IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 15
ROKSTAD HOLDINGS CORPORATION, et al.,[1]	Case No. 24-12645 (MFW)
Debtors in a Foreign Proceeding.	(Jointly Administered)

MOTION FOR ORDER (I) RECOGNIZING AND ENFORCING THE OMNIBUS APPROVAL ORDER; (II) APPROVING THE SETTLEMENT PURSUANT TO BANKRUPTCY RULE 9019; AND (III) GRANTING RELATED RELIEF

FTI Consulting Canada Inc. ("FTI"), in its capacity as the court-appointed receiver (in such capacity, the "Receiver") of the above-captioned debtors (collectively, the "Rokstad Group" or the "Debtors") and in its capacity as the authorized foreign representative (the "Foreign Representative") of the Debtors, which are the subject of a receivership proceeding (the "Canadian Receivership") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the "LEA") pending before the Supreme Court of British Columbia in Bankruptcy and Insolvency (the "Canadian Court"), respectfully states as follows in support of this motion (this "Motion"):

PRELIMINARY STATEMENT[2]

1. Pursuant to the Receivership Order, the Receiver—an independent, Canadian Court-appointed fiduciary—has been empowered to, among other things, take possession and

[1] The Debtors in these chapter 15 cases (the "Chapter 15 Cases"), along with the last four digits of each Debtor's unique identifier, are Rokstad Holdings Corporation (7932); Rokstad Power (2018) Ltd. (8273); Golden Ears Painting & Sandblasting (2018) Ltd. (8286); Plowe Power Systems (2018) Ltd. (8882); Rokstad Power (Prairies) Ltd. (9305); Rokstad Power Transmission Services Ltd. (9301); Rokstad Power Construction Services Ltd. (9295); Rokstad Power (East), Inc. (4090); Rokstad Power Inc. (4394); and Rok Air, LLC (6825).

[2] Capitalized terms used but not defined in this Preliminary Statement are intended to have the meanings ascribed to them *infra*.

exercise control over all of the assets, undertakings, and property of the Debtors, including all proceeds (collectively, the "Property"), and is charged with maximizing the value of the Property for the benefit of the Debtors' stakeholders. In that regard, the Receiver is empowered to market and sell the Property,[3] which it is now doing through a Canadian Court-approved sale solicitation process (the "SSP"), and manage and direct (including through prosecution or settlement) all pending and future legal proceedings in respect of the Debtors,[4] in each case to the exclusion of all other persons.

2. Immediately upon its appointment, the Receiver undertook to investigate claims that were asserted against Stellex Capital Management, LLC and certain of its affiliates (collectively, "Stellex") in an action (the "SDNY Action") commenced shortly before the entry of the Receivership Order by Debtor Rokstad Holdings Corporation, proceeding under the caption *Rokstad Holdings v. Stellex Capital Management, LLC*, Case No. 1:24-cv-08370-MKV (S.D.N.Y.). With the benefit of such investigation—which included interviews with both Prior Rokstad Counsel (who commenced the SDNY Action) and Stellex's counsel—the Receiver determined that the claims asserted against Stellex in the SDNY Action lacked merit and, even if the factual allegations underlying such claims were true, the Debtors could articulate no damages to their assets or estates.

3. Accordingly, the Receiver and Stellex entered into arms'-length negotiations and, on December 5, 2024, entered into the *Settlement Agreement and Release* (the "Settlement Agreement"),[5] which, among other things, contemplates (a) that Stellex will (i) reduce the

3 Receivership Order at ¶ 2(k) – (m).

4 Receivership Order at ¶ 2(j).

5 A true and correct copy of the Settlement Agreement is attached to the *Declaration of Thomas William Powell in Support of Motion for Order (I) Recognizing and Enforcing the Omnibus Approval Order; (II) Approving the*

Secured Indebtedness by $2 million; and (ii) assume the Debtors' rights and obligations in respect of warranty of the Debtors' work done in the ordinary course of business during the Receivership through to the Closing of a sale transaction; (b) Stellex will be permitted to participate in the SSP and has been designated as Stalking Horse Bidder;[6] and (c) the Receiver will dismiss the SDNY Action with prejudice.

4. On December 13, 2024, the Canadian Court approved the Settlement Agreement pursuant to the *Omnibus Approval Order* (the "Omnibus Approval Order").[7] Through this Motion, the Foreign Representative seeks entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Order"), in furtherance of its mandate to maximize the value of the Property: (a) granting recognition and enforcement of the Omnibus Approval Order; and (b) approving, pursuant to Bankruptcy Rule 9019,[8] the settlement (the "Settlement") between the Receiver and Stellex that is embodied in the Settlement Agreement and has been approved by the Canadian Court pursuant to the Omnibus Approval Order.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012 (the "Amended Standing Order"). The Foreign

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Settlement Pursuant to Bankruptcy Rule 9019; and (III) Granting Related Relief (the "Powell Declaration"), filed contemporaneously herewith, as Exhibit B.

6 For the avoidance of doubt, by this Motion, the Receiver does not seek this Court's approval of the SSP or the Stalking Horse APA.

7 A true and correct copy of the Omnibus Approval Order is attached to the Powell Declaration as Exhibit D.

8 Bankruptcy courts within this district have made clear that section 363 of the Bankruptcy Code governs a chapter 15 debtor's use of property located within the United States. *See, e.g., In re Goli Nutrition, Inc.*, 2024 Bankr. LEXIS 973, *6 (Bankr. D. Del. Apr. 23, 2024). Therefore, out of an abundance of caution, the Foreign Representative seeks approval of the Settlement from this Court because the SDNY Action is proceeding in the United States.

Representative confirms its consent, pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

6. These Chapter 15 Cases have been properly commenced pursuant to section 1504 of title 11 of the United States Code (the "Bankruptcy Code") by the filing of petitions for recognition of the Canadian Receivership under section 1515 of the Bankruptcy Code.

7. Venue is proper pursuant to 28 U.S.C. § 1410(1) and (3).

8. The statutory bases for the relief requested herein are sections 103, 105, 363, 1507, 1520, 1521, and 1525 of the Bankruptcy Code, rules 6004, 9006, and 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Local Rules 9006-1 and 9006-2.

BACKGROUND

A. General Background

1. The Debtors' Capital Structure[9]

9. ***The CWB Facility***. Pursuant to, among other things, the *Amended and Restated Credit Agreement* (the "CWB ARCA") by and among Rokstad Holdings and Rokstad Power, as borrowers, each of the other Canadian Debtors and RPI, as guarantors, and Canadian Western

[9] Capitalized terms used but not defined in this section are intended to have the meanings ascribed to them in paragraphs 17 through 25 of the *Declaration of Foreign Representative Pursuant to 11 U.S.C. § 1515 and Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure and in Support of Verified Petition for (I) Recognition of Foreign Main Proceeding, (II) Recognition of Foreign Representative, and (III) Related Relief Under Chapter 15 of the Bankruptcy Code* [Docket No. 5] (the "Foreign Representative Declaration").

