Court File No. CV-18-603054-00CL

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 PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

Applicants

MOTION RECORD
(Returnable September 5, 2018)
(Re: Stay Extension, Transactional Charge, Cross Border Protocol)

August 28, 2018

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

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Lawyers for the Applicants

TO: The Service List

INDEX

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Applicants

INDEX

TAB 1

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AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

Applicants

NOTICE OF MOTION
(Returnable September 5, 2018)
(Re Amended and Restated Initial order)

Aralez Pharmaceuticals Inc. ("**API**") and Aralez Pharmaceuticals Canada Inc. ("**Aralez Canada**", and with API the "**Applicants**"), will make a motion to the Justice presiding over the Commercial List on September 5, 2018 at 10:00 a.m. at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR:

1. An Amended and Restated Initial Order, substantially in the form of the draft order located at Tab 3 of the Motion Record, providing for certain amendments to the Initial order, including the granting of a charge (the "**Transactional Charge**") in favour of Moelis & Company LLC ("**Moelis**"); and the Cross-Border Protocol (as that term is defined below);

(a) an order, substantially in the form of the draft order attached at Tab 4 of the Motion Record, extending the stay of proceedings (the "**Stay Period**") in respect of the Applicants to November 14, 2018; and

(b) such further and other relief as the Court deems just.

THE GROUNDS FOR THE MOTION ARE:

2. The Applicants, together with Aralez Pharmaceuticals Management Inc., Aralez Pharmaceuticals R&D Inc., Aralez Pharmaceuticals U.S. Inc., POZEN Inc., Halton Laboratories LLC, Aralez Pharmaceuticals Holdings Limited, and Aralez Pharmaceuticals Trading DAC (collectively, the "**Chapter 11 Entities**" and with the Applicants, the "**Aralez Entities**") are in the business of acquiring, developing, marketing and selling specialty pharmaceutical products, with a focus on cardiovascular health and pain management, in Canada, the U.S. and Ireland;

3. The Aralez Entities experienced financial difficulties, resulting in the Aralez Entities seeking protection from their creditors;

4. On August 10, 2018, the Applicants sought and were granted creditor protection and related relief under the CCAA (the "**CCAA Proceedings**") pursuant to the Initial Order of the Honourable Mr. Sean Dunphy (the "**Initial Order**"). The Initial Order appointed Richter Advisory Group Inc. as Monitor of the Applicants. The Stay Period, as defined and set forth in the Initial Order, expires on September 7, 2018;

5. Also on August 10, 2018, the Chapter 11 Entities filed voluntary petitions under Chapter 11 of Title 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the "**Chapter 11 Proceedings**");

6. To facilitate the restructuring of the Aralez Entities in both Canada and the U.S., the Aralez Entities and their advisors developed a cross-border insolvency protocol (the "**Cross-Border Protocol**") to address issues that are likely to arise given the transnational nature of the CCAA Proceedings and the Chapter 11 Proceedings;

7. Approving the Cross Border Protocol is expected to allow for more efficient administration of the Restructuring Proceedings;

8. The Aralez Entities are working diligently with their advisors and stakeholders to complete a sales process of substantially all of the assets of the Aralez Entities;

9. Moelis, the investment banker to the Aralez Entities, has played a central role in the sales process. Moelis has assisted the Aralez Entities with reviewing their strategic options,

developing a pre-filing sales process and otherwise advising and assisting the Aralez Entities. Pursuant to the Moelis Engagement Letter dated July 18, 2018, the Applicants are seeking the approval of a charge in respect of any obligation of the Applicants to pay a Transaction, Restructuring and/or Refinancing Fee (as those terms are defined in the Moelis Engagement Letter) (the "**Transactional Charge**");

10. The efforts of Moelis and other advisors has culminated in the Aralez Entities entering into three stalking horse agreements (the "**Stalking Horse Agreements**") to facilitate the sales process. The Stalking Horse Agreements will serve to set the floor, or minimum acceptable bid, for the bidding process to follow, which is designed to achieve the highest or otherwise best offer for the assets of the Aralez Entities. Moelis' continued work on the sales process is critical to achieving a going concern solution of the CCAA Entities;

11. The Applicants have acted and continue to act in good faith and with due diligence and no creditor will suffer any material prejudice if the Stay Period is extended; and

12. The Monitor supports the extension of the Stay Period.

GENERAL

13. The provisions of the CCAA and the inherent and equitable jurisdiction of this Court;

14. Rules 1.04, 1.05, 2.03, and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

15. Such further grounds as counsel may advise and this Court may see fit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

16. The Affidavit of Andrew I. Koven, sworn August 28, 2018, and the exhibits attached thereto;

17. A report of the Monitor to be filed; and

18. Such further and other materials as counsel may advise and this Court may permit.

August 28, 2018

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Lawyers for the Applicants

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. ET AL.

Court File No. CV-18-603054-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

NOTICE OF MOTION
(RETURNABLE SEPTEMBER 5, 2018)

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Lawyers for the Applicants

TAB 2

Court File No. CV-18-603054-00CL

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 PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

(Applicants)

AFFIDAVIT OF ANDREW I. KOVEN
(Sworn August 28, 2018)

I, Andrew I. Koven, of the City of New York, in the State of New York, MAKE OATH AND SAY:

1. I am the President and Chief Business Officer of the applicant, Aralez Pharmaceuticals Inc. ("**API**") and a director and the President of the applicant, Aralez Pharmaceuticals Canada Inc. ("**Aralez Canada**" and, together with API, the "**CCAA Entities**" or the "**Applicants**"). As a result of my roles with the Applicants, I have certain knowledge of the matters to which I hereinafter depose. I have also reviewed certain books and records of the Applicants and have spoken with, and relied upon, certain of the directors, officers, employees and/or advisors of the Applicants, as necessary and applicable. Where I have relied upon such information, I believe such information to be true.

2. All references to currency in this affidavit are references to United States dollars, unless otherwise indicated.

3. This affidavit is sworn in support of a motion brought by the CCAA Entities under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**" and such proceedings, the "**CCAA Proceedings**") seeking:

(a) an Amended and Restated Initial Order providing for certain amendments to the Initial Order substantially in the form of the draft order attached at Tab 3 of the Motion Record, including approval of a charge (the "**Transactional Charge**") in

favour of Moelis & Company LLC ("**Moelis**"); and the Cross-Border Protocol (as that term is defined below);

(b) an order, substantially in the form of the draft order attached at Tab 4 of the Motion Record, extending the stay of proceedings (the "**Stay Period**") in respect of the Applicants to November 14, 2018; and

(c) such further and other relief as the Court deems just.

I. BACKGROUND OF THE CCAA ENTITIES AND STATUS OF THE PROCEEDINGS

4. The CCAA Entities are two entities within a larger corporate structure that includes Aralez Pharmaceuticals Management Inc., Aralez Pharmaceuticals R&D Inc., Aralez Pharmaceuticals U.S. Inc. ("**Aralez U.S.**"), POZEN Inc. ("**Pozen**"), Halton Laboratories LLC, Aralez Pharmaceuticals Holdings Limited, and Aralez Pharmaceuticals Trading DAC ("**Aralez DAC**" and collectively, the "**Chapter 11 Entities**" and, with the CCAA Entities, the "**Aralez Entities**"). The current corporate structure of the Aralez Entities is the result of a business combination between Pozen and what is now Aralez Canada[1] that was completed in early 2016.

5. As described in greater detail in the affidavit sworn by me on August 9, 2018 in support of the Applicants' application for protection under the CCAA (the "**Initial Affidavit**"), the Aralez Entities are in the business of acquiring, developing, marketing and selling speciality pharmaceutical products. API, a company incorporated under the laws of British Columbia, is the public holding company that is the ultimate parent of the other Aralez Entities. Canadian operations are largely conducted through Aralez Canada, with supply chain management and quality assurance conducted by Aralez DAC. Aralez Canada is incorporated under the laws of Ontario.

6. As a result of certain negative events described in the Initial Affidavit, on August 10, 2018, the CCAA Entities sought and were granted creditor protection and related relief under the CCAA pursuant to an Order (the "**Initial Order**") of this Court (the "**Canadian Court**"). Richter Advisory Group Inc. was appointed Monitor of the Applicants (the "**Monitor**") in the CCAA Proceedings.

[1] Originally, Tribute Pharmaceuticals Canada Inc. but pursuant to an internal reorganization, Aralez Canada.

7. Also on August 10, 2018, the Chapter 11 Entities filed voluntary petitions under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**," and such proceedings, the "**Chapter 11 Proceedings**" and together with the CCAA Proceedings, the "**Restructuring Proceedings**") in the United States Bankruptcy Court for the Southern District of New York (the "**U.S. Court**"). Judge Martin Glenn of the U.S. Court granted interim orders in respect of emergency relief requested in the Chapter 11 Proceedings on August 14, 2018.

8. The Aralez Entities have retained a cash management and restructuring advisor, Alvarez & Marsal Healthcare Industry Group, LLC and Alvarez & Marsal Canada Inc. (together, "**A&M**"), to assist the Aralez Entities in their restructuring efforts, including assistance in cash management and implementing a restructuring plan. The Aralez Entities have also engaged the services of Moelis to evaluate potential financial and strategic alternatives with respect to any Restructuring, Transaction or Financing as these terms are defined in the July 18, 2018 engagement letter between API, Aralez U.S. and Moelis (the "**Moelis Engagement Letter**"), which includes, but is not limited to, implementing a restructuring plan, establishing sales processes for the various business lines, and executing on any financing. Moelis is acting as the investment banker to the Aralez Entities during these proceedings.

9. Copies of the Initial Order and the Initial Affidavit are attached hereto as **Exhibit "A"** and **Exhibit "B"**, respectively, and are available, together with all other filings in the CCAA Proceedings, on the Monitor's website for these proceedings at: <http://insolvency.richter.ca/A/Aralez-Pharmaceuticals>. Copies of the filings in the Chapter 11 Proceedings are located on the Prime Clerk LLC case website at <https://cases.primeclerk.com/aralez>.

10. Additional details regarding the background to these CCAA Proceedings are set out in the Initial Affidavit and, unless relevant to the present motion, are not repeated herein. Capitalized terms used herein but not otherwise defined have the meanings ascribed to them in the Initial Affidavit.

A. Status of Proceedings

11. Since the granting of the Initial Order on August 10, 2018, the CCAA Entities, with the oversight and assistance of the Monitor, have been working diligently to maintain the stability

of the business operations, manage relationships with key stakeholders and carry out the terms of the Initial Order, as well as to develop a sales process and finalize associated documentation, including stalking horse bids. As a result of these efforts the CCAA Entities have continued to operate without significant disruption.

12. The CCAA Entities' activities since the Initial Order include the following:

(a) Communicating with key suppliers to advise of the Restructuring Proceedings, confirm post-filing supply arrangements, and ensure continued availability of drug and other products;

(b) Making certain payments to creditors as contemplated by and in accordance with the terms of the Initial Order;

(c) Providing Deerfield Management Company, L.P. with information required under the debtor-in-possession financing (the "**DIP Financing**") agreement approved by the Canadian Court in the Initial Order;

(d) Together with the Chapter 11 Entities, completing negotiations and entering into three agreements with two stalking horse purchasers as described below;

(e) Developing a key employee plan for the retention and incentive of certain key employees who are critical to ongoing operations and the sales process intended to be run in these CCAA Proceedings; and

(f) Working with the Chapter 11 Entities to advance the Restructuring Proceedings and to achieve a coordinated approach to various matters of common interest, including with respect to establishing a sales process, DIP Financing, employee and other stakeholder communications, post-filing supply arrangements with global suppliers and other employee matters.

13. The Applicants anticipate shortly returning to this court for approval of a sales process (including stalking horse agreements which serve to set the floor, or minimum acceptable bid, for the sales process to follow), which is designed to achieve the highest or otherwise best offer for the assets of the Aralez Entities, as well as a key employee program.

II. THE AMENDED AND RESTATED INITIAL ORDER

14. The Amended and Restated Initial Order provides for certain amendments to the Initial Order including: the granting of a Transactional Charge and approval of the Cross-Border Protocol. A blackline comparison showing the proposed amendments to the Initial Order is attached at Tab 5 to the Applicant's motion record.

A. The Transactional Charge[2]

15. As described above, Moelis was retained by the Applicants pursuant to a July 18, 2018 engagement letter between API, Aralez U.S. and Moelis (the "**Moelis Engagement Letter**") and has played a central role in assisting the Aralez Entities in reviewing their strategic options, developing the pre-filing sales process and otherwise advising and assisting the Aralez Entities. A copy of the Moelis Engagement Letter is attached hereto as Exhibit "C".

16. The Moelis Engagement Letter provides for the following compensation (together, the "**Transactional Fee**"):

(a) Transaction Fee: 2% of the amount of the "Transaction Value" of any deal (as that term is defined in Schedule "B" of the Moelis Engagement Letter), subject to a minimum fee of $2.5 million. As more fully detailed in Schedule "B", Transaction Value is the aggregate of the value of all proceeds and other consideration of a transaction plus the aggregate principal amount of all indebtedness for borrowed money and other liabilities assumed in connection with a transaction.

(b) Financing Fee: 1.50% of the gross proceeds of any debt capital (including any debtor-in-possession financing) raised; and/or 3.50% of the gross proceeds of any equity capital raised; and/or 1.00% of the face value of any of the Debtors' debt securities and/or other indebtedness, obligations or liabilities that is the subject of a refinancing. The Aralez Entities have incurred the financing fee in the amount of $150,000 with respect to its DIP Financing approved by the Canadian Court on August 10, 2018.

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[2] Capitalized terms not defined in this section shall have the meaning ascribed to them in the Moelis Engagement Letter. This section is intended only to provide a summary of the material terms of the Moelis Engagement Letter, and it is qualified in its entirety by reference to the Moelis Engagement Letter. To the extent that there are any inconsistencies between this summary and the Moelis Engagement Letter, the Moelis Engagement Letter shall govern.

(c) Monthly Fee: $150,000 per month, payable on the first day of each month starting May 1, 2018. 50% of each Monthly Fee, beginning with the fifth full Monthly Fee that is actually paid, shall be offset, to the extent previously paid, against any Restructuring Fee.

(d) Restructuring Fee: $3,500,000 upon the closing of a Restructuring (as that term is defined in the Moelis Engagement Letter, which includes the filing of a plan of arrangement), subject to the applicable credits as detailed in the Moelis Engagement Letter.

(e) Discretionary Fee: at the sole discretion of the Aralez Entities, they may pay Moelis an additional fee in such amount as the Aralez Entities may determine, based on such factors as the Aralez Entities' satisfaction with Moelis' services, the complexity of the transaction, the time and effort expended by Moelis on the Aralez Entities' behalf and value added by Moelis. Moelis does not intend to seek a discretionary fee in this matter.

In the aggregate, the Transactional Fee, Restructuring Fee and the fee associated with the DIP Financing (being the financing approved in the Initial Order) have a maximum cap of $6.5 million. The Monthly Fee and any additional Financing Fees are not included in this maximum.

