

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36 AS AMENDED**

**AND IN THE MATTER OF A PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT WITH RESPECT TO
KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC., KRAUS
PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.**

**FIRST REPORT OF THE MONITOR
SEPTEMBER 17, 2018**

A. INTRODUCTION

1. On September 11, 2018 (the “**Filing Date**”), Kraus Brands Inc., Kraus Canada Ltd., Kraus Carpet Inc., Kraus Properties Inc., Kraus USA Inc., and Strudex Inc. (collectively, the “**Applicants**”) filed for and obtained protection under the *Companies' Creditors Arrangement Act* (the “**CCAA**”). Pursuant to the Order of this Court granted September 11, 2018 (the “**Initial Order**”), Deloitte Restructuring Inc. (“**Deloitte**”) was appointed as the Monitor in these proceedings (the “**Monitor**”). The Initial Order provided for a stay of proceedings against the Applicants through October 11, 2018 and extended the relief under the Initial Order to the partnerships (the “**Partnerships**” and together with the Applicants, the “**Kraus Group**”) listed in Appendix “A” in the Pre-Filing Report (defined below). The proceedings commenced by the Applicants under the CCAA will be referred to herein as the “**CCAA Proceedings**”.

2. On September 11, 2018, Deloitte filed the Pre-Filing Report of the Proposed Monitor (the “**Pre-Filing Report**”) which, among other things, described certain background information about the Kraus Group, its 13-week cash flow projection (“**Cash Flow Statement**”), and the current status of the Kraus Group’s operations. Copies of the Pre-Filing Report, the Initial Order, and the service list in respect of the CCAA Proceedings are available on the Monitor’s website at <http://www.insolvencies.deloitte.ca/en-ca/kraus> (the “**Monitor’s Website**”).
3. At the hearing for the Initial Order, a comeback hearing in respect of the Initial Order was set by the Court for September 18, 2018 (the “**Comeback Hearing**”). At the Comeback Hearing, the Applicants will be seeking an order, among other things, approving an agreement of purchase and sale dated September 10, 2018 (the “**TPS Purchase Agreement**”) between Q.E.P. Co., Inc. (the “**Purchaser**”) and certain Applicants, as vendors (collectively the “**Vendor**”), and an Order vesting the Purchased Assets (as that term is defined in the TPS Purchase Agreement) in the Purchaser free and clear of liens and/or other encumbrances.
4. A more detailed description of the Kraus Group’s business operations and background in its restructuring proceedings in the period prior to the Filing Date was provided in the Emmott Affidavit (defined below) and in the Pre-Filing Report, which have been posted on the Monitor’s Website.

B. PURPOSE

5. The purpose of this First Report is to provide the Court with information and/or updates on the following:
- a) The activities of the Monitor from the Filing Date to the date of this First Report;
 - b) The Transition Services Agreement (defined below);
 - c) The TPS Purchase Agreement, including the sale of the Dalton Premises (defined below);
 - d) Pre-filing cash disbursements and the proposed amendment to the Initial Order in respect of such disbursements;
 - e) The Wells Fargo Borrowing Base;
 - f) Status of the Kraus Group's bankruptcy proceedings in the United States ("**U.S. Proceedings**"); and,
 - g) The Monitor's recommendations in respect of the relief sought by the Applicants.

C. TERMS OF REFERENCE AND DISCLAIMER

6. In preparing this First Report and making the comments herein, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records and

financial information prepared by the Kraus Group, and discussions with management of the Applicants (“**Management**”) (collectively, the “**Information**”).

7. The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Generally Accepted Assurance Standards (“**Canadian GAAS**”) pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under Canadian GAAS in respect of the Information.
8. Some of the information referred to in this First Report consists of financial projections. An examination or review of the financial forecasts and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.
9. Future oriented financial information referred to in this First Report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
10. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars. All terms not defined herein shall have the meanings ascribed to them from the Affidavit of Chris Emmott, sworn September 10, 2018 (“**Emmott Affidavit**”) and the Pre-Filing Report.