Bank ("CWB"), CWB provided loans to the Rokstad Group in the aggregate maximum principal amount of CAD$70,000,000. In connection with the CWB Loan Agreement, the Debtors and certain of the Rokstad Family, as applicable, entered into various security agreements and assignments (as amended, supplemented, amended and restated, or otherwise modified from time to time, the "CWB Security Agreements") pursuant to which the CWB Prepetition Secured Obligations are secured by first priority security interests in and liens on substantially all of the Debtors' assets.

10. On August 26, 2022, CWB and the Rokstad Group entered into that certain *Forbearance Agreement* (the "Original CWB Forbearance Agreement"), pursuant to which, among other things, (i) the Rokstad Group acknowledged 12 defaults under the CWB Loan Agreement and (ii) CWB agreed to forbear from exercising remedies under the CWB Loan Agreement through October 31, 2022, subject to extension in CWB's sole discretion. Subsequently, CWB and the Rokstad Group entered into 24 amendments to the Original CWB Forbearance Agreement (such amendments, together with the Original CWB Forbearance Agreement, the "CWB Forbearance Agreements") with respect to asserted defaults under the CWB Loan Agreement, the last of which expired in September 2024.

11. On October 7, 2024, Stellex Power Line Opco LLC and 1501841 B.C. Ltd., sister companies beneficially owned by Stellex Capital Management, entered into that certain *Purchase and Sale of Indebtedness and Security Agreement* (the "CWB Debt Agreement") with CWB, pursuant to which CWB sold and assigned to Stellex all of CWB's rights, title, and interest in the CWB Prepetition Secured Obligations and under the CWB Loan Agreement.

12. ***The Crown Facility***. Pursuant to, among other things, the *Amended and Restated Loan Agreement* (the "Crown ARLA") by and among Rokstad Holdings, as borrower, each of

the other Canadian Debtors, RPI, Bernie Rokstad, and Aaron Rokstad as guarantors, and Crown Capital Partner Funding LP ("Crown"), as lender, dated as of November 6, 2019, Crown provided loans to the Rokstad Group in the aggregate maximum principal amount of CAD$50,000,000.

13. Pursuant to that certain *Subordination, Priority, Standstill and Postponement Agreement* by and among CWB, Crown, and Rokstad Holdings, dated as of June 3, 2020, and as further amended, restated, supplemented, or otherwise modified from time to time (collectively, the "Crown Priority Agreement"), Crown subordinated and postponed its claims and security interests under the Crown Loan Agreement to those under the CWB Loan Agreement.

14. On October 28, 2024, Stellex entered into that certain *Purchase and Sale of Indebtedness and Security Agreement* (the "Crown Debt Agreement") with Crown, pursuant to which Crown sold and assigned to Stellex all of Crown's rights, title, and interest in the Crown Prepetition Secured Obligations and under the Crown Loan Agreement.

2. Events Preceding the Commencement of the Canadian Receivership

15. On each of March 31, 2022 and April 8, 2022, CWB issued letters (the "2022 Breach Letters") to the Canadian Debtors and RPI, alleging breaches and defaults under the CWB Loan Agreement. Thereafter, on June 21, 2022, CWB issued a further letter (the "2022 Default Letter") to the Canadian Debtors and RPI, alleging 14 defaults under the CWB Loan Agreement. After executing the Original CWB Forbearance Agreement in August 2022, the Rokstad Group undertook a strategic process (the "Sales Process") with the assistance of Stifel, Nicolaus & Co, Inc., as advisor to the Rokstad Group, and overseen by PricewaterhouseCoopers Inc., as advisor to CWB. The Sales Process, which began in late 2022, involved several permutations, initially contemplating the sale of certain divisions of the Rokstad Group. In fall 2023, through the Sales Process, the Debtors did sell one division of the Rokstad Group, but the proceeds of such

transaction were insufficient to repay the Rokstad Group's indebtedness under the CWB Loan Agreement in full.

16. On March 7, 2024, CWB, the Rokstad Group, and Bernie Rokstad entered into that certain *Amended and Restated Forbearance Agreement* (the "ARFA"), which was the twenty-first amendment to the CWB Forbearance Agreement. Pursuant to the ARFA, the Rokstad Group and Bernie Rokstad acknowledged the existence of 15 events of default under the CWB Loan Agreement. Further, pursuant to the ARFA, the Rokstad Group agreed that the Sales Process would entail, beginning by the end of March, marketing the Debtors' entire business in an effort to secure a sale of all or substantially all of the Rokstad Group's assets.

17. On September 4, 2024, prior to Stellex's acquisition of CWB's interests in the CWB Loan Agreement, CWB issued (i) a demand letter to the Rokstad Group and Bernie Rokstad for repayment of all indebtedness owing by the Rokstad Group to CWB (the "2024 CWB Demand Letter"); and (ii) notices of intention to enforce security in accordance with section 244 of the BIA to each of the Debtors (the "CWB Notices of Intention"). On October 2, 2024, prior to Stellex's acquisition of Crown's interests in the Crown Loan Agreement, Crown issued (i) a demand letter to the Rokstad Group, Bernie Rokstad, and Aaron Rokstad for repayment of all indebtedness owing by the Rokstad Group to Crown (the "2024 Crown Demand Letter"); and (ii) notices of intention to enforce security in accordance with section 244 of the BIA to each of the Debtors, Bernie Rokstad, and Aaron Rokstad (the "Crown Notices of Intention").

3. The Commencement of the Canadian Receivership

18. On October 10, 2024, Stellex filed its *Notice of Application* (the "Interim Receivership Application") with the Canadian Court under the BIA, seeking to have an interim receiver appointed over the Canadian Debtors' bank accounts, including all receipts therein and disbursements therefrom. The same date, the Canadian Court granted the Interim Receivership Application and issued the *Order Made After Application (Interim Receiver Appointment)* (the "Interim Receivership Order") pursuant to section 47 of the BIA. Pursuant to the Interim Receivership Order, FTI was appointed as interim receiver of the Canadian Debtors' bank accounts until the earlier of the appointment of FTI as permanent receiver or November 8, 2024.

