

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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<b>In re</b>	:	<b>Chapter 15</b>
	:	
<b>CINRAM INTERNATIONAL INC., et al.,<sup>1</sup></b>	:	<b>Case No. 12-11882 (___)</b>
	:	
<b>Debtors in a Foreign Proceeding.</b>	:	<b>(Joint Administration Pending)</b>
	:	
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**FOREIGN REPRESENTATIVE’S MOTION FOR ORDERS GRANTING  
PROVISIONAL AND FINAL RELIEF IN AID OF FOREIGN CCAA PROCEEDING**

Cinram International ULC, in its capacity as the authorized foreign representative (the “**Foreign Representative**”) for the above-captioned debtors (collectively, the “**Debtors**”) in a proceeding (the “**CCAA Proceeding**”) commenced under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and pending before the Ontario Superior Court of Justice (the “**Canadian Court**”), respectfully submits this motion (this “**Motion**”), pursuant to sections 362, 364, 365, 1517, 1519, 1520, 1521, and 105(a) of title 11 of the United States Code, as amended from time to time (the “**Bankruptcy Code**”), for entry of (a) a provisional order (the “**Provisional Order**”): (i) recognizing and enforcing in the United States, on an interim basis, the Initial Order (the “**Initial CCAA Order**”)<sup>2</sup> issued on June 25, 2012 by the Canadian Court, including, without limitation, the Canadian Court’s decision (A) to authorize the Debtors to enter into and perform under that certain DIP Facility,<sup>3</sup> and (B) to

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<sup>1</sup> The last four digits of the United States Tax Identification Number or Canadian Business Number, as applicable, of each of the Debtors follow in parentheses: (a) Cinram International Inc. (4583); (b) Cinram (U.S.) Holding’s Inc. (4792); (c) Cinram, Inc. (7621); (d) Cinram Distribution LLC (3854); (e) Cinram Manufacturing LLC (2945); (f) Cinram Retail Services LLC (1741); (g) Cinram Wireless LLC (5915); (h) IHC Corporation (4225); and (i) One K Studios, LLC (2132). The Debtors’ executive headquarters is located at 2255 Markham Road, Toronto, Ontario, M1B 2W3, Canada.

<sup>2</sup> A certified copy of the Initial CCAA Order is attached to the Bell Declaration (defined below) as Exhibit A. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Initial CCAA Order.

<sup>3</sup> The DIP Facility is attached to the Bell Declaration as Exhibit D.

grant the DIP Charge to the DIP Lenders under the DIP Facility, (ii) granting, on an interim basis, to and for the benefit of the DIP Lenders and, to the extent of their adequate protection rights, the Prepetition Secured Lenders (defined below), certain protections afforded by the Bankruptcy Code, including those protections provided by sections 364(c), 364(d), and 364(e) of the Bankruptcy Code, (iii) granting an interim stay of execution against the Debtors' assets and applying sections 362 and 365(e) of the Bankruptcy Code in these chapter 15 cases on an interim basis pursuant to sections 1519(a)(3), 1521(a)(7), and 105(a) of the Bankruptcy Code, and (iv) granting such other and further relief as the Court deems just and proper; and (b) entry of a final order, after notice and a hearing (the "**Final Order**"), (i) granting the petitions in these cases and recognizing the CCAA Proceeding as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code, (ii) giving full force and effect in the United States to the Initial CCAA Order, including any extensions or amendments thereof authorized by the Canadian Court and extending the protections of the Provisional Order to the Debtors on a final basis, (iii) granting the DIP Lenders and, to the extent of their adequate protection rights, the Prepetition Secured Lenders, certain protections afforded by the Bankruptcy Code, and (iv) granting such other and further relief as the Court deems just and proper. In support of this Motion, the Foreign Representative refers the Court to (x) the statements contained in the *Declaration of John Bell in Support of (I) Verified Chapter 15 Petitions, (II) Foreign Representative's Motion for Orders Granting Provisional and Final Relief in Aid of Foreign CCAA Proceeding, and (III) Certain Related Relief* (the "**Bell Declaration**"), and (y) the *Foreign Representative's Memorandum of Law in Support of (I) Verified Chapter 15 Petitions and (II) Motion for Orders Granting Provisional and Final Relief in Aid of Foreign CCAA Proceeding* (the "**Memorandum of Law**"), which were both filed concurrently herewith and are

incorporated herein by reference. In further support of the relief requested herein, the Foreign Representative respectfully represents as follows:

### **Jurisdiction and Venue**

1. The Court has jurisdiction to consider this Motion pursuant to sections 157 and 1334 of title 28 of the United States Code, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012. These cases have been properly commenced pursuant to section 1504 of the Bankruptcy Code by the filing of petitions for recognition (collectively, the “**Petitions for Recognition**”) of the CCAA Proceeding pursuant to section 1515 of the Bankruptcy Code. This is a core proceeding pursuant to section 157(b)(2)(P) of title 28 of the United States Code. Venue is proper in this District pursuant to section 1410 of title 28 of the United States Code. The statutory predicates for the relief requested herein are sections 362, 364, 365, 1517, 1519, 1520, 1521, and 105 of the Bankruptcy Code.

### **Background**

2. The Debtors are wholly owned indirect subsidiaries of Cinram International Income Fund, which, together with its affiliates, is one of the world’s largest providers of pre-recorded multimedia products and related logistics services. The Debtors and their affiliates manufacture DVDs™, Blu-ray™ discs, and CDs™ and provide distribution services for motion picture studios, music labels, video game publishers, computer software companies, telecommunication companies, and retailers around the world.

3. On the date hereof (the “**Petition Date**”), the Foreign Representative commenced these chapter 15 cases by filing, among other things, verified chapter 15 petitions

seeking recognition by the Court of the CCAA Proceeding as a foreign main proceeding under chapter 15 of the Bankruptcy Code.

4. Detailed information about the Debtors' business and operations, the events leading to the Petition Date, and the facts and circumstances surrounding the CCAA Proceeding and these cases is set forth in the Bell Declaration.

### **Relief Requested**

5. By this Motion, the Foreign Representative seeks entry of (a) the Provisional Order: (i) recognizing and enforcing in the United States, on an interim basis, the Initial CCAA Order issued by the Canadian Court, including, without limitation, the Canadian Court's decision (A) to authorize the Debtors to enter into and perform under that certain DIP Facility, and (B) to grant the DIP Charge to the DIP Lenders under the DIP Facility, (ii) granting, on an interim basis, to and for the benefit of the DIP Lenders and, to the extent of their adequate protection rights, the Prepetition Secured Lenders, certain protections afforded by the Bankruptcy Code, including those protections provided by sections 364(c), 364(d), and 364(e) of the Bankruptcy Code, (iii) granting an interim stay of execution against the Debtors' assets and applying sections 362 and 365(e) of the Bankruptcy Code in these chapter 15 cases on an interim basis pursuant to sections 1519(a)(3), 1521(a)(7), and 105(a) of the Bankruptcy Code, and (iv) granting such other and further relief as the Court deems just and proper; and (b) entry of the Final Order, after notice and a hearing, (i) granting the petitions filed in these cases and recognizing the CCAA Proceeding as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code, (ii) giving full force and effect in the United States to the Initial CCAA Order, including any extensions or amendments thereof authorized by the Canadian Court and extending the protections of the Provisional Order to the Debtors on a final basis, (iii) granting

the DIP Lenders and, to the extent of their adequate protection rights, the Prepetition Secured Lenders, certain protections afforded by the Bankruptcy Code, and (iv) granting such other and further relief as the Court deems just and proper.

