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*Counsel to the Debtors
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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

PARETEUM CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No.: 22-10615 (LGB)

(Jointly Administered)

**NOTICE OF PRESENTMENT OF PROPOSED ORDER
AUTHORIZING THE DEBTORS TO EMPLOY AND PAY
PROFESSIONALS, INCLUDING MCGUIREWOODS LLP,
UTILIZED IN THE ORDINARY COURSE OF BUSINESS
NUNC PRO TUNC TO THE PETITION DATE**

PLEASE TAKE NOTICE that upon the annexed motion (the “Motion”) of Pareteum Corporation, the debtors and debtors in possession in above-captioned cases (collectively, the “Debtors”), by their counsel, Togut, Segal & Segal LLP, will present for signature to the Honorable Lisa G. Beckerman, United States Bankruptcy Judge, in her Chambers, United States Bankruptcy Court for the Southern District of New York (the “Court”), One Bowling Green, Room 601, New York, New York 10004-1408, at **12:00 p.m. (prevailing Eastern Time) on July 14, 2022 (the “Presentment Date”)**, the attached proposed *Order Authorizing the Debtors to Employ and Pay Professionals, Including McGuireWoods LLP, Utilized in the Ordinary Course of Business Nunc Pro Tunc to the*

¹ The Debtors in the Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, if applicable, are: Pareteum Corporation (7538); Pareteum North America Corp. (f/k/a Elephant Talk North America Corp.) (9623); Devicescape Holdings, Inc. (2909); iPass, Inc. (4598); iPass IP LLC (2550); Pareteum Europe B.V.; Artium Group Ltd. (f/k/a Artium PLC); Pareteum Asia Pte. Ltd.; and Pareteum N.V. (f/k/a Artium N.V.). The Debtors’ corporate headquarters is located at 1185 Avenue of the Americas, 2nd Floor, New York, NY 10036.



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Petition Date (the “Proposed Order”), a true and complete copy of which is annexed to the Motion as Exhibit A.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief sought in the Motion must be made in writing and conform with the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules, and be filed with the Clerk of the Court at the address set forth above, with a copy delivered directly to Bankruptcy Judge Beckerman’s Chambers at:

beckerman.chambers@nysb.uscourts.gov, and served upon (i) Togut, Segal & Segal LLP, *counsel for the Debtors*, Attn: Frank A. Oswald, Esq. (frankoswald@teamtogut.com), and Brian F. Moore, Esq. (bmoore@teamtogut.com);

(ii) King & Spalding LLP, *proposed special counsel for the Debtors*, Attn: Thad Wilson, Esq. (thadwilson@kslaw.com), Leia Clement Shermohammed, Esq.

(lshermohammed@kslaw.com), and Michael R. Handler, Esq. (mhandler@kslaw.com)

(iii) Office of the United States Trustee, for Region 2, U.S. Federal Office Building, 201 Varick Street, Room 1006, New York, New York 10014, Attn: Susan Arbeit, Esq.

(Susan.Arbeit@usdoj.gov) and Annie Wells, Esq. (Annie.Wells@usdoj.gov); and (iv)

Sidley Austin LLP, *proposed counsel for the Official Committee of Unsecured Creditors*, Attn: Michael G. Burke, Esq. (mgburke@sidley.com), Matthew Clemente, Esq.

(mclemente@sidley.com), Michael Fishel, Esq. (mfishel@sidley.com), and Maegan

Quejada, Esq. (mquejada@sidley.com) so as to be filed and actually received by all

parties mentioned above not later than **4:00 p.m. (prevailing Eastern Time) on July 13, 2022 (the “Objection Deadline”).**

PLEASE TAKE FURTHER NOTICE that if an objection is timely filed, which is not resolved and/or withdrawn, a hearing will be scheduled before the Court on notice to the parties set forth in the notice provision of the Motion.

PLEASE TAKE FURTHER NOTICE that if no timely, written objections are filed and received in accordance with the foregoing, the Proposed Order may be entered by the Court.

DATED: New York, New York
June 30, 2022

PARETEUM CORPORATION, *ET AL.*
Debtors and Debtors in Possession
By their Counsel
TOGUT, SEGAL & SEGAL LLP,
By:

/s/Brian F. Moore

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

PARETEUM CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No.: 22-10615 (LGB)

(Jointly Administered)

**DEBTORS' MOTION FOR ORDER
AUTHORIZING THE DEBTORS TO EMPLOY AND PAY
PROFESSIONALS, INCLUDING MCGUIREWOODS LLP, UTILIZED IN THE
ORDINARY COURSE OF BUSINESS NUNC PRO TUNC TO THE PETITION DATE**

TO THE HONORABLE LISA G. BECKERMAN,
UNITED STATES BANKRUPTCY JUDGE:

Pareteum Corporation ("Pareteum") and certain of its affiliates, the debtor and debtors in possession (collectively, the "Debtors") in the above-captioned cases (the "Chapter 11 Cases"), hereby submit this motion (the "Motion") for entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Proposed Order"), pursuant to sections 105(a), 327, 330, and 331 of title 11 of the United States Code (the "Bankruptcy Code"), authorizing but not directing the Debtors to (i) retain and employ professionals, including McGuireWoods LLP ("MW"), utilized by the Debtors in the ordinary course of business (each an "Ordinary Course Professional" and

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collectively, the “Ordinary Course Professionals”), which employment shall be effective *nunc pro tunc* to the Petition Date (as defined below) and (ii) pay compensation and reimbursement of expenses of the Ordinary Course Professionals subject to certain limits set forth herein. In support of this Motion, the Debtors rely upon and incorporate by reference the *Declaration of Laura W. Thomas in Support of the Debtors’ Chapter 11 Petitions and First Day Pleadings* [Docket No. 3] (the “First Day Declaration”), filed on May 15, 2022 (the “Petition Date”). In further support of the Motion, the Debtors, by and through their undersigned counsel, respectfully represent:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction to consider the Motion under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated February 1, 2012. This is a core proceeding under 28 U.S.C. § 157(b). The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the Court entering a final order in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue of the Chapter 11 Cases and this Application in this district is proper under 28 U.S.C. §§ 1408 and 1409.

3. The legal predicates for the relief requested herein are sections 105(a), 327, 330, and 331 of the Bankruptcy Code.

BACKGROUND

I. The Chapter 11 Cases

4. On the Petition Date, each Debtor commenced a voluntary Chapter 11 case by filing a petition for relief under chapter 11 of the Bankruptcy Code. On May 18, 2022, the Court entered an order authorizing the joint administration and procedural consolidation of the Chapter 11 Cases pursuant to Bankruptcy Rule 1015(b) [Docket No. 37].