D. ACTIVITIES OF THE MONITOR SINCE THE FILING DATE

11. The Monitor fulfilled the requirements set out in Paragraph 39 of the Initial Order in respect of notifying Kraus Group's creditors and other stakeholders of the CCAA Proceedings including the following:

- a) The Monitor has arranged to publish a notice in the *Globe and Mail* (National Edition) on September 18, 2018 and September 25, 2018. The notice contains the information prescribed in accordance with Section 23(1)(a) of the CCAA. The Monitor will update the Court in a future report regarding the published notice.
- b) Within five business days after the date of the Initial Order, the Monitor;
 - i. On September 11, 2018, made the Initial Order, the Emmott Affidavit, and the Pre-Filing Report publicly available by posting them on the Monitor's Website;
 - ii. By September 14, 2018, sent a notice (the "**Notice**") to every known creditor having a known or potential claim against the Kraus Group of more than \$1,000 advising them that the Initial Order is publicly available on the Monitor's Website. A copy of the Notice is attached hereto as Appendix "A"; and
 - iii. Prepared a list of known or potential creditors of the Kraus Group showing their names, addresses and estimated claim amounts and

made it publicly available in the prescribed manner by posting it on the Monitor's Website on September 14, 2018.

12. The Monitor has also engaged in the following activities since the Filing Date:
- a) Worked with Management to review disbursement approval and reporting procedures to allow for the monitoring of the Kraus Group's receipts and disbursements. This process is completed at the beginning of each week for the preceding week. As a complete weekly review cycle was not complete as of the date of the First Report, the Monitor will provide an update on any variance in the actual receipts and disbursements compared to the receipts and disbursements set out in the Cash Flow Statement within the Pre-Filing Report in a subsequent report;
 - b) Held discussions with Management and employees regarding the following:
 - i. The treatment of outstanding wages, vacation pay and other employee-related items;
 - ii. Various *ad-hoc* requests related to suppliers with respect to their rights and remedies with regard to the CCAA Proceedings; and,
 - iii. Management's strategy for realization of finished goods, raw materials and machinery in relation to the manufacturing of residential and commercial broadloom carpet ("**Broadloom Business**");

- c) Completed and filed the requisite statutory documentation with the Office of the Superintendent of Bankruptcy; and,
 - d) Attended to various inquiries which the Monitor received by the Monitor's dedicated telephone number (416-354-0883) and/or e-mail address (kraus@deloitte.ca) from the Kraus Groups' creditors and other stakeholders.
13. As discussed in the Pre-Filing Report, the Monitor has retained Miller Thomson LLP ("**Miller Thomson**") to act as its independent Canadian counsel. Miller Thomson, at the Monitor's request, has commenced its review of the Wells Fargo Capital Finance Corporation Canada ("**Wells Fargo**") and Red Ash Capital Partners II Limited Partnerships' ("**Red Ash**") security within Canada. The Monitor will report to the Court on the validity of the Wells Fargo and Red Ash security in a future report.
14. The Monitor has retained Sheppard, Mullin, Richter & Hampton LLP as independent U.S. counsel ("**U.S. Counsel**"). U.S. Counsel has determined that it is unable to directly give an opinion over the Red Ash and Wells Fargo security within Delaware and Georgia and the Wells Fargo security within New York. As noted in the Pre-Filing Report, if there was a conflict, they would retain local counsel to complete the security review. U.S. Counsel have noted that the total cost of this security opinion will be less under this situation than if U.S. Counsel exclusively completed all security reviews. The retention of independent local counsel and the completion of the security opinions are both ongoing as of September 17, 2018.

E. TRANSITION SERVICES AGREEMENT

15. References made to paragraphs 3 to 5 of the supplementary affidavit of Chris Emmott, sworn September 17, 2018 (“**Supplementary Emmott Affidavit**”), wherein the Transition Services Agreement (defined below) is described.
16. The Monitor has reviewed an unsigned draft of the Transitional Services Agreement (the “**Transition Services Agreement**”) between the Purchaser and Vendor. The Monitor understands that this version will be the final version to be executed by the parties in the coming days.
17. The purpose of the Transition Services Agreement is to document the respective services that the Vendor and Purchaser will provide to each other commencing in October 2018. The intention of the parties is that the compensation charged for each of the services provided by one party to the other reasonably approximates that cost of that service, including the costs of employee wages and compensation and third party out-of-pocket costs. Settlement of amounts owing for services provided will be made monthly in arrears. The Monitor has not been privy to the negotiations of the costs for each service to be provided.
18. With respect to employees, responsibility for the payment of wages and compensation will remain with the party providing the service so there will be no change in the payment arrangements for these employees.

