

CROSS-BORDER INSOLVENCY PROTOCOL FOR MOSAIC GROUP INC. AND ITS AFFILIATES

This cross-border insolvency protocol (the "Protocol") shall govern the conduct of all parties in interest in the Insolvency Proceedings (as such term is defined below):

A. Background

1. Mosaic Group Inc., a Canada corporation ("MGI"), is the ultimate parent company of a multinational enterprise that currently operates, through its various subsidiaries and affiliates, in the United States and Canada (the "Mosaic Group").

2. MGI and certain of its Canadian subsidiaries and affiliated companies (collectively, the "Canadian Debtors"), have commenced insolvency proceedings (collectively, the "Canadian Cases") by filing an application under the Canadian *Companies' Creditors Arrangement Act* (the "CCAA") with the Ontario Superior Court of Justice in Toronto, Ontario (the "Canadian Court"), and an Order has been made (the "CCAA Order") under which (a) the Canadian Debtors have been determined to be entitled to relief under the CCAA and (b) KPMG Inc. was appointed as monitor (in such capacity, the "Monitor") of the Canadian Debtors with the rights, powers, duties and limitations upon liabilities set forth in the CCAA and the CCAA Order.

3. Certain of MGI's U.S. subsidiaries and affiliates (collectively, the "U.S. Debtors") have commenced reorganization cases (collectively, the "U.S. Cases") under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Northern District of Texas (the "U.S. Court"). The U.S. Debtors are continuing in possession of their respective properties and are operating and managing their businesses, as debtors in possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code. In the coming weeks it is anticipated that the office of the United States Trustee (the "U.S. Trustee") will appoint an official committee of unsecured creditors in the U.S. Cases (the "Committee").

4. For convenience, (a) the Canadian Debtors and the U.S. Debtors shall be referred herein collectively as the "Debtors," (b) the Canadian Cases and the U.S. Cases shall be referred to herein collectively as the "Insolvency Proceedings" and (c) the Canadian Court and the U.S. Court shall be referred to herein collectively as the "Courts."

B. Purpose and Goals

5. While proceedings are pending in Canada and the United States in respect of the Debtors, the implementation of basic administrative procedures is necessary to co-ordinate certain activities in the Insolvency Proceedings and ensure the maintenance of the Courts' independent jurisdiction and to give effect to the doctrines of comity and collateral estoppel. Accordingly, this Protocol has been developed to promote the following mutually desirable goals and objectives in both the Canadian Cases and the U.S. Cases:

- harmonize, co-ordinate and minimize and avoid duplication of activities in the Insolvency Proceedings before the Canadian Court and the U.S. Court;

- promote the orderly and efficient administration of the Insolvency Proceedings to, among other things, maximize the efficiency of the Insolvency Proceedings, reduce the costs associated therewith and avoid duplication of effort;
- honour the independence and integrity of the Courts and other courts and tribunals of Canada and the United States;
- promote international co-operation and respect for comity among the Courts, the Debtors, the Committee, the Estate Representatives (as such term is defined herein) and other creditors and interested parties in the Insolvency Proceedings;
- facilitate the fair, open and efficient administration of the Insolvency Proceedings; and
- implement a framework of general principles to address basic administrative issues arising out of the cross-border nature of the Insolvency Proceedings.

C. Comity and Independence of the Courts

6. The approval and implementation of this Protocol shall not divest or diminish the Canadian Court's and the U.S. Court's independent jurisdiction over the subject matter of the Canadian Cases and U.S. Cases. By approving and implementing this Protocol, neither the Canadian Court, the U.S. Court, the Debtors nor any creditors or interested parties shall be deemed to have approved or engaged in any infringement on the sovereignty of Canada or the United States.

7. The Canadian Court shall have sole and exclusive jurisdiction and power over the conduct of the Canadian Cases and the hearing and determination of matters arising in the Canadian Cases. The U.S. Court shall have sole and exclusive jurisdiction and power over the conduct of the U.S. Cases and the hearing and determination of matters arising in the U.S. Cases.