5. The Debtors continue to operate their businesses and manage their properties as debtors and debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. On May 24, 2022, the United States Trustee for the Southern District of New York (the “U.S. Trustee”) appointed the Official Committee of Unsecured Creditors of the Debtors (the “Creditors’ Committee”) pursuant to section 1102(a) of the Bankruptcy Code [Docket No. 52]. No trustee or examiner has been appointed in these Chapter 11 Cases.

6. Pareteum is a publicly held, leading edge, global provider of mobile networking software solutions and services for communications service providers and enterprise retail customers. It has operations in North America, Latin America, Europe, the Middle East, Africa, and the Asia-Pacific region. Pareteum provides a one-stop solution for a full suite of mobile, fixed, and convergent telecommunication software services. Pareteum’s unique platform connects people and devices around the world using a secure, ubiquitous, and highly scalable solution to deliver data, voice, video, SMS/text messaging, media, and content enablement to its customers. Every day, millions of people around the world utilize Pareteum’s global

cloud communications software platform to enhance their mobile experience and provide value to their employees and leading customers.²

7. On May 18, 2022, the Court entered the *Interim Order (I) Authorizing the Debtors to Obtain PostPetition Senior Secured, Priming and Superpriority Financing, (II) Authorizing Use of Cash Collateral, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* [Docket No. 39] (the “Interim DIP Order”). Among other things, the Interim DIP Order authorized the Debtors to obtain postpetition financing pursuant to a new money multi-draw term loan facility in the principal amount of \$6 million with an initial \$3 million available during the period pending entry of a final DIP order. The Interim DIP Order also approved an initial DIP budget (the “DIP Budget”), which provides for \$45,000 for compensation of Ordinary Course Professionals through the Sale Closing (as defined below). On June 21, 2022, the Court entered an order approving the Debtors’ postpetition financing and the DIP Budget on a final basis [Docket No. 130].

8. On May 31, 2022, the Court entered the *Order (I) Approving (A) Bidding Procedures for Sales of Debtors’ Assets, (B) Stalking Horse Expense Reimbursement, (C) Form and Manner of Notice of Sales, Auction, and Sale Hearings, and (D) Assumption and Assignment Procedures; (II) Scheduling Auction and Sale Hearings; And (III) Granting Related Relief* [Docket No. 76] (the “Bidding Procedures Order”), which, among other things, authorized the Debtors to commence a sale process for substantially all the Debtors assets (the “Sale”) based upon an asset purchase agreement (the “Stalking Horse Asset Purchase Agreement”) between the Debtors, as sellers, and Circles MVNE Pte. Ltd. and Channel Ventures Group, LLC, as purchasers (together, the “Purchasers”).

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration.

9. Pursuant to the Bidding Procedures Order, on June 1, 2022, the Debtors filed the *Notice of Sale, Bidding Procedures, Auction, and Sale Hearing* [Docket No. 79] (the “Sale Notice”). The Sale Notice scheduled an auction for the Debtors’ assets for June 15, 2022 if there were two or more Qualified Bids (as defined in the Bidding Procedures Order) for such assets.

10. On June 14, 2022, having received no Qualified Bids (as defined in the Bidding Procedures Order), the Debtors filed the *Notice of Cancellation of Auction and Designation of Stalking Horse Bidder as Successful Bidder Pursuant to Stalking Horse Bid* [Docket No. 110], which designated the Stalking Horse Bid as the winning bid for the Debtors’ assets.

11. At a hearing held on June 29, 2022, the Court indicated on the record that it would approve the Sale. Upon entry of the order approving the Sale, the Debtors intend to close the Sale on or around July 12, 2022 (the “Sale Closing”).

12. The \$45,000 set forth in the DIP Budget to compensate the Ordinary Course Professionals contemplates ordinary course services through the Sale Closing. Upon the Sale Closing, the Debtors will no longer have business operations and will complete the winddown of their affairs through a Chapter 11 liquidating plan. The Debtors contemplate confirming a Chapter 11 liquidating plan that will establish a litigation trust to pursue claims in favor of the Debtors’ estates for the benefit of the Debtors’ creditors. Funds to compensate Ordinary Course Professionals in excess of the \$45,000 set forth in the DIP Budget will come from additional funding sources not available to the Debtors as of the filing of this Motion.

13. Additional factual background information regarding the Debtors, including their business operations, their corporate and capital structure, and the events leading to these Chapter 11 Cases, is set forth in detail in the First Day Declaration.

II. The Debtors' Agreement With McGuireWoods LLP

14. Prior to the Petition Date, the Debtors utilized MW as counsel for services related to an investigation by the United States Department of Justice into historical financial reporting by certain of the Debtors' former directors and officers (the "DOJ Investigation"), securities and related litigation set forth in Exhibit J annexed to the First Day Declaration (the "Securities Litigation"), and financial restructuring services. Prepetition, the Debtors provided MW \$400,000 on account of services to be rendered (the "Advanced Payment").

15. The Debtors intend to utilize MW as an Ordinary Course Professional to provide legal services related to the DOJ Investigation and the Securities Litigation (the "Postpetition Services").

16. The Debtors anticipate the Postpetition Services to be limited and have reached an agreement with MW whereby: (i) MW shall retain \$125,000 of the Advanced Payment on account of amounts outstanding as of the Petition Date;; (ii) MW will promptly return to the Debtors \$200,000 of the Advanced Payment; (iii) MW will hold \$75,000 of the Advanced Payment (the "Retained Amount") for application to the Postpetition Services to the extent such services are not reimbursed by the Debtors' applicable insurance policies, including services related to the DOJ Investigation that are not covered by the Debtor's insurance policies;³ and (iv) after application of the \$125,000 set forth above, MW will not seek recovery from the Debtors on account of any remaining prepetition balance.

17. MW has agreed to seek the Debtors' approval before providing any services beyond the Postpetition Services. MW has also agreed to seek the Debtors'

³ By separate motion, the Debtors intend to seek a modification of the automatic stay so that certain parties, including MW, may seek payment of fees from applicable insurance.

approval for the continued provision of Postpetition Services in the event the fees for such services are anticipated to exceed the Retained Amount during these Chapter 11 Cases. For the avoidance of doubt, except as set forth in the OCP Procedures below, no funds from the DIP Budget will be used to compensate MW as an Ordinary Course Professional pursuant to this Motion.