17. The Moelis Engagement Letter includes a tail period pursuant to which, if within 12 months of the termination or expiration of the Moelis Engagement Letter, a Transaction, Financing, or Restructuring (as these terms are defined in the Moelis Engagement Letter) occurs or the Aralez Entities enter into an agreement or file a plan regarding a Restructuring and a Restructuring is subsequently consummated within, then the Aralez Entities shall pay Moelis the applicable Transactional Fees immediately upon the closing of such transaction.

18. In addition to the Transactional Fees, the Aralez Entities shall reimburse Moelis, whether or not the Debtors consummate a Restructuring, for all reasonable and documented out-of-pocket expenses.

19. Moelis has worked extensively with the CCAA Entities since its initial engagement and has significant knowledge with respect to their business, operations and finances. Since the commencement of the CCAA Proceedings, Moelis has worked hard to negotiate and assist the

Aralez Entities with finalizing the stalking horse agreements, as well as structuring the bidding process. Moelis' continued involvement will be critical to the successful completion of the going-concern transaction as part of the CCAA Proceedings that will maximize value for stakeholders.

20. During the Restructuring Proceedings, Moelis will split its monthly fee equally between the CCAA Entities and Chapter 11 Entities, and any Transactional Fees, to the extent incurred and applicable to the estates, shall be allocated proportionately among the estates based on sale proceeds. To the extent necessary, Moelis will also reconcile its monthly fees between the two proceedings to reflect the allocation of sale proceeds. The Aralez Entities have determined that the proposed system for allocating work by Moelis is reasonable.

21. In order to secure the Aralez Entities' obligations under the Moelis Engagement Letter, the Aralez Entities are seeking the Transactional Charge in the maximum amount of $2.5 million. The Amended and Restated Initial Order provides that the Transactional Charge shall rank fourth on the Property of the Applicants.

B. Cross-Border Protocol

22. The Restructuring Proceedings involve the restructuring of nine entities with globally located assets and affect the rights of creditors and other interested parties in Canada, the U.S. and other jurisdictions. To facilitate the administration of the Restructuring Proceedings in both Canada and the U.S., the proposed Amended and Restated Initial Order contemplates a cross-border insolvency protocol (the "**Cross-Border Protocol**"). While the Cross-Border Protocol is sufficiently flexible to accommodate any cross-border issue that arises in the Restructuring Proceedings, it is specifically contemplated that, if needed, it could facilitate a joint hearing or court-to-court communications in the event that approval of a sale process or a sale so requires. A copy of the Cross-Border Protocol is attached as Schedule "A" to the Amended and Restated Initial Order contained at Tab 3 of the Motion Record.

23. The Cross-Border Protocol is designed to ensure that:

(a) the Restructuring Proceedings are coordinated to avoid, if possible, conflicting or duplicative rulings by the Courts;

(b) all parties in interest are provided sufficient notice of key issues in both Restructuring Proceedings;

(c) the substantive rights of all parties in interest are protected; and

(d) the jurisdictional integrity of the Courts is preserved.

24. The Cross-Border Protocol is designed to achieve these objectives and establishes principles for issues arising out of the cross-border nature of the Restructuring Proceedings, including a protocol for communication and cooperation between this Court and the U.S. Court. The Cross-Border Protocol also establishes procedures for the Applicants and their stakeholders to file materials and conduct joint hearings.

25. The Cross-Border Protocol was developed by U.S. and Canadian counsel. The coordination contemplated by the Cross-Border Protocol is essential and should, amongst other things, maximize the efficiency of the Restructuring Proceedings, reduce any associated costs, avoid duplication of effort and avoid the possibility of conflicting rulings by the Courts.

26. The salient provisions of the Cross-Border Protocol are summarized below:[3]

(a) **Comity; Judicial Independence**: The Cross-Border Protocol will not divest or diminish the Canadian Court or U.S. Court's independent jurisdiction over the subject matter of the CCAA Proceedings or the Chapter 11 Proceedings, respectively. By approving and implementing this Cross-Border Protocol, the Canadian Court, the U.S. Court, the Aralez Entities and any creditors or interested parties shall not be deemed to have approved or engaged in any infringement on the sovereignty of Canada or the U.S.

(b) **Cooperation**: To assist in the efficient administration of the Restructuring Proceedings, the Aralez Entities and their representatives shall, where appropriate: (a) reasonably cooperate with each other in connection with actions taken in both the Canadian Court and the U.S. Court; and (b) take any other

[3] This section is intended only to provide a summary of the material terms of the Cross-Border Protocol, and it is qualified in its entirety by reference to the Cross-Border Protocol. To the extent there are any inconsistencies between this summary and the Cross-Border Protocol, the Cross-Border Protocol shall govern. Capitalized terms not defined in this section shall have the meaning ascribed to them in the Cross-Border Protocol.

reasonable steps to coordinate the administration of the CCAA Proceedings and the Chapter 11 Proceedings for the benefit of the Aralez Entities' respective estates and stakeholders. To harmonize and coordinate the administration of the Restructuring Proceedings, the Canadian Court and the U.S. Court each may coordinate activities with and defer to the judgment of the other court, where appropriate and feasible. In furtherance of the foregoing:

(i) The Canadian Court and the U.S. Court may communicate with one another, with or without counsel present, with respect to any procedural or substantive matter relating to the Restructuring Proceedings;

(ii) Where the issue of the proper jurisdiction or court to determine an issue is raised by an interested party in either of the Restructuring Proceedings with respect to a motion or an application filed in either court, the court before which such motion or application was initially filed may contact the other court to determine an appropriate process by which the issue of jurisdiction will be determined. Such process shall be subject to submissions by the Aralez Entities, its representatives, any U.S. Creditors' Committee, the U.S. Trustee, the Monitor and any interested party before any determination on the issue of jurisdiction is made by either court; and

(iii) The Courts may, but are not obligated to, coordinate activities in the Restructuring Proceedings such that the subject matter of any particular action, suit, request, application, contested matter or other proceeding is determined in a single court.

(c) **Recognition of Stay of Proceedings**: The Canadian Court and U.S. Court will recognize the validity of the stay of proceedings in each jurisdiction. The Canadian Court will recognize the validity of the stay of proceedings respecting the Chapter 11 Entities under section 362 of the Bankruptcy Code (the "**U.S. Stay**"). The U.S. Court will recognize the validity of the stay of proceedings respecting the CCAA Entities under the CCAA and the Initial Order (the "**Canadian Stay**"). Nothing in the Cross-Border Protocol shall limit the Aralez

Entities or the parties' rights to assert the applicability or non-applicability of the Canadian Stay or U.S. Stay to any particular proceeding, property, asset, activity or other matter.

(d) **Retention and Compensation of Professionals**: The Cross-Border Protocol preserves the independent jurisdiction of each court over (i) any estate representatives appointed by such court, and (ii) the retention and compensation of professionals in the Restructuring Proceedings.

27. The Chapter 11 Entities intend to obtain approval of the Cross-Border Protocol from the U.S. Court on or about September 13, 2018.

III. STAY EXTENSION

28. Since the Initial Order, the Applicants have continued to act diligently and in good faith in respect of all matters relating to the CCAA Proceedings. To date, the Applicants and their advisors have been largely focused on maintaining operational stability of the CCAA Entities, advancing the stalking horse bids and the sales process, communicating with employees and other stakeholders and addressing matters relating to the initiation of the CCAA Proceedings. In the coming months, the Applicants will be focused on operating the business and completing the sales process.

29. The Stay Period granted in the Initial Order had the effect of imposing a stay of proceedings until and including September 7, 2018. The Applicants are requesting an extension of the Stay Period until and including November 14, 2018, to provide stability to the CCAA Entities and allow the sales process to conclude.

30. Given the Aralez Entities' access to liquidity through use of the CCAA Entities' financing facility and expected receipts from operations during the proposed Stay Period (as per my review of the cash flows prepared by A&M in conjunction with the Aralez Entities), I have been advised that no creditor will suffer material prejudice as a result of the extension of the Stay Period. I have been advised that the Monitor will be filing a report demonstrating that the CCAA Entities will have sufficient funds to continue operating through the proposed Stay Period.

SWORN BEFORE ME at the City of East Hampton ~~New York~~, State of New York, on August 28, 2018.

Commissioner for Taking Affidavits

ANDREW I. KOVEN

DIANA J PERALTA
Notary Public - State of New York
NO. 01PE6300197
Qualified in Suffolk County
My Commission Expires Mar 31, 2022

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

Court File No. CV-18-603054-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

AFFIDAVIT OF ANDREW I. KOVEN SWORN ON AUGUST 28, 2018

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Lawyers for the Applicants

TAB A

THIS IS EXHIBIT "A"
TO THE AFFIDAVIT OF ANDREW I. KOVEN
SWORN BEFORE ME THIS 28TH DAY OF AUGUST 2018

Commissioner for Taking Affidavits

August 28th 2018.

DIANA J PERALTA
Notary Public - State of New York
NO. 01PE6300197
Qualified in Suffolk County
My Commission Expires Mar 31, 2022

Court File No. CV-18-603054-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	FRIDAY, THE 10TH
	)	
JUSTICE DUNPHY	)	DAY OF AUGUST, 2018

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

Applicants

INITIAL ORDER

THIS APPLICATION, made by Aralez Pharmaceuticals Inc. and Aralez Pharmaceuticals Canada Inc. (together the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Andrew Koven sworn August 9, 2018 and the Exhibits thereto (the "**Koven Affidavit**"), the pre-filing report of Richter Advisory Group Inc. ("**Richter**"), in its capacity as proposed monitor (the "**Monitor**") to the Applicants, dated August 10, 2018, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel to the Applicants, counsel to the proposed Monitor and counsel to the DIP Lender (as that term is defined herein) and pre-filing secured lender ("**Deerfield**"), and on reading the consent of Richter to act as the Monitor,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the Koven

Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

(b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation,

payments on account of insurance (including directors and officers insurance), maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicants following the date of this Order,

provided that, to the extent such expenses were incurred prior to the date of this Order, the Applicants shall only be entitled to pay such amounts if they are determined by the Applicants, in consultation with the Monitor and the DIP Lender, to be necessary to the continued operation of the Business or preservation of the Property and such payments are approved in advance by the Monitor or by further Order of the Court.

8. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to

claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

(a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding $500,000 in any one transaction or $2,000,000 in the aggregate;

(b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and

(c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

12. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including September 7, 2018, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicants to carry on any business which the Applicants is not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with

respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. **THIS COURT ORDERS** that the Applicants shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**D&O Charge**") on the Property, which charge shall not exceed an aggregate amount of $1 million, as security for the indemnity provided in paragraph 20 of this Order. The D&O Charge shall have the priority set out in paragraphs 48 and 50 herein.

22. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the D&O Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the D&O Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPOINTMENT OF MONITOR

23. **THIS COURT ORDERS** that Richter is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

24. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

(a) monitor the Applicants' receipts and disbursements;

(b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;

(d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a bi-weekly basis or as otherwise agreed to by the DIP Lender;

(e) advise the Applicants in its development of the Plan and any amendments to the Plan;

(f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

(h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and

(i) perform such other duties as are required by this Order or by this Court from time to time.

25. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario

Occupational Health and Safety Act and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

28. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

29. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements incurred in respect of services rendered to the Applicants, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis and, in addition, the Applicants are hereby authorized and directed to pay to the Monitor, counsel to the Monitor, and counsel to

the Applicants, retainers in the amounts of $100,000, $100,000 and $250,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

30. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

APPROVAL OF ENGAGEMENT OF A&M

31. **THIS COURT ORDERS** that the agreement dated as of July 9, 2018 (the "**A&M Engagement Letter**") pursuant to which the Applicants have engaged the services of Alvarez & Marsal Canada Inc. and Alvarez & Marsal Healthcare Industry Group, LLC to act as the financial advisor (in such capacity, the "**Financial Advisor**") to the Applicants, is hereby approved *nunc pro tunc*, including, without limitation, the payment of fees and expenses contemplated thereby, and the Applicants are authorized to continue the engagement of the Financial Advisor on the terms set out in the A&M Engagement Letter.

32. **THIS COURT ORDERS** that the Financial Advisor shall be entitled to the benefit of the Administration Charge (as defined below) in respect of any obligations of the Applicants under the A&M Engagement Letter, whether for payment of compensation, fees, expenses, indemnities or otherwise.

33. **THIS COURT ORDERS** that all claims of the Financial Advisor pursuant to the Engagement Letter are not claims that may be compromised pursuant to any Plan, or proposal under the *Bankruptcy and Insolvency Act* (the "**BIA**") or any other restructuring, and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the Financial Advisor pursuant to the terms of the Engagement Letter.

34. **THIS COURT ORDERS** that the Financial Advisor, its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of either its engagement by the Applicants as Financial Advisor or any matter referred to in the Engagement Letter except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Financial Advisor in performing its obligations under the Engagement Letter.

APPROVAL OF ENGAGEMENT OF MOELIS

35. **THIS COURT ORDERS** that the agreement dated as of July 18, 2018 (the "**Moelis Engagement Letter**") pursuant to which the Applicants have engaged the services of Moelis & Company LLC ("**Moelis**") to act as the investment banker (in such capacity, the "**Investment Banker**") to the Applicants, is hereby approved *nunc pro tunc*, including, without limitation, the payment of fees and expenses contemplated thereby, and the Applicants are authorized to continue the engagement of the Investment Banker on the terms set out in the Moelis Engagement Letter.

36. **THIS COURT ORDERS** that the Investment Banker, its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of either its engagement by the Applicants as Financial Advisor or any matter referred to in the Engagement Letter except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Financial Advisor in performing its obligations under the Engagement Letter.

ADMINISTRATION CHARGE

37. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Financial Advisor, the Investment Banker and the Applicants' counsel shall be entitled to the

benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of $1 million, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor, the Monitor's counsel, the Financial Advisor, and the Applicants' counsel, and for 50% of the Monthly Fee (as that term is defined in the Moelis Engagement Letter) of the Investment Banker, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 48 and 50 hereof.

38. **THIS COURT ORDERS** that the Applicants are authorized and directed to return to this Court to seek approval of an allocation of fees payable to the Financial Advisor and the Investment Banker based on the proceeds of any sales completed within these proceedings and the Chapter 11 proceedings of the related Aralez Entities, if necessary.

DIP FINANCING

39. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from Deerfield Private Design Fund III, L.P. and Deerfield Partners, L.P. (the "**DIP Lenders**") in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed USD$10 million unless permitted by further Order of this Court.

40. **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the agreement between the Applicants and the DIP Lender dated as of August 10, 2018 (the "**DIP Agreement**"), filed.

41. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement

or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

42. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 48 and 50 hereof.

43. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

(a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;

(b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon five days' written notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver,

or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

44. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *BIA*, with respect to any advances made under the Definitive Documents.

45. **THIS COURT ORDERS** that all claims of the DIP Lender pursuant to the Definitive Documents are not claims that may be compromised pursuant to any Plan, or proposal under the *BIA* or any other restructuring, and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the DIP Lender pursuant to the Definitive Documents.

46. **THIS COURT ORDERS** that during the period from August 10, 2018 to August 21, 2018, the Applicants shall not draw in excess of USD$1 million on the facility available under the DIP Agreement.