### **Basis for Relief**

#### **A. Sections 1519, 1521, and 105 of the Bankruptcy Code Authorize the Requested Provisional Relief**

6. Section 1519 of the Bankruptcy Code authorizes the Court to grant the Foreign Representative certain enumerated relief pending the Court's entry of the Final Order:

(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including —

(1) staying execution against the debtor's assets; [and]

...

(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

11 U.S.C. § 1519(a).

7. Section 1519(a)(3) of the Bankruptcy Code authorizes the Court to grant provisionally to the Foreign Representative any relief referenced in section 1521(a)(7) of the Bankruptcy Code. As described in detail below, section 1521(a)(7) permits a court to grant any relief, with certain limited and inapplicable exceptions, that would be available to a trustee in bankruptcy, and therefore authorizes the Court to apply sections 362, 364(c), 364(d), 364(e), 365(e), and 105(a)<sup>4</sup> of the Bankruptcy Code, which are urgently needed to protect the Debtors' United States-based assets prior to entry of the Final Order.

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<sup>4</sup> Section 105(a) states that a bankruptcy court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]."

## **B. The Requested Provisional Relief is Justified**

8. Provisional relief pursuant to section 1519 requires satisfaction of the standard for injunctive relief. 11 U.S.C. § 1519(e); *In re Innua Can. Ltd.*, 2009 WL 1025088, at \*3 (Bankr. D.N.J. Mar. 25, 2009). In the Third Circuit, that standard requires a movant to show that: (a) it has a likelihood of success on the merits; (b) it will suffer irreparable harm if the requested injunction is denied; (c) granting preliminary relief will not result in even greater harm to the nonmoving party; and (d) 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 the standard is satisfied in these cases with respect to the requested provisional relief, and that the relief is therefore justified.

### **1. There is a Substantial Likelihood of Recognition**

9. As detailed more fully in the Petitions for Recognition, the Bell Declaration, and the Memorandum of Law, the Foreign Representative has set forth a compelling case for recognition of the CCAA Proceeding as a foreign main proceeding. The CCAA Proceeding is a “foreign proceeding” and Cinram International ULC is a “foreign representative,” as those terms are defined in the Bankruptcy Code. In addition, these cases were duly and properly commenced by filing the Petitions for Recognition accompanied by all fees, documents, and information required by the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), including: (a) a corporate ownership statement containing the information described in Bankruptcy Rule 7007.1; (b) a list containing (i) the names and addresses of all persons or bodies authorized to administer foreign proceedings of the Debtors, (ii) all parties to litigation pending in the United States to which the Debtors are a

party at the time of the filing of the Petitions for Recognition, and (iii) all entities against whom provisional relief is being sought pursuant to section 1519 of the Bankruptcy Code; (c) a statement identifying all foreign proceedings with respect to each of the Debtors that are known to the Foreign Representative; and (d) a certified copy of the Initial CCAA Order.

**2. The Debtors Will Suffer Irreparable Harm if the Request for Provisional Relief is Denied**

As set forth below, the provisional relief requested by the Debtors is necessary to prevent irreparable harm to the Debtors, their business and their assets.

**a. The Debtors will Suffer Irreparable Harm without the Protections of Sections 362 and 365(e) of the Bankruptcy Code**

10. The automatic stay embodied in section 362 is one of the most fundamental protections provided by the Bankruptcy Code. It halts all collection efforts, harassment, and foreclosure actions against debtors and provides them with necessary breathing room from the financial pressures that caused their bankruptcy filing. Similarly, section 365(e) of the Bankruptcy Code provides a debtor with relief by prohibiting counterparties from terminating contracts and leases solely because of the debtor's bankruptcy filing or insolvency. If these two protections were unavailable, the Debtors could face immediate and irreparable harm resulting from the potential termination of critical contracts and the piecemeal loss of assets as a result of individual creditor collection and enforcement efforts. For example, the Debtors are parties to numerous critical agreements with counterparties in the United States, such as supply agreements and leases, that contain provisions granting the counterparty termination rights for various reasons, including a bankruptcy filing, becoming a debtor under the Bankruptcy Code, or becoming insolvent. Absent the provisional relief requested, these counterparties may attempt to terminate these valuable contracts, which are integral to the Debtors' business.

11. The Court has extended and applied the automatic stay and so-called *ipso facto* provisions of the Bankruptcy Code to debtor and non-debtor entities on a provisional basis in chapter 15 cases where the relief was necessary to prevent irreparable harm. *See, e.g., In re W.C. Wood Corp., Ltd.*, Case No. 09-11893 (KG) (Bankr. D. Del. June 1, 2009) (extending stay protection to debtors and their officers and directors); *In re Fraser Papers Inc.*, Case No. 09-12123 (KJC) (Bankr. D. Del. June 19, 2009) (same).

**b. The Debtors will Suffer Irreparable Harm if They are Unable to Access the DIP Facility**

12. The Debtors will also suffer immediate and irreparable harm should they be unable to access the DIP Facility<sup>5</sup> approved by the Canadian Court. As described in the Bell Declaration, the Debtors are operating under significant liquidity constraints and require immediate access to the DIP Facility to fund working capital requirements, capital expenditures, general corporate expenses, and the costs of administering their bankruptcy cases. The Debtors' proposed DIP Lenders have conditioned availability under the DIP Facility on, among other things, the entry of the Provisional Order, including the grant of protections afforded under sections 364(c), 364(d), and 364(e) by the Court to the DIP Lenders and, to the extent of the adequate protection rights requested, the Prepetition Secured Lenders. If the interim requested relief is not granted, it is likely that the Debtors will be unable to secure necessary goods, and it is possible that they will lose customers and become unable to operate their manufacturing and warehousing facilities, pay employees, and generally maintain the operation of their business as a going concern.

13. In addition to providing the Debtors with the liquidity necessary to operate during these cases and consummate the Proposed Sale, the DIP Facility will help to preserve the

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<sup>5</sup> Additional background on the proposed DIP Facility is contained in the Bell Declaration.

Debtors' business by providing assurance to their suppliers and customers that they will be able to maintain their business operations and satisfy their obligations pending the outcome of these cases and the CCAA Proceeding.

