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Chapter 15
Ex Parte

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Foreign Representative
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10 UNITED STATES BANKRUPTCY COURT
11 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

12 In re
13 VICINITY MOTOR CORP., *et al.*,¹
14 Debtors in a Foreign Proceeding.
15

Lead Case No. 24-12675

Joint Administration Motion Pending with:
Case No. 24-12677;
Case No. 24-12678; and
Case No. 24-12679

***EX PARTE MOTION FOR
PROVISIONAL RELIEF***

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17
18 **I. INTRODUCTION & RELIEF REQUESTED**

19 FTI Consulting Canada Inc., in its capacity as the receiver (the “Receiver”) appointed in
20 the Canadian insolvency proceeding of Vicinity Motor Corp., Vicinity Motor (Bus) Corp., Vicinity
21 Motor (Bus) USA Corp., and Vicinity Motor Property, LLC (collectively, the “Debtors”), *In the*
22 *Matter of the Receivership of Vicinity Motor (Bus) Corp., et al.*, Supreme Court of British
23 Columbia, Vancouver Registry No. S-247082 (the “Canadian Proceeding”), by and through its
24 counsel, Lane Powell PC, respectfully submits this *Ex Parte Motion for Provisional Relief* (the

25 _____
26 ¹ The Debtors are Vicinity Motor Corp., Bankruptcy Case No. 24-12675, Vicinity Motor (Bus)
27 Corp., Bankruptcy Case No. 24-12677, Vicinity Motor (Bus) USA Corp., Bankruptcy Case No.
24-12678, and Vicinity Motor Property, LLC, Bankruptcy Case No. 24-12679.

1 “Motion”) seeking entry of an order pursuant to 11 U.S.C. §§ 105(a) and 1519 granting provisional
2 relief to preserve and administer the Debtors’ assets located in the United States until the Court
3 considers the Receiver’s Official Form 401 *Chapter 15 Petition for Recognition of a Foreign*
4 *Proceeding* (ECF No. 1) and *Verified Petition for Recognition of Foreign Main Proceeding and*
5 *Related Relief* (ECF No. 3) (together, the “Petition”) for recognition of the Canadian Proceeding
6 as a foreign main proceeding.

7 **II. JURISDICTION & VENUE**

8 This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and (b) and
9 1334(a) and (b).

10 This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P), and the Court may enter a
11 final order in respect of it under Article III of the United States Constitution.

12 Venue is proper in this District pursuant to 28 U.S.C. § 1410(1) because the Debtors’
13 principal assets in the United States are located in Ferndale, Washington. Alternatively, venue is
14 proper in this District pursuant to 28 U.S.C. § 1410(3) because venue here will be consistent with
15 the interests of justice and the convenience of the parties, having regard to the relief sought by the
16 Receiver.

17 The Debtors are eligible to be debtors under Chapter 15 pursuant to 11 U.S.C. §§ 109(a)
18 and 1501(b) because the Debtors have real and personal property in the United States, and the
19 Receiver is a foreign representative for the Debtors seeking assistance in the United States in
20 connection with a foreign proceeding.

21 This Chapter 15 case was properly commenced pursuant to 11 U.S.C. §§ 1504 and 1509(a)
22 by the Receiver filing the Petition, applying to this Court pursuant to 11 U.S.C. § 1515 for
23 recognition of the Canadian Proceeding as a foreign main proceeding pursuant to 11 U.S.C. §
24 1517(b)(1).

25 The statutory and legal predicates for the relief requested herein are 11 U.S.C. §§ 105(a),
26 1514, 1515, 1517, Federal Rules of Bankruptcy Procedure 2002 and 9007, and Local Rule of
27 Bankruptcy Procedure 2002-1(b)(6).

MOTION FOR PROVISIONAL RELIEF - 2

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1 **III. STATEMENT OF FACTS**

2 **A. The Debtors.**

3 Vicinity Motor Corp. (“Vicinity Parent”) is a public company listed on the TSX Venture
4 Exchange. Vicinity Parent’s direct and indirect subsidiaries include Vicinity Motor (Bus) Corp.
5 (“Vicinity Canada”), Vicinity Motor (Bus) USA Corp. (“Vicinity USA”), and Vicinity Motor
6 Property, LLC (“Vicinity Property”). Powell Decl. ¶ 4.

7 The Debtors collectively conduct business as a North American supplier of electric
8 commercial vehicles for both public and commercial enterprise use, operating primarily in British
9 Columbia, Canada and in Washington State. Powell Decl. ¶ 5. The Debtors’ management and
10 operations are directed from and located in Canada, along with some of the Debtors’ assets;
11 however, the Debtors also own valuable assets located in the United States, including real and
12 personal property in Washington. Powell Decl. ¶ 6. The Debtors’ primary assets are interests in
13 various electric buses and trucks and other motor vehicles (“Electric Vehicles”), and certain real
14 property located at 5453 and 5457, Pacific Fern Drive, Ferndale, Washington (the “Ferndale
15 Property”). Powell Decl. ¶ 7.

16 **B. The Canadian Proceeding.**

17 On October 21, 2024, in the Canadian Proceeding, the Debtors were placed into a
18 receivership proceeding under Section 243(1) of Canada’s *Bankruptcy and Insolvency Act*, R.S.C.
19 1985, c. B-3, as amended (the “BIA”) and Section 39 of Canada’s *Law and Equity Act*, R.S.B.C.
20 1996 c. 253, as amended (the “LEA”), and the Receiver was appointed by the Supreme Court of
21 British Columbia to administer the Debtors’ estates pursuant to the BIA and LEA. See ECF No.
22 1, Attachment No. 1 (the “Receiver Order”); see also Powell Decl. ¶ 3, Ex. A (Receiver Order).

23 The Receiver Order expressly authorizes and empowers the Receiver to act as a foreign
24 representative and seek recognition of the Canadian Proceeding pursuant to Chapter 15 in this
25 Court, for example:

- 26 2. The Receiver is empowered and authorized, but not obligated, to act at once
27 in respect of the Property and, without in any way limiting the generality of the

1 foregoing, the Receiver is expressly empowered and authorized to do any of the
2 following where the Receiver considers it necessary or desirable... (t) commence
3 one or more foreign legal proceedings to further the objectives of this proceeding,
4 including by way of example and not limitation, ancillary receiverships in the
5 United States of America, proceedings under the Model Law on Cross-Border
6 Insolvency (including Chapter 15 of the United States Bankruptcy Code, Title 11,
7 United States Code, 11 U.S.C. Section 1501 et seq), petitions under Title 11, United
8 States Code, Chapters 7 and 11, as well as any other foreign legal proceedings
9 wherever required to be filed by the Receiver in its judgment to pursue recovery of
10 the Debtors' Property.

11 ***

12 37. This Court requests the aid, recognition and assistance of any court,
13 tribunal, regulatory or administrative body having jurisdiction, wherever located,
14 to give effect to this Order and to assist the Receiver and its agents in carrying out
15 the terms of this Order. All such courts, tribunals and regulatory and administrative
16 bodies are respectfully requested to make such orders and to provide such
17 assistance to the Receiver, as an officer of this Court, as may be necessary or
18 desirable to give effect to this Order or to assist the Receiver and its agents in
19 carrying out the terms of this Order, including act as a foreign representative to
20 apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the
21 United States Bankruptcy Code, 11 U.S.C. §§ 1501 – 1532.