47. **THIS COURT ORDERS** that, notwithstanding any other provision herein (other than paragraph 46), the foregoing approval of the DIP Agreement and the DIP Lenders' Charge is subject to the right of any Person not served with notice of this Application to return to Court to object to the DIP Agreement and the DIP Lenders' Charge (such motion, a "**DIP Objection Motion**") by giving notice to the Applicants, the Monitor and the DIP Lender no later than August 21, 2018. In the event that notice of a DIP Objection Motion is not given by August 21, 2018, the DIP Agreement and the DIP Lenders' Charge shall no longer be subject to this paragraph. If notice of a DIP Objection Motion is given in accordance with this paragraph, the Court shall schedule the hearing of the DIP Objection Motion forthwith.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

48. **THIS COURT ORDERS** that the priorities of the Administration Charge, the DIP Lender's Charge and the D&O Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $1 million);

Second – DIP Lender's Charge; and

Third – D&O Charge (to the maximum amount of $1 million).

49. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the DIP Lender's Charge, and the D&O Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

50. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

51. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Charges, or further Order of this Court.

52. **THIS COURT ORDERS** that the Charges, the DIP Agreement, and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by (a)

the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

(a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

(c) the payments made by the Applicants pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

53. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

SERVICE AND NOTICE

54. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA, (b) within five days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than $1000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

55. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/ shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: http://insolvency.richter.ca/A/Aralez-Pharmaceuticals.

56. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by

courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

COMEBACK MOTION

57. **THIS COURT ORDERS** that the Applicants are authorized to serve their motion materials with respect to one or more motions at which the Applicants intend to seek, *inter alia*, approval of a cross-border protocol, an extension of the Stay Period, a charge in respect of certain transaction fees of the Applicants' investment banker, and approval of a key employee retention plan (the "**Comeback Motion**") by forwarding a copy of this Order and any additional materials to be filed with respect to the Comeback Motion by electronic transmission, where available, or by courier to the parties likely to be affected by the relief to be sought at such parties' respective addresses as last shown on the records of the Applicants as soon as practicable.

GENERAL

58. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

59. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

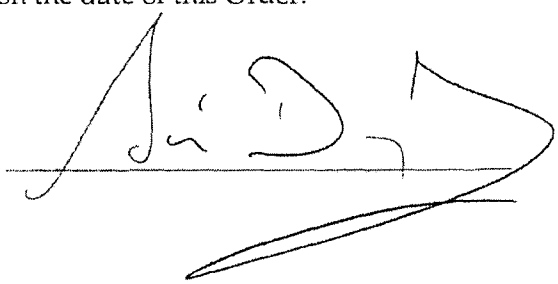
60. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer

of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

61. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

62. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

63. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.



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LE / DANS LE REGISTRE NO:

AUG 10 2018

PER / PAR:

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

Court File No. CV-18-603054-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

INITIAL ORDER

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Lawyers for the Applicants

TAB B

THIS IS EXHIBIT "B"
TO THE AFFIDAVIT OF ANDREW I. KOVEN
SWORN BEFORE ME THIS 28TH DAY OF AUGUST 2018

Commissioner for Taking Affidavits

August 28th 2018

DIANA J PERALTA
Notary Public - State of New York
NO. 01PE6300197
Qualified in Suffolk County
My Commission Expires Mar 31, 2022

Court File No. _____

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 PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

(Applicants)

AFFIDAVIT OF ANDREW I. KOVEN
(Sworn August 9, 2018)

I, Andrew I. Koven, of the City of New York, in the State of New York, MAKE OATH AND SAY:

1. I am the President and Chief Business Officer of the applicant, Aralez Pharmaceuticals Inc. ("**API**") and a director and the President of the applicant, Aralez Pharmaceuticals Canada Inc. ("**Aralez Canada**" and, together with API, the "**CCAA Entities**" or the "**Applicants**"). As a result of my roles with the Applicants, I have certain knowledge of the matters to which I hereinafter depose. I have also reviewed certain books and records of the Applicants and have spoken with certain of the directors, officers, employees and/or advisors of the Applicants, as necessary and applicable. Where I have relied upon such information, I believe such information to be true.

2. All references to currency in this affidavit are references to United States dollars, unless otherwise indicated.

I. INTRODUCTION

3. This affidavit is sworn in support of an application by the CCAA Entities for an order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**" and such proceedings, the "**CCAA Proceedings**").

4. Concurrently with this Application, Aralez Pharmaceuticals Management Inc. ("**Aralez Management**"), Aralez Pharmaceuticals R&D Inc. ("**Aralez R&D**"), Aralez Pharmaceuticals U.S. Inc. ("**Aralez U.S.**"), POZEN Inc. ("**Pozen**"), Halton Laboratories LLC ("**Halton**"), Aralez Pharmaceuticals Holdings Limited ("**APHL**"), Aralez Pharmaceuticals Trading DAC ("**Aralez DAC**" and collectively, the "**Chapter 11 Entities**" and, with the CCAA Entities, the "**Aralez Entities**") will file for bankruptcy protection in the United States Bankruptcy Court for the Southern District of New York (the "**U.S. Court**") under chapter 11 of title 11 of the United States Bankruptcy Code (the "**Chapter 11 Proceedings**" and together with the CCAA Proceedings, the "**Restructuring Proceedings**"). I understand that the first hearing in respect of the Chapter 11 Proceedings is likely to occur on August 13, 2018. Two subsidiaries within the Aralez group of companies are not subject to the Restructuring Proceedings, being Aralez Luxembourg Finance ("**Luxco**") and Tribute Pharmaceuticals International Inc. ("**Tribute Barbados**").

5. The Aralez Entities are in the business of acquiring, developing, marketing and selling speciality pharmaceutical products. The current corporate structure of the Aralez Entities is the result of a business combination between Pozen and what is now Aralez Canada.[1] In connection with that transaction, certain product acquisitions and the anticipated launch or relaunch of drug products, the Aralez Entities took on significantly increased operational costs and debt. The launches were not able to generate sufficient cash flow to cover these costs and service the interest payments. Concurrently, the Aralez Entities have recently experienced increased generic competition with respect to a significant drug product, which is expected to further negatively affect its business. Despite multiple cost cutting initiatives and the exploration of strategic alternatives in response to these events, the Applicants are facing a liquidity crisis necessitating the Restructuring Proceedings.

6. In response to these events, the Aralez Entities have engaged in a plan to maximize the value of their business for their stakeholders through a comprehensive sales process described below and each of the CCAA Entities and the Chapter 11 Entities anticipate returning to their respective Courts for approval of a sales process. The CCAA Entities

[1] Originally, Tribute Pharmaceutical Canada Inc. but pursuant to an internal reorganization, Aralez Canada.

require the protection offered by the Initial Order and the CCAA to stabilize their business and execute this plan.

7. Each of the boards of directors of the Applicants has authorized this CCAA application.

II. ARALEZ INTERNATIONAL GROUP

A. Corporate Structure

8. As noted above, the Aralez Entities' current corporate structure is the product of a business combination involving Pozen and Aralez Canada[2] completed in February 2016. The transaction was undertaken to take advantage of the benefits of a more diverse array of product offerings owned by the pre-transaction entities and to leverage debt and equity financings associated with the transaction to increase the combined companies' drug product portfolio and scale up sales and marketing efforts.

9. The Aralez Entities' business is divided geographically primarily between Canada (which includes non-significant sales in European countries) and the U.S., with some supply chain management, quality control, and IP-holding functions located in Ireland. A corporate structure chart of the Aralez Entities is attached hereto as **Exhibit "A"**.

10. The Aralez Entities are intertwined in some respects, including sharing certain executive management personnel, cash management/financing operations, pharmacovigilance[3] efforts, and legal, human resources and IT services.

<u>API</u>

11. API is a public company incorporated under the British Columbia *Business Corporations Act*, S.B.C. 2002, c. 57, as amended, with its registered office at 666 Burrard Street, Vancouver, British Columbia and its head office at 7100 West Credit Avenue, Suite 101, Mississauga, Ontario. API is the ultimate parent of the other Aralez Entities. API's head office serves as the global headquarters for the Aralez Entities.

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[2] Originally, Tribute Pharmaceutical Canada Inc. but pursuant to an internal reorganization, Aralez Canada.
[3] Pharmacovigilance is the practice of monitoring the effects of medical drugs after they have been licensed for use, especially in order to identify and evaluate previously unreported adverse reactions.

12. API's common shares are publicly traded on the Toronto Stock Exchange ("**TSX**") under the symbol "ARZ" and The NASDAQ Stock Market ("**NASDAQ**") under the symbol "ARLZ". Over the past 52 weeks, shares have traded between C$0.29 and C$3.72 on the TSX and $0.21 and $2.98 on NASDAQ.

13. API's authorized share capital consists of an unlimited number of common shares and preferred shares. As at August 6, 2018, API had 68,247,616 common shares issued and outstanding, and no preferred shares issued and outstanding.

Aralez Canada

14. Aralez Canada is the wholly-owned, direct subsidiary of API. Aralez Canada is amalgamated under the *Business Corporations Act*, R.S.O. 1990, B-16, as amended, with its registered office at 7100 West Credit Avenue, Suite 101, Mississauga, Ontario.

15. Aralez Canada has one subsidiary, Tribute Barbados, a Barbados-incorporated corporation. Tribute Barbados has no operations and its assets consist of *de minimis* cash in a bank account and intercompany receivables. The Aralez Entities are considering next steps in dealing with this entity.

Chapter 11 Entities

16. The Chapter 11 Entities, all of which are direct or indirect wholly-owned subsidiaries of API, are identified in the corporate structure chart set out in **Exhibit "A"**, are described below:

(a) **Aralez Management** is a company incorporated under the laws of Delaware with an office in Princeton, New Jersey. It has no significant operations or assets other than serving as the employer of its one employee, the CEO of API.

(b) **APHL** is a company incorporated under the laws of Ireland with an office in Dublin, Ireland. It conducts no operations, has no employees and holds no significant assets other than the shares of Aralez DAC and an intercompany receivable.

(c) **Aralez DAC** is a company incorporated under the laws of Ireland with an office in Dublin, Ireland. Aralez DAC is the licensee or owner of a number of drug products, as well as certain intellectual property. Aralez DAC employs approximately six people who are responsible for supply chain management, and quality control, among other things.

(d) **Pozen** is a company incorporated under the laws of Delaware with an office in Princeton, New Jersey. Pozen owns certain intellectual property rights and is party to certain contracts related thereto. Pozen has no employees.

(e) **Aralez U.S.** is a company incorporated under the laws of Delaware with offices in New York, New York, Radnor, Pennsylvania and Princeton, New Jersey. Aralez U.S. is the main operating entity for U.S. commercial operations, which have been in the process of being wound down starting in May 2018. Prior to commencing the wind down, Aralez U.S. functioned as the sales and marketing entity for certain drug products in the U.S. Aralez U.S. currently employs approximately 20 people.

(f) **Halton** is a company incorporated under the laws of Delaware with an office in Princeton, New Jersey. Halton distributes generic versions of drug products pursuant to an agreement with Aralez DAC.

(g) **Aralez R&D** is a company incorporated under the laws of Delaware with an office in Princeton, New Jersey. Aralez R&D's business is research and development and employs one person.

<u>Luxco and Tribute Barbados</u>

17. Luxco and Tribute Barbados are not applicants in either of the Restructuring Proceedings. A brief description of these entities is included below:

(a) **Tribute Barbados**: Tribute Barbados, a company incorporated under the laws of Barbados, is a wholly-owned direct subsidiary of Aralez Canada. It is a dormant entity with no operations and no significant assets other than de

minimis cash on hand. The Aralez Entities are considering next steps in dealing with this entity during the Restructuring Proceedings.

(b) **Luxco**: Luxco, a company incorporated under the laws of Luxembourg, is a wholly-owned direct subsidiary of APHL. Luxco is a financing entity whose role has effectively ceased, and other than holding funds in a bank account for the payment of taxes and other required payments, and unsecured accounts receivable from other members of the Aralez Entities, has no assets. The Aralez Entities are considering next steps in dealing with this entity during the Restructuring Proceedings.

B. Business Operations

18. The Aralez Entities' Canadian operations focus on products for cardiovascular, pain management, dermatology, allergy and certain other indications in Canada.

19. Aralez Canada is the Canadian operating company of the Aralez Entities, employing approximately 43 people as of August 2, 2018. The vast majority of the CCAA Entities' revenue is derived from domestic sales, which account for approximately 95% of gross revenue for the year to date, with international sales, largely in Europe, making up the balance.

20. The most significant products in Aralez Canada's drug portfolio, which comprise approximately 75% of its gross revenue, are listed below:

(a) **Cambia®** is a non-steroidal anti-inflammatory product and the fastest-acting product in Canada to treat migraines. Pursuant to a 2010 agreement (the "**Cambia Licensing Agreement**") with Nautilus Neuroscience, Inc., subsequently assigned to Depomed, Inc. ("**Depomed**") in 2013, Aralez Canada licenses the exclusive rights to develop, register, promote, manufacture, use, market, distribute and sell Cambia in Canada in exchange for royalty payments to Depomed based on a percentage of net sales and potential milestone payments. The Cambia Licensing Agreement expires in September 2025. Cambia is manufactured in Italy.

(b) **Blexten®** is an antihistamine used for the treatment of allergic rhinitis and hives in Canada. Pursuant to a 2014 agreement (the "**Licence and Supply Agreement**") with Faes Farma, S.A. ("**Faes**"), Aralez Canada has the exclusive rights to sell Blexten in Canada, which it began commercializing in December 2016. Blexten is manufactured in Spain by Faes. The Licence and Supply Agreement expires in May 2036, subject to renewal for further five year terms. Milestone and royalty payments are paid to Faes provided that the conditions to the License and Supply Agreement are met.

(c) **Fiorinal®** and **Fiorinal C®** are used for the treatment of tension headaches and **Visken®** and **Viskazide®** are used for the treatment of hypertension (together, these four products are the "**Novartis Products**"). In October 2014, Aralez Canada entered into an asset purchase agreement with Novartis AG and Novartis Pharma AG for the Canadian rights to manufacture, market, promote, distribute and sell the Novartis Products. The Novartis Products are manufactured in Canada.

(d) **Soriatane®** is indicated for the treatment of severe psoriasis. Pursuant to a January 2018 exclusive distribution agreement (the "**Allergan Distribution Agreement**") with Allergan Inc., which supersedes an earlier agreement with the same party, Aralez Canada has exclusive rights to promote, market, purchase, warehouse, distribute and sell Soriatane in Canada. The Allergan Distribution Agreement expires in January 2023. Aralez Canada pays an incremental revenue-based royalty payment, subject to an annual minimum amount. Soriatane is manufactured in France.

(e) **Proferrin®** is an iron supplement used to prevent or treat iron deficiencies. Pursuant to a distribution agreement with Colorado Biolabs, Inc., Aralez Canada holds exclusive distribution rights in Canada for a term ending in 2031. Proferrin is manufactured in the U.S.