14. For these reasons, the Foreign Representative requests that the Court, on a provisional basis, recognize the liens and charges negotiated in connection with the DIP Facility and approved by the Canadian Court as well as the adequate protection negotiated in connection with the DIP Facility and described herein, and afford the DIP Lenders, and, to the extent of their adequate protection rights, the Prepetition Secured Lenders, the protections available pursuant to sections 364(c), 364(d), and 364(e) of the Bankruptcy Code. Relief that is the same or similar to the section 364 relief requested herein is often granted to debtors in domestic proceedings and, as it relates to the DIP Lenders, similar protections have been granted by the bankruptcy court in this District in other chapter 15 cases. *See, e.g., In re Arctic Glacier Int'l Inc.*, Case No. 12-10605 (KG) (Bankr. D. Del. Feb. 23, 2012) (order granting provisional DIP relief); *In re Fraser Papers Inc.*, Case No. 09-12123 (KJC) (Bankr. D. Del. June 19, 2009); *In re W.C. Wood Corp.*, Ltd., Case No. 09-11893 (KG) (Bankr. D. Del. June 1, 2009); *In re Destinator Techs. Inc.*, Case No. 08-11003 (CSS) (Bankr D. Del. May 20, 2008). In addition, similar adequate protection rights have been granted to prepetition secured lenders in at least one chapter 15 case in this District. *In re Catalyst Paper Corp.*, Case No. 12-10221 (PJW) (Bankr. D. Del. Mar. 5, 2012).

### **3. There Will Be No Greater Harm to Creditors if the Provisional Relief is Granted**

15. The Debtors' creditors will not suffer any significant harm by the requested provisional relief as it will merely preserve the *status quo* and enable the Debtors to continue to finance their operations during the short time necessary for the Court to rule on the

Petitions for Recognition.<sup>6</sup> In fact, the Foreign Representative believes that granting the request for provisional relief will benefit the Debtors' creditors because it will ensure the value of the Debtors' assets are preserved and maximized for the benefit of all creditors.

16. The Foreign Representative submits that there will be little, if any, harm to creditors if the Foreign Representative's request for provisional relief is granted; indeed, harm will come to the Debtors' creditors if the provisional relief is not granted.

#### **4. The Public Interest Favors Granting the Provisional Relief**

17. As noted above, the requested provisional relief is consistent with the policy underlying the Bankruptcy Code and is in the public interest because it will facilitate the Debtors' efforts to complete a court-supervised sale process for a going-concern sale of the Debtors' core business for the benefit of the Debtors' creditors and other stakeholders. *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."); *In re Lazarus Burman Assocs.*, 161 B.R. 891, 901 (Bankr. E.D.N.Y. 1993) ("The public interest, in the context of a bankruptcy proceeding, is in promoting a successful reorganization."); *see also In re Adelpia Commc'ns Corp.*, 368 B.R. 140, 284 (Bankr. S.D.N.Y. 2007) ("The public interest requires bankruptcy courts to consider the good of the case as a whole."); *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)).

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<sup>6</sup> The Provisional Order will allow any creditor that believes it has been harmed by the provisional relief to file a motion with the Court seeking relief upon notice and a hearing.

18. In addition, 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).

19. For these reasons, the Court has frequently granted requests for similar provisional relief in chapter 15 cases. *See, e.g., In re Elpida Memory, Inc.*, Case No. 12-10947 (CSS) (Bankr. D. Del. Mar. 21, 2012) (order granting provisional relief, including protections of automatic stay); *In re Arctic Glacier Int'l Inc.*, Case No. 12-10605 (KG) (Bankr. D. Del. Feb. 23, 2012) (order granting provisional relief, including DIP relief and the protections of automatic stay and section 365(e) of the Bankruptcy Code); *In re Catalyst Paper Corp.*, Case No. 12-10221 (PJW) (Bankr. D. Del. Feb. 8, 2012) (order granting provisional DIP relief); *In re Angiotech Pharm. Inc.*, Case No. 11-10269 (KG) (Bankr. D. Del. Jan. 31, 2011) (order granting provisional relief, including protections of automatic stay and section 365(e)); *In re Nortel Networks UK Ltd.*, Case No. 09-11972 (KG) (Bankr. D. Del. Oct. 27, 2010) (order granting provisional relief, including protections of automatic stay and section 365(e)); *In re MAAX Corp.*, Case No. 08-11443 (CSS) (Bankr. D. Del. July 14, 2008) (order granting provisional relief, including the protections of automatic stay and section 365(e)).

**C. Sections 1517, 1520, and 1521 of the Bankruptcy Code Authorize the Requested Final Relief**

20. Section 1517(a) of the Bankruptcy Code authorizes the Court to enter a final order, after notice and a hearing, recognizing a foreign proceeding if such proceeding is a foreign main proceeding or a foreign nonmain proceeding, the foreign representative applying for recognition is a person or body, and the application for recognition was properly filed in accordance with section 1515 of the Bankruptcy Code. Section 1517(b) of the Bankruptcy Code

further provides that such a proceeding shall be recognized as a foreign main proceeding if it is pending in the country where the debtor has the center of its main interests.

21. As more fully set forth in the Memorandum of Law, the Foreign Representative respectfully submits that (a) the CCAA Proceeding is a foreign main proceeding within the meanings of sections 101(23) and 1502(4) of the Bankruptcy Code, (b) it is a person within the meaning of section 101(41) of the Bankruptcy Code and is an authorized foreign representative within the meaning of section 101(24) of the Bankruptcy Code, and (c) the verified chapter 15 petitions were properly filed in accordance with section 1515 of the Bankruptcy Code.

22. Specifically, the CCAA Proceeding is pending in Canada, the center of each of the Debtors' and their corporate family's main interests. As described in the Memorandum of Law, the Debtors are functionally and operationally integrated under the ultimate control and supervision of their Canadian affiliates and individuals employed and working in Canada.

23. As described in the Memorandum of Law and set forth in the Initial CCAA Order, Cinram International ULC is a person (within the meaning of the Bankruptcy Code) authorized to act as a foreign representative and to administer the reorganization or liquidation of the Debtors' assets and affairs by the Canadian Court. Further, these cases were duly and properly commenced as required by sections 1504 and 1509(a) by filing the verified petitions and all other required documents in accordance with section 1515 of the Bankruptcy Code.

24. As described in the Memorandum of Law and Section B.4. above, recognizing the CCAA Proceeding as a foreign main proceeding and granting the provisional

relief requested herein on a final basis, in addition to the relief automatically granted upon recognition pursuant to section 1520 of the Bankruptcy Code, is consistent with the purposes of chapter 15 of the Bankruptcy Code and public policy of the United States. Therefore, the Foreign Representative respectfully requests that, upon notice and a hearing, the Court grant the Final Order and such other and further relief as the Court may deem just and proper.

### Notice

25. Notice of this Motion has been provided to: (a) all persons or bodies authorized to administer foreign proceedings of the Debtors; (b) counsel to JPMorgan Chase Bank, N.A., as administrative agent under the Debtors' proposed DIP Facility; (c) counsel to JPMorgan Chase Bank, N.A. as administrative agent (in such capacity, the "**Prepetition Agent**") under that certain Amended and Restated Credit Agreement, dated April 11, 2011, among the Debtors, their affiliates party thereto, and the lenders party thereto, as amended from time to time (the "**First Lien Credit Agreement**") and under that Second Lien Credit Agreement, dated April 11, 2011, among the Debtors, their affiliates party thereto, and the lenders party thereto, as amended from time to time (the "**Second Lien Credit Agreement**"; the lenders party to the First Lien Credit Agreement and the Second Lien Credit Agreement collectively, the "**Prepetition Secured Lenders**"); and (d) the Office of the United States Trustee for the District of Delaware. The Foreign Representative proposes to further notify all creditors and parties in interest of the filing of the chapter 15 petitions and the Foreign Representative's request for entry of the Final Order in the form and manner set forth in the *Foreign Representative's Motion for Order Scheduling Hearing and Specifying the Form and Manner of Service of Notice*, which was filed concurrently herewith. In light of the relief requested herein, the Foreign Representative

respectfully submits that no other or further notice of this Motion is necessary under the circumstances.