19. The Transition Services Agreement specifically covers the collection of accounts receivable, premises, software and server access, paid duty recoveries, and the sharing of third party warehouse costs.
20. The Transition Services Agreement terminates as each specific service is no longer required, and can also be terminated on 30-days' notice by the recipient party.

F. TPS PURCHASE AGREEMENT

Update on the TPS Business

21. The Monitor has been on-site at the head office of the Kraus Group in Waterloo, Ontario since the Filing Date. The Kraus Group has continued to operate the distribution and sale of flooring products to commercial and residential customers (the “**TPS Business**”) as a going concern as stipulated by the Initial Order and the TPS Purchase Agreement.
22. Pursuant to the TPS Purchase Agreement, the Kraus Group is required to operate the TPS Business in the ordinary course of business and maintain the TPS Business “substantially intact”.
23. The Monitor notes that the Kraus Group has been operating the TPS Business in accordance with the requirements of the TPS Purchase Agreement.

TPS Purchase Agreement

24. The Monitor set out information regarding its review and consideration of the TPS Purchase Agreement in paragraphs 47 to 51 of the Pre-Filing Report and concluded that there are no reasonable or likely alternatives that would offer a better return to the creditors of the Kraus Group. The Monitor is supportive of the TPS Purchase Agreement.
25. The Monitor has reviewed the draft Approval and Vesting Order (Purchase Agreement) that the Applicants intend to seek at the Comeback Hearing (“**Approval and Vesting Order**”) and note the following:
 - a) The Monitor is to certify the performance of the following:
 - i. The payment of the purchase price;
 - ii. The conditions to closing as set out in the TPS Purchase Agreement have been satisfied or waived by the two parties; and,
 - iii. The transaction has been completed to the satisfaction of the Monitor.
 - b) The Monitor is to enter into an escrow agreement with certain of the Applicants and the Purchaser (the “**Escrow Agreement**”) pursuant to which the Monitor will hold in escrow the holdback amount pursuant to the TPS Purchase Agreement until the conditions have been met pursuant to the Escrow Agreement and the funds are released by the Monitor.

26. The Monitor agrees to the duties summarized in the Approval and Vesting Order and agrees to be the escrow agent pursuant to the Escrow Agreement and to certify of the performance of the conditions pursuant to the Approval and Vesting Order.

Dalton Real Estate

27. Kraus USA Inc. owns and operates a 162,000 square foot facility in Dalton, Georgia, that provides warehousing and logistics services for the Kraus Group (the “**Dalton Premises**”). A purchase and sale agreement was made and entered into as of September 10, 2018 between Kraus USA, Inc. and the Purchaser for the sale of the Dalton Premises (the “**Dalton Premises Purchase and Sale Agreement**”). A copy of the Dalton Premises Purchase and Sale Agreement is attached as Exhibit “B” to the Supplementary Emmott Affidavit.
28. As described in the Supplementary Emmott Affidavit in paragraphs 6 to 13, the Dalton Premises are an integral element of the TPS Business that is being acquired by the Purchaser. The purchase price for the Dalton Premises pursuant to the TPS Purchase Agreement has been disclosed as part of the liquidation analysis performed by the Monitor and was negotiated and has been included as part of the overall consideration of the TPS Purchase Agreement. The purchase price for the Dalton Premises represents less than 10% of the purchase price contemplated by the TPS Purchase Agreement.
29. The Monitor notes that the last valuation of the Dalton Premises was obtained on April 15, 2014, after being carried out by William Yarbrough and Associates (“the **Dalton Appraisal**”). The Dalton Appraisal indicated a value higher than the purchase price

ascribed to the Dalton Premises in the TPS Purchase Agreement. The Monitor reviewed the overall purchase price of the TPS Purchase Agreement as part of the Liquidation Analysis, and noted that TPS Purchase Agreement, in its entirety, offered a higher return to the Kraus Group than a forced liquidation scenario. As such, the Monitor supports the overall transaction as contemplated in the TPS Purchase Agreement.

30. The Proposed Monitor understands from Management that the Applicants' secured lenders, Wells Fargo and Red Ash, have been consulted and are in favour of the proposed sale of the Dalton Premises, although the Proposed Monitor was not a party or privy to these discussions.

