

1519(a)(3) and 1521(a)(7) of the Bankruptcy Code, and granting related relief; and, after notice and a hearing, (b) a final order substantially in the form attached as **Exhibit B** (the “Final Order”) (i) granting the chapter 15 petitions in these cases and recognizing the Canadian Proceeding (defined below) as a foreign main proceeding under section 1517 of the Bankruptcy Code, (ii) giving full force and effect in the United States to the Canadian Initial Order, including any and all extensions or amendments thereof authorized by the Canadian Court and extending the protections of the Canadian Initial Order to the Debtors on a final basis, (iii) applying section 365 of the Bankruptcy Code in these chapter 15 cases on a final basis under section 1521 of the Bankruptcy Code, and (iv) granting related relief.

In support of this Motion, the Foreign Representative incorporates by reference and relies up the contemporaneously filed *Declaration of Mario Petraglia in Support of (i) Chapter 15 Petitions for Recognition of Foreign Main Proceeding (ii) Motion of Foreign Representative for Entry of Provisional and Final Relief in Aid of Foreign Main Proceeding; and (iii) Certain Related Relief* (the “Petraglia Declaration”), and further states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. Recognition of a foreign proceeding and other matters under chapter 15 of the Bankruptcy Code are core matters under 28 U.S.C. § 157(b)(2)(P).

2. The Foreign Representative consents to the entry of final orders or judgments by the Court if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

3. Venue in this district is proper under 28 U.S.C. §§ 1410(1) and (3).

4. The statutory predicates for the relief requested herein are sections 105(a), 362, 365, 1517, 1519, 1520 and 1521 the Bankruptcy Code.

BACKGROUND

5. On November 21, 2017, the Debtors commenced a proceeding (the “Canadian Proceeding”) under Canada’s Companies’ Creditors Arrangement Act (the “CCAA”) in the Canadian Court.

6. On the same date, the Canadian Court issued the Canadian Initial Order in the Canadian Proceeding. The stay of proceedings granted under the Canadian Initial Order was extended to March 9, 2018 by the Canadian Extension Order.

7. On January 16, 2018, the Canadian Initial Order was amended and restated to allow the Debtors to utilize the same cash management system that existed prior to the commencement of the Canadian Proceeding and to authorize RCR to act as the foreign representative of the Debtors and grant RCR with the authority to apply for recognition of the Canadian Proceeding in the United States.

8. On the date hereof, RCR, as Foreign Representative, filed petitions under chapter 15 of the Bankruptcy Code for recognition of the Canadian Proceedings as foreign main proceedings, thereby commencing the Debtors’ chapter 15 cases.

9. Additional information concerning the Debtors and the Canadian Proceeding is set out in the Petraglia Declaration.

RELIEF REQUESTED

10. The Foreign Representative seeks entry of (a) the Provisional Order, substantially in the form attached as **Exhibit A**, enforcing the Canadian Initial Order and

granting certain related relief on a provisional basis, including applying sections 362 and 365(e) of the Bankruptcy Code on a provisional basis, and (b) the Final Order substantially in the form attached as **Exhibit B**, (i) granting the chapter 15 petitions in these cases and recognizing the Canadian Proceeding as a foreign main proceeding, (ii) giving full force and effect in the United States to the Canadian Initial Order, (iii) applying section 365 of the Bankruptcy Code in these chapter 15 cases on a final basis under section 1521 of the Bankruptcy Code, and (iv) granting related relief.

BASIS FOR RELIEF

11. As discussed in the Petraglia Declaration, and similar to the protection provided to debtors under the Bankruptcy Code, upon commencement of the Canadian Proceeding, the Debtors' creditors were stayed from taking litigation actions against the Debtors' and their assets, wherever located. Notwithstanding the worldwide application of the stay imposed by the Canadian Proceeding, there is a risk that the Debtors' creditors may attempt to take enforcement actions in the United States. To protect against this risk, the Foreign Representative commenced these chapter 15 cases and, by this Motion, is seeking the Final Order (i) granting recognition of the Canadian Proceeding, (ii) giving full force and effect in the United States to the Canadian Commencement Order, and (iii) applying section 365 of the Bankruptcy Code to these chapter 15 cases. Entry of the Final Order granting such relief would, among other things, extend the protections of the automatic stay to the Debtors' assets located in the United States, and prevent contract counterparties from modifying or terminating United States-based contracts.