19. On October 25, 2024, Stellex filed its *Notice of Application* (the "Receivership Application") with the Canadian Court under the BIA and LEA, seeking (i) the addition of the U.S. Debtors as respondents in the Canadian Receivership; and (ii) the appointment of FTI as permanent receiver over all of the assets, undertakings, and property of the Debtors. On October 31, 2024, the Rokstad Group filed a *Response to Application* (the "Receivership Objection"), opposing the relief sought in the Receivership Application. The Canadian Court held a hearing with respect to the Receivership Application on November 4, 2024, thereafter taking the matter under advisement.

20. On November 6, 2024, the Canadian Court issued an order (the "Receivership Order"),[10] granting the Receivership Application. The Receivership Order provides that the Receiver was appointed as receiver "of all of the assets, undertakings and property of the Debtors, including all proceeds,"[11] and is empowered and authorized, to the exclusion of all others, to,

10 A true and correct certified copy of the Receivership Order is attached to the Verified Petition as **Exhibit B**.

11 Receivership Order at ¶ 1.

among other things, "initiate, manage and direct all legal proceedings now pending (including appeals or applications for judicial review) in respect of the Debtors, the Property or the Receiver, including initiating, prosecuting, continuing, defending, settling or compromising the proceedings."[12]

4. The Chapter 15 Cases

21. On November 21, 2024, the Foreign Representative filed voluntary petitions for relief under chapter 15 of the Bankruptcy Code for each of the Debtors in the United States Bankruptcy Court for the District of Delaware (the "Court"). A description of the Debtors' business and the events leading up to the commencement of the Canadian Receivership and these Chapter 15 Cases is included in the Foreign Representative Declaration,[13] fully incorporated herein by reference.

22. On November 22, 2024, the Court entered the *Order Granting Provisional Relief Pursuant to Section 1519 of the Bankruptcy Code* [Docket No. 28] (the "Provisional Recognition Order"), giving provisional recognition to the Canadian Receivership and granting full force and effect to the Receivership Order on a provisional basis.

23. On November 21, 2024, the Foreign Representative filed the *Verified Petition for (I) Recognition of Foreign Main Proceeding; (II) Recognition of Foreign Representative; and (III) Related Relief Under Chapter 15 of the Bankruptcy Code* [Docket No. 4] (the "Verified Petition"), seeking, among other things, recognition of the Canadian Receivership as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code. On December 12, 2024, the Court entered the *Order Granting Petition for (I) Recognition of Foreign Main Proceeding; (II)*

12 *Id.* at ¶ 2(j).

13 Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Foreign Representative Declaration.

Recognition of Foreign Representative; and (III) Related Relief Under Chapter 15 of the Bankruptcy Code [Docket No. 37] (the "Recognition Order").

B. The SDNY Action

24. On November 1, 2024 (after the entry of the Interim Receivership Order but before entry of the Receivership Order), Rokstad Holdings, represented by Bennett Tueller Johnson & Deere, LLC and Rimon P.C. ("Prior Rokstad Counsel"), filed a Complaint in the United States District Court for the Southern District of New York (the "SDNY Court") against Stellex, the SDNY Action.[14] In the SDNY Action, Rokstad Holdings, through Prior Rokstad Counsel, alleges that Stellex breached the terms of a non-disclosure agreement (the "Stellex NDA") that Stellex and Rokstad Holdings entered into in connection with the Sales Process when Stellex, through two wholly-owned entities, purchased the CWB Loan Facility and the Crown Loan Facility (collectively, the "Secured Indebtedness"), thereby becoming the sole secured lender to the Debtors. The SDNY Action seeks, among other things, (a) damages against Stellex in the amount of the difference between what Stellex paid to acquire the Secured Indebtedness and the face value of the Secured Indebtedness; and (b) preliminary and permanent injunctions prohibiting Stellex from purchasing or attempting to purchase the Debtors or any of their assets.

25. As more fully set forth in the Complaint, the allegations in the SDNY Action are summarized as follows:

(a) In or about December 2022, Rokstad Holdings hired a financial advisor to assist with an equity raise or sale, acquisition, or merger of its operations (the "Pre-Receivership Sale Process");

(b) The Pre-Receivership Sales Process continued into 2024 and, as part of this process, Stellex was identified as a potential purchaser;

[14] A true and correct copy of the Complaint filed in the SDNY Action is attached to the Powell Declaration as Exhibit A.

(c) On or about May 13, 2024, Stellex executed the NDA;

(d) Stellex and the Debtors continued to negotiate a potential transaction and entered into a non-binding letter of intent (the "Stellex LOI") on or around June 18, 2024;

(e) On or about September 21, 2024, Rokstad Holdings terminated the Stellex LOI;

(f) After the termination of the Stellex LOI, Stellex, through its subsidiaries, acquired the Secured Indebtedness previously owned by CWB and Crown, thereby becoming the sole secured creditor to the Debtors; and

(g) Stellex's purchase of the Secured Indebtedness constituted a breach of the NDA because Stellex would not have known about the Secured Indebtedness without having access to the Debtors' confidential information pursuant to the NDA.

26. On November 4, 2024, Rokstad Holdings, through Prior Rokstad Counsel, filed a *Proposed Order to Show Cause* [SDNY Docket No. 5],[15] *Memorandum of Law in Support of Plaintiff Rokstad Holdings' Motion for a Temporary Restraining Order and Preliminary Injunction* [SDNY Docket No. 6], and *Declaration of Aaron Rokstad* [SDNY Docket No. 7] (collectively, the "TRO Motion"). The TRO Motion was not set for hearing.

27. Following entry of the Receivership Order, the Receiver contacted Prior Rokstad Counsel and requested that the TRO Motion be immediately withdrawn and otherwise cease prosecution of the SDNY Action pending the Receiver's review and provision of instructions on the same.

28. On November 7, 2024, Prior Rokstad Counsel withdrew the TRO Motion by letter to the SDNY Court.[16] On December 11, 2024, undersigned counsel for the Foreign Representative filed a *Stipulation and (Proposed) Order for Substitution of Counsel* [SDNY Docket No. 20] (the "Substitution"), stipulating to the substitution of undersigned counsel for Prior Rokstad Counsel as attorneys for Rokstad Holdings in the SDNY Action. The SDNY

15 References to "SDNY Docket No." refer to the docket entries in the SDNY Action.

16 SDNY Docket No. 18.

Action remains active, although there are no currently-pending requests for relief except for the Substitution, which has not yet been so-ordered.

C. The Settlement

29. On or about November 13, 2024, Canadian counsel to the shareholders of Rokstad Holdings and certain principals and/or beneficiaries of the shareholders (the "Equity Holders") inquired as to the Receiver's intended course of action with respect to the SDNY Action and whether the Receiver would allow the Equity Holders to assume carriage of the action on their own behalf. As set forth in the Receivership Order, the Receiver was appointed over the Property—including the SDNY Action—and was specifically authorized and empowered to "manage and direct all legal proceedings now pending or hereafter pending (including appeals or applications for judicial review) in respect of the Debtors, the Property or the Receiver, including initiating, prosecuting, continuing, defending, settling or compromising the proceedings."[17] The Receiver, aided by its advisors, accordingly undertook a careful evaluation and consideration of the SDNY Action to determine the best course of action with respect thereto for the Debtors' estates and to maximize recoveries to the Debtors' stakeholders.