RELIEF REQUESTED

18. By this Motion, the Debtors respectfully request entry of an order, substantially in the form of the Proposed Order, pursuant to sections 105(a), 327, 330, and 331 of the Bankruptcy Code, authorizing, but not directing, the Debtors to (i) retain and employ the Ordinary Course Professionals, which employment shall be effective *nunc pro tunc* to the Petition Date and (ii) pay compensation and reimbursement of expenses of the Ordinary Course Professionals subject to certain limits set forth herein and without the necessity of any further Court approval.

ORDINARY COURSE PROFESSIONALS

19. The Debtors customarily retain multiple legal professionals in the ordinary course of their businesses in a variety of matters unrelated to these Chapter 11 Cases.⁴ Such Ordinary Course Professionals will not play central roles in the

⁴ In addition to the legal Ordinary Course Professionals addressed herein, the Debtors intend to employ, without further application to the Court, additional non-legal professional persons ("Additional Professional Persons") from time to time to assist the Debtors in their day-to-day operations (e.g., insurance matters, audits and accounting matters, public relations matters, labor matters, and compensation matters). The employment of the Additional Professional Persons will not be subject to the Fee Caps (as defined below). Bankruptcy Code section 363(c) permits the Debtors to "enter into transactions . . . in the ordinary course of business, without notice or a hearing." 11 U.S.C. § 363(c). The Additional Professional Persons, who will not be involved in the administration of the Debtors' estates, are not within the ambit of Bankruptcy Code section 327. This is consistent with case law from this and other courts. *See, e.g., In re Johns-Manville Corp.*, 60 B.R. 612, 619 (Bankr. S.D.N.Y. 1986) ("[T]he phrase 'professional persons,' as used in § 327(a), is a term of art reserved for those persons who play an intimate role in the reorganization of a debtor's estate."); *In re Seatrain Lines, Inc.*, 13 B.R. 980, 981 (Bankr. S.D.N.Y. 1981) ("For the purposes of section 327(a), 'professional person' is limited to persons in those occupations which play a central role in the administration of the debtor proceeding."); *In re SageCrest II, LLC*, 2010 Bankr. LEXIS 1645, at *23 (Bankr. D. Conn. May 18, 2010); *In re Cyrus II P'ship*, 2008 WL 3003824, at *2-3 (Bankr. S.D. Tex. July

administration of these Chapter 11 Cases. A list of the Debtors' current Ordinary Course Professionals is attached to the Proposed Order as **Exhibit 1** (the "OCP List").⁵

20. The Ordinary Course Professionals have considerable expertise and familiarity with the Debtors' business and provide critical professional services necessary for the Debtors to comply with legal and regulatory requirements and operate their business soundly and efficiently. The Debtors believe that the continued postpetition employment and compensation of the Ordinary Course Professionals is in the best interests of the Debtors' estates, their creditors and other parties in interest.

21. In light of the significant costs associated with the preparation of employment applications for professionals who will receive relatively modest fees, the Debtors submit that it would be impractical and inefficient for the Debtors and their legal advisors to prepare and submit individual applications and proposed retention orders for each Ordinary Course Professional. Likewise, the Debtors believe that the OCP Procedures (as defined below) will relieve the Court, the U.S. Trustee, and other interested parties in these Chapter 11 Cases of the burden of reviewing fee applications involving relatively modest fees and expenses for OCPs. Overall, the Debtors estimate that they will not pay more than \$30,000 on average per month per Ordinary Course Professional and \$150,000 per Ordinary Course Professional for the duration of these Chapter 11 Cases.⁶

(continued...)

31, 2008). Therefore, no further application to the Court is required to employ Additional Professional Persons to assist the Debtors in the ordinary course of their businesses.

⁵ As discussed more fully below, the Debtors reserve the right to amend or supplement the OCP List in the future.

⁶ Certain of the Ordinary Course Professionals may be paid in currencies other than U.S. dollars, in which case the proposed caps will be set forth herein will be converted to local currency.

**PROPOSED PROCEDURES FOR EMPLOYMENT OF
ORDINARY COURSE PROFESSIONALS**

22. By this Motion, the Debtors are requesting that the Court approve and authorize the following procedures for the retention and employment and payment of the Ordinary Course Professionals (the "OCP Procedures"): ⁷

- a. Each Ordinary Course Professional shall provide to the Debtors: (i) a declaration (the "OCP Declaration"), substantially in the form attached to the Proposed Order as **Exhibit 2**, certifying that the Ordinary Course Professional does not represent or hold any interest adverse to the Debtors or their estates with respect to the matter on which the professional is to be employed; and (ii) a completed retention questionnaire (the "OCP Questionnaire"), substantially in the form attached to the Proposed Order as **Exhibit 3**.
- b. Prior to the receipt of payment for postpetition services rendered to the Debtors and expenses incurred, each Ordinary Course Professional on the OCP List, as may be amended and supplemented from time to time, shall provide to the Debtors, and to the Debtors' counsel, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119, Attn: Frank A. Oswald, Esq. (frankoswald@teamtogut.com) and Brian F. Moore, Esq. (bmoore@teamtogut.com), an OCP Declaration and OCP Questionnaire within thirty (30) days after the later of (x) entry of the Proposed Order and (y) the date on which the Ordinary Course Professional begins providing services for the Debtors, with at least fourteen (14) calendar days between the time of submission and any payment of postpetition invoice by the Debtors. Upon receipt of the OCP Declarations and OCP Questionnaires, the Debtors will file the same with the Court (which filing may be an omnibus filing of OCP Declarations and OCP Questionnaires from a number of Ordinary Course Professionals) and serve a copy on (i) the U.S. Trustee, Attn: Susan A. Arbeit, Esq. (Susan.Arbeit@usdoj.gov); (ii) Sidley Austin LLP, 787 Seventh Avenue, New York, New York 10019 Attn: Michael G. Burke, Esq. proposed counsel for the Creditors' Committee (mgburke@sidley.com); and (iii) any parties that have appeared and requested notice pursuant to the Bankruptcy Rules (collectively, the "Notice Parties").

⁷ For the avoidance of doubt, except as authorized by the Court, the OCP procedures shall not apply to professionals retained by the Debtors pursuant to separate orders of the Court. Furthermore, to the extent that any Ordinary Course Professional provides services to any non-debtor affiliates, such services fall outside the scope of the OCP procedures. Such Ordinary Course Professionals will continue to be retained and compensated by non-debtor affiliates for such services in the ordinary course of business.