22 38. The Receiver is authorized and empowered to apply to any court, tribunal
23 or regulatory or administrative body, wherever located, for recognition of this Order
24 and for assistance in carrying out the terms of this Order and the Receiver is
25 authorized and empowered to act as a representative in respect of the within
26 proceedings for the purpose of having these proceedings recognized in a
27 jurisdiction outside Canada.

See Receiver Order at ¶ 2(t), 37, and 38.

C. The Chapter 15 Petitions & Motion for Provisional Relief.

On October 24, 2024, in this Court, the Receiver filed the Petition, seeking Chapter 15
recognition of the Canadian Proceeding as a foreign main proceeding pursuant to 11 U.S.C. §§
1515 and 1517, for each of the Debtors. See ECF Nos. 1 and 3 (Petition and proposed recognition
order). In furtherance of the Petition, the Receiver now requests that the Court grant *ex parte*
provisional relief to preserve the Debtors' assets located in the United States until the Court
considers the Petition.

1 **IV. STATEMENT OF ISSUES**

2 Whether the Court should grant provisional relief to the Receiver to preserve and
3 administer the Debtors' assets located in the United States until the Court considers the Petition.

4 **V. EVIDENCE RELIED UPON**

5 This Motion relies upon the Petition and attachments thereto (ECF Nos. 1 and 3), the
6 Declaration of Tom Powell and exhibits thereto ("Powell Decl.") filed concurrently herewith, the
7 Proposed Order attached hereto as Exhibit A, and the other papers and pleadings on file in this
8 matter.

9 **VI. RECEIVER'S PROPOSED ORDER AND NOTICE**

10 Consistent with 11 U.S.C. § 1519, the Bankruptcy Code, the Receiver Order, the BIA/LEA,
11 and principles of comity, the Receiver requests entry of its proposed Order Granting Provisional
12 Relief attached hereto as Exhibit A, granting the following provisional relief to protect the assets
13 of the Debtors or interests of the creditors during the gap period from the Petition filing until the
14 Court rules on the Petition (collectively, the "Provisional Relief"):

- 15 (a) Staying execution against the Debtors' assets.
- 16 (b) entrusting the administration or realization of all of the Debtors' assets
17 located in the United States to the Receiver, to protect and preserve the
18 value of assets that, by their nature or because of other circumstances, are
perishable, susceptible to devaluation or otherwise in jeopardy.
- 19 (c) suspending the right of any person or entity, other than the Receiver, to
20 transfer, encumber or otherwise dispose of any assets of the Debtors without
21 written consent of the Receiver or by Order of this Court or the Canadian
Proceeding, as applicable.
- 22 (d) providing for the Receiver to undertake the examination of witnesses, the
23 taking of evidence, the production of documents, or the delivery of
24 information concerning the Debtors' assets, affairs, rights, obligations or
liabilities.
- 25 (e) Staying the commencement or continuation of any action or proceeding
26 concerning the Debtors, the assets, rights, obligations, or liabilities of the
27 Debtors, and the Receiver in its capacity as foreign representative of the
Debtors, in a manner coextensive with 11 U.S.C. § 362.

- 1
- 2 (f) Suspending the right of any person or entity, other than the Receiver, to
- 3 discontinue, fail to honor, repudiate, terminate or cease to perform any right,
- 4 renewal right, contract, agreement, license or permit in favor of or held by
- 5 the Debtors, unless authorized in writing by the Receiver or by Order of this
- 6 Court or the Canadian Proceeding, as applicable.
- 7
- 8 (g) Providing that the terms and conditions of the Order Granting Provisional
- 9 Relief shall be immediately effective and enforceable upon its entry and,
- 10 upon its entry, shall become final and appealable; and that the Receiver is
- 11 not subject to any stay in the implementation, enforcement, or realization of
- 12 the relief granted in the Order Granting Provisional Relief, and the Receiver
- 13 is authorized and empowered and may, in its discretion and without further
- 14 delay, take any action and perform any act necessary to implement and
- 15 effectuate the terms of the Order Granting Provisional Relief.
- 16
- 17 (h) Finding that no bond or security is required because it is unnecessary in this
- 18 case to protect creditors or third parties.
- 19
- 20 (i) Providing that this Court shall retain jurisdiction with respect to the
- 21 enforcement, amendment or modification of the Order Granting Provisional
- 22 Relief, any request for additional relief, or any adversary proceeding
- 23 brought in and through this Chapter 15 case, and any request by an entity
- 24 for relief from the provisions of the Order Granting Provisional Relief, for
- 25 cause shown, that is properly commenced and within the jurisdiction of this
- 26 Court.
- 27
- 28 (j) Providing that the Order Granting Provisional Relief applies to all parties in
- 29 interest in this Chapter 15 case and all of their agents, employees, and
- 30 representatives, and all those who act in concert with them who receive
- 31 notice of this the Order Granting Provisional Relief.

32 VII. LEGAL ANALYSIS

33 Provisional relief is available under 11 U.S.C. § 1519 to protect assets of the debtor and

34 interests of creditors during the gap period “[f]rom the time of filing a petition for recognition until

35 the court rules on the petition.” 11 U.S.C. § 1519(a). Concurrently with the Petition, the Receiver

36 filed a motion to schedule a hearing for the Court to rule on the Petition at the earliest possible

37 time,² and this Motion to protect the assets of the Debtors located in the United States and the

38 _____

39 ² “A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible

40 time”; subject to the Receiver providing “at least 21 days’ notice by mail of the hearing.” 11

41 U.S.C. § 1517(c); Fed. R. Bankr. P. 2002(q)(1); LBR 2002-1(a)(6).

1 interests of the Debtors' creditors until the Court rules on the Petition.

2 The Provisional Relief requested here and set forth in the Receiver's proposed Order
3 Granting Provisional Relief is authorized by 11 U.S.C. § 1519 and satisfies all requirements for
4 relief thereunder, including 11 U.S.C. § 1519(a)'s requirement that the Provisional Relief be
5 "urgently needed to protect the assets of the debtor or the interests of the creditors," and 11 U.S.C.
6 § 1519(e)'s requirement that certain relief must meet the standards for an injunction.

7 **A. The Provisional Relief is Authorized Under 11 U.S.C. § 1519.**

8 The Court is authorized by 11 U.S.C. § 1519 to grant the following forms of provisional
9 relief for the period until the Court rules of the Petition:

- 10 (1) staying execution against the Debtors' assets;
- 11 (2) entrusting the administration or realization of all or part of the Debtors'
12 assets located in the United States to the foreign representative or another
13 person authorized by the court, including an examiner, in order to protect
14 and preserve the value of assets that, by their nature or because of other
15 circumstances, are perishable, susceptible to devaluation or otherwise in
16 jeopardy; and
- 17 (3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

18 11 U.S.C. § 1519(a). In turn, 11 U.S.C. § 1521(a)(3), (4), and (7) permit the Court to provisionally
19 grant the following relief:

- 20 (3) suspending the right to transfer, encumber or otherwise dispose of any
21 assets of the Debtors' to the extent this right has not been suspended under
22 section 1520(a);
- 23 (4) providing for the examination of witnesses, the taking of evidence or the
24 delivery of information concerning the Debtors' assets, affairs, rights,
25 obligations or liabilities; ...
- 26 (7) granting any additional relief that may be available to a Receiver, except for
27 relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

11 U.S.C. § 1521(a). The Court is authorized to grant all of the Provisional Relief requested by
the Receiver:

The Court is authorized to stay execution against the Debtors' assets. 11 U.S.C. §

1 1519(a)(1).