12. In addition, the Debtors are seeking entry of the Provisional Order applying sections 362 and 365(e) on an interim basis to ensure that creditors do not attempt to

bring any enforcement action against the Debtors or attempt to terminate or modify their contracts with the Debtors pending entry of the Final Order.

I. The Canadian Proceeding Is Entitled to Recognition as a Foreign Main Proceeding

13. By this Motion, the Foreign Representative seeks, under sections 1517 and 1520 of the Bankruptcy Code, recognition of the Canadian Proceeding as a foreign main proceeding and recognition and enforcement of the Canadian Initial Order. The Canadian Proceeding is entitled to recognition as a “foreign main proceeding” under chapter 15 of the Bankruptcy Code because, among other things:

- a. the Canadian Proceeding is a “foreign proceeding” within the meaning of section 101(23) of the Bankruptcy Code because the Canadian Proceeding is in a jurisdiction where the Debtors maintains the center of their main interests;
- b. the Foreign Representative is a “person” within the meaning of section 101(41) of the Bankruptcy Code and a “foreign representative” within the meaning of section 101(24) of the Bankruptcy Code;
- c. the Petitions were filed in accordance with sections 1504 and 1509 of the Bankruptcy Code; and
- d. the Petitions meet the requirements of sections 1504 and 1515 of the Bankruptcy Code.

A. These Cases Concern a “Foreign Proceeding”

14. Section 101(23) of the Bankruptcy Code defines “foreign proceeding” as:

a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation.

11 U.S.C. § 101(23). As described more fully in the Petraglia Declaration, the Canadian Proceeding is a collective judicial proceeding brought under the CCAA that is supervised by the Canadian Court. Similar to a chapter 11 case under the Bankruptcy Code, the CCAA provides

for a controlled reorganization procedure designed to enable financially distressed companies to avoid foreclosure or seizure of assets while maximizing the company's value as a going concern for the benefit of creditors and other parties in interest.

15. Also similar to a chapter 11 case under the Bankruptcy Code, under the CCAA, the Debtors' management and board of directors remain in place, and subject to the Monitor's approval for significant actions, the board maintains its power under Canadian law to approve significant actions, including disposing of important assets, borrowing significant amounts, or changing corporate structures. Like chapter 11, the Debtors' assets and affairs are subject to the supervision of the Canadian Court during the pendency of a Canadian Proceeding. In addition, the Canadian Court appoints a monitor who functions as an independent observer of the proceedings under the CCAA and (i) monitors the Debtors' ongoing operations, (ii) reports to the Canadian Court on any major events affecting the Debtors, (iii) notifies creditors and if applicable, shareholders, of any meetings and tabulates votes at these meetings, (iv) assists with preparing, filing, and holding meetings for voting on the plan of arrangement, and (v) prepares a report on the plan of arrangement, which is usually included in the mailing of the plan. As set forth in the Petraglia Declaration, Ernst & Young Inc. is the monitor in the Debtors' Canadian Proceeding.

16. Furthermore, the Canadian Proceeding is collective in nature. Parties in interest may appear and be heard and may weigh in on significant events such as a plan of arrangement.

17. Given the similarities between CCAA proceedings and chapter 11 cases, United States bankruptcy courts have routinely recognized CCAA proceedings as "foreign proceedings" under section 101(23) of the Bankruptcy Code.

B. These Cases were Commenced by a “Foreign Representative”

18. Section 101(24) of the Bankruptcy Code provides that:

The term “foreign representative” means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor’s assets or affairs or to act as a representative of such foreign proceeding.