8. In accordance with the principles of comity and independence established in paragraphs 6 and 7 above, nothing contained herein shall be construed to:

- increase, decrease or otherwise modify the independence, sovereignty or jurisdiction of the Canadian Court, the U.S. Court or any other court or tribunal in Canada or the United States, including the ability of any such court or tribunal to provide appropriate relief under applicable law on an *ex parte* or "limited notice" basis;
- require the Canadian Court to take any action that is inconsistent with its obligations under the laws of Canada;
- require the U.S. Court to take any action that is inconsistent with its obligations under the laws of the United States;
- require the Debtors, the Committee, or the Estate Representatives to take any action or refrain from taking any action that would result in a breach of any duty imposed on them by any applicable law;

- authorize any action that requires the specific approval of one or both of the Courts under the CCAA or the Bankruptcy Code after appropriate notice and a hearing (except to the extent that such action is specifically described in this Protocol); or
- preclude any creditor or other interested party from asserting such party's substantive rights under the applicable laws of Canada or the United States, including, without limitation, the rights of interested parties of affected persons to appeal from decisions taken by one or both of the Courts.

9. The Debtors, the Committee, the Estate Representatives and their respective employees, members, agents and professionals shall respect and comply with the independent, non-delegable duties imposed upon them by the Bankruptcy Code, the CCAA Order and other applicable laws, regulation or orders of tribunals of competent jurisdiction.

D. Co-operation

10. To assist in the efficient administration of the Insolvency Proceedings, the Debtors and the Committee shall (a) co-operate with each other in connection with actions taken in both the Canadian Court and the U.S. Court and (b) take any other appropriate steps to co-ordinate the administration of the Canadian Cases and the U.S. Cases for the benefit of the Debtors' respective estates and stakeholders.

11. To harmonize and co-ordinate the administration of the Insolvency Proceedings, the Canadian Court and the U.S. Court each shall use its best efforts to co-ordinate activities with and defer to the judgment of the other Court, where appropriate and feasible:

- (a) The Courts shall use their best efforts to co-ordinate activities in the Insolvency Proceedings so that the subject matter of any particular action, suit, request, application, contested matter or other proceeding may be determined in one Court only.
- (b) The Canadian Court and the U.S. Court may communicate with one another with respect to any matter relating to the Insolvency Proceedings.
- (c) The Canadian Court and the U.S. Court may conduct joint hearings with respect to any matter relating to the conduct, administration, determination or disposition of any aspect of the U.S. Cases or the Canadian Cases if both Courts determine and agree that such joint hearings are necessary or advisable to facilitate the proper and efficient conduct of the Insolvency Proceedings. With respect to any such joint hearings, unless otherwise ordered by both Courts, the following procedures shall be followed:
 - A telephone or video link shall be established so that both the Canadian Court and the U.S. Court shall be able to simultaneously hear the proceedings in the other Court.
 - Submissions or applications by any party that are or become the subject of a joint hearing of the Courts (collectively, "Pleadings") shall be made or filed initially only with the Court in which such party is appearing and seeking relief. Promptly after the scheduling of any joint hearing, the

party submitting such pleadings to one Court shall file courtesy copies with the other Court. In any event, Pleadings seeking relief from both Courts must be filed with both Courts.

- Any party intending to rely on written evidentiary materials in support of a submission to the Canadian Court or the U.S. Court in connection with any joint hearing or application (collectively "Evidentiary Materials") shall file such materials, which shall be identical insofar as possible and shall be consistent with the procedural and evidentiary rules and requirements of each Court, in advance of the time of such hearing or the submission of such application. If a party has not previously appeared in or attorned or does not wish to attorn to the jurisdiction of either Court, it shall be entitled to file such materials without, by the act of filing, being deemed to have attorned to the jurisdiction of the Court in which such material is filed, so long as it does not request in its materials or submissions any affirmative relief from the Court to which it does not wish to attorn;
- If a party has not previously appeared in or otherwise attorned to the jurisdiction of a Court, it shall be entitled to file Pleadings or Evidentiary Materials in connection with the joint hearing without being deemed to have attorned to the jurisdiction of the Court by virtue of filing such Pleadings or Evidentiary Materials, provided that the party does not request any affirmative relief from such Court.
- The Justice of the Canadian Court and the Judge of the U.S. Court shall be entitled to communicate with each other in advance of any joint hearing, with or without counsel being present, to (i) establish guidelines for the orderly submission of pleadings, Evidentiary Materials and other papers and the rendering of decisions by the Canadian Court and the U.S. Court and (ii) address any related procedural or administrative matters.
- The Justice of the Canadian Court and the Judge of the U.S. Court shall be entitled to communicate with each other after any joint hearing, with or without counsel present, for the purposes of (i) determining whether consistent rulings can be made by both Courts, (ii) co-ordinating the terms of the Courts' respective rulings and (iii) addressing any other procedural or administrative matter.
- To the extent desirable and not inconsistent with (a) the principles, terms and procedures of this Protocol, and (b) comity, the Courts may use the Guidelines for Court-to-Court Communications in Cross-Border cases developed by the American Law Institute's Transnational Insolvency Project, a copy of which is attached hereto as Schedule "A".