2 The Court is authorized to entrust the administration or realization of all of the Debtors'
3 assets located in the United States to the Receiver, to protect and preserve the value of assets that,
4 by their nature or because of other circumstances, are perishable, susceptible to devaluation or
5 otherwise in jeopardy. 11 U.S.C. § 1519(a)(2).

6 The Court is authorized to suspend the right of any person or entity, other than the Receiver,
7 to transfer, encumber or otherwise dispose of any assets of the Debtors without written consent of
8 the Receiver or by Order of this Court or the Canadian Proceeding, as applicable. 11 U.S.C. §§
9 1519(a)(3), 1521(a)(3).

10 The Court is authorized to provide for the Receiver to undertake the examination of
11 witnesses, the taking of evidence, the production of documents, or the delivery of information
12 concerning the Debtors' assets, affairs, rights, obligations or liabilities. 11 U.S.C. §§ 1519(a)(3),
13 1521(a)(4).

14 The Court is authorized to stay the commencement or continuation of any action or
15 proceeding concerning the Debtors, the assets, rights, obligations, or liabilities of the Debtors, and
16 the Receiver in its capacity as foreign representative of the Debtors, in a manner coextensive with
17 11 U.S.C. § 362. 11 U.S.C. §§ 1519(a)(3), 1521(a)(7).³

18 The Court is authorized to suspend the right of any person or entity, other than the Receiver,
19 to discontinue, fail to honor, repudiate, terminate or cease to perform any right, renewal right,

20
21 ³ Bankruptcy courts routinely impose the stay under 11 U.S.C. § 362 or similar relief to maintain
22 the status quo pending recognition or disposition of foreign proceedings in cases commenced under
23 Chapter 15, including recognition proceedings involving Canadian insolvency proceedings. *See,*
24 *e.g., Order Granting Provisional Recognition of The Initial CCAA Order Pursuant to Section 1519*
25 *of The Bankruptcy Code, In re CDS Holdings, Inc.*, No. 20-11719(Bankr. D. Del. July 17, 2020),
26 ECF No. 53 (granting provisional relief making 11 U.S.C. § 362 applicable on a limited basis);
27 *Order Granting Provisional Relief Pursuant to Section 1519 of the Bankruptcy Code, In re Mood*
Media Corp., No. 17-11413 (Bankr. S.D.N.Y. May 24, 2017), ECF No. 21 (same). Such relief has
also previously been granted in the Ninth Circuit pending a hearing on the verified petition. *See*
Amended Opinion Granting Interim Relief to Chapter 15 Debtors Under 11 U.S.C. § 1519, In re
Pro-Fit Int'l Ltd., No. 08-17043 (Bankr. C.D. Cal. July 11, 2008), ECF No. 12.

1 contract, agreement, license or permit in favor of or held by the Debtors, unless authorized in
2 writing by the Receiver or by Order of this Court or the Canadian Proceeding, as applicable. 11
3 U.S.C. §§ 1519(a)(3), 1521(a)(7).

4 The Court is authorized to authorize and empower the Receiver to (i) maintain the Debtors'
5 existing bank accounts at depository institutions in the United States for the limited purposes of
6 receiving outstanding deposits and transferring funds from the existing bank accounts to new
7 Receiver-controlled accounts opened or to be opened by the Receiver, (ii) establish the Receiver-
8 controlled accounts consistent with the terms of the Receiver Order and the BIA/LEA, and (iii)
9 make all payments and disbursements from the Receiver-controlled accounts. 11 U.S.C. §§
10 1519(a)(3), 1521(a)(7).

11 The Court is authorized to provide that the terms and conditions of the Order Granting
12 Provisional Relief shall be immediately effective and enforceable upon its entry and, upon its
13 entry, shall become final and appealable; the Receiver is not subject to any stay in the
14 implementation, enforcement, or realization of the relief granted in the Order Granting Provisional
15 Relief, and the Receiver is authorized and empowered and may, in its discretion and without
16 further delay, take any action and perform any act necessary to implement and effectuate the terms
17 of the Order Granting Provisional Relief. Fed. R. Bankr. P. 7062, 1018; 11 U.S.C. § 105(a).

18 The Court is authorized to find that no bond or security is required because it is unnecessary
19 in this case to protect creditors or third parties. Fed. R. Bankr. P. 7065; Fed. R. Civ. P. 65(c).

20 The Court is authorized to retain jurisdiction with respect to the enforcement, amendment
21 or modification of the Order Granting Provisional Relief, any request for additional relief, or any
22 adversary proceeding brought in and through this Chapter 15 case, and any request by an entity
23 for relief from the provisions of the Order Granting Provisional Relief, for cause shown, that is
24 properly commenced and within the jurisdiction of this Court. 11 U.S.C. § 105(a).

25 The Court is authorized to apply the Order Granting Provisional Relief to all parties in
26 interest in these Chapter 15 cases and all of their agents, employees, and representatives, and all
27 those who act in concert with them who receive notice of this the Order Granting Provisional

1 Relief. 11 U.S.C. §§ 1519(a)(3); 1521(a)(7); 105(a).

2 **B. The Provisional Relief Satisfies 11 U.S.C. § 1519(a)'s "Urgently Needed" Standard.**

3 Provisional relief under 11 U.S.C. § 1519 must be "urgently needed to protect the assets of
4 the debtor or the interests of the creditors." 11 U.S.C. § 1519(a). In this case, the Receiver's
5 proposed Provisional Relief is urgently needed to protect the Debtors' assets *and* the interests of
6 the creditors.

7 1. The Provisional Relief is Urgently Needed.

8 The provisional relief is urgently needed here to protect the Debtors, their assets, and the
9 interests of creditors as a whole. Final relief under 11 U.S.C. §§ 1520 and 1521 requires at least
10 21 days' notice of the Petition and hearing, creating a gap that 11 U.S.C. § 1519's provisional
11 relief is intended to fill. *See* 11 U.S.C. § 1517(c); Fed. R. Bankr. P. 2002(q)(1). Without the
12 immediate application of 11 U.S.C. § 362 and the other Provisional Relief requested herein, there
13 is a real and significant risk the Debtors' creditors may commence actions in the United States that
14 could interfere with the Canadian Proceeding and harm the Debtors' estates, and other third parties
15 may transfer or otherwise interfere with the Debtors' assets within the United States.

16 On the eve of the Canadian Proceeding, Vicinity Parent issued a press release indicating
17 that it would be ceasing operations, laying off employees, facing restrictions on stock trading, and
18 generally succumbing to creditor enforcement actions. Powell Decl. ¶ 11, Ex. B (Vicinity Parent's
19 press release). The Receiver has begun investigating the status of the Ferndale Property, but
20 currently has limited access to the Ferndale Property to assess whether additional security
21 measures are necessary to preserve the value of the Ferndale Property or the fixtures and personal
22 property, located therein (*e.g.*, lock changes, security systems, periodic site checks, etc.) Powell
23 Decl. ¶ 12. Likewise, the Receiver has begun investigating the status of the Electric Vehicles, but
24 currently has limited access to Electric Vehicles that may be located at the Ferndale Property or
25 elsewhere in the United States to assess whether additional security measures are necessary to
26 preserve the value of the Electric Vehicles (*e.g.*, locate keys or otherwise take control of and secure
27 the Electric Vehicles, insurance, etc.). Powell Decl. ¶ 13. The Receiver is also investigating the

1 existence of other assets of the Debtors, including US-based assets, which investigation may be
2 hampered without all of the powers and protections afforded under Chapter 15. Powell Decl. ¶
3 14. Additionally, the Debtors have multiple creditors that assert interests in the Debtors' assets,
4 including the Ferndale Property and Electric Vehicles, which necessitate heightened Chapter 15
5 relief to ensure the status quo is maintained with respect to the Debtors' US-based assets while the
6 Receiver seeks formal recognition of the Canadian Proceeding in this Court and ultimately
7 administers the Debtors' estates under Canadian and United States law, as applicable. Powell
8 Decl. ¶ 15.