- c. The Notice Parties shall have fifteen (15) days following service of OCP Declarations and OCP Questionnaires, as applicable (the "OCP Objection Deadline"), to file any objection to the retention stemming from the contents of the respective OCP Declaration or OCP Questionnaire (which fifteen (15) day period may be extended with the consent of the Debtors without further order of the Court). The Debtors shall not be authorized to retain and pay any Ordinary Course Professional that is the subject of any such objection until all outstanding objections have been withdrawn, resolved or overruled by order of the Court. If after fifteen (15) days no objection is filed, then the retention of such Ordinary Course Professional shall be deemed approved without further action and the Ordinary Course Professional may be paid in accordance with paragraph (d) below. If an objection received on or before the applicable OCP Objection Deadline with respect to any particular Ordinary Course Professional cannot be resolved, a hearing on the matter shall be held at the next reasonably available regularly scheduled hearing date.
- d. After the retention of an Ordinary Course Professional has been approved in accordance with (c) above, the Debtors are authorized, without applications being filed with the Court, to compensate and reimburse the Ordinary Course Professionals for 100% of their postpetition fees and expenses incurred in connection with postpetition services upon submission to the Debtors of an invoice setting forth in reasonable details the nature of the services rendered and the disbursements actually incurred by the particular Ordinary Course Professional, without prejudice to the rights of the Debtors and their estates to dispute any such invoice; *provided, however,* that compensation and reimbursement of expenses paid to an Ordinary Course Professional for postpetition services may not exceed: (i) \$30,000 per month, on average over the prior rolling three-month period (the "Monthly Fee Cap"), and (ii) \$150,000 for the duration of these Chapter 11 Cases (the "Total Fee Cap" and together with the Monthly Fee Cap, the "OCP Fee Caps"), for the Ordinary Course Professionals listed on the OCP List, as may be amended or supplemented from time to time, as being subject to the OCP Fee Caps, *provided further* that the Debtors be authorized to make payments to Ordinary Course Professionals in amounts in excess of the applicable OCP Fee Cap with the prior consent of the (x) U.S. Trustee, (y) the Creditors' Committee, and (z) to the extent the Debtors' DIP credit facility is still in place, the administrative agent to the Debtors' DIP credit facility (collectively, the "Review Parties") to the extent such additional funding becomes available from sources not yet available to the Debtors. If the Review Parties agree to increase the Monthly or Total Fee Cap for any particular Ordinary Course Professional (an "Increase on Consent"), the Increase on Consent shall be deemed approved without further

action of the Court, *provided*, that the Debtors shall file a notice with the Court of any such increase. In the absence of an Increase on Consent agreed to between the Review Parties, the OCP Fee Caps described above will be enforced.

- e. Any fees and expenses payable to an Ordinary Course Professional for postpetition services in excess of the applicable Monthly Fee Cap or Total Fee Cap, notwithstanding any Increase on Consent, shall be subject to prior approval of this Court in accordance with sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of this Court authorizing the payment of professionals retained in these Chapter 11 Cases, *provided, however*, that the applicable Ordinary Course Professional shall be entitled to interim payment of its requested fees up to the applicable OCP Fee Cap pending the Court's allowance of those requested fees in excess of the applicable OCP Fee Cap. Any payment towards the retention and employment of Ordinary Course Professionals would be without prejudice to payment arising from any subsequent retention of such Ordinary Course Professionals, if required.
- f. The Debtors reserve the right to seek authority to amend the Monthly Fee Cap and the Total Fee Cap as set forth in this section after consultation with the U.S. Trustee, and upon notice and hearing to the Court. For the avoidance of doubt, any increase in the OCP Fee Caps in excess of the funds available under the Debtors' DIP credit facility shall come from additional sources of funding not available to the Debtors as of the entry of the Proposed Order.
- g. Within thirty (30) days after the end of, and with respect to, each three-month period after the Petition Date (including any partial month in the first period), the Debtors shall file with the Court and serve on the Notice Parties a statement that provides information with respect to each Ordinary Course Professional paid during such period. Such statement shall include the following information: (i) the name of the Ordinary Course Professional; (ii) the aggregate amounts paid as compensation for services rendered and reimbursement of expenses incurred by that Ordinary Course Professional during the reported three-month period, including for the avoidance of doubt, any contingency fees earned; and (iii) a general description of the services rendered by that Ordinary Course Professional.
- h. The Debtors reserve the right to amend or supplement the OCP List from time to time as necessary. While the Debtors have attempted to identify all currently known Ordinary Course Professionals, some Ordinary Course Professionals may have been inadvertently omitted. Further, the nature of the Debtors' businesses may require

the retention of additional Ordinary Course Professionals from time to time. In either event, the Debtors propose to file one or more notices (each a "Supplemental Notice of OCPs") with the Court listing the additional Ordinary Course Professionals that the Debtors intend to employ reasonably promptly after they are identified. An Ordinary Course Professional listed on a Supplemental Notice of OCPs shall be retained and paid in accordance with the terms and conditions set forth in these OCP Procedures. For the avoidance of doubt, any Ordinary Course Professional listed on a Supplemental Notice of OCPs must timely submit OCP Declarations and OCP Questionnaires and the Notice Parties shall raise any objections within fifteen (15) days. In the absence of any such objection, the retention of such additional Ordinary Course Professionals shall be deemed approved without further action and the Ordinary Course Professional may be paid in accordance with paragraph (d) above. In the event an objection is timely filed, it shall be addressed, heard and/or resolved in accordance with the foregoing procedures described in paragraph (c).

23. Additionally, the Debtors are requesting that the Court approve and authorize the following modifications to the OCP Procedures for the retention and employment and payment of MW as an Ordinary Course Professional pursuant to Bankruptcy Code section 327(e) with respect to the Postpetition Services:

- a. MW shall retain \$125,000 of the Advanced Payment on account of amounts outstanding as of the Petition Date, and MW will return to the Debtors \$200,000 of the Advance Payment. MW shall not seek to recover from the Debtors or their estates, any remaining amounts due with respect to prepetition services provided to the Debtors by MW.
- b. Subject to obtaining relief from the automatic stay under separate order, MW will be permitted to seek to be paid amounts for prepetition services solely from the proceeds of any applicable insurance policies and, solely if required by the applicable insurer, may assert a proof of claim to obtain such payment from the applicable insurer; for the avoidance of doubt, no such amount sought shall have been previously paid to MW by an insurer or the Debtors.
- c. MW will maintain the Retained Amount, which may be used to compensate MW for the Postpetition Services to the extent the services are not paid to MW from the Debtors' insurance, such as services related to the DOJ Investigation. MW will provide the Debtors with bills showing the amounts to be applied from the

Retained Amount and general estimates for anticipated legal services before such services are rendered. For work that is reimbursable from the Debtors' insurance, MW shall seek to be paid for Postpetition Services from the proceeds of any of the Debtors' applicable insurance policies. MW's postpetition fees shall not materially exceed the Retained Amount without prior approval from the Debtors.