11 U.S.C. § 101(24). These chapter 15 cases were commenced by the duly-appointed “foreign representative” of the Debtors within the meaning of section 101(24) of the Bankruptcy Code. RCR was authorized to act as Foreign Representative of the Debtors by the Canadian Court in accordance with the CCAA and was specifically authorized to file these chapter 15 cases on behalf of the Debtors.

19. Accordingly, the Foreign Representative is a proper “foreign representative” within the meaning of section 101(24) of the Bankruptcy Code.

C. These Cases were Properly Commenced under Chapter 15

20. The Foreign Representative duly and properly commenced these chapter 15 cases, as required by sections 1504 and 1509 of the Bankruptcy Code, by filing the petitions under section 1515(a) accompanied by all documents and information required by sections 1515(b) and (c). *See In re Bear Stearns High-Grade Structured Credit Strategies Master Fund, Ltd.*, 374 B.R. 122, 127 (Bankr. S.D.N.Y. 2007), *aff’d*, 389 B.R. 325 (S.D.N.Y. 2008) (“A case under chapter 15 is commenced by a foreign representative filing a petition for recognition of a foreign proceeding under section 1515 of the Bankruptcy Code.”). Because the Foreign Representative has satisfied the requirements set forth in section 1515 of the Bankruptcy Code, it has properly commenced these chapter 15 cases.

D. The Canadian Proceeding Should be Recognized as a Foreign Main Proceeding

21. The Canadian Proceeding should be recognized as a “foreign main proceeding,” as defined in sections 101(23) and 1502(4) of the Bankruptcy Code. A foreign proceeding will be recognized as a foreign main proceeding if “it is pending in the country where the debtor has the center of its main interests.” 11 U.S.C. § 1517(b)(1). Section 1516 of the Bankruptcy Code establishes a rebuttable presumption that the debtor’s registered office is the debtor’s center of main interests (“COMI”). *See* 11 U.S.C. § 1516. When considering a debtor’s COMI, courts may consider the analogous concept of an entity’s “principal place of business” or “nerve center.” *Morning Mist Holdings Ltd. v. Kryz (In re Fairfield Sentry Ltd.)*, 714 F.3d 127, 132 n.10 (2d Cir. 2013). As such, courts will look to factors such as the location of the debtor’s headquarters, the location of those who actually manage the debtors, and the location of the debtor’s primary assets, among other things, to determine the foreign debtor’s COMI. *Id.* at 130.

22. The above factors conclusively support a finding that the Debtors’ COMI is Canada. The Debtors’ headquarters is located in Québec, Canada. All corporate-level decision-making and corporate administrative functions affecting the Debtors is centralized in Québec, the Debtors’ management team is based in Québec, RCR is incorporated under the laws of Canada, and the majority of the Debtors’ employees work in Canada. As such, the Debtors COMI is in Canada, and the Canadian Proceeding constitutes a foreign main proceeding.

E. The Foreign Representative is Entitled to an Order Granting Recognition

23. As described above, the Canadian Proceeding is a “foreign main proceeding” within the meaning of section 1502 of the Bankruptcy Code, the Foreign Representative applying for recognition is a “foreign representative” within the meaning of section 101(24) of the Bankruptcy Code, and the petitions meet the requirements of section 1515

of the Bankruptcy Code. Section 1517(a) of the Bankruptcy Code provides, in pertinent part, that “[s]ubject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—(1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign non-main proceeding within the meaning of section 1502; (2) the foreign representative applying for recognition is a person or body; and (3) the petitions meet the requirements of section 1515. 11 U.S.C. §1517(a); *see also* H.R. Rep. 109-31(I), 109 Cong., Sess. 2005, *reprinted in* 2005 U.S.C.C.A.N. 88, 169 at 175 (noting, in enacting chapter 15, that the “decision to grant recognition is not dependent upon any findings about the nature of the foreign proceedings of the sort previously mandated by section 304(c) of the Bankruptcy Code. The requirements of this section, which incorporates the definitions in section 1502 and sections 101(23) and (24), are all that must be fulfilled to attain recognition”). The Foreign Representative submits that recognizing the Canadian Proceeding as a foreign main proceeding is consistent with the purpose of chapter 15 and United States public policy. Accordingly, the Foreign Representative respectfully submits that the Court should enter an order recognizing the Canadian Proceeding as a “foreign main proceedings” under the Bankruptcy Code.