9 2. The Provisional Relief Will Protect the Assets of the Debtors.

10 The Debtors have valuable assets located within the United States, including without
11 limitation the Ferndale Property and Electric Vehicles. Although the Receiver Order grants broad
12 protections to the Debtors' estates, absent the Provisional Relief requested herein, creditors may
13 take actions to seize US-based assets, which could have the impact of preventing their availability
14 for administration in the Canadian Proceeding, and other third parties may transfer or otherwise
15 interfere with the Debtors' assets within the United States. Such actions would be contrary to the
16 goal of Chapter 15, which is to promote the fair and efficient administration of cross-border
17 insolvencies, thereby honoring the actions being taken pursuant to, and protections being afforded
18 by the BIA/LEA, the Receiver Order, and the Canadian Proceeding. The Provisional Relief herein
19 is urgently necessary to secure the Debtors' assets and preserve the value of the Debtors' estates
20 for all creditors during the gap period.

21 3. The Provisional Relief Will Protect the Interests of the Creditors.

22 The Debtors' creditors are entitled to equitable treatment under both the BIA/LEA and the
23 Bankruptcy Code. To ensure the goals of both countries' insolvency statutes are met, a creditor
24 or other third party acting within the United States should not be permitted to pursue the Debtors
25 or their US-based assets while a stay is already in place under the Receiver Order and the Canadian
26 Proceeding is pending. Therefore, to ensure all creditors are treated equitably and fairly and to
27 protect the interest of all creditors, the automatic stay under 11 U.S.C. § 362 and the other

1 Provisional Relief requested by the Receiver should be immediately enforced in the United States
2 pending this Court’s ruling on the Petition.

3 **C. The Provisional Relief Satisfies 11 U.S.C. § 1519(e)’s “Injunction” Standard.**

4 “Injunctive” provisional relief under 11 U.S.C. § 1519 must also satisfy the standard
5 “applicable to an injunction.” 11 U.S.C. § 1519(e); *In re Pro-Fit Holdings Ltd.*, 391 B.R. 850, 861
6 (Bankr. C.D. Cal. 2008) (11 U.S.C. § 1519(e)’s injunction standard “should apply only where the
7 relief sought under § 1519 is injunctive relief”).

8 The “injunction” standard includes four factors: (1) a likelihood of success on the merits,
9 (2) a likelihood of irreparable harm; (3) that the balance of equities tips in the movant’s favor, and
10 (4) that the relief is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20
11 (2008); *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010). All four factors weigh in
12 favor of granting the Provisional Relief.

13 1. There is a Substantial Likelihood that the Canadian Proceeding Will be Recognized
14 as a Foreign Main Proceeding, Causing Automatic Relief Under 11 U.S.C. § 1520.

15 The Receiver is likely to succeed on the merits in obtaining recognition of the Canadian
16 Proceeding as a “foreign main proceeding” under Chapter 15. The Canadian Proceeding is entitled
17 to recognition as a “foreign main proceeding” under Chapter 15 because: (i) the Debtors’ “center
18 of main interests” is located in Canada, where the Canadian Proceeding is pending; (ii) the
19 Canadian Proceeding is a “foreign proceeding” within the meaning of 11 U.S.C. § 101(23); (iii)
20 the Receiver is a “foreign representative” within the meaning of 11 U.S.C. § 101(24); and (iv) the
21 Petition satisfies all of the procedural and substantive requirements for Chapter 15 recognition.
22 Recognizing the Canadian Proceeding as a foreign main proceeding will cause automatic relief
23 pursuant to 11 U.S.C. § 1520(a), including application of 11 U.S.C. § 362 to the Debtors and their
24 property within the United States and most of the other Provisional Relief the Receiver is
25 requesting under 11 U.S.C. § 1519. Therefore, there is a high likelihood that the Receiver will be
26 entitled to the Provisional Relief on a final basis upon recognition of the Canadian Proceeding as
27 a foreign main proceeding.

1 i. *The Debtors' Center of Main Interests (COMI) is Located in Canada.*

2 The foreign proceeding for which recognition is sought must be either a foreign main
3 proceeding or a foreign non-main proceeding within the meanings proscribed under 11 U.S.C. §
4 1502. 11 U.S.C. § 1517(a)(1). A “foreign main proceeding” is a foreign proceeding pending in
5 the country where the debtor has its center of its main interests (“COMI”). 11 U.S.C. §§ 1502(4);
6 1517(b)(1). Therefore, because the Canadian Proceeding is pending in Canada, for the Canadian
7 Proceeding to qualify as a “foreign main proceeding,” the Debtors’ COMI must be located in
8 Canada. *See, e.g., In re Chiang*, 437 B.R. 397, 403 (Bankr. C.D. Cal. 2010) (“To qualify the
9 foreign proceeding as a foreign main proceeding, [the foreign representative] must show that
10 debtor’s COMI is located in Canada.”).

11 Every debtor must have exactly one COMI, and it must be in a specific country. *Id.* While
12 COMI is not explicitly defined in the Bankruptcy Code, in the absence of evidence to the contrary,
13 there is a presumption that a debtor’s COMI is the debtor’s “registered office.” 11 U.S.C. §
14 1516(c). Courts consider the following nonexclusive factors when determining a debtor’s COMI:
15 (1) the location of the debtor’s headquarters; (2) the location of those who manage the debtor; (3)
16 the location of the debtor’s primary assets; (4) the location of the majority of the debtor’s creditors
17 or of a majority of the creditors who would be affected by the case; and (5) the jurisdiction whose
18 law would apply to most disputes. *In re SPhinX, Ltd.*, 351 B.R. 103, 117 (Bankr. S.D.N.Y. 2006),
19 *aff’d*, 371 B.R. 10 (S.D.N.Y. 2007). Courts do not apply these factors “mechanically”; rather,
20 “they should be viewed in light of chapter 15’s emphasis on protecting the reasonable interests of
21 parties in interest pursuant to fair procedures and the maximization of the debtor’s value,” and to
22 that end, Courts “generally should defer, therefore, to the creditors’ acquiescence in or support of
23 a proposed COMI.” *Id.*

24 Vicinity Parent and Vicinity Canada (together, the “Canadian Entities”) are corporations
25 registered in British Columbia, Canada. Powell Decl. ¶ 8. Therefore, it is presumed that the COMI
26 for the Canadian Entities is located in Canada. 11 U.S.C. § 1516(c).