G. PRE-FILING CASH DISBURSEMENTS AND PROPOSED AMENDMENT TO THE INITIAL ORDER

31. The Kraus Group is seeking an amendment to the Initial Order to provide for the payment of up to \$10.0 million of certain pre-filing trade liabilities relating to the continuation of the TPS Business.
32. As noted in the Pre-Filing Report in paragraph 47, due to the unique nature of the TPS Purchase Agreement, there are certain pre-filing trade liabilities that are forecast to be paid in the normal course of operations during the CCAA in order to operate the TPS Business as a going concern in accordance with the TPS Purchase Agreement. The Monitor has obtained from Management an estimate of these amounts, which are forecast to total \$9.1

million over the first thirteen weeks of the CCAA Proceedings. These specific pre-filing trade liabilities are principally freight and inventory payments related to the TPS Business that are being specifically assumed as part of the TPS Purchase Agreement. The Monitor understands from Management that the settlement of these pre-filing trade liabilities is necessary as:

- a) The TPS Purchase Agreement is structured such that consideration is based on the net working capital position of the TPS Business as of the closing date. Accordingly, the settlement of the specific pre-filing TPS Business trade liabilities will not affect the overall consideration from the transaction, but will, instead, result in these liabilities being paid prior to closing;
- b) The settlement of the pre-filing TPS Business trade liabilities as they come due will greatly facilitate the continuation of the TPS Business in the ordinary course until closing;
- c) The going concern operation of the TPS Business is a key requirement of the TPS Purchase Agreement and, according to Management, is not possible without the payment of such pre-filing trade liabilities; and,
- d) These payments were provided for and included within the Cash Flow Statement included in the Pre-Filing Report and submitted to the Court in the Applicants' CCAA Proceedings filing materials.

33. The Monitor notes that if the TPS Purchase Agreement is not closed, these pre-filing trade liabilities will have been paid in preference to other unsecured creditors, but is of the view that this is necessary in order to facilitate the closing of the TPS Purchase Agreement.
34. Management and the Monitor discussed the forecast payments related to pre-filing amounts in the outstanding cheque listing as at the Filing Date, the disbursement schedule for the week of September 14, 2018, and the forecast payments for the period up to the close of the TPS Purchase Agreement. These payments have been summarized below:

Pre-Filing Anticipated Disbursements For the Week Ending (000's CAD)	Outstanding Cheque Amounts				
		14-Sep-18	21-Sep-18	28-Sep-18	Total
TPS / QEP Transaction - A/P	\$ 427	\$ 2,239	\$ 2,171	\$ 4,291	\$ 9,129
TPS / QEP Transaction - Employees	1	509	529	-	1,039
Broadloom Business - Other Pre-Filing	2	3	-	-	5
Broadloom Business - Employees	41	370	264	-	674
Total	\$ 471	\$ 3,120	\$ 2,964	\$ 4,291	\$ 10,846

35. The Monitor has noted that additional pre-filing liabilities will be paid according to the terms of the Initial Order, which include payroll related costs associated with employees, including those that are necessary to facilitate the operations of the TPS Business and liquidation of the Broadloom Business. There are also pre-filing Broadloom amounts which have been paid during the week ended September 14, 2018. These payments relate to miscellaneous expenses less than \$500 each and total approximately \$5,000.
36. The Monitor reviewed confirmations from the Applicants' bank, which showed that outstanding cheques not included in the chart above had stop payment orders applied to

them. The Monitor will report on actual receipts and disbursements as against the Cash Flow Statement in a subsequent report.

H. WELLS FARGO BORROWING BASE

37. The Monitor obtained Management's Wells Fargo Borrowing Base Calculation ("WF BBC") dated September 11, 2018 that was submitted to Wells Fargo on September 12, 2018.

38. The Monitor reviewed the WF BBC and noted that it calculated borrowing base availability of \$5.7 million with collateral of approximately \$51.8 million compared with borrowings of \$46.1 million. The Kraus Group were outside their financial covenants with Wells Fargo.

