims outside the terms of the Proposal. For greater certainty, any Creditor affected by this paragraph shall be an Ordinary Creditor for the purposes of the Proposal.

10. The Debtor shall have the right, pursuant to the Act, to terminate any employee and any such affected employee, as the case may be, shall have the right to seek to prove a Claim as an ordinary Creditor for any termination and severance pay which may be owing in consequence of their termination. The Claims of such Persons shall be a Claim provable in the Proposal and such Creditors shall have no further right to pursue their Claims outside the terms of this Proposal. For greater certainty, any creditor affected by this paragraph shall be an Ordinary Creditor for the purposes of the Proposal.

11. The Debtor shall have the right, pursuant to the Act, to disclaim any commercial lease of real property in accordance with subsection 65.2 (1) of the Act. Any such affected landlord(s) may file a Proof of Claim as an Ordinary Creditor for the actual losses resulting from such disclaimer.

12. The Debtor, with the consent of the Trustee, shall have the right at any time up until conclusion of the meeting of creditors or any adjournment thereof to unilaterally amend the Proposal, provided that any amendment made pursuant to this paragraph shall not reduce the rights and benefits given to the Creditors under the Proposal before any such amendment, and provided further that any and all amendments shall be deemed to be effective as of the Date of the Proposal. The Debtor need only notify the attendees at the meeting of any amendment and need not distribute in advance of the meeting any notice of amendment. The Debtor shall further have the right to unilaterally amend the Proposal at any time after the meeting of creditors to vote on this Proposal, including after Court Approval as well as during of after implementation, as long as the Trustee is satisfied that such amendment does not materially prejudice any of the classes of Creditors entitled to share in the Proposal Funds, provided that the Trustee shall not be liable for such amendment or its approval thereof, and further the Debtors may but shall not be obliged to issue any notice of such amendment to any Creditor and any and all amendments shall be deemed to be effective as of the Date of the Proposal.

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**Meeting of Creditors**

13. At the meeting of creditors held to consider the Proposal, the Creditors, if they so desire, may appoint one or more, but not exceeding five inspectors whose powers will be restricted to:

- (a) Advising the Trustee in accordance with the provisions of the Act;
- (b) Advising the Trustee in respect of any disputes that may arise as to the validity of Claims of Preferred Creditors and Ordinary Creditors under the Proposal;
- (c) Authorizing an extension of time for the making of any payments to be made pursuant to paragraph 8 of the Proposal; and
- (d) The authority and term of office of the inspectors will terminate upon the Debtor's performance of the Proposal.
- (e) The chairperson may adjourn the meeting of creditors upon such terms as are considered appropriate by the chairperson for the purpose of considering any amendments, variations, modifications or supplements to this Proposal.

**Claims against Directors**

14. Any Claims against the Debtor by any creditors that are also Claims against the directors and/or officers of the Debtor that relate to obligations of the Debtor where the directors and/or officers are under any law liable in their capacity as directors and/or officers for the payment of such obligations shall be, and upon Court approval of this Proposal, are, to the extent permitted by the Act, released and forever discharged as against the directors and/or officers of the Debtor.

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**Default**

15. The Debtor agrees that time shall be of the essence of the Proposal, and in the event any term or provision herein is not fully performed at the time and in the manner specified, each such deficiency shall constitute a default in the performance of a provision of the Proposal, and in that event, the Debtor further agrees that it shall either remedy each default, as required by s. 62.1 of the Act, or consent to any application for annulment of the Proposal.

**Stay of Proceedings**

16. During the Proposal Period, and provided the Debtor is not in default hereunder, each Creditor, other than the Secured Creditors, will be stayed from commencing or continuing any proceeding or remedy against the Debtor or its property based upon a Claim existing on or before the Date of the Proposal, or whose Claim has arisen after the Date of the Proposal as a result of the termination, repudiation or restructuring of any contract, lease, license, equipment lease, employment relationship or other agreement after the Date of the Proposal including, without limitation, any proceeding or remedy to recover payment of such Claim, to realize against any security granted in respect of such Claim, to recover or enforce a judgment against the Debtor in respect of such Claim or to initiate any proceedings against it under any applicable bankruptcy, insolvency or other laws in respect of such Claim, other than an application or proceeding in connection with this Proposal.

**Discharge of Trustee**

17. The Trustee may apply for its discharge upon Full Performance of the Proposal by the Debtor.

**Miscellaneous**

18. The Debtor acknowledges and admits that:

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(a) The Proposal is made to all Ordinary Creditors with Claims for debts and liabilities, present or future, to which the Debtor was subject at the time for determining Claims of Creditors of the Proposal.

(b) The security of each secured Creditor of the Debtor is assessed in the Proposal in an amount that is equivalent to the amount of each Secured Creditor's claim;

(c) The Proposal is not made conditional on the purchase of shares or securities or on any other payment or contribution by creditors; and

(d) Each Creditor who deals with the Debtor otherwise than at arm's length, within the meaning of section 4 of the Act, shall withdraw or postpone his/her/its Claim and acknowledges in writing that he/she/it has no entitlement to or share in any dividend to Ordinary Creditors.

19. Nothing herein shall be construed in any way to limit or restrict the right of any Creditor to challenge the security of a Secured Creditor of the Debtor, whether exercised before or after approval of the Proposal.

**Performance Certificate**

20. The Trustee will give the Debtor and the Official Receiver the certificate provided for in Section 65.3 of the Act on the date that all payments hereunder have been made.

**DATED AT MARKHAM** this 15<sup>th</sup> day of October, 2010.

**LAZERTHERM MARKETING INC.**

Per: \_\_\_\_\_

**Mark Defreitas - President**