II. Additional Relief Under Section 1521 Is Warranted and Appropriate

24. In addition to the relief automatically provided by section 1520 of the Bankruptcy Code upon recognition of a foreign main proceeding, the Foreign Representative requests additional relief under section 1521 of the Bankruptcy Code to protect the Debtors’ assets and their creditors’ interests. Section 1521 of the Bankruptcy Code provides, in relevant part, that the court may grant a foreign representative “any appropriate relief,” including “any relief that may be available to a trustee,” subject to certain limitations (which do not apply here) where necessary to effectuate the purpose of chapter 15 and to protect the debtor’s assets and

creditors' interests. 11 U.S.C. § 1521(a)(7). Accordingly, under section 1521(a)(7) of the Bankruptcy Code, the Foreign Representative requests that the Court extend the protections afforded by section 365 of the Bankruptcy Code to the Debtors.

25. Section 365 is a fundamental provision under the Bankruptcy Code that enables debtors to preserve valuable commercial relationships, including preventing counterparties from attempting to terminate their contracts or halt performance as a result of the debtor's insolvency. *See In re Woskob*, 305 F.3d 177, 184-85 (3d Cir. 2002) (explaining that section 365 invalidates provisions of law or contract which specify that a bankruptcy filing per se will terminate or modify the contract); *In re DBSI, Inc.*, 409 B.R. 720, 728 (Bankr. D. Del. 2009). It also enables the debtors to assume contracts that are beneficial and valuable, but reject those that are burdensome. *See In re Fleming Companies, Inc.*, 499 F.3d 300, 304 (3d Cir. 2007) (stating that section 365 allows a trustee to "to maximize the value of the debtor's estate by assuming executory contracts . . . that benefit the estate and rejecting those that do not"). Application of section 365 in these chapter 15 cases is necessary to protect against the disruption to business operations and interference with reorganization efforts that would result from any attempt by a contract counterparty to exercise remedies or cease performance under any executory agreement with the Debtors.

26. Although contract counterparties, including those whose contracts are governed by state laws in the United States, are subject to the jurisdiction of the Canadian Court and bound by the Canadian Initial Order, out of an abundance of caution and in order to fully protect the Debtors' rights, the Foreign Representative seeks an order applying section 365 of the Bankruptcy Code in these chapter 15 cases.

27. The Debtors must have certainty that counterparties to United States contracts will not terminate or exercise remedies under their prepetition agreements and will continue performing thereunder. Without the preservation of their contractual relationships, the Debtors may lose the benefit of these agreements, litigation may ensue, and counterparties may obtain unfair advantages over other creditors. On these facts, application of section 365 of the Bankruptcy Code is warranted in these chapter 15 cases, similar to how it has been granted in other chapter 15 cases. *See, e.g., Essar Steel Algoma Inc.*, Case No. 15-12271-BLS, D.I. 30 (Bankr. D. Del. Nov. 10, 2015).

III. Provisional Relief Within the Scope of Section 1519 of the Bankruptcy Code Is Necessary and Appropriate Under the Circumstances

28. By this Motion, the Foreign Representative seeks entry of the Provisional Order enforcing the Canadian Initial Order by making sections 362 and 365(e) of the Bankruptcy Code applicable in these chapter 15 cases on a provisional basis pending entry of the Final Order. As noted above, application of both the automatic stay, which protections should be coextensive with the stay provided in the Canadian Initial Order, and section 365(e) is crucial to prevent irreparable injury to the value of the Debtors' assets.