I. STATUS OF THE KRAUS GROUP'S BANKRUPTCY PROCEEDINGS IN THE UNITED STATES

39. On September 11, 2018, Kraus Carpet Inc. (the "**Foreign Representative**") in its capacity as the authorized Foreign Representative of the Kraus Group in the CCAA Proceedings filed the Motion of Foreign Representative for Entry of Provisional and Final Orders Granting Recognition of Foreign Main Proceeding and Certain Related Relief (the "**Chapter 15 Motion**"), attached as Appendix "**B**", in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") seeking:

- a) Entry of a provisional order recognizing the CCAA Proceedings as a foreign main proceeding and granting a stay of execution against the Kraus Group's assets and applying section 362 and 365(e) of the Bankruptcy Code on an interim basis under section 1519 of the Bankruptcy Code; and
 - b) Entry of a final order recognizing the CCAA Proceedings as a foreign main proceeding and granting a stay of execution against the Kraus Group's assets and applying section 362 and 365(e) of the Bankruptcy Code under sections 1520 and 1521 of the Bankruptcy Code.
40. On September 12, 2018, the Bankruptcy Court held a hearing and granted the Chapter 15 Motion on an interim basis and entered a Provisional Order Granting Recognition of Foreign Main Proceeding and Certain Related Relief, recognizing the CCAA Proceedings as a foreign main proceeding and granting a stay of execution against the Kraus Group's assets and applying section 362 and 365(e) of the Bankruptcy Code.
41. In addition, on September 11, 2018, the Foreign Representative in its capacity as the authorized Foreign Representative of the Kraus Group in the CCAA Proceedings filed the Motion of Foreign Representative Pursuant to Sections 105(a), 363, 365, 1501, 1507, 1520, and 1521 of the United States Bankruptcy Code, and Rules 2002, 6004, 6006, and 9014, of the Federal Rules of Bankruptcy Procedure (the "**Sale Motion**") in the Bankruptcy Court for entry of an order:
- a) Recognizing and enforcing the approval and vesting order, if granted;

- b) Authorizing the sale of the Kraus Group's TPS Business free and clear of any and all liens, claims, encumbrances and other interests; and
 - c) Granting related relief.
42. A hearing date is scheduled for October 3, 2018 to consider the Sale Motion and entry of a final order on the Chapter 15 Motion, which will be summarized in a subsequent report of the Monitor.

J. RECOMMENDATIONS

43. In the Monitor's opinion, the Kraus Group is acting in good faith and with due diligence in accordance with the terms of the Initial Order in an effort to maximise the return to its creditors. To date, progress has been made to institute programs to sell the finished goods materials from the Broadloom Business and ensure the going concern value of the TPS Business in accordance with the Initial Order and the TPS Purchase Agreement.
44. The Kraus Group is seeking the Court's approval of:
- a) The Approval and Vesting Order (Purchase Agreement) filed on September 18, 2018 which remains subject to execution of the Transitional Services Agreement and the sale of the Dalton Premises as part of the TPS Purchase Agreement; and,

- b) The amendment of the Initial Order to allow for payments of pre-filing trade creditors integral to the going concern operations of the TPS Business up to \$10.0 million.

45. For the reasons outlined herein, the Monitor recommends that the Court grant the relief sought by the Kraus Group.

All of which is respectfully submitted this 17th day of September, 2018.

**Deloitte Restructuring Inc.,
solely in its capacity as Court-appointed Monitor
of the Kraus Group and not in its personal capacity**



Per:
Paul M. Casey, CPA, CA, FCIRP, LIT
Senior Vice-President

Appendix "A"
Notice to Creditors

September 12, 2018

To Whom It May Concern:

RE: Kraus Brands Inc., Kraus Canada Ltd., Kraus Carpet Inc., Kraus Properties Inc., Kraus USA Inc., and Strudex Inc. (collectively, the “Kraus Group” or the “Applicants”)

Take notice that, on September 11, 2018, the Kraus Group sought and obtained protection pursuant to the *Companies’ Creditors Arrangement Act* (the “CCAA”) before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”).

Deloitte Restructuring Inc. has been appointed as monitor in the Applicants’ CCAA proceedings (the “**Monitor**”) pursuant to the Initial Order of the Court dated September 11, 2018 (the “**Initial Order**”).

Copies of the Initial Order and the Applicants’ application materials have been posted on the Monitor’s website at: <http://www.insolvencies.deloitte.ca/en-ca/kraus> (the “**Website**”).