1 Although Vicinity Property and Vicinity USA (together, the “American Entities”) are
2 corporations registered in Delaware, their COMI is located in Canada because they are effectively
3 holding companies that are owned and managed by Vicinity Parent from Canada, and additionally
4 because the two major secured creditors of all of the Debtors are located in Canada: Royal Bank
5 of Canada, and Export Development Canada. Powell Decl. ¶¶ 9-10. Creditor support for Canadian
6 COMI for all Debtors, so as to recognize the Canadian Proceeding as the main proceeding for all
7 Debtors, is further evidenced by the Receiver Order itself, which not only applies to all Debtors
8 equally under one jointly-administered Canadian Proceeding, but also includes express provisions
9 intended to empower the Receiver to seek recognition and ancillary relief for the Canadian
10 Proceeding in this Court pursuant to Chapter 15. *See* Receiver Order at ¶¶ 2(t), 37, 38. Therefore,
11 there is ample evidence that the COMI for all of the Debtors, including the American Entities, is
12 located in Canada. *See, e.g., In re OAS S.A.*, 533 B.R. 83, 101–02 (Bankr. S.D.N.Y. 2015) (finding
13 that a subsidiary’s COMI is with its parent’s COMI when the subsidiary is a holding company
14 wholly-owned and controlled by its parent); *In re SPhinX, Ltd.*, 351 B.R. at 117 (considering
15 location of management and location of major creditors as important factors for determining
16 COMI).

17 ii. *The Canadian Proceeding is a Foreign Proceeding.*

18 The Bankruptcy Code defines a “foreign proceeding” as “a collective judicial or
19 administrative proceeding in a foreign country, including an interim proceeding,” that is pending
20 “under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs
21 of the debtor are subject to control or supervision by a foreign court, for the purpose of
22 reorganization or liquidation.” 11 U.S.C. § 101(23). The Canadian Proceeding is “a collective
23 judicial or administrative proceeding in a foreign country, including an interim proceeding”
24 because it is a pending receivership proceeding.

25 The Canadian Proceeding was commenced under the BIA and LEA. The BIA is Canada’s
26 primary law relating to insolvency, where the Debtors’ assets and affairs may be liquidated subject
27 to judicial control or supervision. *See* Jacob S. Ziegel, *Corporate Groups and Crossborder*

1 *Insolvencies: A Canada - United States Perspective*, 7 Fordham J. Corp. & Fin. L. 367, 372 (2002)
2 (“Canada’s basic insolvency rules are found in the [BIA].”). Specifically, Section 243(1) of the
3 BIA authorizes courts, on application by a secured creditor, to appoint a receiver over an insolvent
4 debtor’s property. Other courts have recognized Canadian receivership proceedings as a foreign
5 main proceeding. *See, e.g., In re Innua Canada Ltd.*, 2009 WL 1025090, at *6 (Bankr. D.N.J.
6 Apr. 15, 2009); *In re Xchange Tech. Grp. LLC*, 2014 WL 7451973, at *1 (Bankr. D. Del. Dec. 30,
7 2014).

8 iii. *The Receiver is a Foreign Representative.*

9 The foreign representative applying for recognition of the foreign proceeding must be “a
10 person or a body... authorized in a foreign proceeding to administer the reorganization or the
11 liquidation of the debtor’s assets or affairs or to act as a representative of such foreign proceeding.”
12 11 U.S.C. §§ 1517(a)(2), 101(24). As a corporation, the Receiver qualifies as a “person.” 11
13 U.S.C. § 101(41). The Receiver Order entered in the Canadian Proceeding appointing the Receiver
14 expressly authorizes and empowers the Receiver’s to administer the Debtors’ estates and to act as
15 a foreign representative to commence these Chapter 15 cases. *See* Receiver Order at ¶¶ 2(t), 37,
16 38. To that end, the Receiver is petitioning for Chapter 15 recognition of the Canadian Proceeding,
17 and immediate provisional relief, to protect and preserve the value of the Ferndale Property, the
18 Electric Vehicles, and the Debtors’ other assets located in the United States, then administer those
19 assets in accordance with applicable Canadian and United States law for the benefit of all creditors.
20 *See* 11 U.S.C. § 1501 (Chapter 15’s purpose and objectives include “fair and efficient
21 administration of cross-border insolvencies that protects the interests of all creditors” and
22 “protection and maximization of the value of the debtor’s assets”).

23 Therefore, under the Receiver Order, the Receiver qualifies as a foreign representative
24 authorized to act in these Chapter 15 cases; and solely in that capacity as foreign representative
25 and pursuant to the authority and powers granted in the Receiver Order, the Receiver is now
26 petitioning this Court for Chapter 15 recognition of the Canadian Proceeding.

27

1 iv. *The Petition Satisfies All Requirements for Recognition.*

2 Chapter 15 of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure impose
3 certain procedural requirement for Chapter 15 recognition of any foreign proceeding. The
4 Receiver has satisfied all of those requirements in these cases. The Receiver commenced this
5 Chapter 15 case by filing the Petition in the appropriate United States Bankruptcy Court. *See* 11
6 U.S.C. §§ 1504, 1509(a), and 1515(a); *see also* ECF No. 1. The Petition is accompanied by:

- 7 i. the Receiver Order establishing “the existence of such foreign
8 proceeding and the appointment of the foreign representative.” 11
9 U.S.C. § 1515(b)(3); *see* ECF No. 1, Attachment 1 (Receiver
10 Order);
- 11 ii. a statement identifying all foreign proceedings with respect to the
12 debtors that are known to the foreign representative. 11 U.S.C. §
13 1515(c); *see* ECF No. 1, Attachment 2 (Section 1515(c) Statement);
- 14 iii. a corporate ownership statement containing the information
15 described in Federal Rule of Civil Procedure 7.7. Fed. R. Bankr. P.
16 1007(a)(4)(A); *see* ECF No. 1, Attachment 3 (Corporate Ownership
17 Statement); and
- 18 iv. a list containing the names and addresses of all persons or bodies
19 authorized to administer foreign proceedings of the debtor, all
20 parties to litigation pending in the United States in which the debtor
21 is a party at the time of the filing of the petition, and all entities
22 against whom provisional relief is being sought under §1519 of the
23 Code. Fed. R. Bankr. P. 1007(a)(4)(B); *see* ECF No. 1, Attachment
24 4 (Chapter 15 List).

25 This Verified Petition “state[s] the country where the debtor has its center of main
26 interests” is Canada. Fed. R. Bankr. P. 1004.2(a); *see supra* (VII.A.1 above).

27 The appropriate parties in interest will receive “at least 21 days’ notice by mail” of the
hearing on the Petition. Fed. R. Bankr. P. 2002(q)(1); LBR 2002-1(b)(6). Concurrently with
filing the Petition, by separate motion, the Receiver is requesting an expedited hearing to schedule
the recognition hearing, and to approve the Receiver’s proposed form of notice and manner of
service of the Petition and recognition hearing, for the Clerk of the Court to mail such notice to
the appropriate parties pursuant to Local Bankruptcy Rule 2002-1(b)(6).

1 v. *Related Relief Under 11 U.S.C. §§ 1520 and 1521.*

2 For the above stated reasons, and as further set forth in the Petition, the Canadian
3 Proceeding is likely entitled to recognition as a “foreign main proceeding” pursuant to 11 U.S.C.
4 § 1517(b)(1). Upon recognition as a foreign main proceeding, most of the Provisional Relief will
5 be granted automatically pursuant to 11 U.S.C. § 1520, including:

- 6 (1) sections 361 and 362 apply with respect to the debtor and the property of
7 the debtor that is within the territorial jurisdiction of the United States;
- 8 (2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in
9 property that is within the territorial jurisdiction of the United States to the
10 same extent that the sections would apply to property of an estate;
- 11 (3) unless the court orders otherwise, the foreign representative may operate the
12 debtor's business and may exercise the rights and powers of a trustee under
13 and to the extent provided by sections 363 and 552; and
- 14 (4) section 552 applies to property of the debtor that is within the territorial
15 jurisdiction of the United States.