29. Under section 1517, an order recognizing a foreign proceeding may only be entered after notice and a hearing. 11 U.S.C. § 1517(a). Under Bankruptcy Rule 2002(q), the notice period must be at least 21 days. Fed. R. Bankr. P. 2002(q). Upon recognition of a proceeding as a foreign main proceeding, among other things, section 362 (the automatic stay) applies. 11 U.S.C. § 1520(a)(1). Absent provisional relief, there is no stay applicable in the United States during the period between filing the chapter 15 petitions and entry of the recognition order. Therefore, interim relief is necessary to protect the Debtors and their assets from diminution in value caused by collection or enforcement efforts of creditors prior to the

disposition of the petitions. This includes (i) staying the commencement or continuation of actions against the Debtors' and their assets under section 362 and (ii) ensuring that contract counterparties continue performing by enforcing section 365(e) of the Bankruptcy Code. Accordingly, certain provisional relief is necessary.

A. Provisional Relief Is Available

30. Section 1519(a)(3) of the Bankruptcy Code authorizes the Court to grant, on a provisional basis, any relief available under section 1521(a)(7). 11 U.S.C. § 1519(a)(3). As noted above, section 1521(a)(7) provides that the Court may grant a foreign representative any relief available to a trustee, subject to certain exceptions not relevant here. 11 U.S.C. § 1521(a)(7). The automatic stay of section 362 is an essential feature of the Bankruptcy Code that clearly falls within this provision. The same is true with respect to section 365(e). Moreover, the relief authorized by the Canadian Initial Order and under Canadian law is substantially similar to the relief available to a trustee under the Bankruptcy Code. In addition, section 105(a) of the Bankruptcy Code further allows the Court to "issue any order . . . necessary or appropriate to carry out the provisions of [title 11]." 11 U.S.C. § 105(a).

31. Courts within this jurisdiction frequently grant provisional relief similar to that which is sought herein, including recognition and enforcement of an order entered in the foreign proceeding and application of sections 362 and 365(e) of the Bankruptcy Code. *See, e.g., Essar Steel Algoma Inc.*, Case No. 15-12271 (BLS), D.I. 30 (Bankr. D. Del. Nov. 10, 2015) (order granting provisional relief, including recognition and enforcement of the initial order entered in a foreign proceeding, and application of section 362 and 365(e)); *In re Lone Pine Res. Inc.*, Case No. 13-12487 (BLS), D.I. 64 (Bankr. D. Del. Oct., 24, 2013) (order granting provisional relief, including recognition and enforcement of the initial order entered in a foreign proceeding, and application of section 362); *In re Catalyst Paper Corp.*, Case No. 12-10221

(PJW), D.I. 22 (Bankr. D. Del. Jan. 19, 2012) (order granting provisional relief, including application of sections 362 and 365(e)); *In re Arctic Glacier Int'l Inc.*, Case No. 12-10605 (KG), D.I. 28 (Bankr. D. Del. Feb. 23, 2012) (order granting provisional relief, including recognition and enforcement of the initial order entered in a foreign proceeding, and application of section 362 and 365(e)); *In re Elpida Memory, Inc.*, Case No. 12-10947 (CSS), D.I. 25 (Bankr. D. Del. Mar. 21, 2012) (order granting provisional relief, including application of section 362); *In re Cinram Int'l Inc.*, Case No. 12-11882 (KJC), D.I. 30 (Bankr. D. Del. June 26, 2012) (order granting provisional relief, including recognition and enforcement of the initial order entered in a foreign proceeding and application of sections 362 and 365(e)); *In re Angiotech Pharm. Inc.*, Case No. 11-10269 (KG), D.I. 26 (Bankr. D. Del. Jan. 31, 2011) (order granting provisional relief, including application of section 362 and 365(e)); *In re MAAX Corp.*, Case No. 08-11443 (CSS), D.I. 22 (Bankr. D. Del. July 14, 2008) (order granting provisional relief, including section 365(e)).