(f) **Bezalip®** is used to treat high cholesterol. Pursuant to the Allergan Distribution Agreement, Aralez Canada has the exclusive licence to market

Bezalip in Canada. Pursuant to another agreement with Allergan, Aralez Canada has the development and marketing rights for Bezalip in the U.S. and is currently exploring a sale or sublicense of those rights. Bezalip is manufactured in France.

21. Aralez Canada also markets numerous other drug products, both non-prescription and prescription, which comprise approximately 25% of its gross revenues.

22. As of August 3, 2018, Aralez Canada owed approximately $5 million in royalty and milestone payments to certain third party licensors. Certain of these licensors are international corporations.

23. Across the business, the Chapter 11 Entities market or outlicense[4] a number of drug products in the U.S. and other jurisdictions:

(a) **Toprol-XL®**: Toprol-XL is part of a family of medications known as beta-blockers, which are used to treat high blood pressure among other cardiovascular conditions. In October 2016, Aralez DAC acquired the U.S. rights to Toprol-XL (as well as an authorized generic version) from AstraZeneca AB ("**AstraZeneca**") pursuant to an asset purchase agreement (the "**Toprol-XL Agreement**"). Aralez U.S. distributes the Toprol-XL brand-drug product in the U.S. pursuant to a distribution agreement with Aralez DAC. Lannet Company Inc. distributes the authorized generic version of Toprol-XL (together with Toprol-XL, the "**Toprol-XL Franchise**") pursuant to a November 2017 supply agreement. The purchase price of Toprol-XL included a $175 million cash payment, future royalty payments and milestone payments if certain targets were met.

(b) **Zontivity®**: Zontivity is indicated for the reduction in thrombic cardiovascular events for certain patient preparations. Aralez DAC acquired the rights to Zontivity in the U.S. and Canada pursuant to an asset purchase agreement with an affiliate of Merck & Co., Inc. in September 2016, which

[4] "Outlicensing" refers to arrangements in which the Aralez Entities license these rights to third parties, who then manufacture and sell the drug.

included a purchase price of $25 million and certain other future royalty and milestone payments. Zontivity was relaunched in the U.S. in June 2017, and then shut down in June 2018 in conjunction with the discontinuation of U.S. commercial operations. It is not currently marketed in Canada. Merck has agreed to supply Zontivity to the Aralez Entities for a period of up to three years from the closing of the acquisition.

(c) **Vimovo®**: Developed by Pozen in collaboration with AstraZeneca pursuant to a collaboration and license agreement originally signed in 2006 and subsequently amended and restated into U.S. and rest of the world agreements in November 2013, Vimovo is a pain-management drug product. AstraZeneca has the rights to commercialize Vimovo outside of the U.S. which rights to sell the product in the U.S. were subsequently acquired by Horizon Pharma USA, Inc. ("**Horizon**"). Pozen receives a 10% royalty on net sales of Vimovo sold in the United States from Horizon, subject to guaranteed annual minimum royalty payments of $7.5 million, and a 10% royalty from AstraZeneca for sales outside of the U.S. and Japan.

(d) **Yosprala®**: Yosprala is a cardiovascular drug developed by Pozen. Launched in the U.S. in October 2016, Yosprala was not able to achieve the anticipated levels of commercial success; as such, Yosprala sales were discontinued in March 2018, and the U.S. rights to the product were sold by Pozen in July 2018.

C. Intellectual Property

24. The CCAA Entities obtain protection for their products, proprietary technology and licenses by means of patents, trademarks and contractual arrangements. As of the date of this affidavit, Aralez Canada owns approximately one dozen patents (in various jurisdictions) related to two products and other members of the corporate group hold patents (in various jurisdictions) related to other drug products. The balance of the Aralez Entities' portfolio, which constitutes the majority of the Aralez Entities' portfolio, is

comprised of products covered by patents that are licensed from third parties or that are not covered by patents.

D. Regulatory Environment

25. The CCAA Entities' drug product portfolio is subject to extensive regulation from Health Canada, the federal authority that regulates, evaluates and monitors the safety, effectiveness, and quality of drugs, medical devices, and other therapeutic products available to Canadians.

26. Regulatory obligations and oversight are extensive in getting a product approved for sale in Canada, and continue past initial market approval of a pharmaceutical product. For example, the CCAA Entities must report any new information received concerning adverse drug reactions, including timely reporting of serious adverse drug reactions that occur in Canada and any serious unexpected adverse drug reactions that occur outside of Canada. The CCAA Entities must also notify Health Canada of any new safety and efficacy issues that it becomes aware of after the launch of a product.

27. Aralez Canada incurs regulatory fees in relation to its drug products, including annual maintenance fees for the drug products to be sold in Canada, fees relating to Aralez Canada's ability to sell the drug products, audit fees, and fees relating to the submission of drug products for approval. As of August 8, 2018, Aralez Canada owes approximately $120,000 in regulatory fees, with another $50,000 of regulatory-related fees accrued but not yet due.

E. Supply Chain

28. The Aralez Entities outsource the entirety of their drug product manufacturing to third-party contractors. The manufacturers are approved fabricators of pharmaceutical products according to U.S. and Canadian government agencies. Manufacturers are heavily regulated and required to hold licenses to manufacture drugs and, in certain cases, are selected from a shortlist of permitted manufacturers provided by the licensor of the particular drug product. The Aralez Entities estimate that, as of August 9, 2018, Aralez Canada will owe an estimated $1,324,916 to manufacturers. Certain of these manufacturers

are single-source manufacturers, certain are licensor-owned manufacturers, certain are located outside of Canada, and certain are some combination of these.

29. The CCAA Entities regularly incur obligations to vendors, pharmaceutical suppliers, and service providers, including the Chapter 11 Entities as described starting at paragraph 48. Key relationships in the supply chain are described below.

30. Once manufactured, Aralez Canada's drug products are shipped by a third-party logistics ("**3PL**") provider to wholesalers and chain accounts. Wholesalers who wish to purchase Aralez Canada's drug products place orders with the 3PL, who sell the products on behalf of Aralez Canada and remit the funds to Aralez Canada, less a service fee. Individual pharmacies purchase product from the wholesaler, and then dispense to the consumer. Chain accounts who wish to purchase Aralez Canada's drug products place orders with the 3PL, who sell the products on behalf of Aralez Canada and remit the funds to Aralez Canada, less a service fee. Chain accounts then distribute products within their business.

Health Care Providers

31. Aralez Canada routinely works with pharmacists, nurses and doctors who provide consulting and speaker services to Aralez Canada. The Aralez Entities estimate that, as of August 8, 2018, Aralez Canada will owe less than $120,000 to these health care providers.

F. Employees

32. The CCAA Entities have approximately 43 employees, all of whom are located in Canada. The Chapter 11 Entities have approximately 28 employees located in the U.S. and Ireland.

33. Approximately 22 Aralez Canada employees are salespeople who are paid commission on sales on a quarterly basis in arrears and three Aralez Canada employees are sales managers. None of the employees of the CCAA Entities are subject to a collective bargaining agreement.

34. In addition to its employees, Aralez Canada has 11 contract workers, eight of whom perform sales work and three of whom perform back office functions.

G. Pensions and Benefits

35. Aralez Canada employees are members of a defined contribution Registered Retirement Savings Plan pursuant to which Aralez Canada matches, dollar for dollar, contributions up to 4% of earnings which is funded semi-monthly. The CCAA Entities do not have any defined benefit pension plans.

H. Customers

36. The CCAA Entities' customers are comprised of wholesale pharmaceutical distributors and chain accounts, as described above at paragraph 28.

37. As of December 31, 2017, the CCAA Entities had four significant customers which accounted for approximately 90% of net product revenue. These customer concentrations are customary in the pharmaceutical business and each of the significant customers is a well-known and respected entity (e.g. Shoppers Drug Mart).

I. Customer Programs

38. The CCAA Entities maintain various customer programs to generate sales and maintain customer loyalty (the "**Customer Programs**"). Customer Programs consist of various initiatives including a returns program, a rebate program, a co-pay program and a fee-for-service program. The returns program allows customers to return pharmaceutical products within a specified period of time both prior and subsequent to the product's expiration date. The rebate program relates to arrangements that Aralez Canada enters into with payors that provide for government-mandated and/or privately-negotiated rebates, chargebacks and discounts with respect to the purchase of the products. The co-pay program relates to programs with the government for shared funding of drugs. The fee-for-service program relates to agreements with various wholesalers and distributors to manage sales of the drugs to end-consumers. The Customer Programs often result in the CCAA Entities' accruing liabilities for the benefit of their customers, some of which will not have been paid upon commencement of the CCAA Proceedings. As of August 8, 2018 Aralez Canada had accrued approximately $1.2 million on account of the Customer Programs.

J. Properties and Facilities

39. Pursuant to a sublease dated March 1, 2016, Aralez Canada subleases a facility located at 7100 West Credit Avenue in Mississauga, Ontario, which serves as the headquarters for the CCAA Entities.

K. Cash Management System and Intercompany Transactions

Cash Management

40. In the ordinary course of their business, the CCAA Entities use a centralized cash management system (the "**Cash Management System**") to, among other things, collect funds and pay expenses associated with their operations. The Cash Management System gives the CCAA Entities the ability to efficiently and accurately track and control corporate funds and ensure cash availability.

41. API maintains three bank accounts:

(a) A U.S. dollar operating bank account with Bank of America ("**BOA**") located in New Jersey. This account is the main account for servicing the Secured Credit Facility and also pays general corporate expenses such as reporting-related and professional fees. Prior to the commencement of the Restructuring, funds flowed into this account either (i) by a debt repayment by Luxco (ii) by way of a loan directly from Luxco to API; or (iii) through a loan from Aralez Canada to API;

(b) A Canadian dollar operating bank account with BOA located in Toronto. This account is funded on an as-needed basis to facilitate payments in Canadian dollars, and generally does not carry a balance unless a payment is approaching; and

(c) A U.S. dollar investment account with Capital One located in New Jersey, which has a *de minimis* amount of cash on hand.

42. Aralez Canada maintains four bank accounts:

(a) A Canadian dollar operating bank account with Bank of Montreal ("**BMO**") located in Toronto, which is used to receive payments and make disbursements in Canadian dollars;

(b) A Euro operating bank account with HSBC Bank of Canada located in Toronto, which is used to receive payments and make disbursements in Euro currency;

(c) A U.S. dollar operating bank account with BMO located in Toronto which is used to receive payments and make disbursements in U.S. dollars; and

(d) A dormant Canadian dollar account with no funds.

43. Each of the Aralez Canada accounts is largely self-sustaining. To the extent the Euro or U.S. dollar account does not have sufficient receipts to cover its disbursements, Aralez Canada will transfer money to the applicable account from the Canadian dollar operating account.

44. Aralez Canada's payroll is managed by Automatic Data Processing, Inc., which issues direct deposits to Aralez Canada employees on the date payroll is paid.

45. The Chapter 11 Entities maintain 13 bank accounts consisting of lockboxes which process sales of branded and generic pharmaceutical products, a master account, operating and disbursement accounts, an investment account, a tax account and a government rebate account.

46. Income from the lockboxes is deposited daily into a master account, which, among others things, is used to facilitate certain intercompany transactions with the Chapter 11 Entities incorporated in Ireland.

47. Certain of the bank accounts held by the Aralez Entities are subject to deposit account control agreements pursuant to the Loan Agreement defined and described below.

Intercompany Transactions

48. In light of the global nature of their business, in the ordinary course of business, the Aralez Entities maintain relationships with each other that result in claims arising from various transactions, both operational and financial. The Aralez Entities track all intercompany transactions in their accounting system and can ascertain, trace and account for them as needed.

49. During the CCAA Proceedings and Chapter 11 Proceedings, the Aralez Entities expect that they will not incur any intercompany loans due to the proposed DIP financing, detailed below; however, they do anticipate continuing ordinary course business transactions which shall be recorded on the Aralez Entities' books and records.

50. Luxco and Tribute Barbados, which are not parties to the CCAA Proceedings or Chapter 11 Proceedings, maintain separate bank accounts with no significant balances.

III. ASSETS AND LIABILITIES OF ARALEZ ENTITIES

51. Copies of API's fiscal 2017 consolidated audited financial statements, which include unaudited consolidated financial statements for the quarter ending December 31, 2017, are attached hereto as **Exhibit "B"**. Copies of API's unaudited consolidated financial statements for the quarters ending March 31, 2018 and September 30, 2017 are attached hereto as **Exhibits "C" and "D"**, respectively.

A. Assets of the Aralez Entities

52. As at March 31, 2018, the Aralez Entities' assets on a consolidated basis had a book value of approximately $481 million.

53. As at March 31, 2018, the book value of Aralez Canada's assets was approximately $117 million.

B. Liabilities of the Aralez Entities

54. As at March 31, 2018, the Aralez Entities had liabilities totalling approximately $488 million.

55. Aralez Canada's liabilities (other than long term debt of approximately $280 million) were approximately $15 million as of March 31, 2018.

56. The Aralez Entities' long term debt obligations are detailed below. Deerfield (as that term is defined below) is the only party listed in personal property and intellectual property security registrations as of August 9, 2018.

Deerfield Facility Agreement

57. API, Aralez Canada[5] and Pozen have entered into a loan agreement dated as of June 8, 2015 (as amended or amended and restated from time to time, including on December 7, 2015, the "**Facility Agreement**") with Deerfield Private Design Fund III, L.P. and Deerfield Partners L.P.[6] (collectively "**Deerfield**") as lenders. A copy of the Facility Agreement is attached hereto as **Exhibit "E"**.

58. API is the borrower under the Facility Agreement in the principal amount of $275 million, consisting of:

(a) A $200 million credit facility which bears interest at a rate of 12.5% (the "**Secured Credit Facility**"); and

(b) $75 million of senior secured convertible notes which bear interest at a rate of 2.5% which are convertible into API common shares at an initial conversion premium of 32.5% (subject to adjustment upon certain events), (the "**Secured Notes**").

As of August 6, 2018, approximately $203.1 million in aggregate principal is outstanding under the Secured Credit Facility, plus approximately $2.7 million in accrued paid-in-kind interest. As of August 6, 2018, approximately $75.5 million in aggregate principal is outstanding under the Secured Notes, plus approximately $200,000 in accrued paid-in-kind interest.

59. Each of the Secured Credit Facility and the Secured Notes are guaranteed by the Aralez Entities other than API, including Aralez Canada, as well as being guaranteed by Luxco and Barbados (collectively, the "**Guarantors**").

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[5] Originally, Tribute Pharmaceutical Canada Inc. but pursuant to the amalgamation, Aralez Canada.

[6] Originally a party to the Facility Agreement, Deerfield International Master Fund, L.P. subsequently merged with Deerfield Partners L.P.

60. API and the Guarantors are parties to security agreements in respect of the Secured Credit Facility and the Secured Notes. With respect to the CCAA Entities, the following security agreements have been entered into:

(a) A Canadian Security Agreement between API and Deerfield dated February 6, 2016;

(b) A Canadian Security Agreement between Aralez Canada and Deerfield dated February 6, 2016;

(c) An Intellectual Property Security Agreement between API and Deerfield dated February 6, 2016;

(d) An Intellectual Property Security Agreement between Aralez Canada and Deerfield dated February 6, 2016; and

(e) A confirmation of Guaranty and Security between Aralez Canada and Deerfield dated February 6, 2016,

(together, the "**Security Agreements**").