12. Notwithstanding the terms of paragraph 11 above, the Protocol recognizes that the Canadian Court and the U.S. Court are independent courts. Accordingly, although the Courts will seek to co-operate and co-ordinate with each other in good faith, each of the Courts shall be entitled at all times to exercise its independent jurisdiction and authority with respect to

(a) the conduct of the parties appearing in such matters.

E. Retention and Compensation of Estate Representatives and Professionals

13. Except as provided in paragraph 18 below, the Monitor Parties (as such term is defined below) and any other estate representatives appointed in the Canadian Cases (collectively, the "Canadian Representatives") shall be subject to the sole and exclusive jurisdiction of the Canadian Court with respect to all matters, including: (a) the Canadian Representatives' tenure in office; (b) the retention and compensation of the Canadian Representatives; (c) the Canadian Representatives' liability, if any, to any person or entity, including the Canadian Debtors and any third parties, in connection with the Insolvency Proceedings; and (d) the hearing and determination of any other matters relating to the Canadian Representatives arising in the Canadian Cases under the CCAA or other applicable Canadian law. Except as otherwise provided herein, the Canadian Representatives, their Canadian counsel, any other Canadian Professionals and the Secured Creditor Professionals shall not be required to seek approval of their retention in the U.S. Court. Additionally, except as provided herein, the Canadian Representatives, their Canadian counsel, other Canadian Professionals and the Secured Creditor Professionals (a) shall be compensated for their services solely in accordance with the CCAA and other applicable Canadian law or orders of the Canadian Court and (b) shall not be required to seek approval of their compensation in the U.S. Court.

14. The Monitor and its respective officers, directors, employees, counsel and agents, wherever located (collectively, the "Monitor Parties"), shall be entitled to the same protections and immunities in the United States as those granted to them under the CCAA and the CCAA Order. In particular, except as otherwise provided in any subsequent order entered in the Canadian Cases, the Monitor Parties shall incur no liability or obligations as a result of the CCAA Order, the appointment of the Monitor or carrying out of the provisions of the CCAA and the CCAA Order by the Monitor Parties, except as any such liability arising from actions of the Monitor Parties constituting gross negligence or wilful misconduct.

15. Except as provided in paragraph 18 below, any estate representatives appointed in the U.S. Cases, including any examiners or trustees appointed in accordance with section 1104 of the Bankruptcy Code (collectively the "U.S. Representatives" and, together with the Canadian Representatives, the "Estate Representatives"), shall be subject to the sole and exclusive jurisdiction of the U.S. Court with respect to all matters, including: (a) the U.S. Representatives' tenure in office; (b) the retention and compensation of the U.S. Representatives; (c) the U.S. Representatives' liability, if any, to any person or entity, including the U.S. Debtors and any third parties, in connection with the Insolvency Proceedings; and (d) the hearing and determination of any other matters relating to the U.S. Representatives arising in the U.S. Cases under the Bankruptcy Code or other applicable laws of the United States. The U.S. Representatives and their U.S. counsel and other U.S. professionals shall not be required to seek approval of their retention in the Canadian Court. Additionally, the U.S. Representatives and their U.S. counsel and other U.S. professionals (a) shall be compensated for their services solely in accordance with the Bankruptcy Code and other applicable laws of the United States or orders of the U.S. Court and (b) shall not be required to seek approval of their compensation in the Canadian Court.

16. Any professionals retained by the Canadian Debtors for activities performed in Canada or in connection with the Canadian Cases (collectively, the "Canadian Professionals") and any legal or financial advisors retained by any secured lenders of the Debtors or lenders providing debtor-in possession financing to the Debtors (the "Secured Creditor Professionals") shall be subject to

under the CCAA, the CCAA Order and any other applicable Canadian law or orders of the Canadian Court and shall not be required to seek approval of their retention or compensation in the U.S. Court.