32. Additionally, interim application of the automatic stay is commonly granted in other chapter 15 cases with Canadian debtors subject to insolvency proceedings under the CCAA. *See In re Daebo International Shipping Co.*, Case No. 15-10616 (MEW), D.I. 21 (Bankr. S.D.N.Y. March 19, 2015); *In re STX Pan Ocean Co., Ltd.*, Case No. 13-12046 (SCC), D.I. 30 (Bankr. S.D.N.Y. July 10, 2013); *In re Daewoo Logistics Corp.*, Case No. 09-15558 (CGM), D.I. 15 (Bankr. S.D.N.Y. Sept. 24, 2009).

B. Provisional Relief Is Necessary to Prevent Irreparable Harm and Is Consistent with Public Interest

33. Relief under section 1519 of the Bankruptcy Code is available where the foreign representative can satisfy the standard for injunctive relief. 11 U.S.C. § 1519(e); *In re Innua Canada Ltd.*, No. 09-16362, 2009 WL 1025088, at *3 (Bankr. D.N.J. Mar. 25, 2009). In

the Third Circuit, the factors considered for injunctive relief include (i) it has a likelihood of success on the merits; (ii) it will suffer irreparable harm if the requested injunction is denied; (iii) granting preliminary relief will not result in greater harm to the nonmoving party; and (iv) the public interest favors such relief. *U.S. v. Bell*, 414 F.3d 474, 478 n.4 (3d Cir. 2005) (citing *ACLU of N.J. v. Black Horse Pike Reg'l Bd. of Educ.*, 84 F.3d 1471, 1477 n.2 (3d Cir. 1996)); *see also Rogers v. Corbett*, 468 F.3d 188, 192 (3d Cir. 2006) (citations omitted); *Kos Pharm., Inc. v. Andrx Corp.*, 369 F.3d 700, 708 (3d Cir. 2004) (citations omitted). The Foreign Representative submits that this standard is satisfied here and, therefore, the Debtors are entitled to the requested provisional relief under section 1519 of the Bankruptcy Code, including entry of the Provisional Order.

1. There Is a Substantial Likelihood of Recognition of the Canadian Proceeding as a Foreign Main Proceeding and Application of Requested Additional Bankruptcy Code Provisions

34. There is a compelling case for recognition of the Canadian Proceeding as a foreign main proceeding. It is clear that the Canadian Proceeding is a “foreign main proceeding” and RCR is a “foreign representative” as those terms are defined in the Bankruptcy Code. In addition, the chapter 15 cases were duly and properly commenced by filing the verified chapter 15 petitions accompanied by all fees, documents, and information required by the Bankruptcy Code and the Bankruptcy Rules. Upon recognition of the Canadian Proceeding as a foreign main proceeding, section 362 of the Bankruptcy Code will automatically apply in these chapter 15 cases under section 1520(a)(1) of the Bankruptcy Code. 11 U.S.C. § 1520(a)(1). Moreover, the application of section 365(e) on an interim basis, preventing contract counterparties from terminating their prepetition contracts with the Debtors and staying all litigation, is entirely consistent with the injunctive relief afforded by the automatic stay under section 362.

Furthermore, similar relief has been granted in other chapter 15 cases with Canadian debtors, as noted above. Accordingly, it is likely that the Debtors will receive final approval of all of the relief requested on an interim basis.

2. The Debtors Will Suffer Irreparable Harm Absent Provisional Relief

35. Application of provisional relief under sections 362 and 365(e) of the Bankruptcy Code in this case is critical to the prevention of irreparable damage to the Debtors' Canadian Proceeding. These chapter 15 cases were commenced for the purpose of obtaining the assistance of this Court to give effect in the United States to the Canadian Initial Order and other orders of the Canadian Court. Although the Canadian Initial Order implements a stay preventing parties from taking actions against the Debtors and their assets wherever located, the Debtors have assets in the United States that may be subject to enforcement actions by certain creditors and litigants that may not believe they are bound by the Canadian Initial Order.² *See In re Daebo Int'l Shipping Co.*, 543 B.R. 47, 54 (Bankr. S.D.N.Y. 2015) (holding that "the Court finds that under Canadian law the stay order plainly was intended to have worldwide effect Canadian law (and the stay order) are clear, and it is consistent with the purpose of Chapter 15 to give effect to them.").