16 11 U.S.C. § 1520(a); *see also In re Tri-Cont'l Exch. Ltd.*, 349 B.R. 627, 639 (Bankr. E.D. Cal.
17 2006) (relief under 11 U.S.C. § 1520 is an “automatic consequence of recognition of a foreign
18 main proceeding”).

19 Likewise, the remainder of the Provisional Relief aligns with the related relief requested
20 by the Receiver in the Petition pursuant to 11 U.S.C. § 1521, which provides additional relief the
21 Court may grant upon recognition as a foreign main proceeding “where necessary to effectuate the
22 purpose of [Chapter 15] and to protect the assets of the debtor or the interests of the creditors,”
23 including:

- 24 (a)(1) staying the commencement or continuation of an individual action or
25 proceeding concerning the debtor’s assets, rights, obligations or liabilities
26 to the extent they have not been stayed under section 1520(a);
- 27 (a)(2) staying execution against the debtor’s assets to the extent it has not been
stayed under section 1520(a);
- (a)(3) suspending the right to transfer, encumber or otherwise dispose of any

1 assets of the debtor to the extent this right has not been suspended under
2 section 1520(a);

3 (a)(4) providing for the examination of witnesses, the taking of evidence or the
4 delivery of information concerning the debtor's assets, affairs, rights,
obligations or liabilities;

5 (a)(5) entrusting the administration or realization of all or part of the debtor's
6 assets within the territorial jurisdiction of the United States to the foreign
7 representative or another person, including an examiner, authorized by the
court;

8 (a)(6) extending relief granted under section 1519(a); and

9 (a)(7) granting any additional relief that may be available to a trustee, except for
10 relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

11 ...

12 (b) entrust[ing] the distribution of all or part of the debtor's assets located in
13 the United States to the foreign representative or another person, including
an examiner, authorized by the court, provided that the court is satisfied that
the interests of creditors in the United States are sufficiently protected.

14 Broad injunctive relief and authority over the Debtors' assets in Canada and the United
15 States is essential to an equitable administration of the Debtors' receivership estate under the
16 BIA/LEA and Chapter 15. There is a substantial likelihood that the Petition will be granted, along
17 with final relief that effectively mirrors the Provisional Relief so as to continuously protect the
18 Debtors' assets and creditors.

19 2. The Debtors' Receivership Estate and Creditors Will Suffer Irreparable Harm
20 Without the Provisional Relief.

21 Under the BIA/LEA and Receiver Order, the Canadian Proceeding creates a worldwide
22 automatic stay similar to 11 U.S.C. § 362 to protect the Debtors' assets and creditors. The Receiver
23 commenced this Chapter 15 case to give full effect to the Canadian Proceeding and Receiver Order
24 in the United States through 11 U.S.C. §§ 1520 and 1521. While the Petition for that final relief
25 is pending in this Court, there will be a substantial threat of irreparable harm to the Debtors' estates
26 and creditors absent the Provisional Relief. The Provisional Relief requested herein is necessary
27 and appropriate to effectuate the purposes and objectives of Chapter 15 and to protect the Debtors,

1 their assets, their creditors, and other parties in interest. *See, e.g., In re Andrade Gutierrez*
2 *Engenharia S.A.*, 645 B.R. 175, 181 (Bankr. S.D.N.Y. 2022) (“irreparable harm exists when local
3 actions could hinder the orderly process of a foreign proceeding and the goal of fair distribution of
4 assets”); *In re MMG LLC*, 256 B.R. 544, 555 (Bankr. S.D.N.Y. 2000).

5 On the eve of the Canadian Proceeding, Vicinity Parent issued a press release indicating
6 that it would be ceasing operations, laying off employees, facing restrictions on stock trading, and
7 generally succumbing to creditor enforcement actions. Powell Decl. ¶ 11, Ex. B (Vicinity Parent’s
8 press release). The Receiver has begun investigating the status of the Ferndale Property, but
9 currently has limited access to the Ferndale Property to assess whether additional security
10 measures are necessary to preserve the value of the Ferndale Property or the fixtures and personal
11 property, located therein (*e.g.*, lock changes, security systems, periodic site checks, etc.) Powell
12 Decl. ¶ 12. Likewise, the Receiver has begun investigating the status of the Electric Vehicles, but
13 currently has limited access to Electric Vehicles that may be located at the Ferndale Property or
14 elsewhere in the United States to assess whether additional security measures are necessary to
15 preserve the value of the Electric Vehicles (*e.g.*, locate keys or otherwise take control of and secure
16 the Electric Vehicles, insurance, etc.). Powell Decl. ¶ 13. The Receiver is also investigating the
17 existence of other assets of the Debtors, including US-based assets, which investigation may be
18 hampered without all of the powers and protections afforded under Chapter 15. Powell Decl. ¶
19 14. Additionally, the Debtors have multiple creditors that assert interests in the Debtors’ assets,
20 including the Ferndale Property and Electric Vehicles, which necessitate heightened Chapter 15
21 relief to ensure the status quo is maintained with respect to the Debtors’ US-based assets while the
22 Receiver seeks formal recognition of the Canadian Proceeding in this Court and ultimately
23 administers the Debtors’ estates under Canadian and United States law, as applicable. Powell
24 Decl. ¶ 15.

25 3. The Threatened Injury to the Debtors’ Estates and Creditors Outweighs Any
26 Damage the Provisional Relief Might Cause.

27 The threat of injury to the Receiver, in its official capacity in the Canadian Proceeding, and

1 the Debtors' estates and creditors, outweighs any damage the relief set forth herein might cause to
2 third parties. The injunctive relief sought by the Receiver will benefit the Debtors' creditors by
3 maximizing the value of the Debtors' assets, ensuring an equitable and orderly distribution of
4 assets, and facilitating the Canadian Proceeding. The Provisional Relief sought by the Receiver
5 will benefit the Debtors' creditors by maintaining and maximizing the value of the Debtors' assets
6 within the United States — particularly the Ferndale Property and the Electric Vehicles — and
7 will ensure an equitable and orderly distribution of assets as required by the BIA/LEA and Chapter
8 15.

9 Moreover, the balance of potential injury weighs heavily in favor of granting the
10 Provisional Relief. To the extent that the Provisional Relief could cause any parties in interest any
11 harm at all, it would be minimal: the Provisional Relief will only be in effect for a short time until
12 the Court rules on the Petition, and during that gap period, the Provisional Relief will be necessary
13 for the Receiver to investigate, secure, and preserve the Ferndale Property, Electric Vehicles, and
14 the Debtors' other assets that may be located in the United States. Indeed, the automatic stay and
15 other Provisional Relief enabling the Receiver to control the Debtors' assets within the United
16 States will protect and benefit the interests of all parties, without causing injury or loss to any.

17 4. The Provisional Relief Will Serve the Public Interest.

18 The Provisional Relief will serve the public interest because an orderly administration of
19 the Debtors' assets located in the United States will maximize the value of those assets and most
20 effectively protect all creditors' interests. The injunctive relief is in the public interest because it
21 sets to facilitate a cross-border reorganization that will provide a benefit to the Debtors' estates,
22 compliment the Canadian Proceeding, and ultimately support notions of comity by allowing the
23 Receiver to preserve the Debtors' assets and maximize value for the estates and all creditors. *See,*
24 *e.g., Cornfeld v. Inv'rs Overseas Servs., Ltd.*, 471 F. Supp. 1255, 1259 (S.D.N.Y. 1979), *aff'd*, 614
25 F.2d 1286 (2d Cir. 1979).