Pursuant to the Security Agreements, Deerfield was granted a first priority security interest in substantially all present and after-acquired property of API and the Guarantors, including intangible property. Copies of the Security Agreements are attached hereto as **Exhibit "F"**.

61. On June 29, 2018, the Aralez Entities announced that, in connection with the review of their strategic alternatives, they entered into an amendment to the Facility Agreement, pursuant to which Deerfield agreed to accept payment in kind of interest due and payable on July 1, 2018 with respect to the Secured Credit Facility and the Convertible Secured Notes through August 15, 2018.

IV. FINANCIAL DIFFICULTIES AND NEED FOR CCAA PROTECTION

A. Financial Difficulties

62. The pharmaceutical industry is highly competitive, dominated by a small number of highly-concentrated global competitors with significant resources. Since its inception in February 2016, the Aralez Entities have incurred significant net losses. Most recently, the Aralez Entities incurred a net loss of $125.2 million for the year ended December 31, 2017, and $19.7 million for the three months ended March 31, 2018. As losses continue, servicing a significant amount of debt becomes more difficult.

63. In 2016 and 2017, the Aralez Entities launched Yosprala and relaunched Zontivity. In anticipation of these products being sold in the U.S. market by the Aralez Entities and their anticipated commercial success, the Aralez Entities committed significant sales and marketing resources. Despite a robust sales and marketing effort, sales from Yosprala were disappointing and the product was discontinued in March 2018. Further, sales of Zontivity were not sufficient to justify the cost of the U.S. commercial infrastructure, which operations are in the process of being wound up starting in May 2018.

64. The debt incurred through the Facility Agreement to establish operations and make certain product acquisitions has significant carrying costs. The Aralez Entities do not have sufficient cash to sustain operations until these products can bring in sufficient revenues to support the business and service the existing debt.

65. The Toprol-XL Franchise is a significant source of revenue for Aralez U.S. and by extension, the Aralez Entities. The Aralez Entities have recently experienced increased generic competition with respect to this product, which is expected to further negatively affect its business.

B. Responses to Financial Difficulties

66. Taken together, these recent events have presented challenges to the business and operations of a group of companies that has taken an assertive acquisition and marketing approach in its business. In addition, the financial difficulties of the Aralez Entities have been exacerbated by working capital tightening and other business impacts that followed

API's public filing of its financial reports in May 2018, which raised substantial doubt regarding the company's ability to continue as a going concern.

67. The Aralez Entities have undertaken significant efforts to counteract the recent financial difficulties experienced, including, among other things:

(a) Reducing its U.S. sales force by 32% in April 2017;

(b) Redirecting marketing resources from Yosprala in 2017;

(c) Discontinuing sales of Yosprala in March 2018 and selling the rights to Yosprala in July 2018;

(d) Discontinuing sales of Zontivity and winding down U.S. commercial operations as announced in May 2018;

(e) Hiring a cash management and restructuring advisor, Alvarez & Marsal Healthcare Industry Group, LLC ("**A&M U.S.**") and Alvarez & Marsal Canada Inc. ("**A&M Canada**" and together with A&M U.S., "**A&M**"), to assist the Aralez Entities in its restructuring efforts, including assistance in cash management and implementing a restructuring plan;

(f) Engaging investment bank Moelis & Company LLC ("**Moelis**") in late 2017 to evaluate strategic alternatives and establish sales processes of various business lines, detailed below starting at paragraph 71; and

(g) Exploring and evaluating alternative financing opportunities that could provide a long-term going concern solution to the Aralez Entities' business.

C. The Applicants are Facing Insolvency

68. Steady losses since 2016, insufficient cash from operations and the inability to raise more capital have limited the Aralez Entities' ability to run their business.

69. The Applicants have not been able to enter into any further amendments or forbearances under the Facility Agreement on terms that would result in a long term going concern solution and anticipate that they will be unable to service their debt in the short-

term. Despite their efforts, the Applicants have been unable to obtain alternative funding on reasonable terms.

70. Without CCAA protection and access to DIP financing (detailed below), the Applicants will not have sufficient cash to meet their obligations as they come due, and their liabilities exceed the value of their assets. The Applicants are insolvent. Without the protection of the CCAA, a shut-down of operations is inevitable, which would be extremely detrimental to the CCAA Entities' stakeholders, including employees and customers. CCAA protection will allow the CCAA Entities to maintain operations while giving them the necessary time to consult with their stakeholders regarding the future of their business operations and execute the proposed sales process. CCAA protection will also allow the CCAA Entities to coordinate restructuring proceedings with the Chapter 11 Entities, should they be granted the relief sought in the U.S. Court.

V. RESTRUCTURING THE CCAA ENTITIES

71. The Aralez Entities (including the Applicants), in response to the issues leading to the current liquidity concerns, engaged in a thorough review of the Aralez Entities' strategic alternatives with the advice and guidance of their legal and financial advisors.

72. The Aralez Entities ultimately determined that the appropriate approach was to proceed with a sale of substantially all of their assets through one or more sales pursuant to (a) the CCAA with respect to the CCAA Entities and (b) section 363 of the Bankruptcy Code with respect to the Chapter 11 Entities.

73. As part of its review and prior to the commencement of the Restructuring Proceedings, the Aralez Entities engaged in active discussions with potentially interested parties to divest various assets, including the Company's U.S. and Canadian rights to distribute certain drug products. In connection with these discussions, the Aralez Entities engaged Moelis as their investment banker and began a prepetition marketing process, reaching out to 73 potential acquiring parties for the Zontivity assets, 68 potential acquiring parties for the Toprol-XL Franchise, 39 potential acquiring parties for a combination of Vimovo royalties and certain Canadian assets and 15 additional parties for just the Vimovo royalties. The Company ultimately distributed a confidential presentation to 41 potential acquirers with respect to Zontivity, 26 potential acquirers with respect to the Toprol-XL

Franchise, 22 potential acquirers with respect to a combination of Vimovo and certain Canadian assets and 5 additional potential acquirers with respect to just the Vimovo royalties.

74. As a result of this process, the Aralez Entities intend to enter into purchase agreements with two separate purchasers: (a) an agreement among Aralez DAC, Pozen, Aralez Canada and Deerfield to purchase the Toprol-XL Franchise through a credit bid of $140 million, and (b) an agreement among API, Pozen, Aralez Canada, Nuvo Pharmaceuticals Inc. and Nuvo Pharmaceuticals Ireland (Limited) (collectively, "**Nuvo**") to purchase the Aralez Entities' Canadian operations and its rights to royalties from Vimovo for $110 million, in each case, free and clear of all claims or encumbrances (other than assumed liabilities and permitted encumbrances), subject to higher or otherwise better offers. The applicable Aralez Entities have signed letters of intent with Deerfield and Nuvo that include the material terms of the proposed transactions, subject to definitive documentation.

75. The CCAA Entities intend to return to court to seek approval of a sales process pursuant to which Nuvo and Deerfield will act as stalking horse bidders for the assets currently subject to their respective letters of intent. The CCAA Entities expect that the Chapter 11 Entities will return to the U.S. Court to seek a similar order, and the Aralez Entities intend to coordinate the sales process.

VI. CASH FLOW FORECAST

76. As set out in the 13-week cash flow projection (the "**Cash Flow Statement**") that was prepared by the CCAA Entities in consultation with A&M, and reviewed by the proposed Monitor for the period from August 4, 2018 to the week ending November 2, 2018, the Applicants' estimated principal uses of cash will consist of the payment of ongoing day-to-day operational expenses and professional fees and disbursements in connection with these CCAA proceedings, including those certain pre-filing payments detailed below. I understand from counsel to the Applicants that a copy of the Cash Flow Statement will be attached to the pre-filing report of the proposed Monitor which is to be filed with the Court.

77. As of August 3, 2018, the Applicants have an estimated $5.8 million in cash on hand. The Cash Flow Statement projects that, subject to obtaining the relief outlined herein,

including approval of the DIP Financing (defined below), they will have sufficient cash to fund their projected operating costs until the end of the stay period.

VII. PROPOSED INITIAL ORDER

A. Authority to Pay Certain Pre-Filing Amounts

78. As of the date of this affidavit, the CCAA Entities owe approximately $6.3 million in royalty and other fees relating to their drug products to licensors.

79. As of the date of this affidavit, the CCAA Entities owe approximately $70,000 to other parties which are important for their continued operation, including drug product manufacturers.

80. While the initial order proposed in these CCAA Proceedings prevents counterparties from terminating their supply arrangements, uninterrupted supply of drug products is critical to ongoing operations and, by extension, the preservation of value of the business. Certain manufacturers are the only entities manufacturing the particular drug product. A party engaging in self-help, even for a short period of time, would disrupt the business during a crucial period.

81. It is the opinion of management of the CCAA Entities that, without payment of the pre-filing amounts owing to these parties, the regulatory agencies and licensors may interrupt the CCAA Entities' ability to procure and sell drug products in the market, leading to a significant disruption in the Applicants' business during the first critical weeks of the CCAA proceedings and cause value dissipation. As such, the CCAA Entities are seeking the authorization, but not the requirement, to make payments to these stakeholders, including those relating to the pre-filing period. Pursuant to the terms of the draft Initial Order, the CCAA Entities would require the consent of the Monitor to make any pre-filing payment amounts.

B. Continuation of Customer Rebate Program

82. As described above, consistent with industry practice, the CCAA Entities maintain various Customer Programs to generate sales and maintain customer loyalty. The Customer Programs often result in the CCAA Entities' accruing liabilities for the benefit of their

customers, some of which will not have been paid upon commencement of the CCAA Proceedings.

83. Maintaining the loyalty, support, and goodwill of customers and partners is critical to the business of the CCAA Entities and their efforts to maximize the value for the benefit of stakeholders. Accordingly, the proposed Initial Order provides that the CCAA Entities are authorized, but not required, to continue to honour and fulfill their obligations under the Customer Programs, including those relating to the pre-filing period.

84. Allowing the CCAA Entities to honour their Customer Programs will maintain goodwill and positive relationships with customers for the duration of the CCAA Proceedings. I understand that similar provisions are being sought within the Chapter 11 Proceedings. The Cash Flow Statement presents customer receipts on a net basis after the deduction of such applicable Customer Program amounts.

C. Engagement of A&M

85. As described above, A&M was previously retained by the Applicants and has played a central role in advising and assisting the Aralez Entities with liquidity management and operational restructuring initiatives. A&M has entered into an engagement letter effective as of July 9 2018, as subsequently amended (the "**A&M Engagement Letter**") pursuant to which A&M will assist the Aralez Entities during the CCAA Proceedings and the Chapter 11 Proceedings. A copy of the A&M Engagement Letter is attached hereto as **Exhibit "G"**.

86. In the proposed Initial Order, the CCAA Entities are seeking the Court's confirmation of the retention of A&M and the approval of the A&M Engagement Letter. The approval of the engagement of A&M is appropriate in the circumstances as A&M has worked extensively with the CCAA Entities since its initial engagement and has significant knowledge with respect to their business, operations and finances. A&M's continued involvement will be critical to the successful completion of the going-concern restructuring transaction as part of the CCAA proceedings that will maximize value for stakeholders. The Applicants believe that the retention of A&M is in the best interests of the CCAA Entities and their stakeholders.

D. Engagement of Moelis and the Transactional Fee Charge

87. As described above, Moelis was previously retained by the Applicants and has played a central role in assisting the Aralez Entities in reviewing their strategic options, developing a pre-filing sales process and otherwise advising and assisting the Aralez Entities. API, Aralez U.S. and Moelis have entered into an engagement letter dated as of July 18, 2018 (the "**Moelis Engagement Letter**") pursuant to which Moelis will assist the CCAA Entities during the CCAA Proceedings. A copy of the Moelis Engagement Letter is attached hereto as **Exhibit "H"**.

88. In the proposed Initial Order, the CCAA Entities are seeking the Court's confirmation of the retention of Moelis and the approval of the Moelis Engagement Letter. The approval of the engagement of Moelis is appropriate in the circumstances as Moelis has worked extensively with the CCAA Entities since its initial engagement and has significant knowledge with respect to their business, operations and finances. Moelis' continued involvement will be critical to the successful completion of the going-concern restructuring transaction as part of the CCAA proceedings that will maximize value for stakeholders. The Applicants believe that the retention of Moelis is in the best interests of the CCAA Entities and their stakeholders.

89. Moelis is the investment banker to the Aralez Entities, including the CCAA Entities. The services it has provided to date have benefitted the Applicants and are expected to continue benefitting the Applicants during the CCAA Proceedings, including by executing the sales process. In return for its services, Moelis charges a monthly fee for its work in the amount of $150,000 (the "**Monthly Fee**") and will further collect certain Transaction, Restructuring or Financing fees (as those terms are defined in the Moelis Engagement Letter, and collectively, the "**Transactional Fees**") if the conditions to its engagement are met as described in the Moelis Engagement Letter. During the Restructuring Proceedings, Moelis will split its monthly fee equally between the CCAA Entities and Chapter 11 Entities, and any Transactional Fees shall be allocated proportionately among the estates based on proceeds. To the extent necessary, Moelis will also reconcile its monthly fees between the two proceedings to reflect the allocation of proceeds of sale.

90. The Aralez Entities have determined that the proposed system for allocating work by Moelis is reasonable. The Initial Order provides that the Transactional Fee Charge shall rank fourth on the Property of the Applicants.

E. Administration Charge

91. The Applicants seek a Charge (defined below) on the assets, property and undertakings of the CCAA Entities (the "**Property**") in the maximum amount of $1 million to secure the fees and disbursements incurred in connection with services rendered to the Applicants both before and after the commencement of the CCAA proceedings by the proposed Monitor, the Monitor's counsel, the Financial Advisor, and the Applicants' counsel, and for 50% of the Monthly Fee (as that term is defined in the Moelis Engagement Letter) of the Investment Banker in relation to the fees and expenses incurred for services for the benefit of the CCAA Entities (subject to paragraph 94 below) (the "**Administration Charge**").

92. The CCAA Entities worked with A&M Canada and the proposed Monitor to estimate the proposed quantum of the Administration Charge. The proposed Monitor has reviewed the quantum of the Administration Charge and believes it is reasonable and appropriate in view of the complexities of the Applicants' CCAA proceedings and the services to be provided by the beneficiaries of the Administration Charge.

Beneficiaries of the Administration Charge

93. The Applicants are represented by Stikeman Elliott LP and Willkie Farr & Gallagher LLP ("**Willkie Farr**"). Within the Restructuring Proceedings, it is expected that the majority of Willkie Farr's work will be for the benefit of the Chapter 11 Entities, and Willkie Farr will bill its work accordingly. It is expected that Willkie Farr also will provide certain legal services for the benefit of the Applicants. In such event, Willkie Farr will maintain separate bills for this work and will remit those bills to the CCAA Entities for payment.