**No Prior Request**

26. No previous request for the relief requested herein has been made to this or any other court.

**Conclusion**

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 may be just and proper.

Dated: Wilmington, Delaware  
June 25, 2012

Respectfully submitted,

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*Co-Counsel to the Foreign Representative*

**EXHIBIT A**

**Proposed Provisional Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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<b>In re</b>	:	<b>Chapter 15</b>
	:	
<b>CINRAM INTERNATIONAL INC., et al.,<sup>1</sup></b>	:	<b>Case No. 12-11882 (___)</b>
	:	
<b>Debtors in a Foreign Proceeding.</b>	:	<b>(Joint Administration Pending)</b>
	:	
	:	<b>Ref. Docket No. ___</b>
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**ORDER GRANTING PROVISIONAL RELIEF**

Upon the motion (the “**Motion**”)<sup>2</sup> of Cinram International ULC, in its capacity as the authorized foreign representative for the above captioned debtors (collectively, the “**Debtors**”) in a proceeding commenced under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and pending before the Ontario Superior Court of Justice, pursuant to sections 362, 364, 365, 1517, 1519, 1520, 1521, and 105(a) of title 11 of the United States Code, as amended from time to time (the “**Bankruptcy Code**”) for entry of (a) a provisional order (this “**Order**”): (i) recognizing and enforcing in the United States, on an interim basis, the Initial Order (the “**Initial CCAA Order**”) issued on June 25, 2012 by the Canadian Court, including, without limitation, the Canadian Court’s decision (A) to authorize the Debtors to enter into and perform under that certain DIP Facility, and (B) to grant the DIP Charge to the DIP Lenders under the DIP Facility, (ii) granting, on an interim basis, to and for the benefit of the DIP Lenders and, to the extent of their adequate protection rights, the

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<sup>1</sup> The last four digits of the United States Tax Identification Number or Canadian Business Number, as applicable, of each of the Debtors follow in parentheses: (a) Cinram International Inc. (4583); (b) Cinram (U.S.) Holding’s Inc. (4792); (c) Cinram, Inc. (7621); (d) Cinram Distribution LLC (3854); (e) Cinram Manufacturing LLC (2945); (f) Cinram Retail Services LLC (1741); (g) Cinram Wireless LLC (5915); (h) IHC Corporation (4225); and (i) One K Studios, LLC (2132). The Debtors’ executive headquarters is located at 2255 Markham Road, Toronto, Ontario, M1B 2W3, Canada.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Motion.

Prepetition Secured Lenders, certain protections afforded by the Bankruptcy Code, including those protections provided by sections 364(c), 364(d), and 364(e) of the Bankruptcy Code, as applicable, (iii) granting an interim stay of execution against the Debtors' assets and applying sections 362 and 365(e) of the Bankruptcy Code in these chapter 15 cases on an interim basis pursuant to sections 1519(a)(3), 1521(a)(7), and 105(a), of the Bankruptcy Code, and (iv) granting such other and further relief as this Court deems just and proper; and (b) entry of a final order after notice and a hearing (the "**Final Order**") (i) granting the petitions in these cases and recognizing the CCAA Proceeding as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code, (ii) giving full force and effect in the United States to the Initial CCAA Order, including any extensions or amendments thereof authorized by the Canadian Court and extending the protections of this Order to the Debtors on a final basis, (iii) granting the DIP Lenders and, to the extent of their adequate protection rights, the Prepetition Secured Lenders, certain protections afforded by the Bankruptcy Code, and (iv) granting such other and further relief as this Court deems just and proper; and it appearing that this Court has jurisdiction to consider the Motion pursuant to sections 157 and 1334 of title 28 of the United States Code, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012; and this Court having reviewed the Motion, the Petitions for Recognition, the Bell Declaration, and the Memorandum of Law, and having considered the statements of counsel with respect to the Motion at a hearing before this Court (the "**Hearing**"); and due and sufficient notice of the provisional relief sought in the Motion having been given; and it appearing that no other or further notice need be provided; and it appearing that the provisional relief requested by the Motion is in the best interest of the Debtors, their creditors, and other parties in interest; and after due deliberation and sufficient cause

appearing therefor;

**THIS COURT HEREBY FINDS AND DETERMINES THAT:**

A. The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, as well as the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). Venue for this proceeding is proper before this Court pursuant to 28 U.S.C. § 1410.

C. The Foreign Representative has demonstrated a substantial likelihood of success on the merits that (a) the Debtors are subject to a pending "foreign main proceeding" as that term is defined in section 1502(4) of the Bankruptcy Code, (b) the Foreign Representative is a "foreign representative" as that term is defined in section 101(24) of the Bankruptcy Code, and (c) all statutory elements for recognition of the CCAA Proceeding are satisfied in accordance with section 1517 of the Bankruptcy Code.

D. The Foreign Representative has demonstrated that (a) the commencement of any proceeding or action against the Debtors and their respective businesses and all of their assets should be enjoined pursuant to sections 1519, 1521, and 105(a) of the Bankruptcy Code, which protections, in each case, shall be coextensive with the provisions of section 362 of the

Bankruptcy Code, to permit the fair and efficient administration of the CCAA Proceeding and an orderly sale process for substantially all of the property and assets used in connection with the business carried on by the Debtors in North America pursuant to the Initial CCAA Order and any other applicable orders of the Canadian Court, for the benefit of all stakeholders; and (b) the relief requested will neither cause an undue hardship nor create any hardship to parties in interest that is not outweighed by the benefits of the relief granted herein.

E. The Foreign Representative has demonstrated that unless this Order is entered, there is a material risk that one or more parties in interest will take action against the Debtors or their assets, thereby interfering with the jurisdictional mandate of this Court under chapter 15 of the Bankruptcy Code and interfering with and causing harm to the efforts to maximize the value of the Debtors' assets, including through the sale process, pursuant to the terms of the Initial CCAA Order. As a result, the Debtors will suffer immediate and irreparable harm for which they will have no adequate remedy at law and therefore it is necessary that this Court grant the relief requested without prior notice to parties in interest or their counsel.

F. The Foreign Representative has demonstrated that the incurrence of indebtedness under the DIP Facility, as authorized by the Initial CCAA Order, is necessary to prevent irreparable harm to the Debtors because without such financing, the Debtors will be unable to continue operations, which will significantly impair the value of their assets.

G. The Foreign Representative has demonstrated that the terms of the DIP Facility are fair and reasonable and were entered into in good faith by the Debtors and the DIP Lenders, as defined in the Initial CCAA Order, and the DIP Lenders would not have extended financing without conditions precedent requiring a final recognition order by this Court and the interim protection pursuant to sections 364(c), 364(d), and 364(e) of the Bankruptcy Code, as

made applicable by sections 1519(a)(3), 1521(a)(7), and 105(a) of the Bankruptcy Code, while consideration of final recognition was pending.