36. Courts regularly recognize the need to provide provisional relief in order to ensure the orderly distribution of a debtor's assets in a single proceeding, and prevent piecemeal enforcement against a debtor's assets across multiple jurisdictions. *See, e.g., Essar Steel Algoma Inc.*, Case No. 15-12271 (BLS), D.I. 30 (Bankr. D. Del. Nov. 10, 2015); *In re Daebo International Shipping Co.*, Case No. 15-10616 (MEW), D.I. 21 (Bankr. S.D.N.Y. March

² The Foreign Representative reserves all rights and remedies with respect to any party that takes action against the Debtors or their assets inconsistent with the Canadian Initial Order and Canadian law.

19, 2015); *In re Lone Pine Res. Inc.*, Case No. 13-12487 (BLS), D.I. 64 (Bankr. D. Del. Oct., 24, 2013); *In re STX Pan Ocean Co., Ltd.*, Case No. 13-12046 (SCC), D.I. 30 (Bankr. S.D.N.Y. July 10, 2013); *In re Catalyst Paper Corp.*, Case No. 12-10221 (PJW), D.I. 22 (Bankr. D. Del. Jan. 19, 2012); *In re Arctic Glacier Int'l Inc.*, Case No. 12-10605 (KG), D.I. 28 (Bankr. D. Del. Feb. 23, 2012); *In re Elpida Memory, Inc.*, Case No. 12-10947 (CSS), D.I. 25 (Bankr. D. Del. Mar. 21, 2012); *In re Cinram Int'l Inc.*, Case No. 12-11882 (KJC), D.I. 30 (Bankr. D. Del. June 26, 2012); *In re Angiotech Pharm. Inc.*, Case No. 11-10269 (KG), D.I. 26 (Bankr. D. Del. Jan. 31, 2011); *In re Daewoo Logistics Corp.*, Case No. 09-15558 (CGM), D.I. 15 (Bankr. S.D.N.Y. September 24, 2009); *In re MAAX Corp.*, Case No. 08-11443, D.I. 22 (CSS) (Bankr. D. Del. July 14, 2008). The provisional relief requested herein is necessary on an immediate basis to protect against potential destruction of asset value, disruption to business operations, and interference with reorganization efforts that would result from the Debtors' liquidity constraints and the exercise of remedies by lenders, contract counterparties, and others pending entry of the Final Order. Absent this relief, the Debtors and their creditors may suffer irreparable harm.

3. Provisional Relief Will Benefit Creditors

37. Preservation of the status quo through imposing the automatic stay and preventing contract termination will not prejudice creditors while the Foreign Representative and the Debtors undertake the reorganization process in the Canadian Proceeding. Indeed, creditors as a whole will benefit from such relief. Granting the request for provisional relief actually will benefit the Debtors' creditors because it will ensure the value of the Debtors' assets is preserved, protected, and maximized for the benefit of and fair distribution to all creditors.