94. A&M is the Financial Advisor to the Aralez Entities. CCAA-related work will be performed by A&M Canada and billed to the CCAA Entities, while Chapter 11-related work will be performed by A&M U.S. and billed to the Chapter 11 Entities. Where financial advisory services are provided for the benefit of the Aralez Entities as a whole, the

applicable A&M entity shall bill the CCAA Entities and the Chapter 11 Entities equally. To the extent necessary, A&M will reconcile the fees billed to the Aralez Entities as a whole based on allocation of proceeds of sale.

95. During the CCAA Proceedings, Moelis will allocate 50% of its Monthly Fee to the CCAA Entities and 50% of its Monthly Fee to the Chapter 11 Entities. To the extent necessary, Moelis will reconcile the fees billed to the Aralez Entities as a whole to reflect the allocation of proceeds.

96. The Aralez Entities have determined that the proposed system for allocating work by Willkie Farr, A&M and Moelis is reasonable. Pursuant to the terms of the Initial Order, in the event a fee allocation reconciliation is required, the CCAA Entities will return to the Court to seek such allocation.

97. The Initial Order provides that the Administration Charge shall rank first on the Property of the Applicants.

F. DIP Financing

98. The CCAA Entities are generally profitable at the operational level; however, their costs and revenues fluctuate in such a manner that they are not cash positive consistently. Accounting for the variance of cash flows, the potential impact and increased costs of a CCAA proceeding and taking a conservative approach, the CCAA Entities, in consultation with their advisors, have determined that the CCAA Entities have insufficient liquidity to maintain an appropriate minimum level of cash throughout the proposed CCAA proceedings and require interim debtor-in-possession financing ("**DIP Financing**") to provide suppliers, customers and other stakeholders with confidence that the business of the CCAA Entities will continue to operate uninterrupted throughout these CCAA Proceedings. DIP Financing is critical to allow the CCAA Entities the appropriate time to run a post-filing sales process and implement a sale of their assets for the benefit of all of their stakeholders. The proposed Monitor has been provided with the cash flows relating to this determination.

99. The Chapter 11 Entities also require DIP Financing. The Aralez Entities determined that the most efficient financing process would be to obtain financing from one party for all

of the Aralez Entities. The Aralez Entities and their advisors worked together to obtain such financing on terms that were equally favourable to both the CCAA Entities and the Chapter 11 Entities.

Process for Selecting DIP Financing

100. The Chapter 11 Entities also require DIP Financing. The Aralez Entities and their advisors worked together to obtain such financing on terms that were equally favourable to both the CCAA Entities and the Chapter 11 Entities. The Aralez Entities solicited DIP financing proposals from nine sources, including from their existing secured lender, Deerfield. Only one party, an affiliate of Deerfield (the "**DIP Lender**"), submitted a proposal to provide DIP Financing. Further, Deerfield indicated that it would oppose any third party lender priming its first-ranking security position.

Summary of DIP Financing

101. The CCAA Entities, with assistance from their advisors, counsel and the prospective Monitor, are negotiating the Debtor-In-Possession credit agreement (as amended, supplemented or otherwise modified from time to time, the "**Canadian DIP Credit Agreement**") pursuant to which the DIP Lender will provide to the CCAA Entities a term loan facility (the "**Canadian DIP Facility**") in the maximum amount of US$10 million. A copy of the Canadian DIP Credit Agreement is anticipated to be filed separately before the hearing of this application.

102. The Chapter 11 Entities, through Moelis, A&M and their U.S. counsel, have negotiated the Debtor-In-Possession credit agreement (as amended, supplemented or otherwise modified from time to time, the "**U.S. DIP Credit Agreement**") pursuant to which the Chapter 11 Entities will obtain access to a facility in the maximum amount of US$5 million from Deerfield.

103. A summary of some of the material terms of the Canadian DIP Credit Agreement are set out below:

(a) **Borrowers**: API and Aralez Canada.

(b) **Facility Amount**: US$10 million.

(c) **Interest Rate**: 10% plus 2% upon an event of default under the Canadian DIP Facility.

(d) **Fees**: 1% of the Facility Amount (which shall be non-refundable and fully earned on the date of the Canadian DIP Agreement and shall be due and payable on the Maturity Date) and 1% of the Facility Amount upon any extension of the term of the DIP Facility.

(e) **Maturity**: the earliest of, among others, (a) February 2019; (b) the sale of all or substantially all of the CCAA Entities' assets; and (c) termination of the CCAA Proceedings.

(f) **Milestones**: the Canadian DIP Credit Agreement provides that the CCAA Entities must take certain steps and obtain certain orders by the deadlines set out in section 1.1 (Case Milestones) of the Canadian DIP Credit Agreement, including entering into a stalking horse agreement for the sale of all or substantially all of their assets within 21 days of the CCAA filing date and completing the sale(s) of their assets within a certain amount days of obtaining Court approval of any sale(s). These milestones can be extended by the Applicants with the consent of the DIP Lender.

(g) **Negative Covenants**: The Canadian DIP Credit Agreement contains a number of negative covenants, including:

(i) The grant of any liens other than specifically permitted liens (which for greater certainty does not include liens granted by Court Order other than the Initial Order);

(ii) Failure by the Applicants to be in compliance with the budget approved by the DIP Lender.

(h) **Charge**: amounts owing under the DIP Facility are proposed to have a second-ranking Court-ordered charge on the Property of the CCAA Entities (the "**DIP Lenders' Charge**") in priority to all other liens and interests.

104. The Canadian DIP Credit Agreement is also expected to contain a number of Events of Default, including:

(a) An occurrence of an "Event of Default" as defined in the U.S. DIP Credit Agreement;

(b) An attempt by any person to invalidate or reduce the pre-filing indebtedness to and security of Deerfield;

(c) Failure of the CCAA Court to permit Deerfield to credit bid their pre-filing debt and security in connection with the purchase of the CCAA Parties' assets; and

(d) Breach of any covenants under the Canadian DIP Credit Agreement.

105. The Canadian DIP Credit Agreement is expected to provide that upon an event of default, the DIP Lender is entitled to exercise all of its rights and remedies upon notice to the CCAA Entities and the Monitor.

106. The DIP Facility is expected to provide sufficient liquidity to allow the CCAA Entities to pursue a restructuring in these CCAA Proceedings. As the Canadian DIP Facility is provided by Deerfield and Deerfield has the only PPSA-registered security on the assets of the CCAA Entities, the CCAA Entities believe there will be no material prejudice to any of their existing creditors in approving the Canadian DIP Credit Agreement. Accordingly, the CCAA Entities seek an order authorizing and empowering the Applicants to obtain and borrow under the Canadian DIP Facility in order to finance the operations of the CCAA Entities during the CCAA Proceedings.

G. D&O Charge

107. To ensure the ongoing stability of the Applicants' business during the CCAA proceedings, the Applicants require the continued participation of their respective directors, officers, managers and employees.

108. The Applicants are seeking what I am advised are typical provisions staying all proceedings against the directors and officers and granting an indemnity with respect to all

post-filing claims that may arise against the directors and officers in their capacity as the Applicants' directors or officers.

109. I am advised by counsel to the Applicants that in certain circumstances directors can be held liable for certain obligations of a corporation owing to employees and government entities.

110. The Applicants maintain directors' and officers' liability insurance (the "**D&O Insurance**") that benefit the directors and officers of the CCAA Entities. In addition, there are also contractual indemnities which have been given to the directors and officers by the CCAA Entities. The Applicants may not have sufficient funds to satisfy those indemnities should their directors and officers be found responsible for the full amount of the potential directors' liabilities. Lastly, there is a deductible for certain claims and the presence of a number of exclusions creates a degree of uncertainty.

111. The directors and officers of the Applicants have indicated that, due to the potentially significant personal exposure arising going forward, they cannot continue their service with the Applicants unless the Initial Order grants a charge on the Property in the amount of $1 million (the "**D&O Charge**"). The D&O Charge is proposed to rank third in priority on the Property.

112. The D&O Charge will allow the Applicants to continue to benefit from the efforts and knowledge of their directors and officers. The Applicants and the proposed Monitor believe the D&O Charge is reasonable in the circumstances.

H. Ranking of the Court Ordered Charges

113. The proposed ranking of the court ordered charges is as follows:

(a) Administration Charge;

(b) DIP Lenders' Charge;

(c) D&O Charge; and

(d) Transaction Fee Charge.

VIII. COMEBACK MOTION

114. The Applicants intend to return to Court on notice to the service list for a motion (the "**Comeback Motion**") seeking, among other things:

(a) Approval of the cross-border protocol in order to coordinate proceedings between the CCAA Entities and the Chapter 11 Entities;

(b) Approval of key employee incentive and retention programs; and

(c) Extension of the stay of proceedings established by the proposed Initial Order.

115. The Applicants further intend to return to Court on notice to the service list for a motion (the "**Sales Process Motion**") seeking, among other things, approval of the stalking horse sale process described above.

IX. MONITOR

116. Richter Advisory Group Inc. ("**Richter**") has consented to act as the Court-appointed Monitor (the "**Monitor**") of the CCAA Entities, subject to Court approval.

117. Richter is a trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act* as amended, and is not subject to any of the restrictions on who may be appointed as Monitor set out in section 11.7(2) of the CCAA. I am advised by my legal counsel that Richter has extensive experience in matters of this nature, including in cross-border restructuring proceedings, and is therefore well-suited to this mandate

118. I am advised by Paul van Eyk of Richter that the proposed Monitor is supportive of the relief being sought in favour of the CCAA Entities. Mr. van Eyk has also advised me that the proposed Monitor will be filing a pre-filing Monitor's report in respect of that relief.

SWORN BEFORE ME at the City of New York, State of New York, on August 9, 2018.

Rebecca Cordy
Commissioner for Taking Affidavits

ANDREW I. KOVEN

REBECCA B. CORDY
Notary Public, State of New York
No. 01CO6315535
Qualified in New York County
Commission Expires Nov. 24, 2018

TAB C

THIS IS EXHIBIT "C"
TO THE AFFIDAVIT OF ANDREW I. KOVEN
SWORN BEFORE ME THIS 28TH DAY OF AUGUST 2018

Commissioner for ~~Taking~~ Affidavits

AUGUST 28th 2018

DIANA J PERALTA
Notary Public - State of New York
NO. 01PE6300197
Qualified in Suffolk County
My Commission Expires Mar 31, 2022

MOELIS & COMPANY

399 Park Avenue
5th Floor
New York, New York 10022

T 212 883 3800
F 212 880 4260

CONFIDENTIAL

July 18, 2018

Aralez Pharmaceuticals Inc.
7100 West Credit Avenue, Suite 101
Mississauga, Ontario L5N 0E4

Aralez Pharmaceuticals US Inc.
400 Alexander Park Drive
Princeton, NJ 08540

Attn: Mr. Andrew I. Koven
President and Chief Business Officer

Dear Andrew:

Reference is hereby made to that certain engagement letter agreement, dated December 20, 2017, (the "Original Agreement") between Aralez Pharmaceuticals Inc. (together with Aralez Pharmaceuticals US Inc. and its other subsidiaries, the "Company") and Moelis & Company LLC ("Moelis"). The parties hereby agree to amend and restate the Original Agreement in its entirety as follows, which amended and restated agreement supersedes and replaces any obligations of the Company contained in the Original Agreement:

The purpose of this letter agreement is to confirm the engagement of Moelis to act as financial advisor to the Company in connection with general investment banking advisory services, a potential Transaction, Financing (to the extent applicable), and/or Restructuring. This amended and restated agreement is effective as of December 20, 2017.

For purposes hereof, a "Transaction" shall mean the direct or indirect sale, transfer or other disposition of all or a significant portion of the equity interests, assets or business of the Company or the Canadian business of the Company, or any other business combination or extraordinary corporate transaction involving the Company or the Canadian business of the Company, whether in one or a series of transactions, including, without limitation, by way of a negotiated sale, merger or consolidation, spin-off, split-off or other extraordinary dividend of cash, securities or other assets, tender or exchange offer, leveraged buyout, minority investment or partnership, strategic relationship, collaborative venture, divestiture or otherwise. This engagement is exclusive to Moelis with respect to a potential Transaction only, except that it is understood and agreed that the Company may, with prior written notice to Moelis, also engage one or more other investment banks in connection with any Transaction that does not involve a change of control of the Company or the Canadian business of the Company. For the avoidance of doubt, a Transaction shall not include any sale or license of the Company's Bezalip (U.S. rights), Fibricor or Yosprala products (or any combination of the foregoing) and no Transaction Fee (as defined herein) shall be payable with respect to any such transaction.

For purposes hereof, a "Restructuring" shall mean any restructuring, reorganization, rescheduling, repayment, refinancing or recapitalization of all or any material portion of the liabilities of the Company, however such result is achieved, including, without limitation, through a plan of reorganization or liquidation (a "Plan") confirmed in connection with a case (a "Bankruptcy Case") commenced by or against the Company or any of its subsidiaries or affiliates under Restructuring Law (as defined below), an exchange offer or consent solicitation, covenant relief, a rescheduling of debt maturities, a change in interest rates, a settlement or forgiveness of debt, a conversion of debt into equity, or other amendments to the Company's debt instruments, in each case that is material. For the avoidance of doubt, an amendment to any of the Company's

existing agreements with AztraZeneca that occurs outside of a Bankruptcy Case shall not constitute a Restructuring.

"Restructuring Law" means the U.S. Bankruptcy Code (the "Bankruptcy Code"), the Companies' Creditors Arrangement Act of Canada ("CCAA"), the Canada Business Corporations Act ("CBCA"), the Alberta Business Corporations Act ("ABCA"), the Canadian Bankruptcy & Insolvency Act ("BIA"), or any similar applicable law, and "Bankruptcy Court" means the U.S., Canadian or other court administering a Bankruptcy Case.

1. In connection with its engagement hereunder, Moelis proposes to undertake the following services on behalf of the Company, to the extent requested by the Company and as appropriate:

   a. reviewing the business, assets and operations of the Company and its historical and projected financial condition;

   b. assisting the Company in evaluating the business, assets and operations of various targets and their respective historical and projected financial condition;

   c. evaluating and recommending potential financial and strategic alternatives with respect to a potential Restructuring, Transaction or Financing (to the extent applicable) (as defined below);

   d. advising the Company as to the timing, structure and pricing of a potential Restructuring, Transaction or Financing (to the extent applicable);

   e. assisting the Company in negotiating the financial terms and consummating a potential Restructuring, Transaction or Financing (to the extent applicable);

   f. providing testimony, including written declarations, in any Bankruptcy Case arising from, related to, or regarding the process for any Transaction, Restructuring and/or Financing, if necessary (provided that any expert report or similar litigation services will entitle Moelis to additional fees to be negotiated in good faith at the appropriate time); and

   g. providing such other financial advisory and investment banking services in respect of a potential Restructuring or Transaction and related matters as are customary for similar restructurings and transactions and reasonably agreed upon by the Company and Moelis.

The Company hereby authorizes the use of data furnished to Moelis by the Company for distribution to third parties being considered for a potential Transaction, Restructuring and/or Financing (to the extent applicable), provided that such parties are subject to a confidentially agreement signed by the Company.

In order to coordinate most effectively our efforts together to effect a Transaction, Restructuring or Financing (to the extent applicable) during the term of the engagement hereunder, the Company will inform Moelis of any material discussions they may have or of any inquiry they may receive concerning a potential Transaction.