30. Because the Stellex NDA is governed by Delaware law and the SDNY Action was filed in New York, the Receiver requested that its United States counsel, Pachulski Stang Ziehl & Jones LLP ("PSZJ"), undertake and provide the Receiver with an assessment of the merits of the SDNY Action. To facilitate this assessment, PSZJ (a) requested copies of any and all documents from both Stellex's counsel and Prior Rokstad Counsel that either substantiate or were responsive to the factual allegations made in the SDNY Action; and (b) interviewed both Stellex's

17 Receivership Order at ¶ 2(j).

counsel and Prior Rokstad Counsel regarding the merits of, and damages claimed in, the SDNY Action.

31. The Receiver has reviewed the SDNY Action (including relevant pleadings filed therein) and, with the benefit of legal advice from its counsel (including PSZJ) and all information provided by Stellex and Prior Rokstad Counsel, has concluded that the SDNY Action is meritless. Based on the information provided by both Prior Rokstad Counsel (which rested almost entirely on the pleadings filed in the SDNY Action) and Stellex (which included a comprehensive factual recitation—supported by documentary evidence—that cast substantial doubt on the central narrative set forth in the Complaint), the Receiver concluded, with the benefit of legal advice, that not only is it unlikely that the allegations set forth in the Complaint could be proven, even if they could, Rokstad Holdings has suffered no damages. Before Stellex's alleged breaches of the Stellex NDA, the Secured Indebtedness totaled approximately CDN$100 million. After Stellex's alleged breaches of the Stellex NDA, the Secured Indebtedness remains approximately CDN$100 million. Indeed, by email dated November 16, 2024, Prior Rokstad Counsel confirmed that "the Rostad [sic] principals do not dispute the CWB and Crown debts—they dispute Stellex's acquisition of those debts and the Stellex's enforcement of those debts."

32. Further, the Receiver has determined that the continued prosecution of the SDNY Action has the potential to cause significant disruption to the ongoing Canadian Receivership and, in particular the ongoing SSP being conducted therein. Stellex has been designated as the Stalking Horse Bidder and, if the successful bidder pursuant to the SSP, will provide substantial value, including by assuming many of the Debtors' obligations to customers, employees, and vendors.

33. In light of the foregoing and, in particular: (a) the need for the Receiver to establish the SSP in the immediate term to avoid any deterioration in the value of the Debtors' business and maximize the value thereof for the benefit of the Debtors' stakeholders; and (b) the significant interruption and chilling effect the SDNY Action is likely to have on the sale process, each as weighed against the Receiver's informed analysis that the SDNY Action lacks merit, the Receiver determined that it was in the best interests of the Debtors and their stakeholders that the SDNY Action be settled and discontinued.

34. Accordingly, after arms'-length negotiations, the Receiver entered into the Settlement Agreement with Stellex. Pursuant to the Settlement Agreement, (a) Stellex has agreed, among other things, to: (i) reduce the Secured Indebtedness by $2 million; and (ii) assume the Debtors' rights and obligations in respect of warranty of their work done in the ordinary course of business during the Receivership through to the Closing of a sale transaction; (b) Stellex will be permitted to participate in the SSP and has been designated as Stalking Horse Bidder;[18] and (c) the Receiver will dismiss the SDNY Action with prejudice.

35. On December 6, 2024, the Receiver filed the *Notice of Application* (the "Notice of Application")[19] with the Canadian Court, seeking entry of, *inter alia*, the Omnibus Approval Order. No objections to entry of the Omnibus Approval Order were lodged at or before the December 13, 2024 hearing thereon, and the Canadian Court thus entered the Omnibus Approval Order.

18 For the avoidance of doubt, by this Motion, the Receiver does not seek this Court's approval of the SSP or the Stalking Horse APA.

19 A true and correct copy of the Notice of Application is attached to the Powell Declaration as Exhibit C.

RELIEF REQUESTED

36. By this Motion, the Foreign Representative respectfully requests entry of the Order: (a) granting recognition and enforcement of the Omnibus Approval Order; and (b) approving, pursuant to Bankruptcy Rule 9019, the Settlement between the Receiver and Stellex that is embodied in the Settlement Agreement and has been approved by the Canadian Court pursuant to the Omnibus Approval Order.

BASIS FOR RELIEF

A. The Court Should Recognize and Enforce the Omnibus Approval Order

37. Chapter 15 of the Bankruptcy Code is designed to promote cooperation and comity between courts in the United States and foreign courts, to protect and maximize the value of a debtor's assets, and to facilitate the rehabilitation and reorganization of businesses.[20] It empowers "courts with broad, flexible rules to fashion relief appropriate for effectuating its objectives in accordance with comity."[21] The Foreign Representative respectfully submits that the Court should exercise its discretion and power granted by sections 1507 and 1521 of the Bankruptcy Code to grant recognition to and enforcement of the Omnibus Approval Order.

1. Granting Recognition and Enforcement of the Omnibus Approval Order is Warranted Pursuant to Section 1521 of the Bankruptcy Code

38. Under section 1521 of the Bankruptcy Code, upon recognition of a foreign proceeding, a bankruptcy court may grant "any appropriate relief" to "effectuate the purpose of [chapter 15] and to protect the assets of the debtor or the interests of the creditors,"[22] including

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20 11 U.S.C. § 1501(a).

21 *In re Vitro S.A.B. de CV*, 701 F.3d 1031, 1053 (5th Cir. 2012); *see also In re SPhinX, Ltd.*, 351 B.R. 103, 112 (Bankr. S.D.N.Y. 2006).

22 11 U.S.C. § 1521(a).

"any additional relief that may be available to a trustee" in a plenary proceeding.[23] Relief under section 1521 of the Bankruptcy Code is conditioned on a determination that the interests of the creditors and other interested entities, including the debtors, are sufficiently protected.[24] "The analysis under § 1522 is one of balancing the respective interests based on the relative harms and benefits in light of the circumstances presented."[25]

39. Recognizing and enforcing the Omnibus Approval Order and the relief granted thereunder—and, particularly, the approval of the Settlement—constitutes "appropriate relief" under section 1521 of the Bankruptcy Code. Indeed, as set forth *infra*, bankruptcy courts routinely grant approval of settlements (which are universally acknowledged to be a favored means of resolving disputes in bankruptcy) to trustees and debtors in possession in plenary proceedings under the Bankruptcy Code.