H. The Prepetition Agent, for itself and for the benefit of the Prepetition Secured Lenders, is entitled to adequate protection of their interests in the collateral securing their indebtedness (the “**Prepetition Collateral**”) from any diminution in value resulting from the use of their “cash collateral” within the meaning of section 363(a) of the Bankruptcy Code (the “**Cash Collateral**”) and the use, sale or lease of the Prepetition Collateral, the imposition of the automatic stay, and the priming of their liens by the DIP Lenders pursuant to section 364(d) of the Bankruptcy Code. Accordingly, the Debtors have agreed, in their reasonable business judgment, to provide adequate protection as set forth in this Order, which terms and conditions are fair and reasonable and were negotiated in good faith and at arm’s-length.

I. Absent the relief granted herein, the Debtors may suffer immediate and irreparable injury, loss, or damage for which there is no adequate remedy at law. Further, unless this Order is entered, the assets of the Debtors located in the United States could be subject to efforts by creditors to control, possess, or execute upon such assets and such efforts could result in the Debtors suffering immediate and irreparable injury, loss, or damage by, among other things, (a) interfering with the jurisdictional mandate of this Court under chapter 15 of the Bankruptcy Code, and (b) interfering with or undermining the success of the CCAA Proceeding and the Debtors’ efforts to pursue a going-concern sale of their core business for the benefit of all their stakeholders.

J. The Foreign Representative has demonstrated that without the protection of section 365(e) of the Bankruptcy Code, there is a material risk that counterparties to certain of the Debtors’ contracts and leases may take the position that the commencement of the CCAA

Proceeding authorizes them to terminate such contracts or accelerate obligations thereunder. Such termination or acceleration, if permitted and valid, would severely disrupt the Debtors' operations and efforts to consummate a sale, resulting in irreparable damage to the value of the Debtors' business, and causing substantial harm to the Debtors' creditors and other parties in interest.

K. The Foreign Representative has demonstrated that no injury will result to any party that is greater than the harm to the Debtors' business, assets, and property in the absence of the requested relief.

L. The interests of the public and the public policy of the United States will be served by entry of this Order.

M. The Foreign Representative and the Debtors are entitled to the full protections and rights available pursuant to section 1519(a)(1)-(3) of the Bankruptcy Code.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is granted to the extent set forth herein.
2. The Initial CCAA Order is hereby enforced on an interim basis, including, without limitation, (a) authorizing the Debtors to obtain credit under the DIP Facility and granting the Lenders the DIP Charge, and (b) staying the commencement or continuation of any actions against the Debtors or their assets, and shall be given full force and effect in the United States until otherwise ordered by this Court.
3. While this Order is in effect, the Foreign Representative and the Debtors shall be entitled to the full protections and rights pursuant to section 1519(a)(1), which protections shall be coextensive with the provisions of section 362 of the Bankruptcy Code, and

this Order shall operate as a stay of any execution against the Debtors' assets within the territorial jurisdiction of the United States; *provided* that upon the occurrence of an event of default under the DIP Documents (as defined below) or the DIP Lenders' Charge, this paragraph shall be deemed to be automatically modified to the extent necessary to allow the DIP Lenders and the Prepetition Secured Lenders to exercise their rights pursuant to Paragraph 54(b) of the Initial CCAA Order. Specifically, all persons and entities are hereby enjoined from continuing any action or commencing any additional action involving the Debtors, their assets or the proceeds thereof, (b) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order, or arbitration award against the Debtors or their assets, (c) commencing or continuing any action to create, perfect, or enforce any lien, setoff, or other claim against the Debtors or any of their property, or (d) managing or exercising control over the Debtors' assets located within the territorial jurisdiction of the United States, except as expressly authorized by the Debtors in writing.

4. While this Order is in effect, pursuant to sections 1519(a)(3) and 1521(a)(7) of the Bankruptcy Code, (a) section 362 of the Bankruptcy Code is hereby made applicable in these cases to the Debtors and the property of the Debtors within the territorial jurisdiction of the United States and (b) section 365(e) of the Bankruptcy Code is hereby made applicable to the Debtors in these cases.

5. Notwithstanding anything to the contrary contained herein, this Order shall not be construed as (a) enjoining the police or regulatory act of a governmental unit, including a criminal action or proceeding, to the extent not stayed pursuant to section 362 of the Bankruptcy Code or (b) staying the exercise of any rights that section 362(o) of the Bankruptcy Code does not allow to be stayed.

6. To the extent authorized under the Initial CCAA Order, the DIP Lenders are hereby granted, on a provisional basis, the DIP Lenders' Charge, as defined in the Initial CCAA Order, on all of the Debtors' United States assets in the amount outstanding from time to time under the DIP Facility up to a maximum of USD \$15 million, subject to the priorities, terms, and conditions of the Initial CCAA Order, to secure current and future amounts outstanding under the DIP Facility. The obligations under the DIP Facility shall be on a joint and several basis for all Debtors.

7. The obligations of the Debtors under the DIP Facility shall be an allowed administrative expense claim with priority under section 364(c)(1) of the Bankruptcy Code, subject and subordinate only to the Carve-Out, and otherwise over all administrative expense claims and unsecured claims against the Debtors, now existing or hereafter arising.

8. To the extent provided in the Initial CCAA Order, the Debtors are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees, and other definitive documents as are contemplated by the DIP Facility (collectively, the "**DIP Documents**") or as may be reasonably required by the DIP Lenders pursuant to the terms thereof, and the Debtors are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities, and obligations to the DIP Lenders under and pursuant to the DIP Facility (and in accordance with the budget delivered in connection therewith) including, but not limited to, the fees and expenses of the DIP Lenders' Canadian and United States counsel, and other advisors, as and when the same become due and are to be performed, notwithstanding any other provision of this Order and without any further order of this Court.

9. This Order shall be sufficient and conclusive notice and evidence of the grant, validity, perfection, and priority of the liens granted to the DIP Lenders in the Initial CCAA Order without the necessity of filing or recording this Order or any financing statement, mortgage, or other instrument or document which may otherwise be required under the law of any jurisdiction; *provided* that the Debtors are authorized to execute and the administrative agent under the DIP Facility may file or record financing statements, mortgages, or other instruments to further evidence the liens authorized, granted, and perfected hereby and by the Initial CCAA Order.

10. The Prepetition Agent, for itself and for the benefit of the Prepetition Secured Lenders, is entitled to adequate protection of their interests in the Prepetition Collateral from any diminution in value resulting from the use of the Cash Collateral and the use, sale, or lease of the Prepetition Collateral, the imposition of the automatic stay, and the priming of their liens by the DIP Lenders pursuant to section 364(d) of the Bankruptcy Code. Accordingly, the Prepetition Secured Lenders hereby are (a) granted valid, binding, enforceable and perfected liens (the “**Adequate Protection Liens**”) in all collateral under the DIP Facility to secure an amount of their indebtedness (the “**Adequate Protection Claims**”) equal to any diminution in the value of their interests in the Prepetition Collateral subsequent to the date of the filing of the Petitions for Recognition resulting from the use of the Cash Collateral and the use, sale or lease of the Prepetition Collateral, the imposition of the automatic stay, and the priming of their liens by the DIP Lenders, which Adequate Protection Liens shall be immediately junior to the DIP Lenders’ Charge identified in the Initial CCAA Order, (b) granted an allowed administrative expense claim with priority under section 364(c)(1) of the Bankruptcy Code in an amount equal to the Adequate Protection Claims, subject and subordinate only to the carve-out and the

obligations under the DIP Facility, and otherwise over all administrative expense claims and unsecured claims against the Debtors, now existing or hereafter arising and (c) entitled to receive payment for, and the Debtors are authorized to pay, the reasonable and documented fees and expenses incurred by Wachtell, Lipton, Rosen & Katz, Morris, Nichols, Arsht & Tunnell LLP, Blake Cassels & Graydon LLP, and Zolfo Cooper, as advisors to the Prepetition Secured Lenders, whether incurred before or after the Petition Date. Nothing herein shall prejudice, impair, or otherwise affect the rights of the Prepetition Secured Lenders to seek any other or supplemental relief in respect of their adequate protection rights.