The foregoing services with respect to a Financing will only apply if (and to the extent) Moelis is engaged by the Company to act as its placement agent and/or capital markets advisor in connection with a Financing.

2. As compensation for Moelis' services hereunder, the Company shall pay Moelis the following cash fees:

Transaction Fee

   a. A transaction fee in an amount determined in accordance with the formula set forth in Schedule B hereto (the "Transaction Fee"), payable at the consummation of a Transaction if, (i) during the term of this letter agreement a Transaction is consummated or (ii) within 12 months after such term or, if this letter agreement is terminated prior to the end of its

stated term, within 12 months of such termination (except in the case of a termination by Moelis without Cause (as defined below) or in the case of a termination by the Company for Cause), a Transaction is consummated or a definitive agreement for a Transaction is entered into and such Transaction is subsequently consummated. The Transaction Fee shall be payable solely upon or after the consummation of such Transaction in accordance with Schedule B hereto. Pursuant to Schedule B, the aggregate Transaction Fee(s) above the Aggregate Transaction Fee Minimum (the "Transaction Fee Credit") shall be credited against the Restructuring Fee.

In the event that, during the term of this letter agreement, within 12 months after such term or, if this letter agreement is terminated prior to the end of its stated term, within 12 months of such termination (except in the case of a termination by Moelis without Cause or in the case of a termination by the Company for Cause), the Company shall execute a definitive agreement providing for a Transaction, such agreement shall subsequently be terminated and the Company is paid a termination, "break up", liquidated damages or similar fee or payment (including, without limitation, any judgment for damages or amount in settlement of any dispute as a result of such termination) in connection with such termination (a "Break-Up Payment"), then the Company shall pay to Moelis, upon its receipt of such Break-Up Payment, an amount (the "Break-Up Fee") equal to the lesser of (i) 15% of the difference resulting from the Break-Up Payment minus all out-of-pocket fees and expenses actually incurred and payable by the Company in connection with the Transaction (e.g. legal, accounting, tax, etc.) and (ii) the Transaction Fee (based on the estimated Transaction Fee that would have been payable had the proposed Transaction been consummated in accordance with the terms of such definitive agreement). Any non-cash component of Transaction Value (as defined on Schedule B) utilized in determining any such Break-Up Payment shall be valued in accordance with the provisions of Schedule B relating to such non-cash consideration.

Financing Fee

b. Upon the commencement of a Bankruptcy Case and until the completion of a Restructuring, Moelis shall have the right to act as exclusive placement agent in connection with any potential Financing. Other than as set forth in the previous sentence, Moelis acknowledges that should the Company pursue raising funds through a public or private equity or debt transaction, the Company may engage one or more investment banks other than Moelis, and unless agreed in writing otherwise, Moelis will not be entitled to compensation in connection with such transaction. However, should Moelis become engaged as the Company's placement agent and/or capital markets advisor (which the Company may request in its sole discretion) in connection with a Financing, such roles will be subject to the fees below. Notwithstanding anything to the contrary contained in this agreement, the Company may engage Commercial Capital Corporation and/or its affiliates ("CCC") in connection with a Financing provided by Canadian investors (and/or their non-Canadian affiliates) of any type (except debtor-in-possession financings), including without limitation any investment in an emerged company, and at any time and no Financing Fee shall be payable to Moelis with respect to any such Financing arranged by CCC.

A transaction fee in an amount determined in accordance with the formulas set forth below (the "Financing Fee"), payable at the consummation of a Financing (as defined below) if, (i) during the term of this letter agreement a Financing is consummated or (ii) within 12 months after such term or, if this letter agreement is terminated prior to the end of its stated term, within 12 months of such termination (except in the case of a termination by Moelis without Cause (as defined below) or in the case of a termination by the Company for Cause), a Financing is consummated or a definitive agreement for a Financing is entered into and such Financing is subsequently consummated. The Financing Fee shall be payable solely upon the consummation of such Financing.

For purposes hereof, a "Financing" shall mean a New Financing or a Refinancing.

A "New Financing" shall mean a public or private issuance, sale or placement of equity or debt securities, instruments or obligations of the Company, or any loan or other debt financing (including any "debtor-in-possession" financing) involving debt securities, instruments or obligations of the Company, with one or more lenders and/or investors but shall exclude a Refinancing and any amendment or modification to the Company's indebtedness that does not constitute a Refinancing.

A "Refinancing" shall mean any refinancing or restructuring (including, without limitation, through any exchange, conversion, cancellation, settlement, forgiveness, retirement and/or modification or amendment to the terms, conditions or covenants thereof) of all or a material portion of the Company's debt securities and/or other indebtedness, obligations or liabilities outside a Bankruptcy Case, provided that with respect to any such other indebtedness, obligations or liabilities, Moelis represents the Company outside a Bankruptcy Case (as evidenced through the execution of a new engagement letter or amendment hereto with respect to such representation) with respect to the refinancing, restructuring, or renegotiation thereof (including, without limitation, swap liabilities, pension liabilities, OPEB liabilities, capital or operating lease obligations, trade claims, other contract or tort obligations, and other on and off balance sheet indebtedness but excluding any funds from asset sales under $15 million used to pay down debt), however such result is achieved.

The amount of the Financing Fee shall be equal to:

i) 1.50% of the gross proceeds of any debt capital (including any "debtor-in-possession" financing) raised; and/or

ii) 3.50% of the gross proceeds of any equity capital raised; and/or

iii) 1.00% of the face value (consisting of principal plus fees, premiums, accrued and unpaid cash or payment in kind interest) of any of the Company's debt securities and/or other indebtedness, obligations or liabilities that is the subject of a Refinancing.

If the debtor-in-possession ("DIP") financing is raised solely from Deerfield Management Company L.P. and/or its affiliates (together with their affiliates, "Deerfield"), 100% of the Financing Fee paid pursuant to this DIP financing shall be credited (the "DIP Credit") against any Restructuring Fee (as defined below). If the DIP financing is raised from Deerfield in conjunction with other new money lenders, the DIP Credit shall be pro-rated to reflect Deerfield's share of commitment in that DIP facility.

Discretionary Fee

c. At the sole discretion of the Company, it may pay Moelis an additional fee (a "Discretionary Fee") in such amount as the Company may determine, based on such factors as the Company's satisfaction with Moelis' services, the complexity of the transaction, the time and effort expended by Moelis on the Company's behalf and value added by Moelis.

Monthly Fee

d. During the term of this agreement, a fee of $150,000 per month (the "Monthly Fee"), shall be payable on the first day of each month starting May 1, 2018. The Company will pay the Monthly Fees for May 2018, June 2018 and July 2018 immediately upon the execution of this agreement, and all subsequent Monthly Fees prior to each monthly anniversary of the date of this agreement. Whether or not a Restructuring has taken place or will take place, Moelis shall earn and be paid the Monthly Fee every month during the term of this agreement. 50% of the Monthly Fees, beginning with the fifth full Monthly Fee that is actually paid, shall be offset (the "Monthly Fee Credit") against the Restructuring Fee (as defined below).

Restructuring Fee

c. A one-time fee (the "Restructuring Fee"), payable upon any Restructuring shall be $3.5 million. If, at any time prior to the end of the Restructuring Tail Period (as defined below), the Company consummates any Restructuring or enters into an agreement or a Plan is filed regarding any Restructuring and a Restructuring is subsequently consummated, then the Company (or its bankruptcy estates) shall pay Moelis the applicable Restructuring Fee immediately upon the closing of any such Restructuring(s). The "Restructuring Tail Period" shall end on the earlier of (i) when a Restructuring is consummated or (ii) 12 months following the expiration or termination of this agreement. If the Company requests Moelis to render services not set forth in this agreement, such services will be subject to a separate mutually agreed upon engagement. The Restructuring Fee shall be offset, to the extent applicable, by the Transaction Fee Credit, the DIP Credit, and the Monthly Fee Credit. The maximum allowed amount of these credits against the Restructuring Fee shall be $3.5 million, and in no event shall the Restructuring Fee, after giving effect to applicable credits, be less than zero.

Notwithstanding anything to the contrary contained in this letter agreement, the aggregate amount of Transaction Fee(s), Restructuring Fee (after applicable credits) and DIP Credit payable under this letter agreement shall not exceed $6.5 million.

No fee payable to any other financial advisor by the Company or any other person in connection with a Transaction shall reduce or otherwise affect any fee payable to Moelis hereunder. In the event of a Financing (other than a DIP Financing, which shall be credited as set forth above) consummated outside a Bankruptcy Case, pursuant to which Moelis acts as the exclusive placement agent and capital markets advisor is entered into in conjunction with a Transaction involving a change of control of the Company and the Canadian business, then Moelis shall credit 50% of the Financing Fee with respect to such Financing against the Transaction Fee with respect to such Transaction.

In the event the Company determines to pursue a Transaction other than one that would result in a change of control of the Company or involving the Canadian business of the Company, such as any acquisition or other extraordinary corporate transaction, the Company may engage Moelis to act as financial advisor in connection therewith, provided that the parties mutually agree to an amendment to this letter or a separate engagement letter to provide such additional advisory services in connection therewith upon such terms and conditions and with such fees as are customary for similar engagements. Moelis acknowledges that should the Company pursue raising funds through a public equity transaction, the Company may engage one or more investment banks in addition to Moelis.

3. In addition to any fees payable to Moelis hereunder (and regardless of whether a Transaction is proposed or occurs), the Company shall promptly reimburse Moelis for reasonable travel and other out-of-pocket expenses incurred by Moelis in performing its services hereunder, including the reasonable fees and expenses of legal counsel; provided, however, in no event shall such out-of-pocket expenses be in excess of $125,000 in the aggregate without the Company's prior written consent, such consent not to be unreasonably withheld. For the avoidance of doubt, the foregoing limitation shall in no way affect the Company's obligations pursuant to Schedule A of this letter agreement.

4. If a Bankruptcy Case is commenced, subject to the requirements of applicable Restructuring Law, rules, guidelines and any orders of the applicable courts:

a. In the event of a Bankruptcy Case under the Bankruptcy Code, whether voluntarily or involuntarily, the Company will use its reasonable best efforts to seek a final order of the Bankruptcy Court authorizing our employment as the Company's exclusive financial adviser under this agreement pursuant to, and subject to the standards of review set forth in, section 328(a) of the Bankruptcy Code (and not subject to the standards of review set forth in section 330 of the Bankruptcy Code), nunc pro tunc to the date of the filing of the Bankruptcy Case. The retention application and any order authorizing Moelis' retention must be acceptable to Moelis. Prior to commencing a Bankruptcy Case, the Company will

pay all fees then earned and payable and will reimburse Moelis for all expenses that Moelis incurred prior to commencement in accordance with this agreement.

b. In the event of a Bankruptcy Case under the Bankruptcy Code, Moelis will have no obligation to provide services unless the Bankruptcy Court approves Moelis' retention in a final non-appealable order acceptable to Moelis under section 328(a) of the Bankruptcy Code within 60 days following the filing of a voluntary chapter 11 case or the entry of an order for relief in any involuntary chapter 11 case. If neither the Company nor Moelis obtain such an order within such 60-day period, or such order is later reversed, vacated, stayed or set aside for any reason, Moelis may terminate this agreement, and the Company shall reimburse Moelis for all fees owing and expenses incurred prior to the date of termination, subject to the requirements of the Bankruptcy Rules, and Moelis shall be entitled to a contingent claim with respect to any fees that become payable under Section 2.

c. In the event of a Bankruptcy Case under the Bankruptcy Code, Moelis' post-petition compensation, expense reimbursements and payment received pursuant to the provisions of Schedule A shall be entitled to priority as expenses of administration under sections 503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code, and shall be entitled to the benefits of any "carve-outs" for professional fees and expenses in effect pursuant to one or more financing orders entered by the Bankruptcy Court. Following entry of an order authorizing our retention, the Company will assist Moelis in preparing, filing and serving fee statements, interim fee applications, and a final fee application. The Company will support Moelis' fee applications that are consistent with this agreement in papers filed with the Bankruptcy Court and during any Bankruptcy Court hearing. The Company will pay promptly our fees and expenses approved by the Bankruptcy Court and in accordance with the Bankruptcy Code, applicable rules and any orders of the Bankruptcy Court.

d. The Company will use its reasonable efforts to ensure that, to the fullest extent permitted by law, any confirmed plan of reorganization or liquidation in the Bankruptcy Case contains typical and customary releases (both from the Company and from third parties) and exculpation provisions releasing, waiving, and forever discharging Moelis, its divisions, affiliates, any person controlling Moelis or its affiliates, and their respective current and former directors, officers, partners, managers, members, agents, representatives and employees from any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, and liabilities related to the Company or the engagement described in this agreement.

e. This agreement shall be binding on the Company and all claims made by Moelis pursuant to the terms of this agreement are not claims that may be compromised pursuant to any plan of compromise or arrangement under the CCAA, ABCA or CBCA or proposal under the BIA and, subject to applicable Restructuring Law, no Plan shall be approved that does not provide for the payment of all amounts due to Moelis pursuant to the terms of this agreement. In the event of a Bankruptcy Case in Canada, the Company will use its commercially reasonable efforts to ensure, as a term of the Bankruptcy Court order, that the payment of all applicable fees, reimbursement of expenses and indemnification or contribution obligations contemplated by this agreement (whether incurred before or after the date of any order approving this agreement) shall be secured by an administration charge.

These terms may be waived, in whole or in part, only by Moelis.

5. Subject to Section 6 of this engagement letter, the term of Moelis' engagement hereunder in connection with a potential Restructuring, Transaction, or Financing (to the extent applicable) shall commence on the date hereof and continue for a period of 12 months, unless extended by mutual written consent or earlier terminated by either party upon 10 days' prior written notice; provided, however, that no such termination shall affect (i) the indemnification and contribution obligations of the Company; (ii) the confidentiality obligations of the Company or Moelis, (iii) except as provided in Section 5, the right of Moelis to receive any fees (other than Monthly Fees) payable under Section

2 hereof (including the right of Moelis to receive, for the applicable period after any expiration or termination of this letter agreement, the Restructuring Fee, Transaction Fee, the Break-Up Fee and the Financing Fee (to the extent applicable)) or fees that have accrued prior to such termination or (iv) the right of Moelis to receive reimbursement for its out-of-pocket expenses as described above.

6. Notwithstanding anything to the contrary set forth herein, in the event of a termination of this letter agreement by Moelis without Cause or by the Company for Cause, Moelis shall not be entitled to any fees payable under Section 2 hereof following such termination (including the right of Moelis to receive, for the applicable period after any expiration or termination of this letter agreement, the Transaction Fee; the Break-Up Fee and the Financing Fee (to the extent applicable)).

For purposes of this letter agreement (i) "Cause" with respect to Moelis shall mean any action or failure to act by Moelis that constitutes bad faith, willful misconduct or gross negligence in connection with this agreement and (ii) "Cause", with respect to the Company, shall mean the Company's bad faith, gross negligence, and willful misconduct in connection with this agreement. Notwithstanding the foregoing, if Moelis obtains a judicial determination that it did not act with bad faith, willful misconduct or gross negligence in the performance of its services hereunder, Moelis will remain entitled to its Transaction Fee hereunder.