40. Moreover, recognition and enforcement of the Omnibus Approval Order under section 1521(a) satisfies the requirement of section 1522 of the Bankruptcy Code that the interests of creditors, the debtor, and other interested parties be sufficiently protected. As noted above, although the Bankruptcy Code does not define "sufficient protection," courts have found that it "requires a balancing of the interests of Debtors, creditors, and other interested parties."[26] The legislative history of section 1522 illuminates the concept of "sufficient protection," indicating that such protection is lacking where "it is shown that the foreign proceeding is seriously and unjustifiably injuring United States creditors."[27]

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23 11 U.S.C. § 1521(a)(7).

24 11 U.S.C. § 1522; *see also In re Energy Coal S.p.A.* 582 B.R. 619, 627 (Bankr. D. Del. 2018).

25 *In re Better Place, Inc.*, 2018 Bankr. LEXIS 322, *19 (Bankr. D. Del. Feb. 5, 2018) (internal citations omitted).

26 *In re Petroforte Brasileiro de Petroleo Ltda.*, 42 B.R. 899, 909 (Bankr. S.D. Fla. 2015).

27 H.R. Rep. No. 109-31, pt. 1, at 116 (2005).

41. Here, granting the requested relief is appropriate because all parties' interests are protected through the Canadian Receivership, given that all such parties were afforded adequate notice of the hearing to consider the Omnibus Approval Order and had a full and fair opportunity to be heard and present objections to its approval. The BIA, the Canadian statute under which the Canadian Receivership is proceeding, provides a comprehensive framework for the Receiver to maximize the value of the Debtors' assets under the supervision of the Canadian Court through a centralized, collective judicial process that encourages creditor participation.

42. Interested parties—including the Equity Holders—were accorded a full and fair opportunity to object to the entry of the Omnibus Approval Order before the Canadian Court. No parties objected to its entry and, upon notice and after a hearing, the Canadian Court entered the Omnibus Approval Order.

43. The relief requested herein will "assist in the efficient administration of [the] cross-border insolvency proceeding [while] not harm[ing] the interest of the debtors or their creditors."[28] Granting full force and effect to the Omnibus Approval Order within the territorial jurisdiction of the United States will ensure the uniform and efficient administration of the Canadian Receivership and these Chapter 15 Cases and, accordingly, is appropriate under the circumstances.

2. Granting Recognition and Enforcement of the Omnibus Approval Order is Warranted Pursuant to Section 1507 of the Bankruptcy Code

44. The Foreign Representative respectfully submits that the relief requested herein is also warranted pursuant to section 1507(a) of the Bankruptcy Code, which permits a court to

28 *In re Grant Forest Prods., Inc.*, 440 B.R. 616, 621 (Bankr. D. Del. 2010).

"provide additional assistance to a foreign representative"[29] provided that such assistance is consistent with principles of comity and that there is a reasonable assurance that provision of such assistance satisfies the guardrails set forth in section 1507(b) of the Bankruptcy Code.[30]

45. In determining whether to exercise their discretion to grant additional relief under section 1507(a), courts are "guided by principles of comity and cooperation."[31] As one court has explained:

> While recognition of the foreign proceeding turns on the objective criteria under § 1517, relief [post-recognition] is largely discretionary and turns on subjective factors that embody principles of comity. Once a case is recognized as a foreign main proceeding, chapter 15 specifically contemplates that the court will exercise its discretion consistent with principles of comity.[32]

46. Here, the Foreign Representative respectfully submits that, under principles of comity and cooperation, the Court may recognize and enforce the Omnibus Approval Order pursuant to section 1507 of the Bankruptcy Code as "additional relief." Among other things, recognition and enforcement of the Omnibus Approval Order will provide certainty to all parties-in-interest that the Omnibus Approval Order and the Settlement approved within will be

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29 11 U.S.C. § 1507(a); s*ee also* 30 The Foreign Representative submits that none of the "guardrails" set forth in section 1507(b) of the Bankruptcy Code are implicated by this Motion. First, the relief provided in the Omnibus Approval Order does not concern the submission, processing, or resolution of claims against the Debtors or the equitable distribution of the Debtors' assets. *See In re Oi S.A.*, 587 B.R. 253, 267 – 68 (Bankr. S.D.N.Y. 2018) (discussing section 1507(b)(1)-(2)). Second, the BIA does not permit preferential or fraudulent dispositions of a debtor's property. Third, the Canadian Receivership does not concern any individual.

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31 *In re Metcalfe & Mansfield Alt. Invs.*, 421 B.R. 685, 696 (Bankr. S.D.N.Y. 2010); *see also In re Elpida Memory, Inc.*, 2012 Bankr. LEXIS 5367, *11-12 (Bankr. D. Del. Nov. 16, 2012).

32 *In re Sino-Forest Corp.*, 501 B.R. 655, 664 (Bankr. S.D.N.Y. 2013) (cleaned up).

enforceable both in Canada and the United States. Thus, recognition and enforcement of the Omnibus Approval Order will protect and prevent prejudice to creditors by ensuring uniform application of the Omnibus Approval Order in both nations.

3. Recognition and Enforcement of the Omnibus Approval Order is Consistent with United States Public Policy

47. A court may refuse to take an action governed by chapter 15 of the Bankruptcy Code if taking such action "would be manifestly contrary to the public policy of the United States."[33] Courts have universally emphasized that the "public policy exception" found in section 1506 of the Bankruptcy Code is narrow and its application is restricted to the "most fundamental policies of the United States."[34] Courts assessing the fairness of a foreign proceeding pursuant to the public policy exception "need not engage in an independent determination about the propriety of individual acts of a foreign court" and may not employ the public policy exception simply because some procedural or constitutional rights afforded to parties under the laws of the United States are absent from the foreign proceeding.[35]

48. Here, not only were parties' rights to notice and an opportunity to object to entry of the Omnibus Approval Order respected, the Canadian Court's evaluation of the Settlement Agreement was necessarily founded on substantively identical legal principles to those (discussed below) used by United States bankruptcy courts in approving settlements pursuant to Bankruptcy Rule 9019—fairness and reasonableness under the circumstances, as evaluated by balancing the interests of all interested parties.[36] Accordingly, the Foreign Representative submits that section

33 11 U.S.C. § 1506.

34 *In re ABC Learning Ctrs. Ltd.*, 728 F.3d 301, 309 (3d Cir. 2013).

35 *Vitro*, 701 F.3d at 1069.

36 *See* Notice of Application at ¶¶ 51 – 52 (citing cases).

1506 of the Bankruptcy Code is not implicated by the recognition and enforcement of the Omnibus Approval Order.