26 The Provisional Relief is necessary and appropriate, in the interest of the public and
27 international comity, and consistent with the United States public policy. The Provisional Relief

1 will enable the Receiver to successfully investigate, preserve, and administer the Debtors' assets
2 under the provisions of the Bankruptcy Code in this Chapter 15 case, and under the BIA/LEA in
3 the Canadian Proceeding, which will benefit all stakeholders. *See* 11 U.S.C. § 1501(a) (purpose
4 of Chapter 15 includes "fair and efficient administration of cross-border insolvencies" and
5 "protection and maximization of the value of the debtor's assets"); *see also Cunard S.S. Co. Ltd.*
6 *v. Salen Reefer Servs. AB*, 773 F.2d 452, 458 (2d Cir. 1985) ("The granting of comity to a foreign
7 bankruptcy proceeding enables the assets of a debtor to be dispersed in an equitable, orderly, and
8 systematic manner, rather than in a haphazard, erratic or piecemeal fashion."). Granting the
9 Provisional Relief requested here is in the public interest because it promotes cooperation between
10 jurisdictions in cross-border insolvencies as expressly required under Chapter 15, and reinforces
11 the authority and powers granted to the Receiver under the Receiver Order entered in the Canadian
12 Proceeding while the Petition for Chapter 15 recognition is pending in this Court.

13 **D. No Bond.**

14 The Court should not require a bond to grant the Provisional Relief. The Court "may
15 subject relief granted under section 1519 or 1521 or the operation of the debtor's business under
16 section 1520(a)(3) to conditions it considers appropriate, including the giving of security or the
17 filing of a bond" but the posting of a bond is not necessarily required. *See* 11 U.S.C. § 1522(b).
18 This is consistent with the fact that a motion seeking relief under 11 U.S.C. § 1519 is not an
19 adversary proceeding requesting a preliminary injunction, even though preliminary injunction
20 standards apply. *See In re Worldwide Educ. Servs., Inc.*, 494 B.R. 494, 499 n.1 (Bankr. C.D. Cal.
21 2013) (noting that requests for provisional relief under section 1519 should be treated as contested
22 matters under Bankruptcy Rule 9014, not adversary proceedings under Rule 7001).

23 For the Provisional Relief requested in these Chapter 15 cases, the Receiver should not be
24 required to post a bond because the Receiver is carrying out its duties under the BIA/LEA and the
25 Receiver Order, and any bond would necessarily be payable from the Debtors' assets. Just as the
26 Federal Rules of Bankruptcy Procedure do not require a trustee or debtor-in-possession to post a
27 bond when seeking injunctive relief, the Receiver should not be required to post security to merely

1 act within its official capacity under the BIA, the LEA, and the Receiver Order, to preserve the
2 Debtors' assets. See Fed. R. Bankr. P. 7065 (stating that injunctive relief may be issued upon
3 application of a debtor, trustee, or debtor in possession without compliance with Fed. R. Civ. P.
4 65(c)); *S.E.C. v. Universal Fin.*, 760 F.2d 1034, 1039 (9th Cir. 1985) (finding that "the main effect
5 of requiring such a bond would be to deplete further the resources available to [creditors] with an
6 interest in the receivership estate").

7 **E. Waiver of Stay.**

8 Given the urgency of the Provisional Relief, the Receiver requests that the Court waive any
9 stay that may be applicable under Federal Rule of Bankruptcy Procedure 7062 for cause.

10 **VIII. EX PARTE RELIEF**

11 The Receiver requests that the Court grant this Motion without notice to creditors. Notice
12 of this Motion is being provided to all parties listed on the provisional relief service list attached
13 to the Petition pursuant to Federal Rule of Bankruptcy Procedure 1007(a)(4)(B), which includes
14 all the parties entitled to notice under Federal Rule of Bankruptcy Procedure 2002(q)(1), and the
15 Receiver will provide additional notice as directed by the Court. The Receiver submits that, in
16 view of the facts and circumstances, such notice is sufficient, and no other or further notice need
17 be provided for the Court to grant the relief requested herein.

18 **IX. CONCLUSION**

19 For these reasons, the Receiver respectfully requests that the Court enter the Receiver's
20 proposed Order Granting Provisional Relief attached hereto as Exhibit A.

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DATED: October 24, 2024

LANE POWELL PC

By: /s/ James B. Zack
Gregory R. Fox, WSBA No. 30559
James B. Zack, WSBA No. 48122
Attorneys for FTI Consulting Canada Inc.,
Foreign Representative

EXHIBIT A

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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re
VICINITY MOTOR CORP., *et al.*,¹
Debtors in a Foreign Proceeding.

Lead Case No. 24-12675

Jointly Administered with:
Case No. 24-12677;
Case No. 24-12678; and
Case No. 24-12679

**[PROPOSED]
ORDER GRANTING
PROVISIONAL RELIEF**

This matter came before the Court on the *Ex Parte Motion for Provisional Relief* (the “Motion”)² filed by FTI Consulting Canada Inc., in its capacity as the receiver (the “Receiver”) appointed in the Canadian insolvency proceeding of Vicinity Motor Corp., Vicinity Motor (Bus) Corp., Vicinity Motor (Bus) USA Corp., and Vicinity Motor Property, LLC (collectively, the “Debtors”), *In the Matter of the Receivership of Vicinity Motor (Bus) Corp., et al.*, Supreme Court of British Columbia, Vancouver Registry No. S-247082(the “Canadian Proceeding”). Upon

¹ The Debtors are Vicinity Motor Corp., Bankruptcy Case No. 24-12675, Vicinity Motor (Bus) Corp., Bankruptcy Case No. 24-12677, Vicinity Motor (Bus) USA Corp., Bankruptcy Case No. 24-12678, and Vicinity Motor Property, LLC, Bankruptcy Case No. 24-12679.

² Capitalized terms used but not defined in the Order shall have the meaning set forth in the Motion.

1 consideration of the Motion, the Declaration of Tom Powell and exhibits thereto, the Receiver
2 Order commencing the Canadian Proceeding, the evidence presented and the arguments of
3 counsel; the Court hereby FINDS, CONCLUDES, and ORDERS:

4 1. Notice of the Motion was proper in the circumstances (or that to the extent that
5 notice was insufficient, this Order should be issued without notice to avoid irreparable harm to the
6 Debtors' estates); and, therefore, the relief requested in the Motion is GRANTED on a provisional
7 basis.

8 2. Vicinity Motor Corp., Vicinity Motor (Bus) Corp., Vicinity Motor (Bus) USA
9 Corp., and Vicinity Motor Property, LLC are the Debtors in this jointly administered Chapter 15
10 case.

11 3. On October 21, 2024, in the Canadian Proceeding, the Debtors were placed into a
12 receivership proceeding under Section 243(1) of Canada's *Bankruptcy and Insolvency Act*, R.S.C.
13 1985, c. B-3, as amended (the "BIA") and Section 39 of Canada's *Law and Equity Act*, R.S.B.C.
14 1996 c. 253, as amended (the "LEA"), and the Receiver was appointed by the Supreme Court of
15 British Columbia to preserve and administer the Debtors' estates pursuant to the BIA and LEA.

16 4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and (b)
17 and 1334(a) and (b).

18 5. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P), and the Court may
19 enter a final order in respect of it under Article III of the United States Constitution.

20 6. Venue is proper in this District pursuant to 28 U.S.C. § 1410(1) and (3) because the
21 Debtors' principal assets in the United States are located in Ferndale, Washington, and venue here
22 is otherwise consistent with the interests of justice, convenience of the parties, and relief sought
23 by the Receiver.