17. Any professionals retained by the U.S. Debtors or the Committee for activities performed in the United States or in connection with the U.S. Cases (collectively, the "U.S. Professionals") shall be subject to the procedures and standards for retention and compensation applicable in the U.S. Court under the Bankruptcy Code and any other applicable laws of the United States or orders of the U.S. Court and shall not be required to seek approval of their retention or compensation in the Canadian Court.

18. Notwithstanding anything above to the contrary, any financial advisor retained by the U.S. Debtors (the "U.S. Advisor"): (a) shall be required to obtain the approval of its retention as financial advisor to the U.S. Debtors in the U.S. Court in accordance with section 327 of the Bankruptcy Code; (b) shall be subject to the procedures and standards for review and approval of compensation and reimbursement of expenses applicable in the U.S. Court under the Bankruptcy Code and any other applicable laws of the United States or orders of the U.S. Court for all services performed by the U.S. Advisor for the Debtors as financial advisor to the U.S. Debtors; and (c) shall disclose to the U.S. Court compensation received, if any, in the Canadian Cases. To the extent that the U.S. Advisor is also the Monitor in the Canadian Cases, nothing in this paragraph shall modify the sole and exclusive jurisdiction of the Canadian Court over the Monitor Parties, as set forth in paragraph 13 above. Moreover, any services performed by the Monitor at the direction of the Canadian Court shall be considered "necessary services" under section 330(a)(1) of the Bankruptcy Code.

F. Notice

19. Notice of any motion, application or other pleading or paper filed in one or both of the Insolvency Proceedings and notice of any related hearings or other proceedings mandated by applicable law in connection with the Insolvency Proceedings or the Protocol shall be given by appropriate means (including, where circumstances warrant, by courier, telecopier or other electronic forms of communication) to the following: (a) all creditors and other interested parties in accordance with the practice of the jurisdiction where the papers are filed or the proceedings are to occur; and (b) to the extent not otherwise entitled to receive notice under subpart (a) of this sentence, counsel to the Committee, counsel to the Monitor, the U.S. Trustee and such other parties as may be designated by either of the Courts from time to time. Notice in accordance with this paragraph shall be given by the party otherwise responsible for effecting notice in the jurisdiction where the underlying papers are filed or the proceedings are to occur. In addition to the foregoing, upon request, the Debtors shall provide the Canadian Court or the U.S. Court, as the case may be, with copies of all orders, decision, opinions or similar papers issued by the other Court in the Insolvency Proceedings.

G. Joint Recognition of Stays of Proceedings Under the CCAA and the Bankruptcy Code

20. The U.S. Court hereby recognizes the validity of the stay of proceedings and actions against the Canadian Debtors, their directors and their assets under the CCAA and the CCAA Order (the "Canadian Stay"). In recognition of the importance of the Canadian Stay to the successful completion of the Insolvency Proceedings for the benefit of the Debtors and their respective estates, the U.S. Court shall extend and enforce the Canadian Stay in the U.S. (to the

same extent that such stay of proceedings and actions is applicable in Canada) to prevent adverse actions against the assets, rights and holdings of the Canadian Debtors in the U.S. In implementing the terms of this paragraph, the U.S. Court may consult with the Canadian Court regarding (a) the interpretation and application of the Canadian Stay and any orders of the Canadian Court modifying or granting relief from the Canadian Stay and (b) the enforcement of the Canadian Stay in the United States.

21. The Canadian Court hereby recognizes the validity of the stay of proceedings and actions against the U.S. Debtors and their assets under section 362 of the Bankruptcy Code (the "U.S. Stay"). In recognition of the importance of the U.S. Stay to the successful completion of the Insolvency Proceedings for the benefit of the Debtors and their respective estates, the Canadian Court shall extend and enforce the U.S. Stay in Canada (to the same extent that such stay of proceedings and actions is applicable in the United States) to prevent adverse actions against the assets, rights and holdings of the U.S. Debtors in Canada. In implementing the terms of this paragraph, the Canadian Court may consult with the U.S. Court regarding (a) the interpretation and application of the U.S. Stay and any orders of the U.S. Court modifying or granting relief from the U.S. Stay and (b) the enforcement of the U.S. Stay in Canada.

22. Nothing contained herein shall affect or limit the Debtors' or other parties' rights to assert the applicability or non-applicability of the Canadian Stay or the U.S. Stay to any particular proceeding, property, asset, activity or other matter, wherever pending or located.