B. The Settlement Satisfies the Standards of Bankruptcy Rule 9019

49. Section 105 of the Bankruptcy Code provides, in relevant part, that "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title."[37] Section 103 of the Bankruptcy Code provides that chapter 1 of the Bankruptcy Code, and thus section 105 thereof, applies in chapter 15 cases.[38]

50. Bankruptcy Rule 9019 provides that "[o]n motion by the trustee and after a hearing, the bankruptcy court may approve a compromise or settlement."[39] Bankruptcy Rule 9019 has been applied by bankruptcy courts within this district in the context of chapter 15 cases.[40]

51. It is well-settled that in order to "minimize litigation and expedite the administration of a bankruptcy estate, '[c]ompromises are favored in bankruptcy.'"[41] Accordingly, when required, "courts are able to craft flexible remedies that, while not expressly authorized by the [Bankruptcy] Code, effect the result that [Bankruptcy] Code was designed to obtain."[42] Pursuant to Bankruptcy Rule 9019, a bankruptcy court may, after appropriate notice

37 11 U.S.C. § 105(a).

38 11 U.S.C. § 103(a).

39 Fed. R. Bankr. P. 9019(a).

40 *See, e.g.*, *In re FTX Digital Markets Ltd.*, Case No. 22-11217 (JTD), Docket No. 141 (Bankr. D. Del. Jan. 24, 2024); *In re Point Invs., Ltd. (In Liquidation)*, Case No. 22-10261 (TMH), Docket No. 135 (Bankr. D. Del. Sep. 6, 2023); *In re Unique Broadband Sys. Ltd.*, Case No. 19-11321 (BLS), Docket No. 27] (Bankr. D. Del. Apr. 15, 2020); *In re Catalyst Paper Corp.*, Case No. 12-10221 (PJW), Docket No. 174 (Bankr. D. Del. July 27, 2012); *In re Grant Forest Prods. Inc.*, Case No. 10-11132 (PJW), Docket No. 143 (Bankr. D. Del. Apr. 11, 2012); *see also In re Cinque Terre Fin. Grp., Ltd.*, 2017 Bankr. LEXIS 3686, *28 (Bankr. S.D.N.Y. Oct. 24, 2017).

41 *Myers v. Martin* (*In re Martin*), 91 F.3d 389, 393 (3d Cir. 1996) (quoting 9 COLLIER ON BANKRUPTCY ¶ 9019.03[1] (15th ed. 1993)).

42 *Official Comm. of Unsecured Creditors of Cybergenics Corp. v. Chinery*, 330 F.3d 548, 568 (3d Cir. 2003).

and a hearing, approve a compromise or settlement so long as such settlement is fair, reasonable, and in the best interest of the estate.[43] "Ultimately, the decision whether or not to approve a settlement agreement lies within the sound discretion of the Court."[44]

52. In *Martin*, the United States Court of Appeals for the Third Circuit set forth a four-factor balancing test that should be considered in determining whether a settlement should be approved: "(1) the probability of success in litigation; (2) the likely difficulties in collection; (3) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (4) the paramount interest of the creditors."[45] No one factor is determinative and a bankruptcy court should "assess and balance the value of the claim being compromised against the value to the estate of the acceptance of the compromise proposal."[46]

53. Critically, a settlement proponent need not convince the bankruptcy court that a settlement is the best possible compromise, but only that the settlement falls "within the range of litigation possibilities somewhere above the lowest point in the range of reasonableness."[47] In analyzing the proposed compromise, "courts should not have a 'mini-trial' on the merits."[48]

54. The Foreign Representative believes and submits that the compromise embedded in the Settlement Agreement is fair, reasonable, and in the best interest of the Debtors and their creditors and satisfies each of the applicable *Martin* factors.

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43 *See, e.g., In re Marvel Entm't Grp., Inc.*, 222 B.R. 243, 249 (D. Del. 1998)

44 *In re Nortel Networks, Inc.*, 522 B.R. 491, 510 (Bankr. D. Del. 2014).

45 *Martin*, 91 F.3d at 393.

46 *Id.*

47 *In re Nutritional Sourcing Corp.*, 398 B.R. 816, 833 (Bankr. D. Del. 2008

48 *In re W.R. Grace & Co.*, 475 B.R. 34, 77-78 (Bankr. D. Del. 2012).

55. ***Probability of Success in Litigation***. As noted above, after investigating the claims in the SDNY Action, the Receiver determined that Rokstad Holdings' claims against Stellex lacked merit and the factual underpinnings of the SDNY Action lacked evidence, particularly as compared to evidence that would likely be introduced by Stellex if the SDNY Action were to proceed to trial. Accordingly, the Foreign Representative believes that the Settlement—pursuant to which Stellex is providing actual value to the Debtors, their estates, and their creditors—represents greater value than the continued prosecution of the SDNY Action.

56. ***Likely Difficulties in Collection***. In light of the first *Martin* factor, this factor is not relevant.

57. ***Complexity, Expense, Delay, and Inconvenience*** and ***Paramount Interest of Creditors***. If the SDNY Action were to proceed, based on its analysis of the claims made therein, the Receiver believes that it would be expending time and resources on pursuing meritless claims. Moreover, continuing to pursue such claims against Stellex would be at the expense of Stellex serving as Stalking Horse Bidder in the Canadian Receivership pursuant to the SSP. If Stellex is designated as the winning bidder pursuant to the SSP, as set forth in its Stalking Horse APA, it proposes to assume considerable customer, employee, and vendor obligations, inuring to the benefit of the Debtors' creditors. If Stellex is not designated as the winning bidder pursuant to the SSP, through its Stalking Horse APA, it will have provided a floor for the establishment of the winning bid, which would necessarily have to provide greater value than that which is in the Stalking Horse APA, again inuring to the benefit of creditors.

58. Accordingly, the Foreign Representative respectfully submits that the Court should approve the Settlement pursuant to Bankruptcy Rule 9019.

C. The Settlement is an Appropriate Use of the Debtors' Property Under Section 1520 of the Bankruptcy Code

59. Section 1520 of the Bankruptcy Code makes section 363 applicable to the Debtors' property "that is within the territorial jurisdiction of the United States"[49] and further provides that the Foreign Representative may "exercise the rights and powers of a trustee under and to the extent provided by [section] 363."[50] Arguably, the Settlement contemplates property of the Debtors that is located within the territorial jurisdiction of the United States because the SDNY Action is pending within the United States and the effect of the Settlement will, among other things, cause the dismissal of the SDNY Action with prejudice. Thus, out of an abundance of caution, the Foreign Representative seeks relief from this Court pursuant to sections 1520 and 363 of the Bankruptcy Code.