4. Public Interest Favors Granting Provisional Relief

38. As noted above, the requested interim relief is consistent with the policies underlying the Bankruptcy Code, including the provision of a breathing spell for the debtors and

the equitable treatment of all creditors. Additionally, granting the requested relief is in the public interest because it will facilitate the Debtors' efforts to complete a court-supervised restructuring for the benefit of their creditors and other stakeholders (including those in the U.S.). *See Rehabworks, Inc. v. Lee (In re Integrated Health Servs., Inc.)*, 281 B.R. 231, 239 (Bankr. D. Del. 2002) ("In the context of a bankruptcy case, promoting a successful reorganization is one of the most important public interests."); *Am. Film Techs, Inc. v. Taritero (In re Am. Film Techs., Inc.)*, 175 B.R. 847, 849 (Bankr. D. Del. 1994) ("It is 'one of the paramount interests' of this court to assist the Debtor in its reorganization efforts.") (*quoting Gathering Rest., Inc. v. First Nat'l Bank of Valparaiso (In re Gathering Rest., Inc.)*, 79 B.R. 992, 1001 (Bankr. N.D. Ind. 1986)). Moreover, granting the provisional relief is in the public interest because it promotes cooperation between jurisdictions in cross-border insolvencies, which is an express purpose of chapter 15 of the Bankruptcy Code. 11 U.S.C. § 1501(a).

39. For the reasons set forth herein, the Foreign Representative respectfully requests that, pending the hearing on the Final Order, the Provisional Order be approved in all respects and that the terms and provisions of the Provisional Order be implemented and that, after the Final Hearing, the Final Order be approved in all respects and the terms and provision of the Final Order be implemented. As noted above, this Court and others have frequently granted requests for similar provisional relief in chapter 15 cases. *See, e.g., Essar Steel Algoma Inc.*, Case No. 15-12271 (BLS), D.I. 30 (Bankr. D. Del. Nov. 10, 2015); *In re Daebo International Shipping Co.*, Case No. 15-10616 (MEW), D.I. 21 (Bankr. S.D.N.Y. March 19, 2015); *In re Lone Pine Res. Inc.*, Case No. 13-12487 (BLS), D.I. 64 (Bankr. D. Del. Oct., 24, 2013); *In re STX Pan Ocean Co., Ltd.*, Case No. 13-12046 (SCC), D.I. 30 (Bankr. S.D.N.Y. July 10, 2013); *In re Catalyst Paper Corp.*, Case No. 12-10221 (PJW), D.I. 22 (Bankr. D. Del. Jan. 19, 2012); *In re*

Arctic Glacier Int'l Inc., Case No. 12-10605 (KG), D.I. 28 (Bankr. D. Del. Feb. 23, 2012); *In re Elpida Memory, Inc.*, Case No. 12-10947 (CSS), D.I. 25 (Bankr. D. Del. Mar. 21, 2012); *In re Cinram Int'l Inc.*, Case No. 12-11882 (KJC), D.I. 30 (Bankr. D. Del. June 26, 2012); *In re Angiotech Pharm. Inc.*, Case No. 11-10269 (KG), D.I. 26 (Bankr. D. Del. Jan. 31, 2011); *In re Daewoo Logistics Corp.*, Case No. 09-15558 (CGM), D.I. 15 (Bankr. S.D.N.Y. September 24, 2009); *In re MAAX Corp.*, Case No. 08-11443, D.I. 22 (CSS) (Bankr. D. Del. July 14, 2008).

NOTICE

40. The Foreign Representative will provide notice of this Motion consistent with Local Rule 9013-1(m). The Foreign Representative proposes to further notify all creditors and parties in interest of the filing of these chapter 15 petitions and the Foreign Representative's request for entry of the Final Order in the form and manner set forth in the *Motion of the Foreign Representative for Entry of an Order (I) Specifying Form and Manner of Service and Notice Under Sections 105(a), 1514 and 1515 of the Bankruptcy Code and Bankruptcy Rules 2002 and 9008, and (II) Scheduling Hearing*, which was filed concurrently herewith. In light of the nature of the relief requested, the Foreign Representative submits that no further notice is required.

WHEREFORE, the Foreign Representative respectfully requests that the Court: (a) enter the Provisional Order, substantially in the form attached hereto as **Exhibit A**; (b) enter the Final Order, upon notice and a hearing, substantially in the form attached hereto as **Exhibit B**; and (c) grant such other and further relief as it deems just and proper.

Dated: January 18, 2018
Wilmington, Delaware

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