H. Rights to Appear and Be Heard

23. The Debtors, their creditors and other interested parties in the Insolvency Proceedings, including the Committee, the Estate Representatives, and the U.S. Trustee shall have the right and standing to (a) appear and be heard in either the Canadian Court or the U.S. Court in the Insolvency Proceedings to the same extent as creditors and other interested parties domiciled in the forum country, subject to any local rules or regulations generally applicable to all parties appearing in the forum and (b) file notices of appearance or other papers with the Clerk of the Canadian Court or the U.S. Court in the Insolvency Proceedings; provided, however, that any appearance or filing may subject a creditor or interested party to the jurisdiction of the Court in which the appearance or filing occurs; provided further, that appearance by the Committee in the Canadian Cases shall not form a basis for personal jurisdiction in Canada over the members of the Committee. Notwithstanding the foregoing, and in accordance with the policies set forth in paragraphs 13 and 15 above: (a) the Canadian Court shall have jurisdiction over the U.S. Representatives and the U.S. Trustee solely with respect to the particular matters as to which the U.S. Representatives or the U.S. Trustee appear before the Canadian Court; and (b) the U.S. Court shall have jurisdiction over the Canadian Representatives solely with respect to the particular matters as to which the Canadian Representatives appear before the U.S. Court.

I. Effectiveness; Modification

24. This Protocol shall become effective only upon its approval by both the Canadian Court and the U.S. Court.

25. This Protocol may not be supplemented, modified, terminated or replaced in any manner except upon the approval of both the Canadian Court and the U.S. Court after notice and a hearing. Notice of any legal proceeding to supplement, modify, terminate or replace this

J. Procedure for Resolving Disputes Under the Protocol

26. Disputes relating to the terms, intent or application of this Protocol may be addressed by interested parties to either the U.S. Court, the Canadian Court or both Courts upon notice in accordance with paragraph 19 above. In rendering a determination in any such dispute, the Court to which the issue is addressed: (a) shall consult with the other Court; and (b) may, in its sole and exclusive discretion, either (i) render a binding decision after such consultation, (ii) defer to the determination of the other Court by transferring the matter, in whole or in part, to the other Court or (iii) seek a joint hearing of both Courts in accordance with paragraph 11(c) above. Notwithstanding the foregoing, in making a determination under this paragraph, each Court shall give due consideration to the independence, comity and inherent jurisdiction of the other Court established under existing law.

27. In implementing the terms of paragraphs 11, 20, 21 and 26 above and the other provisions of the Protocol, the Canadian Court and the U.S. Court may, in their sole discretion, provide advice or guidance to each other with respect to legal issues in accordance with the following procedures:

- The Canadian Court or the U.S. Court, as applicable, shall provide any such advice or guidance to the other Court in writing.
- Copies of such written advice or guidance shall be served by the applicable Court in accordance with paragraph 19 hereof.
- The Debtors, the Committee, the Estate Representatives, the U.S. Trustee and any other affected or interested party shall be entitled to make submissions to the appropriate Court in response to or in connection with any written advice or guidance received from the other Court.

K. Preservation of Rights

28. Neither the terms of this Protocol nor any actions taken under the terms of this Protocol shall prejudice or affect the powers, rights, claims and defenses of the Debtors and their estates, the Committee, the Estate Representatives, the U.S. Trustee or any of the Debtors' creditors under applicable law, including the CCAA and the Bankruptcy Code and the orders of the Courts.

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3. Certain of MGI's U.S. subsidiaries and affiliates (collectively, the "U.S. Debtors") have commenced reorganization cases (collectively, the "U.S. Cases") under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Northern District of Texas (the "U.S. Court"). The U.S. Debtors are continuing in possession of their respective properties and are operating and managing their businesses, as debtors in possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code. In the coming weeks it is anticipated that the office of the United States Trustee (the "U.S. Trustee") will appoint an official committee of unsecured creditors in the U.S. Cases (the "Committee").
4. For convenience, (a) the Canadian Debtors and the U.S. Debtors shall be referred herein collectively as the "Debtors," (b) the Canadian Cases and the U.S. Cases shall be referred to herein collectively as the "Insolvency Proceedings" and (c) the Canadian Court and the U.S. Court shall be referred to herein collectively as the "Courts."