60. Section 363(b) of the Bankruptcy Code provides, in relevant part, that a debtor, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate."[51] If a settlement is outside of a debtor's ordinary course of business, then such settlement therefore requires approval of the bankruptcy court under section 363(b) of the Bankruptcy Code.[52]

61. A debtor may use property of the estate outside of the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code if sound business reasons exist for doing so.[53] "If a valid business justification exists, then a strong presumption follows that the agreement at

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49 11 U.S.C. § 1520(a)(2).

50 11 U.S.C. § 1520(a)(3).

51 11 U.S.C. § 363(b)(1).

52 *See Northview Motors, Inc. v. Chrysler Motors Corp.*, 186 F.3d 346, 350-51 (3d Cir. 1999); *see also Martin*, 91 F.3d at 395 n. 2.

53 *See, e.g.*, *Martin*, 91 F.3d at 395; *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999).

issue was negotiated in good faith and is in the best interests of the estate; the burden of rebutting that presumption falls to parties opposing the transaction."[54]

62. As set forth above, the Settlement represents a fair and reasonable compromise. The Settlement, which was reached after the Receiver undertook an independent investigation of the claims and causes of action asserted against Stellex in the SDNY Action, resolves claims that the Receiver believes lack merit while still providing tangible value to the Debtors' estates. Further, the discontinuation of the SDNY Action pursuant to the Settlement prevents the potentially significant disruption its continued prosecution would have on the Canadian Receivership and these Chapter 15 Cases.

63. The Foreign Representative respectfully submits that entry into the Settlement Agreement is a reasonable exercise of its business judgment. Accordingly, the Settlement should be authorized pursuant to sections 363 and 1520 of the Bankruptcy Code.

WAIVER OF BANKRUPTCY RULE 6004(h)

64. Given the nature of the relief requested herein, the Foreign Representative respectfully requests a waiver of the 14-day stay under Bankruptcy Rule 6004(h), to the extent such Bankruptcy Rule is applicable to this Motion. Pursuant to Bankruptcy Rule 6004(h), "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until expiration of 14 days after entry of the order, unless the court orders otherwise."[55] For the reasons described above, the relief requested is essential to maximize the value of the Debtors' property and ample cause exists to justify a waiver of the stay period to the extent applicable.

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54 *In re Filene's Basement, LLC*, 2014 Bankr. LEXIS 2000, at *40 (Bankr. D. Del. Apr. 29, 2014) (*quoting In re MF Global, Inc.*, 467 B.R. 726, 730 (Bankr. S.D.N.Y. 2012)).

55 Fed. R. Bankr. P. 6004(h).

NOTICE

65. The United States Postal Service (the "USPS") has currently suspended acceptance of mail to Canada due to an ongoing strike by the Canadian Union of Postal Workers.[56] Under these circumstances, the Foreign Representative intends to mail a copy of this Motion to those parties affected by such strike as soon as the USPS resumes accepting service of mail to Canada.

66. Subject to the foregoing, the Foreign Representative proposes to provide notice of the Motion to the Core Notice Parties in accordance with the *Order Scheduling Recognition Hearing and Specifying Form and Manner of Service of Notice* [Docket No. 29]. The Foreign Representative respectfully submits that no other or further notice is required under the circumstances.

NO PRIOR REQUEST

67. Excepting the Omnibus Approval Order, no prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE the Foreign Representative respectfully requests the Court enter the Order, in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as it deems just and proper.

56 *See* https://about.usps.com/newsroom/service-alerts/international/canada-suspension.htm.

Dated: December 13, 2024

PACHULSKI STANG ZIEHL & JONES LLP

/s/ Steven W. Golden

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Counsel to the Foreign Representative

EXHIBIT A

Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 15
ROKSTAD HOLDINGS CORPORATION, et al.,[1]	Case No. 24-12645 (MFW)
Debtors in a Foreign Proceeding.	(Jointly Administered)

ORDER (I) RECOGNIZING AND ENFORCING THE OMNIBUS APPROVAL ORDER; (II) APPROVING THE STELLEX SETTLEMENT PURSUANT TO BANKRUPTCY RULE 9019; AND (III) GRANTING RELATED RELIEF

Upon the motion (the "Motion") of FTI Consulting Canada Inc. ("FTI"), in its capacity as the court-appointed receiver (in such capacity, the "Receiver") of the above-captioned debtors (collectively, the "Rokstad Group" or the "Debtors"), and as the authorized foreign representative (the "Foreign Representative") of the Debtors, seeking entry of an order (this "Order"): (a) granting recognition and enforcement of the Omnibus Approval Order; and (b) approving, pursuant to Bankruptcy Rule 9019, the Settlement between the Receiver and Stellex that is embodied in Settlement Agreement; the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and 11 U.S.C. §§ 109 and 1501 and the Amended Standing Order; and that this Court may enter a final order consistent with Article III of the United States Constitution; venue being proper before the Court pursuant to 28 U.S.C. § 1410(1) and (3); adequate and sufficient notice of the filing of the Motion having been given by the Foreign Representative; it appearing that the relief requested in the Motion is necessary and beneficial to the Debtors; and no objections or other responses having been filed

[1] The Debtors in these chapter 15 cases (the "Chapter 15 Cases"), along with the last four digits of each Debtor's unique identifier, are Rokstad Holdings Corporation (7932); Rokstad Power (2018) Ltd. (8273); Golden Ears Painting & Sandblasting (2018) Ltd. (8286); Plowe Power Systems (2018) Ltd. (8882); Rokstad Power (Prairies) Ltd. (9305); Rokstad Power Transmission Services Ltd. (9301); Rokstad Power Construction Services Ltd. (9295); Rokstad Power (East), Inc. (4090); Rokstad Power Inc. (4394); and Rok Air, LLC (6825).

that have not been overruled, withdrawn, or otherwise resolved; and after due deliberation and sufficient cause appearing therefor, it is hereby FOUND AND DETERMINED that:[2]

1. This Court has jurisdiction and authority to hear and determine the Motion pursuant to 28 U.S.C. §§ 1334 and 157(b). Venue of these Chapter 15 Cases and the Motion in this Court and this District is proper under 28 U.S.C. § 1410.

2. Based on the affidavits of service filed with, and the representations made to, this Court: (a) notice of the Motion was proper, timely, adequate, and sufficient under the circumstances of these Chapter 15 Cases and these proceedings and complied with the various applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules; and (b) no other or further notice of the Motion, or the entry of this Order is necessary or shall be required.

3. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a).

4. The relief granted herein is necessary and appropriate, is in the interest of the public, promotes international comity, is consistent with the public policies of the United States, is warranted pursuant to sections 105(a), 1507, 1521, and 1525 of the Bankruptcy Code, and will not cause any hardship to any parties in interest that is not outweighed by the benefits of the relief granted.