- d. To the extent the monthly fees are within the Monthly Fee Cap, MW will be compensated pursuant to the OCP Procedures set forth above; *provided, however*, for purposes of the OCP Fee Cap, MW's compensation shall be limited to the Retained Amount for the provision of the Postpetition Services (after application of any insurance proceeds actually and timely received by MW for any such Postpetition Services related to the Securities Litigation). To the extent MW requests compensation above the Retained Amount, the Debtors shall be authorized to make payments to MW in amounts in excess of the applicable OCP Fee Cap with the prior consent of the (x) U.S. Trustee, (y) the Creditors' Committee, and (z) to the extent the Debtors' DIP credit facility is still in place, the administrative agent to the DIP credit facility (collectively, the "Review Parties") to the extent such additional funding becomes available from sources not yet available to the Debtors.
- e. If there is a balance remaining for the Retained Amount at the end of the engagement (which conclusion will be determined by the Debtors in consultation with MW, or the Court as applicable), the balance will be returned to the Debtors or its successor promptly by MW.

BASIS FOR RELIEF

24. A debtor is required to obtain bankruptcy court approval before it is permitted to hire certain professionals and compensate them with funds from property of the estate. As explained below, however, the Bankruptcy Code allows a debtor to retain professionals in the ordinary course of business when they are not representing or assisting the debtor in carrying out its duties under the Bankruptcy Code. 11 U.S.C. § 327(a). The Debtors submit that most, if not all, of the Ordinary Course Professionals subject to this Motion may be retained and paid by the Debtors in the ordinary course of business, without Court approval. To provide the Court and parties in interest an opportunity to object, and to provide assurance to the Ordinary

Course Professionals of the Debtors' authority to compensate them for postpetition work, however, the Debtors have proposed the Procedures set forth herein.

25. Section 327(a) of the Bankruptcy Code provides as follows:

Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

11 U.S.C. § 327(a).

26. Section 327(e) of the Bankruptcy Code further provides as follows:

The trustee, with the court's approval, may employ, for a specified special purpose, other than to represent the trustee in conducting the case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

Id. § 327(e). Section 328(a) of the Bankruptcy Code provides, in relevant part, that the trustee "with the court's approval, may employ or authorize the employment of a professional person under section 327 or 1103 of this title, as the case may be, on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingency basis." *Id.* § 328(a).

27. Section 330 of the Bankruptcy Code authorizes a court to award reasonable compensation for actual and necessary services rendered by retained professionals. 11 U.S.C. § 330. Further, a court may exercise its broad discretion under section 105(a) of the Bankruptcy Code in connection with the foregoing. 11 U.S.C. § 105(a).

28. Although certain of the Ordinary Course Professionals may hold unsecured claims against the Debtors for prepetition services rendered to the Debtors, the Debtors do not believe that any of the Ordinary Course Professionals have an

interest materially adverse to the Debtors, their creditors, or other parties in interest with respect to the matters on which they are to be employed. Further, section 328(c) of the Bankruptcy Code excludes attorneys retained pursuant to section 327(e) from the requirement that such professional persons be "disinterested." *Id.* § 328(c). Accordingly, pursuant to the above-cited provisions of the Bankruptcy Code, the Court may authorize the retention of the Ordinary Course Professionals.

29. In light of the additional costs associated with the preparation of retention applications for professionals that likely will receive small fees as compared to the professionals retained to assist the Debtors in administering these Chapter 11 Cases, it is impractical and economically inefficient for the Debtors to submit individual retention applications and proposed retention orders for each Ordinary Course Professional. Accordingly, the Debtors request that the Court dispense with the requirement of individual retention applications and retention orders with respect to each Ordinary Course Professional.

30. Other than the Ordinary Course Professionals, all "professional persons" employed by the Debtors to assist in the administration of these Chapter 11 Cases will be retained by the Debtors pursuant to separate orders approving separate retention applications. Those professionals will be compensated in accordance with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, the Local Rules, and other orders of this Court.

31. The Debtors believe that the retention of Ordinary Course Professionals effective *nunc pro tunc* to the Petition Date is warranted under the circumstances of these Chapter 11 Cases so that the Ordinary Course Professionals may be compensated for their services prior to entry of an order substantially in the form of the Proposed Order. Further, the Debtors believe that no party-in-interest will be

prejudiced by the granting of the *nunc pro tunc* retention because the Ordinary Course Professionals have provided, and will continue to provide, valuable services to the Debtors' estates in the brief interim period between the Petition Date and entry of an order substantially in the form of the Proposed Order.

32. Courts in this jurisdiction routinely approve *nunc pro tunc* retention similar to that requested herein. *See, e.g., In re The McClatchy Co.*, Case No. 20-10418 (MEW) (Bankr. S.D.N.Y. Mar. 11, 2020) [Docket No. 173]; *In re Fairway Grp. Holdings Corp.*, Case No. 20-10161 (JLG) (Bankr. S.D.N.Y. Mar. 03, 2020) [Docket No. 245]; *In re Aurora Commercial Corp.*, Case No. 19-10843 (SCC) (Bankr. S.D.N.Y. May 9, 2019) [Docket No. 35]. Accordingly, the Debtors submit that the Court should authorize the retention of the Ordinary Course Professionals *nunc pro tunc* to the Petition Date.

RESERVATION OF RIGHTS

33. Nothing contained herein is intended to be or should be construed as: (a) an admission as to the validity of any claim against the Debtors; (b) a waiver of the Debtors' rights to dispute any claim on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion; (e) the assumption of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law. If the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

MOTION PRACTICE

34. This Motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of their application to this Motion. Accordingly, the Debtors submit that this Motion satisfies Local Rule 9013-1(a).