The Initial Order provides, among other things, for a stay of proceedings until October 11, 2018 (the “**Stay Period**”) in respect of the Applicants. The Stay Period may be extended by the Court from time to time.

During the Stay Period, all parties are prohibited from commencing or continuing legal or enforcement actions against the Applicants and all rights and remedies of any party against or in respect of the Applicants or its assets are stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of the Court.

Creditors are not required to file a proof of claim at this time.

Persons requiring further information not available on the Website should email the Monitor at kraus@deloitte.ca or call the Monitor’s dedicated phone line at 416-354-0883.

Deloitte Restructuring Inc.

In its capacity as Court Appointed Monitor of the Kraus Group
8 Adelaide Street West, Suite 200
Toronto, Ontario, M5H 0A9

Per:



Jordan Sleeth
Senior Vice-President

Appendix “B”

Provisional Order Granting Recognition of Foreign Main Proceeding and Certain Related Relief

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

-----X
In re: : Chapter 15
: :
Kraus Carpet Inc., et al.,¹ : Case No. 18-12057 (KG)
: :
Debtors in a Foreign Proceeding. : Jointly Administered
: :
: **RE: D.I. 5**
-----X

**PROVISIONAL ORDER GRANTING RECOGNITION OF FOREIGN MAIN
PROCEEDING AND CERTAIN RELATED RELIEF**

Upon the motion (the “Motion”)² of Kraus Carpet Inc. (the “Foreign Representative”), in its capacity as the authorized foreign representative of the above captioned debtors (the “Debtors”) in a Canadian proceeding (the “CCAA Proceeding”) under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36 (as amended, the “CCAA”) pending before the Ontario Superior Court of Justice (the “Canadian Court”), pursuant to sections 105(a) 362, 365(e), 1517, 1519, 1520, and 1521 of title 11 of the United States Code (the “Bankruptcy Code”) for (a) entry of a provisional order recognizing the CCAA Proceeding as a foreign main proceeding and granting a stay of execution against the Debtors’ assets and applying section 362 and 365(e) of the Bankruptcy Code on an interim basis under section 1519 of the Bankruptcy Code and (ii) a final order recognizing the CCAA Proceeding as a foreign main proceeding and granting related

¹ The Debtors in these chapter 15 cases and the last four digits of each Debtor’s U.S. tax identification number or Canadian Business Number, as applicable, are as follows: Kraus USA Inc. (USA) (1024); Strudex Inc. (0906); Kraus Carpet Inc. (8687); Kraus Properties Inc. (1102); Kraus Canada Ltd. (1300); and Kraus Brands Inc. (8885). The Debtors’ mailing address for purposes of these chapter 15 cases is 65 Northfield Drive West, Waterloo, Ontario, Canada.

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

relief; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with sections 157 and 1334 of title 28 of the United States Code, sections 109 and 1501 of the Bankruptcy Code, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated as of February 29, 2012; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to section 157(b) of title 28 of the United States Code; and due and proper notice of the provisional relief sought in the Motion having been provided under the circumstances; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the "Hearing"); and the appearances of all interested parties having been noted in the record of the Hearing; and upon the *Declaration of Christopher Emmott in Support of (A) Motion of Foreign Representative for Entry of Provisional and Final Orders Granting Recognition of Foreign Main Proceeding, and (B) Other First Day Relief* (the "Emmott Declaration"), and the verified chapter 15 petitions, filed contemporaneously with the Motion, the record of the Hearing and all of the proceedings had before the Court; and the Court having found and determined that the provisional relief sought in the Motion is in the best interests of the Debtors, their creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation thereon and sufficient cause appearing therefor,

THIS COURT HEREBY FINDS AND DETERMINES THAT:

A. The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to 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.

B. This Court has jurisdiction to consider this matter pursuant to sections 157 and 1334 of title 28 of the United States Code and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated as of February 29, 2012.

C. This is a core proceeding pursuant to section 157(b)(2)(P) of title 28 of the United States Code.

D. Venue for this proceeding is proper before this Court pursuant to section 1410 of title 28 of the United States Code.

E. On September 11, 2018, these chapter 15 cases were commenced by the Foreign Representative's filing of a verified voluntary *Chapter 15 Petition for Recognition of a Foreign Proceeding* ("Verified Petition") for each Debtor. Attached to the Verified Petition was an order (the "CCAA Order") of the Canadian Court in the CCAA Proceeding appointing the Foreign Representative and granting additional relief.