11. The DIP Documents have been negotiated in good faith and at arm's-length between the Debtors and the DIP Lenders. Any financial accommodations made to the Debtors by the DIP Lenders pursuant to the Initial CCAA Order and the DIP Documents shall be deemed to have been made by the DIP Lenders in good faith, as that term is used in section 364(e) of the Bankruptcy Code. Accordingly, pursuant to sections 364(e), 1519(a)(3), 1521(a)(7), and 105(a) of the Bankruptcy Code, section 364(e) of the Bankruptcy Code hereby applies for the benefit of the DIP Lenders, and the validity of the indebtedness, and the priority of the liens authorized by the Initial CCAA Order made enforceable in the United States by this Order, shall not be affected by any reversal or modification of this Order, on appeal or the entry of an order denying recognition of the CCAA Proceeding pursuant to section 1517 of the Bankruptcy Code.

12. No action, inaction or acquiescence by the DIP Lenders or the Prepetition Secured Lenders, including funding the Debtors' ongoing operations under this Order, shall be deemed to be or shall be considered as evidence of any alleged consent by the DIP Lenders or the Prepetition Secured Lenders to a charge against the collateral pursuant to sections 506(c),

552(b), or 105(a) of the Bankruptcy Code. The DIP Lenders shall not be subject in any way whatsoever to the equitable doctrine of “marshaling” or any similar doctrine with respect to the collateral.

13. Effective on a provisional basis upon entry of this Order, no person or entity shall be entitled, directly or indirectly, whether by operation of sections 506(c), 552(b), or 105 of the Bankruptcy Code or otherwise, to direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of collateral or property after an Event of Default under the DIP Facility, the First Lien Credit Agreement, or the Second Lien Credit Agreement, or termination or breach under the DIP Facility, the First Lien Credit Agreement, the Second Lien Credit Agreement, the Initial CCAA Order, or this Order.

14. Any party in interest may make a motion seeking relief from, or modification of, this Order, by filing a motion on not less than seven business days’ written notice to Shearman & Sterling LLP, 599 Lexington Avenue, New York, New York 10022, Attn: Douglas P. Bartner and Jill Frizzley, and this Court will hear such motion on a date to be scheduled by this Court.

15. Notwithstanding any provision in the Bankruptcy Rules to the contrary: (a) this Order shall be effective immediately and enforceable upon entry; (b) the Foreign Representative shall not be subject to any stay in the implementation, enforcement, or realization of the relief granted in this Order; and (c) the Foreign Representative is authorized and empowered, and may in its discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of this Order.

16. Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, made applicable to these proceedings pursuant to Bankruptcy Rule 7065, no notice to any person is

required prior to entry and issuance of this Order. Pursuant to Bankruptcy Rule 7065, the provisions of Federal Rule of Civil Procedure 65(c) are hereby waived, to the extent applicable.

17. This Court shall retain jurisdiction with respect to any and all matters relating to the interpretation or implementation of this Order.

Dated: Wilmington, Delaware  
\_\_\_\_\_, 2012

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UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT B**

Proposed Final Order

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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<b>In re</b>	:	<b>Chapter 15</b>
	:	
<b>CINRAM INTERNATIONAL INC., et al.,<sup>1</sup></b>	:	<b>Case No. 12-11882 (___)</b>
	:	
<b>Debtors in a Foreign Proceeding.</b>	:	<b>(Jointly Administered)</b>
	:	
	:	<b>Ref. Docket No. ___</b>
-----	X	

**ORDER GRANTING RECOGNITION OF FOREIGN MAIN PROCEEDING AND  
CERTAIN RELATED RELIEF ON A FINAL BASIS**

Upon the motion (the “**Motion**”)<sup>2</sup> of Cinram International ULC, in its capacity as the court-appointed monitor and authorized foreign representative for the above-captioned debtors (collectively, the “**Debtors**”) in a proceeding commenced under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and pending before the Ontario Superior Court of Justice, pursuant to sections 362, 364, 365, 1517, 1519, 1520, 1521, and 105(a) of title 11 of the United States Code, as amended from time to time (the “**Bankruptcy Code**”) for entry of (a) a provisional order (the “**Provisional Order**”):

(i) recognizing and enforcing in the United States, on an interim basis, the Initial Order (the “**Initial CCAA Order**”) issued on June 25, 2012 by the Canadian Court, including, without limitation, the Canadian Court’s decision (A) to authorize the Debtors to enter into and perform under that certain DIP Facility, and (B) to grant the DIP Charge to the DIP Lenders under the DIP Facility, (ii) granting, on an interim basis, to and for the benefit of the DIP Lenders and, to

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<sup>1</sup> The last four digits of the United States Tax Identification Number or Canadian Business Number, as applicable, of each of the Debtors follow in parentheses: (a) Cinram International Inc. (4583); (b) Cinram (U.S.) Holding’s Inc. (4792); (c) Cinram, Inc. (7621); (d) Cinram Distribution LLC (3854); (e) Cinram Manufacturing LLC (2945); (f) Cinram Retail Services LLC (1741); (g) Cinram Wireless LLC (5915); (h) IHC Corporation (4225); and (i) One K Studios, LLC (2132). The Debtors’ executive headquarters is located at 2255 Markham Road, Toronto, Ontario, M1B 2W3, Canada.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Motion.

the extent of their adequate protection rights, the Prepetition Secured Lenders, certain protections afforded by the Bankruptcy Code, including those protections provided by sections 364(c), 364(d), and 364(e) of the Bankruptcy Code, as applicable, (iii) granting an interim stay of execution against the Debtors' assets and applying sections 362 and 365(e) of the Bankruptcy Code in these chapter 15 cases on an interim basis pursuant to sections 1519(a)(3), 1521(a)(7), and 105(a) of the Bankruptcy Code, and (iv) granting such other and further relief as this Court deems just and proper; and (b) entry of a final order after notice and a hearing, (this "**Order**") (i) granting the petitions in these cases and recognizing the CCAA Proceeding as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code, (ii) giving full force and effect in the United States to the Initial CCAA Order, including any extensions or amendments thereof authorized by the Canadian Court, and extending the protections of the Provisional Order to the Debtors on a final basis, (iii) granting the DIP Lenders and, to the extent of their adequate protection rights, the Prepetition Secured Lenders, certain protections afforded by the Bankruptcy Code, and (iv) granting such other and further relief as this Court deems just and proper; and it appearing that this Court has jurisdiction to consider the Motion pursuant to sections 157 and 1334 of title 28 of the United States Code, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012; and this Court having reviewed the Motion, the Petitions for Recognition, the Bell Declaration, and the Memorandum of Law, and having considered the statements of counsel with respect to the Motion at a hearing before this Court (the "**Hearing**"); and appropriate and timely notice of the filing of the Motion and the Hearing having been given; and no other or further notice being necessary or required; and this Court having determined that the legal and factual bases set forth in the Motion, the Petitions for Recognition, the Bell Declaration, the

Memorandum of Law, and all other pleadings and papers in these cases establish just cause to grant the relief ordered herein, and after due deliberation therefor;

**THIS COURT HEREBY FINDS AND DETERMINES THAT:**

A. The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction to consider 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 District of Delaware dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). Venue for this proceeding is proper before this Court pursuant to 28 U.S.C. § 1410.