NOTICE

35. Notice of this Motion and its exhibits has been given to: (a) the U.S. Trustee; (b) counsel for the Purchasers; (c) counsel for the Creditors' Committee; (d) the parties identified on the Debtors' consolidated list of thirty (30) largest unsecured creditors; (e) the United States Attorney's Office for the Southern District of New York; (f) the Internal Revenue Service; (g) the United States Securities and Exchange Commission; (h) the attorneys general for the states where the Debtors conduct business operations; (i) the Federal Communications Commission; and (j) any other party entitled to notice pursuant to Local Bankruptcy Rule 9013-1(b) and which has filed a notice of appearance in these Chapter 11 Cases. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

36. The Motion and its exhibits have been reviewed by counsel for the U.S. Trustee who has no objection to entry of the Proposed Order.

NO PRIOR REQUEST

37. No prior request for the relief sought in this Motion has been made to this or any other court in connection with these Chapter 11 Cases.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: New York, New York
June 30, 2022

PARETEUM CORPORATION, *ET AL.*
Debtors and Debtors in Possession
By their Counsel
TOGUT, SEGAL & SEGAL LLP,
By:

/s/Brian F. Moore
FRANK A. OSWALD
BRIAN F. MOORE
One Penn Plaza, Suite 3335
New York, New York 10119
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bmoore@teamtogut.com

EXHIBIT "A"

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

PARETEUM CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No.: 22-10615 (LGB)

(Jointly Administered)

**ORDER AUTHORIZING THE DEBTORS TO EMPLOY AND PAY
PROFESSIONALS, INCLUDING MCGUIREWOODS LLP, UTILIZED IN THE
ORDINARY COURSE OF BUSINESS NUNC PRO TUNC TO THE PETITION DATE**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”), pursuant to sections 105(a), 327, 330, and 331 of the Bankruptcy Code, authorizing but not directing the Debtors to (i) retain and employ professionals, including McGuireWoods LLP (“MW”), utilized by the Debtors in the ordinary course of business (each an “Ordinary Course Professional” and collectively, the “Ordinary Course Professionals”), which employment shall be effective *nunc pro tunc* to the Petition Date, and (ii) pay compensation and reimbursement of expenses of professionals utilized by the Debtors in the ordinary course of business subject to certain limits set forth herein, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated February 1, 2012; and this Court having found that this is a

¹ The Debtors in the Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, if applicable, are: Pareteum Corporation (7538); Pareteum North America Corp. (f/k/a Elephant Talk North America Corp.) (9623); Devicescape Holdings, Inc. (2909); iPass, Inc. (4598); iPass IP LLC (2550); Pareteum Europe B.V.; Artidium Group Ltd. (f/k/a Artidium PLC); Pareteum Asia Pte. Ltd.; and Pareteum N.V. (f/k/a Artidium N.V.). The Debtors’ corporate headquarters is located at 1185 Avenue of the Americas, 2nd Floor, New York, NY 10036.

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties-in-interest; and this Court having found that the Debtors' notice of the Motion and opportunity for objections to the Motion to be filed were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Debtors are authorized, but not directed, in their discretion, to retain and compensate the professionals identified on the OCP List, attached hereto as **Exhibit 1**, for postpetition services in the ordinary course of business, in accordance with the following approved procedures (the "OCP Procedures"), *nunc pro tunc* to the Petition Date:

- (a) Each Ordinary Course Professional shall provide to the Debtors:
(i) a declaration (the "OCP Declaration"), substantially in the form attached to hereto as **Exhibit 2**, certifying that the Ordinary Course Professional does not represent or hold any interest adverse to the Debtors or their estates with respect to the matter on which the professional is to be employed; and (ii) a completed retention questionnaire (the "OCP Questionnaire"), substantially in the form attached hereto as **Exhibit 3**.
- (b) Prior to the receipt of payment for postpetition services rendered to the Debtors and expenses incurred, each Ordinary Course Professional on the OCP List, as may be amended and supplemented from time to time, shall provide to the Debtors, and to the Debtors' counsel, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119, Attn: Frank A. Oswald,

Esq. (frankoswald@teamtogut.com) and Brian F. Moore, Esq. (bmoore@teamtogut.com), an OCP Declaration and OCP Questionnaire within thirty (30) days after the later of (x) entry of the Proposed Order and (y) the date on which the Ordinary Course Professional begins providing services for the Debtors, with at least fourteen (14) calendar days between the time of submission and any payment of postpetition invoice by the Debtors. Upon receipt of the OCP Declarations and OCP Questionnaires, the Debtors will file the same with the Court (which filing may be an omnibus filing of OCP Declarations and OCP Questionnaires from a number of Ordinary Course Professionals) and serve a copy on (i) the U.S. Trustee, Attn: Susan A. Arbeit, Esq. (Susan.Arbeit@usdoj.gov); (ii) Sidley Austin LLP, 787 Seventh Avenue, New York, New York 10019 Attn: Michael G. Burke, Esq. proposed counsel for the Creditors' Committee (mgburke@sidley.com); and (iii) any parties that have appeared and requested notice pursuant to the Bankruptcy Rules (collectively, the "Notice Parties").

- (c) The Notice Parties shall have fifteen (15) days following service of OCP Declarations and OCP Questionnaires, as applicable (the "OCP Objection Deadline"), to file any objection to the retention stemming from the contents of the respective OCP Declaration or OCP Questionnaire (which fifteen (15) day period may be extended with the consent of the Debtors without further order of the Court). The Debtors shall not be authorized to retain and pay any Ordinary Course Professional that is the subject of any such objection until all outstanding objections have been withdrawn, resolved or overruled by order of the Court. If after fifteen (15) days no objection is filed, then the retention of such Ordinary Course Professional shall be deemed approved without further action and the Ordinary Course Professional may be paid in accordance with paragraph (d) below. If an objection received on or before the applicable OCP Objection Deadline with respect to any particular Ordinary Course Professional cannot be resolved, a hearing on the matter shall be held at the next reasonably available regularly scheduled hearing date.
- (d) After the retention of an Ordinary Course Professional has been approved in accordance with (c) above, the Debtors are authorized, without applications being filed with the Court, to compensate and reimburse the Ordinary Course Professionals for 100% of their postpetition fees and expenses incurred in connection with postpetition services upon submission to the Debtors of an invoice setting forth in reasonable details the nature of the services rendered and the disbursements actually incurred by the particular Ordinary Course Professional, without prejudice to the rights of the Debtors and their estates to dispute any such invoice; *provided, however*, that compensation and reimbursement of expenses paid to an Ordinary Course Professional for postpetition services may not