F. The Foreign Representative has demonstrated a substantial likelihood of success on the merits that (a) the CCAA Proceeding is a "foreign main proceeding" as that term is defined in section 1502(4) of the Bankruptcy Code, (b) the Foreign Representative is a "foreign representative" as that term is defined in section 101(24) of the Bankruptcy Code, (c) all statutory elements for recognition of the CCAA Proceeding are satisfied in accordance with section 1517 of the Bankruptcy Code, (d) upon recognition of the CCAA Proceeding as a foreign main proceeding, section 362 of the Bankruptcy Code will automatically apply in these Chapter 15 cases pursuant to section 1520(a)(1) of the Bankruptcy Code, and (e) that application of section 365(e) on an interim basis to prevent contract counterparties from terminating their

prepetition contracts with the Debtors is entirely consistent with the injunctive relief afforded by the automatic stay under section 362.

G. The Foreign Representative has demonstrated that (a) the commencement or continuation of any proceeding or action in the United States against the Debtors and their business and all of its assets should be stayed pursuant to sections 105(a), 1519, and 1521 of the Bankruptcy Code, which protections, in each case, shall be coextensive with the provisions of section 362 of the Bankruptcy Code, to permit the fair and efficient administration of the CCAA Proceeding for the benefit of all stakeholders and (b) the relief requested in the Motion will neither cause an undue hardship nor create any hardship to parties in interest that is not outweighed by the benefits of the relief granted herein.

H. The Foreign Representative has demonstrated that without the protections of section 365(e) of the Bankruptcy Code, there is a material risk that key contracts will not be preserved and that counterparties to certain of the Debtors' agreements will take the position that the commencement of the CCAA Proceeding authorizes them to terminate such contracts or accelerate obligations thereunder.

I. The Foreign Representative has demonstrated that such termination or acceleration of the Debtors' contracts, if permitted and valid, would result in irreparable damage to the value of the Debtors' assets in the United States, and cause substantial harm to the Debtors' creditors and other parties in interest.

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

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

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

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

1. The Motion is granted as set forth herein.

2. The CCAA Order is hereby given full force and effect on an interim basis, including, without limitation, the stay of proceedings to the extent set forth in the CCAA Order, and shall be given full force and effect in the United States until otherwise ordered by this Court.

3. While this Order is in effect, the Foreign Representative and the Debtors are entitled to the full protections and rights pursuant to section 1519(a)(1) of the Bankruptcy Code, which protections shall be coextensive with the provisions of section 362 of the Bankruptcy Code, and this Order shall operate as a stay of any execution against the Debtors' assets within the territorial jurisdiction of the United States.

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

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

a) execution against any of the Debtors' assets;

- b) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, arbitral, or other action or proceeding, or to recover a claim, including without limitation any and all unpaid judgments, settlements, or otherwise against the Debtors in the United States;
- c) taking or continuing any act to create, perfect, or enforce a lien or other security interest, set-off, or other claim against the Debtors' or any of their property;
- d) transferring, relinquishing, or disposing of any property of the Debtors by any entity (as that term is defined in section 101(15) of the Bankruptcy Code) other than the Foreign Representative;
- e) commencing or continuing an individual action or proceeding concerning the Debtors' assets, rights, obligations, or liabilities; and
- f) terminating contracts or otherwise accelerating obligations or exercising remedies thereunder.

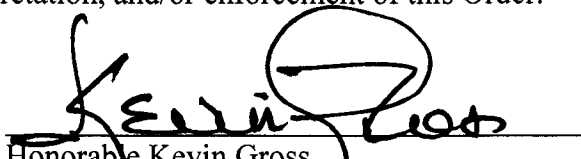
6. Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure (the "Federal Rules"), made applicable to these proceedings pursuant to Bankruptcy Rule 7065, no notice to any person is required prior to entry and issuance of this Order. Pursuant to Bankruptcy Rule 7065, the provisions of Federal Rule 65(c) are hereby waived, to the extent applicable.

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

8. The Foreign Representative is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

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

Dated: Sept. 12, 2018
Wilmington, Delaware


Honorable Kevin Gross
United States Bankruptcy Judge