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5. While proceedings are pending in Canada and the United States in respect of the Debtors, the implementation of basic administrative procedures is necessary to co-ordinate certain activities in the Insolvency Proceedings and ensure the maintenance of the Courts' independent jurisdiction and to give effect to the doctrines of comity and collateral estoppel. Accordingly, this Protocol has been developed to promote the following mutually desirable goals and objectives in both the Canadian Cases and the U.S. Cases:
 - harmonize, co-ordinate and minimize and avoid duplication of activities in the Insolvency Proceedings before the Canadian Court and the U.S. Court;

- promote the orderly and efficient administration of the Insolvency Proceedings to, among other things, maximize the efficiency of the Insolvency Proceedings, reduce the costs associated therewith and avoid duplication of effort;
- honour the independence and integrity of the Courts and other courts and tribunals of Canada and the United States;
- promote international co-operation and respect for comity among the Courts, the Debtors, the Committee, the Estate Representatives (as such term is defined herein) and other creditors and interested parties in the Insolvency Proceedings;
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7. The Canadian Court shall have sole and exclusive jurisdiction and power over the conduct of the Canadian Cases and the hearing and determination of matters arising in the Canadian Cases. The U.S. Court shall have sole and exclusive jurisdiction and power over the conduct of the U.S. Cases and the hearing and determination of matters arising in the U.S. Cases.

8. In accordance with the principles of comity and independence established in paragraphs 6 and 7 above, nothing contained herein shall be construed to:

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- authorize any action that requires the specific approval of one or both of the Courts under the CCAA or the Bankruptcy Code after appropriate notice and a hearing (except to the extent that such action is specifically described in this Protocol); or
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(a) matters presented to such Court and (b) the conduct of the parties appearing in such matters.

E. Retention and Compensation of Estate Representatives and Professionals

13. Except as provided in paragraph 18 below, the Monitor Parties (as such term is defined below) and any other estate representatives appointed in the Canadian Cases (collectively, the "Canadian Representatives") shall be subject to the sole and exclusive jurisdiction of the Canadian Court with respect to all matters, including: (a) the Canadian Representatives' tenure in office; (b) the retention and compensation of the Canadian Representatives; (c) the Canadian Representatives' liability, if any, to any person or entity, including the Canadian Debtors and any third parties, in connection with the Insolvency Proceedings; and (d) the hearing and determination of any other matters relating to the Canadian Representatives arising in the Canadian Cases under the CCAA or other applicable Canadian law. Except as otherwise provided herein, the Canadian Representatives, their Canadian counsel, any other Canadian Professionals and the Secured Creditor Professionals shall not be required to seek approval of their retention in the U.S. Court. Additionally, except as provided herein, the Canadian Representatives, their Canadian counsel, other Canadian Professionals and the Secured Creditor Professionals (a) shall be compensated for their services solely in accordance with the CCAA and other applicable Canadian law or orders of the Canadian Court and (b) shall not be required to seek approval of their compensation in the U.S. Court.

14. The Monitor and its respective officers, directors, employees, counsel and agents, wherever located (collectively, the "Monitor Parties"), shall be entitled to the same protections and immunities in the United States as those granted to them under the CCAA and the CCAA Order. In particular, except as otherwise provided in any subsequent order entered in the Canadian Cases, the Monitor Parties shall incur no liability or obligations as a result of the CCAA Order, the appointment of the Monitor or carrying out of the provisions of the CCAA and the CCAA Order by the Monitor Parties, except as any such liability arising from actions of the Monitor Parties constituting gross negligence or wilful misconduct.

15. Except as provided in paragraph 18 below, any estate representatives appointed in the U.S. Cases, including any examiners or trustees appointed in accordance with section 1104 of the Bankruptcy Code (collectively the "U.S. Representatives" and, together with the Canadian Representatives, the "Estate Representatives"), shall be subject to the sole and exclusive jurisdiction of the U.S. Court with respect to all matters, including: (a) the U.S. Representatives' tenure in office; (b) the retention and compensation of the U.S. Representatives; (c) the U.S. Representatives' liability, if any, to any person or entity, including the U.S. Debtors and any third parties, in connection with the Insolvency Proceedings; and (d) the hearing and determination of any other matters relating to the U.S. Representatives arising in the U.S. Cases under the Bankruptcy Code or other applicable laws of the United States. The U.S. Representatives and their U.S. counsel and other U.S. professionals shall not be required to seek approval of their retention in the Canadian Court. Additionally, the U.S. Representatives and their U.S. counsel and other U.S. professionals (a) shall be compensated for their services solely in accordance with the Bankruptcy Code and other applicable laws of the United States or orders of the U.S. Court and (b) shall not be required to seek approval of their compensation in the Canadian Court.