exceed: (i) \$30,000 per month, on average over the prior rolling three-month period (the "Monthly Fee Cap"), and (ii) \$150,000 for the duration of these Chapter 11 Cases (the "Total Fee Cap" and together with the Monthly Fee Cap, the "OCP Fee Caps"), for the Ordinary Course Professionals listed on the OCP List, as may be amended or supplemented from time to time, as being subject to the OCP Fee Caps, *provided further* that the Debtors be authorized to make payments to Ordinary Course Professionals in amounts in excess of the applicable OCP Fee Cap with the prior consent of the (x) U.S. Trustee, (y) the Creditors' Committee, and (z) to the extent the Debtors' DIP credit facility is still in place, the administrative agent to the Debtors' DIP credit facility (collectively, the "Review Parties") to the extent such additional funding becomes available from sources not yet available to the Debtors. If the Review Parties agree to increase the Monthly or Total Fee Cap for any particular Ordinary Course Professional (an "Increase on Consent"), the Increase on Consent shall be deemed approved without further action of the Court; *provided*, that the Debtors shall file a notice with the Court of any such agreed increase. In the absence of an Increase on Consent agreed to between the Review Parties, the OCP Fee Caps described above will be enforced.

- (e) Any fees and expenses payable to an Ordinary Course Professional for postpetition services in excess of the applicable Monthly Fee Cap or Total Fee Cap, notwithstanding any Increase on Consent, shall be subject to prior approval of this Court in accordance with sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of this Court authorizing the payment of professionals retained in these Chapter 11 Cases, *provided, however*, that the applicable Ordinary Course Professional shall be entitled to interim payment of its requested fees up to the applicable OCP Fee Cap pending the Court's allowance of those requested fees in excess of the applicable OCP Fee Cap. Any payment towards the retention and employment of Ordinary Course Professionals would be without prejudice to payment arising from any subsequent retention of such Ordinary Course Professionals, if required.
- (f) The Debtors reserve the right to seek authority to amend the Monthly Fee Cap and the Total Fee Cap as set forth in this section after consultation with the U.S. Trustee, and upon notice and hearing to the Court. For the avoidance of doubt, any increase in the OCP Fee Caps in excess of the funds available under the Debtors' DIP credit facility shall come from additional sources of funding not available to the Debtors as of the entry of the Proposed Order.
- (g) Within thirty (30) days after the end of, and with respect to, each three-month period after the Petition Date (including any partial

month in the first period), the debtors shall file with the Court and serve on the Notice Parties a statement that provides information with respect to each Ordinary Course Professional paid during such period. Such statement shall include the following information: (i) the name of the Ordinary Course Professional; (ii) the aggregate amounts paid as compensation for services rendered and reimbursement of expenses incurred by that Ordinary Course Professional during the reported three-month period, including for the avoidance of doubt, any contingency fees earned; and (iii) a general description of the services rendered by that Ordinary Course Professional.

- (h) The Debtors reserve the right to amend or supplement the OCP List from time to time as necessary. While the Debtors have attempted to identify all currently known Ordinary Course Professionals, some Ordinary Course Professionals may have been inadvertently omitted. Further, the nature of the Debtors' businesses may require the retention of additional Ordinary Course Professionals from time to time. In either event, the Debtors propose to file one or more notices (each a "Supplemental Notice of OCPs") with the Court listing the additional Ordinary Course Professionals that the Debtors intend to employ reasonably promptly after they are identified. An Ordinary Course Professional listed on a Supplemental Notice of OCPs shall be retained and paid in accordance with the terms and conditions set forth in these OCP Procedures. For the avoidance of doubt, any Ordinary Course Professional listed on a Supplemental Notice of OCPs must timely submit OCP Declarations and OCP Questionnaires and the Notice Parties shall raise any objections within fifteen (15) days. In the absence of any such objection, the retention of such additional Ordinary Course Professionals shall be deemed approved without further action and the Ordinary Course Professional may be paid in accordance with paragraph (d) above. In the event an objection is timely filed, it shall be addressed, heard and/or resolved in accordance with the foregoing procedures described in paragraph (c).

3. Additionally, the Debtors are authorized, to retain and compensate MW *nunc pro tunc* as of the Petition Date for postpetition services related to the pending DOJ Investigation and Securities Litigation referred to in the Motion (the "Postpetition Services"), in the ordinary course of business, in accordance with the following modifications to the OCP Procedures:

- (a) MW shall be an Ordinary Course Professional pursuant to Bankruptcy Code section 327(e) with respect to the Postpetition Services.
- (b) MW shall retain \$125,000 of the Advanced Payment on account of amounts outstanding as of the Petition Date, and MW will return to the Debtors \$200,000 of the Advance Payment. MW shall not seek to recover from the Debtors or their estates, any remaining amounts due with respect to prepetition services provided to the Debtors by MW.
- (c) Subject to obtaining relief from the automatic stay under separate order, MW will be permitted to seek to be paid amounts for prepetition services solely from the proceeds of any applicable insurance policies and, solely if required by the applicable insurer, may assert a proof of claim to obtain such payment from the applicable insurer; for the avoidance of doubt, no such amount sought shall have been previously paid to MW by an insurer or the Debtors.
- (d) MW will maintain \$75,000 of the Advanced Payment (the "Retained Amount"), which may be used to compensate MW for the Postpetition Services to the extent the services are not paid to MW from the Debtors' insurance, such as services related to the DOJ Investigation. MW will provide the Debtors with bills showing the amounts to be applied from the Retained Amount and general estimates for anticipated legal services before such services are rendered. For work that is reimbursable from the Debtors' insurance, MW shall seek to be paid for Postpetition Services from the proceeds of any of the Debtors' applicable insurance policies. MW's postpetition fees shall not materially exceed the Retained Amount without prior approval from the Debtors.
- (e) To the extent the monthly fees are within the Monthly Fee Cap, MW will be compensated pursuant to the OCP Procedures set forth above; *provided, however*, for purposes of the OCP Fee Cap, MW's compensation shall be limited to the Advance Retainer for the provision of the Postpetition Services (after application of any insurance proceeds actually and timely received by MW for any such Postpetition Services). To the extent MW requests compensation above the Retained Amount, the Debtors shall be authorized to make payments to MW in amounts in excess of the applicable OCP Fee Cap with the prior consent of the (x) U.S. Trustee, (y) the Creditors' Committee, and (z) to the extent the Debtors' DIP credit facility is still in place, the administrative agent to the Debtors' DIP credit facility (collectively, the "Review Parties") to the extent such additional funding becomes available from sources not yet available to the Debtors.