5. The interests of the Debtors' creditors in the United States are sufficiently protected. The relief granted herein is necessary and appropriate, in the interests of the public and

[2] The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 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.

international comity, consistent with the public policies of the United States, and warranted pursuant to section 1521(b) of the Bankruptcy Code.

6. The legal and factual bases set forth in the Motion establish just cause for the relief granted herein.

IT IS HEREBY ORDERED THAT:

7. The Motion is granted as set forth herein.

8. All objections to entry of this Order that have not been withdrawn, waived, or settled, or otherwise resolved pursuant to the terms hereof, are denied and overruled on the merits, with prejudice.

9. The Court recognizes the Omnibus Approval Order, attached hereto as **Exhibit 1**, which is hereby given full force and effect in the United States in its entirety including, without limitation, the approval of the Settlement Agreement.

10. The Settlement Agreement is approved in all respects and the terms of the Settlement Agreement shall be deemed incorporated into this Order.

11. Notwithstanding any applicability of any Bankruptcy Rules, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

12. The Foreign Representative is authorized to take all actions necessary or appropriate to effectuate the relief granted pursuant to the Omnibus Approval Order and this Order.

13. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

EXHIBIT 1

Omnibus Approval Order

No. B-240477
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

STELLEX POWER LINE OPCO LLC AND 1501841 B.C. LTD.

PETITIONERS

And:

ROKSTAD HOLDINGS CORPORATION, ROKSTAD POWER (2018) LTD., ROKSTAD POWER CONSTRUCTION SERVICES LTD., ROKSTAD POWER TRANSMISSION SERVICES LTD., ROKSTAD POWER (PRAIRIES) LTD., GOLDEN EARS PAINTING & SANDBLASTING (2018) LTD., PLOWE POWER SYSTEMS (2018) LTD., ROKSTAD POWER (EAST), INC., ROKSTAD POWER INC. AND ROK AIR, LLC

RESPONDENTS

O R D E R MADE AFTER APPLICATION

BEFORE THE HONOURABLE JUSTICE LOO) December 13, 2024

THE APPLICATION of FTI Consulting Canada Inc. as receiver and manager (the "**Receiver**") of Rokstad Holdings Corporation, Rokstad Power (2018) Ltd., Rokstad Power Construction Services Ltd., Rokstad Power Transmission Services Ltd., Rokstad Power (Prairies) Ltd., Golden Ears Painting and Sandblasting (2018) Ltd., Plowe Power Systems (2018) Ltd., Rokstad Power (East), Inc., Rokstad Power Inc., and Rok Air, LLC (together, the "**Debtors**") coming on for hearing at Vancouver, British Columbia, on the 13th day of December, 2024; AND ON HEARING Mary Buttery, K.C., counsel for the Receiver and those other counsel listed on Schedule "A" hereto; AND UPON READING the material filed, including the First Report of the Receiver dated December 3, 2024 (the "**First Report**"), the Second Report of the Receiver dated December 6, 2024 (the "**Second Report**"), and the Confidential Supplement to the Second Report (the "**Confidential Supplement**"); AND UPON REVIEWING the Order made after Petition Appointment of Receiver of the Honourable Justice Loo, granted November 6, 2024 (the "**Receivership Order**"); THIS COURT ORDERS AND DECLARES THAT:

DEFINITIONS

1. Capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Receivership Order.

SERVICE

2. The time for service of this Notice of Application and supporting materials is hereby abridged such that the Notice of Application is properly returnable today and service thereof upon any interested party other than those parties on the Service List established in this proceeding is hereby dispensed with.

RECEIVER BORROWINGS

3. Paragraph 23 of the Receivership Order is hereby further amended by replacing the existing reference to US$8 million with US$12 million such that, after giving effect to such amendment, paragraph 23 of the Receivership Order shall provide as follows:

> The Receiver is authorized and empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable from the Debtors' existing secured lenders Stellex Power Line Opco LLC and 1501841 B.C. Ltd. provided that the outstanding principal amount does not exceed US$12 million (or such greater amount as this Court may by further Order authorize) at any time at such rate or rates of interest as the Receiver deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

KERP APPROVAL

4. The key employee retention plan (the "**KERP**") described in the Second Report and the Confidential Supplement, pursuant to which the Receiver has agreed to provide compensation to certain key employees (collectively, the "**Key Employees**") of the Debtors, is hereby approved,

and the Receiver is authorized to enter into letter agreements (each, a "**Letter Agreement**") with any or all of the Key Employees on the terms contemplated by the KERP.

5. The Key Employees are granted a charge (the "**KERP Charge**") on the Property as security for all amounts which may become payable to them under the terms of the KERP and any Letter Agreement, up to the maximum amount of USD$402,600 or such further and other amount as may be ordered by this Honourable Court.

6. The KERP Charge shall rank in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Expense Reimbursement Charge (as defined in the First Report), the Receiver's Charge, the Receiver's Borrowing Charge (collectively with the KERP Charge, the "**Charges**"), and the charges set out in Sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

7. The priorities of the Charges, as among them, shall be as follows:

First – the Receiver's Charge;

Second – the Expense Reimbursement Charge;

Third – the Receiver's Borrowing Charge (to the maximum amount of US$12 million);

Fourth – the KERP Charge (to the maximum amount of USD$402,600).

APPROVAL OF SETTLEMENT

8. The settlement agreement entered by the Receiver with Stellex Capital Management LLC, among others, dated December 5, 2024 and appended to the Second Report as Appendix B (the "**Settlement Agreement**"), is hereby approved and the Receiver is authorized and empowered to take such steps as may be necessary to implement the Settlement Agreement, including by discontinuing the Complaint filed by Rokstad Holdings in Case No. 1:24-cv-08370 in the United States District Court Southern District of New York with prejudice.

GENERAL

9. This Court requests the aid and recognition of other Canadian and foreign Courts, tribunals, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and their agents in carrying out the terms of this Order.

10. Endorsement of this Order by counsel appearing on this application other than counsel for the Receiver is hereby dispensed with.

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

Signature of Mary Buttery, K.C.
Counsel for the Receiver

Christian Garton For!

BY THE COURT

REGISTRAR IN BANKRUPTCY

CHECKED

SCHEDULE "A"

Appearance List

NAME	APPEARING FOR
Mary Buttery, K.C. Emily Paplawski Christian Garton	FTI Consulting Canada Inc.
Kelly Bourassa Peter Bychawski	Stellex Power Line Opco LLC
William Clark	Spire Golden LP
Raashi Ahluwalia	IBEW, Local-258