16. Any professionals retained by the Canadian Debtors for activities performed in Canada or in connection with the Canadian Cases (collectively, the "Canadian Professionals") and any legal or financial advisors retained by any secured lenders of the Debtors or lenders providing debtor-in possession financing to the Debtors (the "Secured Creditor Professionals") shall be subject to

under the CCAA, the CCAA Order and any other applicable Canadian law or orders of the Canadian Court and shall not be required to seek approval of their retention or compensation in the U.S. Court.

17. Any professionals retained by the U.S. Debtors or the Committee for activities performed in the United States or in connection with the U.S. Cases (collectively, the "U.S. Professionals") shall be subject to the procedures and standards for retention and compensation applicable in the U.S. Court under the Bankruptcy Code and any other applicable laws of the United States or orders of the U.S. Court and shall not be required to seek approval of their retention or compensation in the Canadian Court.

18. Notwithstanding anything above to the contrary, any financial advisor retained by the U.S. Debtors (the "U.S. Advisor"): (a) shall be required to obtain the approval of its retention as financial advisor to the U.S. Debtors in the U.S. Court in accordance with section 327 of the Bankruptcy Code; (b) shall be subject to the procedures and standards for review and approval of compensation and reimbursement of expenses applicable in the U.S. Court under the Bankruptcy Code and any other applicable laws of the United States or orders of the U.S. Court for all services performed by the U.S. Advisor for the Debtors as financial advisor to the U.S. Debtors; and (c) shall disclose to the U.S. Court compensation received, if any, in the Canadian Cases. To the extent that the U.S. Advisor is also the Monitor in the Canadian Cases, nothing in this paragraph shall modify the sole and exclusive jurisdiction of the Canadian Court over the Monitor Parties, as set forth in paragraph 13 above. Moreover, any services performed by the Monitor at the direction of the Canadian Court shall be considered "necessary services" under section 330(a)(1) of the Bankruptcy Code.

F. Notice

19. Notice of any motion, application or other pleading or paper filed in one or both of the Insolvency Proceedings and notice of any related hearings or other proceedings mandated by applicable law in connection with the Insolvency Proceedings or the Protocol shall be given by appropriate means (including, where circumstances warrant, by courier, telecopier or other electronic forms of communication) to the following: (a) all creditors and other interested parties in accordance with the practice of the jurisdiction where the papers are filed or the proceedings are to occur; and (b) to the extent not otherwise entitled to receive notice under subpart (a) of this sentence, counsel to the Committee, counsel to the Monitor, the U.S. Trustee and such other parties as may be designated by either of the Courts from time to time. Notice in accordance with this paragraph shall be given by the party otherwise responsible for effecting notice in the jurisdiction where the underlying papers are filed or the proceedings are to occur. In addition to the foregoing, upon request, the Debtors shall provide the Canadian Court or the U.S. Court, as the case may be, with copies of all orders, decision, opinions or similar papers issued by the other Court in the Insolvency Proceedings.

G. Joint Recognition of Stays of Proceedings Under the CCAA and the Bankruptcy Code

20. The U.S. Court hereby recognizes the validity of the stay of proceedings and actions against the Canadian Debtors, their directors and their assets under the CCAA and the CCAA CCAA Order (the "Canadian Stay"). In recognition of the importance of the Canadian Stay to the successful completion of the Insolvency Proceedings for the benefit of the Debtors and their respective estates, the U.S. Court shall extend and enforce the Canadian Stay in the U.S. (to the

same extent that such stay of proceedings and actions is applicable in Canada) to prevent adverse actions against the assets, rights and holdings of the Canadian Debtors in the U.S. In implementing the terms of this paragraph, the U.S. Court may consult with the Canadian Court regarding (a) the interpretation and application of the Canadian Stay and any orders of the Canadian Court modifying or granting relief from the Canadian Stay and (b) the enforcement of the Canadian Stay in the United States.