- (f) If there is a balance remaining for the Retained Amount at the end of the engagement (which conclusion will be determined by the Debtors in consultation with MW, or the Court as applicable), the balance will be returned to the Debtors or its successor promptly by MW.

4. If any particular Ordinary Course Professional exceeds the OCP Fee Caps, the Debtors shall seek leave to either increase the OCP Fee Caps (either for that particular Ordinary Course Professional or for all Ordinary Course Professionals) or to retain the particular Ordinary Course Professional pursuant to section 327 of the Bankruptcy Code.

5. Nothing in the Motion or this Order, or the Debtors' payment of any claims pursuant to this Order, shall be deemed or construed as: (a) an admission as to the validity of any claim against the Debtors; (b) a waiver of the Debtors' rights to dispute any claim on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion; (e) the assumption of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law.

6. Entry of this Order and approval of the OCP Procedures does not affect the Debtors' ability to (i) dispute any invoice submitted by an Ordinary Course Professional or (ii) retain additional Ordinary Course Professionals from time to time as needed, and the Debtors reserve all of their rights with respect thereto.

7. The forms of OCP Declaration and OCP Questionnaire (attached hereto as **Exhibit 2** and **Exhibit 3**, respectively) are approved.

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

9. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: _____, 2022
New York, New York

THE HONORABLE LISA G. BECKERMAN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

List of Ordinary Course Professionals

<u>Ordinary Course Professional</u>	<u>Address</u>	<u>Service Provided</u>	<u>Est. Avg. Monthly Payment</u>
Harrison Goddard Foote (HGF Limited)	1 City Walk Leeds, West Yorkshire LS11 9DX	UK-based IP, Patent, and Trademark Counsel	\$13,000
McGuireWoods LLP	1251 Avenue of the Americas, 20th Floor, New York, NY 10020	Securities Litigation and DOJ Investigation Counsel	\$30,000
Trilegal	DFL South Court Saket, New Delhi, India 110017	Intercompany Transfer and Tax Counsel	\$1,000

EXHIBIT "2"
Form of Declaration

TOGUT, SEGAL & SEGAL LLP

Frank A. Oswald
Brian F. Moore
Amy M. Oden
One Penn Plaza, Suite 3335
New York, New York 10119
(212) 594-5000

*Proposed Counsel to the Debtors
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

PARETEUM CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No.: 22-10615 (LGB)

(Jointly Administered)

DECLARATION OF DISINTERESTEDNESS

STATE OF [_____])
) ss:
COUNTY OF [_____])

[Affiant], being duly sworn, upon his oath, deposes and says:

1. I am a [Position] of [Firm], located at [Street, City, State Zip Code] (the "Firm").

2. The above-captioned debtors and debtors in possession (collectively, the "Debtors") have requested that the Firm provide legal services to the Debtors and the Firm has consented to provide such services.²

¹ The Debtors in the Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, if applicable, are: Pareteum Corporation (7538); Pareteum North America Corp. (f/k/a Elephant Talk North America Corp.) (9623); Devicescape Holdings, Inc. (2909); iPass, Inc. (4598); iPass IP LLC (2550); Pareteum Europe B.V.; Artidium Group Ltd. (f/k/a Artidium PLC); Pareteum Asia Pte. Ltd.; and Pareteum N.V. (f/k/a Artidium N.V.). The Debtors' corporate headquarters is located at 1185 Avenue of the Americas, 2nd Floor, New York, NY 10036.

² To the extent that the Firm provides services to any non-debtor affiliates, such services fall outside the scope of the OCP Procedures. The Firm will continue to be retained and compensated by non-debtor affiliates for such services in the ordinary course of business.

3. As of the commencement of the above-captioned cases (the "Chapter 11 Cases"), the Debtors owed the Firm \$[_____] in respect of prepetition services rendered to the Debtors.

4. The Firm may have performed services in the past, may currently perform services, and may perform services in the future in matters unrelated to the Chapter 11 Cases, for persons that are parties-in-interest in the Chapter 11 Cases. The Firm does not perform services for any such person in connection with the Chapter 11 Cases, or have any relationship with or represent any such person, their attorneys, or accountants in a manner that would be adverse to the Debtors or their estates.

5. As part of its customary practice, the Firm is retained in cases, proceedings, and transactions involving many different parties, some of whom may represent or be employed by the Debtors, claimants, and parties-in-interest in the Chapter 11 Cases.

6. Neither I nor [any principal, partner, director, officer etc.] of, or professional employed by, the Firm, has agreed to share or will share any portion of the compensation to be received from the Debtors with any other person other than the principal and regular employees of the Firm.

7. Neither I nor [any principal, partner, director, officer, etc.] of, or professional employed by, the Firm, insofar as I have been able to ascertain, holds, or represents any interest adverse to the Debtors or their estates with respect to the matter(s) upon which this Firm is to be employed.

8. The Firm [was/ was not] party to an agreement for indemnification with [any of/ certain of] the Debtors. [A copy of such agreement is attached as Exhibit A to this Affidavit.]

9. The Firm is conducting further inquiries regarding its retention, and upon conclusion of that inquiry, or at any time during the period of its employment, if the Firm should discover any facts bearing on the matters described herein, the Firm will supplement the information contained in this affidavit.

10. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on [____], 2022

[AFFIANT]

Sworn to and subscribed before me
this ____ day of _____, 2020

Notary Public

EXHIBIT “3”

Questionnaire Form

Pareteum Corporation, *et al.*
Chapter 11 Lead Case No. 22-10615 (LGB)

RETENTION QUESTIONNAIRE¹

TO BE COMPLETED BY PROFESSIONALS EMPLOYED BY PARETEUM
CORPORATION, *et al.* (the "Debtors")

THIS QUESTIONNAIRE WILL BE FILED WITH THE COURT ON YOUR BEHALF.

If more space is needed, please complete on a separate page and attach hereto.

1. Name and address of the firm:

2. Date of retention: _____

3. Type of services provided:

4. Brief description of services to be provided:

¹ All amounts are either owing in U.S. Dollars or have been converted to U.S. Dollars based on the applicable exchange rate in effect on the Petition Date.

5. Arrangements for compensation (hourly, contingent, etc.):

(a) Average hourly rate (if applicable):

(b) Estimated average monthly compensation (based on prepetition retention if firm was employed prepetition):

6. Disclose the nature and provide a brief description of any interest adverse to the Debtors or to their estates with respect to the matters on which the above-named firm is to be employed.

Name: _____

Title: _____