24 7. The Debtors are eligible to be debtors under Chapter 15 pursuant to 11 U.S.C. §§
25 109(a) and 1501(b) because they own real and personal property in the United States, and the
26 Receiver is a foreign representative for the Debtors seeking assistance in the United States in
27 connection with a foreign proceeding.

ORDER GRANTING PROVISIONAL RELIEF - 2

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1 8. These Chapter 15 cases were properly commenced pursuant to 11 U.S.C. §§ 1504
2 and 1509(a) by the Receiver filing the Petition, applying to this Court pursuant to 11 U.S.C. § 1515
3 for recognition of the Canadian Proceeding as a foreign main proceeding pursuant to 11 U.S.C.
4 § 1517(b)(1).

5 9. Relief is urgently needed to protect the assets of the Debtors or the interests of the
6 creditors pursuant to 11 U.S.C. § 1519(a).

7 10. The relief granted herein is necessary and appropriate to effectuate the purposes
8 and objectives of Chapter 15 and to protect the Debtors, their assets, creditors, and other parties in
9 interest.

10 11. There is a substantial likelihood that the Receiver is a person within the meaning
11 of 11 U.S.C. § 101(41) and is the duly appointed foreign representative of the Debtors within the
12 meaning of 11 U.S.C. § 101(24).

13 12. There is a substantial likelihood that the Canadian Proceeding is a foreign
14 proceeding within the meaning of 11 U.S.C. § 101(23).

15 13. There is a substantial likelihood that the Canadian Proceeding is entitled to
16 recognition by this Court pursuant to 11 U.S.C. § 1517.

17 14. There is a substantial likelihood that Canada is the “center of main interest” of the
18 Debtors, and accordingly, that the Canadian Proceeding is a “foreign main proceeding” as defined
19 in 11 U.S.C. § 1502(4), and is entitled to recognition as a foreign main proceeding under 11 U.S.C.
20 § 1517(b)(1).

21 15. There is a substantial threat of irreparable harm to the Receiver in its capacity as
22 the receiver appointed in the Canadian Proceeding, and the Debtors’ receivership estate and
23 creditors, if immediate provisional relief is not granted pursuant to 11 U.S.C. § 1519 as set forth
24 herein.

25 16. Any threatened injury to the Receiver, in its capacity as the receiver appointed in
26 the Canadian Proceeding, and the Debtors’ estates and creditors, outweighs any damage the relief
27 set forth herein might cause to third parties. The injunctive relief will benefit the Debtors’ creditors

1 by maximizing the value of the Debtors' assets, ensuring an equitable and orderly distribution of
2 assets, and facilitating the Canadian Proceeding.

3 17. The injunctive relief is in the public interest. It sets to facilitate a cross-border
4 reorganization that will provide a benefit to the Debtors' receivership estate. The injunctive relief
5 is supported by notions of comity and will allow the Receiver to preserve the Debtors' assets and
6 maximize value for the Debtors' receivership estate.

7 18. The relief granted is necessary and appropriate, in the interest of the public and
8 international comity, consistent with United States public policy, warranted pursuant to 11 U.S.C.
9 § 1519, and will not cause any hardship to any party in interest that is not outweighed by the
10 benefits of granting the requested relief.

11 19. There is a substantial likelihood that with the relief granted herein, the Receiver
12 will be able to successfully preserve and administer the Debtors' assets under the provisions of the
13 Bankruptcy Code in this Chapter 15 case, and under the BIA/LEA and Receiver Order in the
14 Canadian Proceeding, which will benefit all creditors.

15 20. The Receiver, in its capacity as the receiver appointed in the Canadian Proceeding,
16 is entitled to, and hereby granted, the full protections and rights available pursuant to 11 U.S.C. §
17 1519(a).

18 21. Execution against the assets of the Debtors is hereby stayed.

19 22. The administration or realization of all of the assets of the Debtors within the
20 territorial jurisdiction of the United States is hereby entrusted to the Receiver, to protect and
21 preserve the value of assets that, by their nature or because of other circumstances, are perishable,
22 susceptible to devaluation or otherwise in jeopardy.

23 23. The right of any person or entity, other than the Receiver, to transfer or otherwise
24 dispose of any assets of the Debtors is hereby suspended unless authorized in writing by the
25 Receiver or by Order of this Court or the Canadian Proceeding, as applicable.

1 24. The Receiver may undertake the examination of witnesses, the taking of evidence,
2 the production of documents, or the delivery of information concerning the assets, affairs, rights,
3 obligations or liabilities of the Debtors.

4 25. The commencement or continuation of any action or proceeding concerning the
5 Debtors, the assets, rights, obligations, or liabilities of the Debtors, and the Receiver in its capacity
6 as foreign representative of the Debtors, is hereby stayed in a manner coextensive with 11 U.S.C.
7 § 362.

8 26. The right of any person or entity, other than the Receiver, to discontinue, fail to
9 honor, repudiate, terminate or cease to perform any right, renewal right, contract, agreement,
10 license or permit in favor of or held by the Debtors is hereby suspended unless authorized in
11 writing by the Receiver or by order of this Court or the Canadian Proceeding, as applicable.

12 27. All relief granted herein is on a provisional basis, subject to this Court's recognition
13 of the Canadian Proceeding as a foreign proceeding pursuant to 11 U.S.C. § 1517(b).

14 28. The Court finds that no bond or security is required because it is unnecessary in this
15 case to protect creditors or third parties.

16 29. Notwithstanding Federal Rule of Bankruptcy Procedure 7062, made applicable to
17 this case by Federal Rule of Bankruptcy Procedure 1018, the terms and conditions of this Order
18 shall be immediately effective and enforceable upon its entry and, upon its entry, shall become
19 final and appealable. The Receiver is not subject to any stay in the implementation, enforcement,
20 or realization of the relief granted in the Order, and the Receiver is authorized and empowered and
21 may, in its discretion and without further delay, take any action and perform any act necessary to
22 implement and effectuate the terms of the Order.

23 30. This Order applies to all parties in interest in these Chapter 15 cases and all of their
24 agents, employees, and representatives, and all those who act in concert with them who receive
25 notice of this Order.

26 31. This Court shall retain jurisdiction with respect to the enforcement, amendment or
27 modification of this Order, any request for additional relief, or any adversary proceeding brought

1 in and through this Chapter 15 case, and any request by an entity for relief from the provisions of
2 this Order, for cause shown, that is properly commenced and within the jurisdiction of this Court.

3 32. Any party in interest may make a motion seeking relief from, or modification of,
4 this Order and shall provide notice of such motion to the Receiver's U.S. counsel below:

5 Gregory R. Fox, WSBA No. 30559
6 foxg@lanepowell.com
7 James B. Zack, WSBA No. 48122
8 zackj@lanepowell.com
9 LANE POWELL PC
10 1420 Fifth Avenue, Suite 4200
11 Seattle, WA 98101
12 Telephone: (206) 223-7000
13 Facsimile: (206) 223-7107

14 33. To the extent of any conflict or inconsistency between this Order and the Receiver
15 Order and the Receiver's duties under the BIA/LEA, the Receiver Order as amended,
16 supplemented, or modified, shall control.

17 /// END OF ORDER ///

18 Presented by:

19 LANE POWELL PC

20 By: /s/ James B. Zack

21 Gregory R. Fox, WSBA No. 30559
22 James B. Zack, WSBA No. 48122
23 Attorneys for FTI Consulting Canada Inc.,
24 Foreign Representative
25
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