21. The Canadian Court hereby recognizes the validity of the stay of proceedings and actions against the U.S. Debtors and their assets under section 362 of the Bankruptcy Code (the "U.S. Stay"). In recognition of the importance of the U.S. Stay to the successful completion of the Insolvency Proceedings for the benefit of the Debtors and their respective estates, the Canadian Court shall extend and enforce the U.S. Stay in Canada (to the same extent that such stay of proceedings and actions is applicable in the United States) to prevent adverse actions against the assets, rights and holdings of the U.S. Debtors in Canada. In implementing the terms of this paragraph, the Canadian Court may consult with the U.S. Court regarding (a) the interpretation and application of the U.S. Stay and any orders of the U.S. Court modifying or granting relief from the U.S. Stay and (b) the enforcement of the U.S. Stay in Canada.

22. Nothing contained herein shall affect or limit the Debtors' or other parties' rights to assert the applicability or non-applicability of the Canadian Stay or the U.S. Stay to any particular proceeding, property, asset, activity or other matter, wherever pending or located.

H. Rights to Appear and Be Heard

23. The Debtors, their creditors and other interested parties in the Insolvency Proceedings, including the Committee, the Estate Representatives, and the U.S. Trustee shall have the right and standing to (a) appear and be heard in either the Canadian Court or the U.S. Court in the Insolvency Proceedings to the same extent as creditors and other interested parties domiciled in the forum country, subject to any local rules or regulations generally applicable to all parties appearing in the forum and (b) file notices of appearance or other papers with the Clerk of the Canadian Court or the U.S. Court in the Insolvency Proceedings; provided, however, that any appearance or filing may subject a creditor or interested party to the jurisdiction of the Court in which the appearance or filing occurs; provided further, that appearance by the Committee in the Canadian Cases shall not form a basis for personal jurisdiction in Canada over the members of the Committee. Notwithstanding the foregoing, and in accordance with the policies set forth in paragraphs 13 and 15 above: (a) the Canadian Court shall have jurisdiction over the U.S. Representatives and the U.S. Trustee solely with respect to the particular matters as to which the U.S. Representatives or the U.S. Trustee appear before the Canadian Court; and (b) the U.S. Court shall have jurisdiction over the Canadian Representatives solely with respect to the particular matters as to which the Canadian Representatives appear before the U.S. Court.

I. Effectiveness; Modification

24. This Protocol shall become effective only upon its approval by both the Canadian Court and the U.S. Court.

25. This Protocol may not be supplemented, modified, terminated or replaced in any manner except upon the approval of both the Canadian Court and the U.S. Court after notice and a hearing. Notice of any legal proceeding to supplement, modify, terminate or replace this Protocol shall be given in accordance with paragraph 19 above.

J. Procedure for Resolving Disputes Under the Protocol

26. Disputes relating to the terms, intent or application of this Protocol may be addressed by interested parties to either the U.S. Court, the Canadian Court or both Courts upon notice in accordance with paragraph 19 above. In rendering a determination in any such dispute, the Court to which the issue is addressed: (a) shall consult with the other Court; and (b) may, in its sole and exclusive discretion, either (i) render a binding decision after such consultation, (ii) defer to the determination of the other Court by transferring the matter, in whole or in part, to the other Court or (iii) seek a joint hearing of both Courts in accordance with paragraph 11(c) above. Notwithstanding the foregoing, in making a determination under this paragraph, each Court shall give due consideration to the independence, comity and inherent jurisdiction of the other Court established under existing law.

27. In implementing the terms of paragraphs 11, 20, 21 and 26 above and the other provisions of the Protocol, the Canadian Court and the U.S. Court may, in their sole discretion, provide advice or guidance to each other with respect to legal issues in accordance with the following procedures:

- The Canadian Court or the U.S. Court, as applicable, shall provide any such advice or guidance to the other Court in writing.
- Copies of such written advice or guidance shall be served by the applicable Court in accordance with paragraph 19 hereof.
- The Debtors, the Committee, the Estate Representatives, the U.S. Trustee and any other affected or interested party shall be entitled to make submissions to the appropriate Court in response to or in connection with any written advice or guidance received from the other Court.

K. Preservation of Rights

28. Neither the terms of this Protocol nor any actions taken under the terms of this Protocol shall prejudice or affect the powers, rights, claims and defenses of the Debtors and their estates, the Committee, the Estate Representatives, the U.S. Trustee or any of the Debtors' creditors under applicable law, including the CCAA and the Bankruptcy Code and the orders of the Courts.