C. The Foreign Representative is the duly appointed "foreign representative" of the Debtors within the meaning of section 101(24) of the Bankruptcy Code.

D. This chapter 15 case was properly commenced pursuant to sections 1504, 1509, and 1515 of the Bankruptcy Code.

E. The Foreign Representative has satisfied the requirements of section 1515 of the Bankruptcy Code and Bankruptcy Rule 2002(q).

F. The CCAA Proceeding is a "foreign proceeding" pursuant to section 101(23) of the Bankruptcy Code.

G. The CCAA Proceeding is entitled to recognition by this Court pursuant to section 1517 of the Bankruptcy Code.

H. Canada is the center of main interests of each of the Debtors, and accordingly the CCAA Proceeding is a “foreign main proceeding” as defined in section 1502(4) of the Bankruptcy Code, and is entitled to recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code.

I. The Foreign Representative has demonstrated that the borrowings under the DIP Facility authorized by the Initial CCAA Order are necessary to preserve the value of the Debtors’ business.

J. The Foreign Representative has demonstrated that the terms of the DIP Facility, as approved in the Initial CCAA Order, are fair and reasonable and were entered into in good faith by the Debtors and the DIP Lenders and that the DIP Lenders would not extend financing without the protections provided by sections 364(c), 364(d), and 364(e) of the Bankruptcy Code, as made applicable by section 1521(a)(7) of the Bankruptcy Code. The Foreign Representative has demonstrated that the terms of the DIP Facility are reasonable under the circumstances.

K. The Foreign Representative has demonstrated that the incurrence of indebtedness under the DIP Facility, as authorized by the Initial CCAA Order, is necessary to prevent irreparable harm to the Debtors and their affiliates because, without such financing, they will be unable to continue operations, which will significantly impair the value of the Debtors’ assets.

L. The Prepetition Agent, for itself and for the benefit of the Prepetition Secured Lenders, is entitled to adequate protection of their interests in the collateral securing their

indebtedness (the “**Prepetition Collateral**”) from any diminution in value resulting from the use of their “cash collateral” within the meaning of section 363(a) of the Bankruptcy Code (the “**Cash Collateral**”) and the use, sale, or lease of the Prepetition Collateral, the imposition of the automatic stay, and the priming of their liens by the DIP Lenders pursuant to section 364(d) of the Bankruptcy Code. Accordingly, the Debtors have agreed, in their reasonable business judgment, to provide adequate protection as set forth in this Order, which terms and conditions are fair and reasonable and were negotiated in good faith and at arm’s-length.

M. The Foreign Representative is entitled to all the automatic relief available pursuant to section 1520 of the Bankruptcy Code without limitation.

N. The Foreign Representative is further entitled to the discretionary relief expressly set forth in section 1521(a) and (b) of the Bankruptcy Code.

O. The relief granted herein is necessary and appropriate, in the interests of the public and international comity, consistent with the public policy of the United States, and warranted pursuant to sections 1517, 1520, and 1521 of the Bankruptcy Code.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Petitions for Recognition and the Motion are granted.
2. The CCAA Proceeding is granted recognition as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code.
3. The Initial CCAA Order, including any extensions, amendments, or modifications thereto, is hereby enforced on a final basis and given full force and effect in the United States.

4. All relief afforded foreign main proceedings pursuant to section 1520 of the Bankruptcy Code is hereby granted to the CCAA Proceeding, the Debtors, and the Foreign Representative, as applicable.

5. Sections 362 and 365(e) of the Bankruptcy Code shall hereby apply with respect to the Debtors and the property of the Debtors that is within the territorial jurisdiction of the United States; *provided* that upon the occurrence of an event of default under the DIP Documents (as defined below) or the DIP Lenders' Charge, this paragraph shall be deemed to be automatically modified to the extent necessary to allow the DIP Lenders and the Prepetition Secured Lenders to exercise their rights pursuant to Paragraph 54(b) of the Initial CCAA Order.

6. Subject to sections 1520 and 1521 of the Bankruptcy Code, the CCAA Proceeding and the Initial CCAA Order, and the transactions consummated or to be consummated thereunder, including without limitation, the DIP Facility, shall be granted comity and given full force and effect in the United States to the same extent that they are given effect in Canada, and each is binding on all creditors of the Debtors and any of their successors or assigns.

7. Pursuant to section 1521(a)(6) of the Bankruptcy Code, all prior relief granted to the Debtors or the Foreign Representative by this Court pursuant to section 1519(a) of the Bankruptcy Code shall be extended and the Provisional Order shall remain in full force and effect, notwithstanding anything to the contrary contained therein.

8. All entities (as that term is defined in section 101(15) of the Bankruptcy Code), other than the Foreign Representative and its expressly authorized representatives and agents, are hereby enjoined from:

- a. execution against any of the Debtors' assets;
- b. the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, arbitral, or other action or proceeding, or to recover a claim, which in either

case is in any way related to, or would interfere with, the administration of the Debtors' estates in the CCAA Proceeding or the solicitation, implementation, or consummation of the transactions contemplated by the Initial CCAA Order, including without limitation any and all unpaid judgments, settlements, or otherwise against the Debtors in the United States;

- c. taking or continuing any act to create, perfect, or enforce a lien or other security interest, set-off, or other claim against the Debtors or any of their property;
- d. transferring, relinquishing, or disposing of any property of the Debtors to any entity (as that term is defined in section 101(15) of the Bankruptcy Code) other than the Foreign Representative; and
- e. commencing or continuing an individual action or proceeding concerning the Debtors' assets, rights, obligations, or liabilities to the extent they have not been stayed pursuant to section 1520(a);

*provided*, in each case, that such injunction shall be effective solely within the territorial jurisdiction of the United States.

9. The obligations of the Debtors under the DIP Facility shall be an allowed administrative expense claim with priority, subject and subordinate only to the Carve-Out, under section 364(c)(1) of the Bankruptcy Code and otherwise over all administrative expense claims and unsecured claims against the Debtors, now existing or hereafter arising.

10. Pursuant to the Initial CCAA Order, the Debtors are hereby authorized to borrow up to USD \$15 million under and in accordance with the terms of the DIP Facility. In addition, the Debtors are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees, and other documents as are contemplated by the DIP Facility (collectively, the "**DIP Documents**") or as may be reasonably requested by the DIP Lenders pursuant to the terms thereof, and the Debtors are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities, and obligations to the DIP Lenders under and pursuant to the DIP Facility (and in accordance with the budget delivered in connection therewith) including, but not limited to, the fees and expenses of the DIP Lenders' Canadian and United States counsel, and other advisors,

as and when the same become due and are to be performed, notwithstanding any other provision of this Order and without any further order of this Court.

11. Pursuant to section 364 of the Bankruptcy Code and subject to the priorities, terms, and conditions of the Initial CCAA Order, to secure current and future amounts outstanding under the DIP Facility, the DIP Lenders are hereby granted the DIP Lenders' Charge on all of the Debtors' United States assets up to the maximum amount of the obligations under the DIP Facility.

12. Any obligations incurred by the Debtors as a result of entering into or performing their obligations under the DIP Facility do not and will not constitute preferences, fraudulent conveyances or transfers, transfers at under value, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

13. This Order shall be sufficient and conclusive notice and evidence of the grant, validity, perfection, and priority of the liens granted to the DIP Lenders in the Initial CCAA Order without the necessity of filing or recording this Order or any financing statement, mortgage, or other instrument or document, which may otherwise be required under the law of any jurisdiction; *provided* that the Debtors are authorized to execute and the administrative agent under the DIP Facility may file or record financing statements, mortgages, or other instruments to further evidence the liens authorized, granted, and perfected hereby and by the Initial CCAA Order

14. The Prepetition Agent, for itself and for the benefit of the Prepetition Secured Lenders, is entitled to adequate protection of their interests in the Prepetition Collateral from any diminution in value resulting from the use of the Cash Collateral and the use, sale, or lease of the Prepetition Collateral, the imposition of the automatic stay, and the priming of their liens by the DIP Lenders pursuant to section 364(d) of the Bankruptcy Code. Accordingly, the Prepetition Secured Lenders hereby are (a) granted valid, binding, enforceable, and perfected liens (the "**Adequate Protection Liens**") in all collateral under the DIP Facility to secure an amount of their indebtedness equal to any diminution in the value of their interests in the Prepetition Collateral

subsequent to the date of the filing of the Petitions for Recognition resulting from the use of the Cash Collateral and the use, sale, or lease of the Prepetition Collateral, the imposition of the automatic stay, and the priming of their liens by the DIP Lenders, which Adequate Protection Liens shall be immediately junior to the DIP Lenders' Charge identified in the Initial CCAA Order, (b) granted on allowed administrative expense claim with priority under section 364(c)(1) of the Bankruptcy Code, subject and subordinate only to the carve-out and the obligations under the DIP Facility, and otherwise over all administrative expense claims and unsecured claims against the Debtors, now existing or hereafter arising and (c) entitled to receive payment for, and the Debtors are authorized to pay, the reasonable and documented fees and expenses incurred by Wachtell, Lipton, Rosen & Katz, Morris, Nichols, Arsht & Tunnell LLP, Blake Cassels & Graydon LLP, and Zolfo Cooper, as advisors to the Prepetition Secured Lenders, whether incurred before or after the Petition Date. Nothing herein shall prejudice, impair, or otherwise affect the rights of the Prepetition Secured Lenders to seek any other or supplemental relief in respect of their adequate protection rights.

15. The DIP Documents and the DIP Facility have been negotiated in good faith and at arm's-length between the Debtors and the DIP Lenders. Any financial accommodations made to the Debtors by the DIP Lenders pursuant to the Initial CCAA Order and the DIP Documents shall be deemed to have been made by the DIP Lenders in good faith, as that term is used in section 364(e) of the Bankruptcy Code. Accordingly, pursuant to sections 364(e), 1519(a)(3), 1521(a)(7), and 105(a) of the Bankruptcy Code, section 364(e) of the Bankruptcy Code hereby applies for the benefit of the DIP Lenders, and the validity of the indebtedness, and the priority of the liens authorized by the Initial CCAA Order made enforceable in the United States by this Order, shall not be affected by any reversal or modification of this Order on appeal or the entry of an order denying recognition of the CCAA Proceeding pursuant to section 1517 of the Bankruptcy Code.

16. No action, inaction, or acquiescence by the DIP Lenders or the prepetition secured lenders, including funding the Debtors' ongoing operations under this Order, shall be deemed to be or shall be considered as evidence of any alleged consent by the DIP Lenders or

the prepetition secured lenders to a charge against the collateral pursuant to sections 506(c), 552(b), or 105(a) of the Bankruptcy Code. The DIP Lenders and the prepetition secured lenders shall not be subject in any way whatsoever to the equitable doctrine of “marshaling” or any similar doctrine with respect to the collateral.

17. Effective upon entry of this Order, no person or entity shall be entitled, directly or indirectly, whether by operation of sections 506(c), 552(b), or 105 of the Bankruptcy Code or otherwise, to direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of collateral or property after an Event of Default under the DIP Facility, First Lien Credit Agreement, or Second Lien Credit Agreement, or termination or breach under the DIP Facility, the First Lien Credit Agreement, the Initial CCAA Order, the Provisional Order, or this Order.

18. Notwithstanding anything to the contrary contained herein, this Order shall not be construed as (a) enjoining the police or regulatory act of a governmental unit, including a criminal action or proceeding, to the extent not stayed pursuant to section 362 of the Bankruptcy Code or (b) staying the exercise of any rights that section 362(o) of the Bankruptcy Code does not allow to be stayed.

19. The Foreign Representative is hereby authorized to apply to this Court to examine witnesses, take evidence, seek production of documents, and deliver information concerning the assets, affairs, rights, obligations, or liabilities of the Debtors, as such information is required in the CCAA Proceeding.

20. The Foreign Representative, the Debtors and/or each of their successors, agents, representatives, advisors, or counsel shall be entitled to the protections contained in sections 306 and 1510 of the Bankruptcy Code.

21. Notwithstanding any provision in the Bankruptcy Rules to the contrary: (a) this Order shall be effective immediately and enforceable upon entry; (b) neither the Foreign Representative nor the DIP Lenders are subject to any stay in the implementation, enforcement, or realization of the relief granted in this Order; and (c) the Foreign Representative is authorized

and empowered, and may in its discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of this Order.

22. A copy of this Order, confirmed to be true and correct, shall be served, within three business days of entry of this Order, by facsimile, electronic mail, or overnight express delivery, upon all persons or bodies authorized to administer foreign proceedings of the Debtors, all entities against whom provisional relief was granted pursuant to section 1519 of the Bankruptcy Code, all parties to litigation pending in the United States in which any of the Debtors were a party at the time of the filing of the Petitions for Recognition, the Office of the United States Trustee for the District of Delaware, and such other entities as this Court may direct.

23. Such service shall be good and sufficient service and adequate notice for present purposes.

24. This Court shall retain jurisdiction with respect to: (a) the enforcement, amendment, or modification of this Order; (b) any requests for additional relief or any adversary proceeding brought in and through these cases; and (c) any request by an entity for relief from the provisions of this Order, for cause shown.

Dated: Wilmington, Delaware  
\_\_\_\_\_, 2012

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UNITED STATES BANKRUPTCY JUDGE