7. In consideration for the services provided in this agreement and in the Original Agreement, the Company shall indemnify Moelis and related persons in accordance with the indemnification letter attached hereto as Schedule A, the provisions of which are incorporated herein by reference in their entirety.

8. The Company shall provide to Moelis all financial and other information concerning the Company reasonably requested by it for the purpose of its assignment hereunder, including providing Moelis with reasonable access to management and other representatives of the Company. The Company agrees and represents, to the best of its knowledge, that information concerning the Company prepared by the Company and furnished to Moelis pursuant to this letter agreement shall be accurate and complete in all material respects at the time provided, and that if the Company becomes aware that such information becomes inaccurate, incomplete or misleading in any material respect during the term of Moelis' engagement hereunder, the Company shall promptly notify Moelis. In performing its services hereunder, Moelis shall be entitled to rely upon and assume, without assuming any responsibility for independent verification, the accuracy and completeness of all information that is publicly available and all information that has been furnished to it by or on behalf of the Company, any other participant in a transaction contemplated hereunder or otherwise reviewed by Moelis, and Moelis shall not assume any responsibility or have any liability therefor. Moelis shall have no obligation to conduct any appraisal of any assets or liabilities. Moelis does not provide accounting, tax, legal or regulatory advice. The Company agrees that it will be responsible for ensuring that any transaction contemplated hereunder complies with applicable law.

Any financial advice rendered by Moelis or its representatives pursuant to this letter agreement is intended solely for the benefit and use of the Company and the Board of Directors of the Company, acting solely in its capacity as such, in considering and evaluating a Transaction or any of the other matters contemplated by this agreement, is not on behalf of, and shall not confer rights or remedies upon, any person other than the Company and the Board of Directors of the Company (or such committee), and may not be used or relied upon for any other purpose. Except as required by the Bankruptcy Code, rules or orders of the applicable Bankruptcy Court, and any other applicable law (provided that prior notice thereof is provided to Moelis), no such financial advice or the terms of this letter agreement may be disclosed publicly in any manner without Moelis' prior written consent and all such advice and the terms of this letter agreement will be treated by the Company and Moelis, respectively, as confidential. The Company has not taken, and except in connection with a Bankruptcy Case, will not take, any action, directly or indirectly, so as to cause any Financing that involves the sale or offering of securities (a "Capital Transaction") to fail to be entitled to exemption under Section 4(a)(2) of the Securities Act of 1933 (the "Securities Act"). The Company will promptly from time to time take such action as Moelis may reasonably request to qualify the Capital Transaction as a private placement under the securities laws of such jurisdictions as Moelis may reasonably request.

Except in connection with a registration exemption pursuant to applicable Restructuring Law at the closing of a Capital Transaction, (i) the Company shall be deemed to make all the representations and warranties to Moelis that the Company has made to purchasers of the Capital Transaction ("Purchasers"), (ii) the Company shall deliver to Moelis an opinion of Company counsel to the effect that the Capital Transaction was exempt from registration under the Securities Act and which shall also include all opinions delivered to the Purchasers; (iii) the Company shall deliver to Moelis from each Purchaser for Moelis' express benefit a big boy representation in the form of *Schedule C*, and the Company hereby makes the representation, warranty and covenant with respect to bad actor disqualifications set forth in *Schedule C-1*, and (iv) the Company will also deliver to Moelis copies of such agreements, opinions, certificates and other documents delivered at the closing as Moelis may reasonably request. The Company will be responsible for all information provided by or on its behalf to Purchasers in a Capital Transaction.

9. All amounts herein are stated in U.S. dollars and all payments under this letter agreement, including under Schedule A hereof, shall be paid in immediately available funds in U.S. dollars, and without withholding or deduction of any tax, assessment or other governmental charge (collectively, "Tax") unless required by law; and if the Company shall be required to deduct or withhold any Tax, or if any Tax is required to be paid by Moelis solely on account of the services performed hereunder, the Company shall pay to Moelis such additional amounts as shall be required so that the net amount received by Moelis from the Company after such deduction, withholding or payment shall equal the amounts otherwise due to Moelis under this letter.

The Company hereby consents to the service of any and all process which may be served in any suit, action, or proceeding arising out of or relating to this letter agreement by means of personal delivery or courier service, addressed to it at the following address: (i) with respect to the Company, 400 Alexander Park Drive, Princeton, NJ 08540, and to the attention of the legal department of the Company, and (b) with respect to Moelis, at the address on the first page of this agreement, and the Company and Moelis each hereby irrevocably waives, to the fullest extent permitted by law, any objection it may now or hereafter have under New York law or any law of any State of the United States or of any other jurisdiction or otherwise to service of process in such manner.

10. Following the public announcement of any transaction contemplated by this agreement, Moelis may, at its own expense, place announcements or advertisements in financial newspapers, journals and marketing materials describing its services hereunder, provided, that Moelis shall obtain the Company's prior approval as of the form and substance of all such announcements and advertisements and no such announcement or advertisement shall disclose the consideration or other material terms of any such transaction to the extent not publicly disclosed by the Company. If requested by Moelis, the Company shall include a mutually acceptable reference to Moelis in any press release or other public announcement of the Company in respect of any transaction contemplated by this agreement.

11. This letter agreement (including Schedules A and B), and any dispute or claim that may arise in connection with this agreement, (a) shall be governed by and construed in accordance with the laws of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof, and no proceeding related directly or indirectly to this letter agreement shall be commenced, prosecuted, or continued in any court other than the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York, sitting in New York county, (b) incorporates the entire understanding of the parties with respect to the subject matter hereof and supersedes all previous agreements should they exist with respect thereto, (c) may not be amended or modified except in a writing executed by the Company and Moelis and (d) shall be binding upon and inure to the benefit of the Company, Moelis, the other Indemnified Parties (as defined in Schedule A) and their respective successors and assigns. This letter agreement may not be assigned by Moelis or the Company except with the written consent of the non-assigning party, provided that the Company may assign this Agreement in connection with the closing of a Transaction involving the sale of all or substantially all of the Company in a change of control transaction. The Company (on the Company's behalf and, to the extent permitted by applicable law, on behalf of the Company's affiliates, security holders and creditors) and Moelis agree to waive, to the fullest extent permitted

by law, any objection it may now or hereafter have to the laying of venue of any such proceeding brought in any New York court specified in this Section 11 and any claim that any such proceeding brought in any such court has been brought in an inconvenient forum and to waive all rights to trial by jury in any action, proceeding or counterclaim brought by or on behalf of either party with respect to any matter whatsoever relating to or arising out of any actual or potential Transaction or the engagement of or performance by Moelis hereunder.

The Company acknowledges that Moelis, in connection with its engagement hereunder, is acting as an independent contractor with duties owing solely to the Company and the Board of Directors of the Company, that nothing in this letter agreement is intended to confer upon any other person any rights or remedies hereunder or by reason hereof and that Moelis is not assuming any duties or obligations other than those expressly set forth herein. Nothing in this letter agreement or the nature of Moelis' services in connection with this engagement or otherwise shall be deemed to create a fiduciary duty or fiduciary or agency relationship between Moelis or any of its affiliates and the Company or any of its affiliates, security holders, employees or creditors. The Company agrees that it shall not make, and hereby waives, any claim based on the assertion of such a fiduciary or agency relationship.

Moelis is an independent investment bank which is engaged in a range of investment banking activities. Certain affiliates of Moelis are engaged in asset management and other activities for their own account and otherwise. Moelis and its affiliates may have interests that differ from the Company's interests. Moelis and its affiliates have no duty to disclose to the Company, or use for the Company's benefit, any information acquired in the course of providing services to any other party, engaging in any transaction or carrying on any other businesses. Moelis' employees, officers, partners and affiliates may at any time own the Company's securities or those of any other entity involved in any transaction contemplated by this agreement. Moelis recognizes its obligations under applicable securities laws in connection with the purchase and sale of such securities and shall comply with such laws. The Company hereby agrees to the acknowledgements and disclosures set forth in *Schedule D*.

This letter agreement has been duly authorized and executed by the Company and Moelis and constitutes the legal, binding obligation of each party, enforceable in accordance with its terms. The invalidity or unenforceability of any provision of this letter agreement shall not affect the validity or enforceability of any other provision of this letter agreement, which shall remain in full force and effect.

Moelis shall not, during the term of this letter agreement, be engaged to advise any potential buyer or strategic partner with respect to a Transaction (including through a Bankruptcy Case) involving the Company. During the term of this letter agreement, Moelis shall, to the extent permissible by Moelis' professional and contractual obligations of confidentiality to its clients, advise the Company of any material relationships that, in Moelis' judgment, could reasonably be expected to present a potential conflict of interest.

[Signature Page Follows]

This letter agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement. Please confirm that the foregoing is in accordance with your understanding of our agreement by signing and returning to us a copy of this letter agreement.

Very best regards,

MOELIS & COMPANY LLC

By: _____
Ashish K. Contractor
Managing Director

Accepted and agreed to as of
the date set forth above:

ARALEZ PHARMACEUTICALS INC.
ARALEZ PHARMACEUTICALS US INC.

By: _____
Andrew I. Koven
President and Chief Business Officer

SCHEDULE A

INDEMNIFICATION

In the event that Moelis & Company LLC or our affiliates or any of our or our affiliates' respective current or former directors, officers, partners, managers, agents, representatives or employees (including any person controlling us or any of our affiliates) (collectively, "Indemnified Persons") becomes involved in any capacity in any actual or threatened action, claim, suit, investigation or proceeding (an "Action") arising out of, related to or in connection with this agreement or the Original Agreement or any matter referred to herein, the Company will reimburse such Indemnified Person for the reasonable and documented out-of-pocket costs and expenses (including counsel fees) of investigating, preparing for and responding to such Action or enforcing this agreement, as they are incurred. The Company will also indemnify and hold harmless any Indemnified Person from and against, and the Company agrees that no Indemnified Person shall have any liability to the Company or its affiliates, or their respective owners, directors, officers, employees, security holders or creditors for, any losses, claims, damages or liabilities (collectively, "Losses") (A) related to or arising out of oral or written statements or omissions made or information provided by the Company or its agents or (B) otherwise arising out of, related to or in connection with this agreement or our performance thereof, except that this clause (B) shall not apply to Losses that are finally judicially determined to have resulted from the bad faith, willful misconduct or gross negligence of an Indemnified Person. In the event the Company pays an Indemnified Person for Losses hereunder and to the extent such Losses are subsequently finally judicially determined to have resulted from the bad faith, willful misconduct or gross negligence of an Indemnified Person, such Indemnified Person will promptly refund to the Company amount advanced by the Company in connection with such matter.

If such indemnification or limitation on liability are for any reason not available or insufficient to hold an Indemnified Person harmless, the Company agrees to contribute to the Losses in such proportion as is appropriate to reflect the relative benefits received (or anticipated to be received) by the Company, on the one hand, and by us, on the other hand, with respect to this agreement or, if such allocation is judicially determined to be unavailable, in such proportion as is appropriate to reflect the relative benefits and relative fault of the Company on the one hand and of us on the other hand, and any other equitable considerations; provided, however, that, to the extent permitted by applicable law, in no event shall the Indemnified Persons be responsible for amounts that exceed the fees actually received by us or contemplated to be paid by to us from the Company in connection with this agreement. Relative benefits to the Company, on the one hand, and us, on the other hand, with respect to this agreement shall be deemed to be in the same proportion as (i) the total value paid or proposed to be paid or received or proposed to be received by the Company or its security holders, as the case may be, pursuant to the Transaction(s), Restructuring and Financing (to the extent applicable), whether or not consummated, bears to (ii) the fees actually received by us or contemplated to be paid to us in connection with this agreement.

The Company shall not be liable for any Settlement (as defined below) of any Action effected without its written consent, but if settled with such consent or if there is a final judgment against an Indemnified Party, the Company agrees to indemnify the Indemnified Party from and against any loss or liability by reason of such settlement or judgment. The Company will not, without our prior written consent (not to be unreasonably withheld), settle, compromise, consent to the entry of any judgment in or otherwise seek to terminate (a "Settlement") any Action in respect of which indemnification is or may be sought hereunder (whether or not an Indemnified Person is a party thereto) unless such Settlement includes a release of each Indemnified Person from any Losses arising out of such Action. The Company will not permit any such Settlement to include a statement as to, or an admission of, fault or culpability by or on behalf of an Indemnified Person without such Indemnified Person's prior written consent. No Indemnified Person seeking indemnification, reimbursement or contribution under this agreement will, without the Company's prior written consent (not to be unreasonably withheld), agree to the Settlement of any Action.

Prior to effecting any proposed sale, exchange, dividend or other distribution or liquidation of all or substantially all of its assets or any significant recapitalization or reclassification of its outstanding securities that does not explicitly or by operation of law provide for the assumption of the obligations of the Company set forth herein, the Company will notify us in writing of its arrangements for the Company's obligations set

forth herein to be assumed by another creditworthy party (for example through insurance, surety bonds or the creation of an escrow) upon terms and conditions reasonably satisfactory to the Company and us.

SCHEDULE B

TRANSACTION FEE SCHEDULE

The Transaction Fee for each Transaction (including a sale of the Canadian business) shall be equal to 2.00% of the Transaction Value (as defined below), subject to the credits set forth in this agreement.

For the purpose of calculating a Transaction Fee, "Transaction Value" shall equal the aggregate value of (A) the total value of all proceeds and other consideration actually paid or received, directly or indirectly, to the Company and/or its shareholders (including holders of options, warrants, convertible or other equity securities) in connection or in conjunction with a Transaction, including, without limitation: (i) cash; (ii) the face amount of any notes, (iii) the fair market value of any securities and other property; (iv) payments made in installment; (v) amounts paid under agreements not to compete or similar agreements; (vi) amounts paid under contractual arrangements with the Company executed in connection with the Transaction (including lease arrangements, management fees, put or call agreements); and (vii) contingent payments (whether or not related to future earnings or operations); plus (B) the aggregate principal amount of all indebtedness for borrowed money and other liabilities (including, without limitation, capitalized leases and preferred stock obligations) outstanding immediately prior to consummation of a Transaction or otherwise, directly or indirectly, assumed, refinanced, defeased, extinguished or consolidated (including any premiums paid or defeasance costs) in connection with such Transaction. For the avoidance of doubt, the right to receive a contingent, installment or future payment shall not be included in the calculation of Transaction Value until such future payment is actually paid to the Company and/or its shareholders upon or after the consummation of a Transaction. For purposes of computing any fees payable to Moelis hereunder, (x) shares issuable upon exercise of options, warrants or other rights of conversion shall be deemed outstanding and (y) non-cash consideration shall be valued as follows: (A) publicly traded securities shall be valued at the average of their closing prices (as reported in The Wall Street Journal) for five trading days ending five trading days prior to the closing of the Transaction and (B) any other non-cash consideration shall be valued at the fair market value thereof as determined in good faith by the Company and Moelis on the day prior to the consummation of the Transaction; provided that if such parties are unable to agree on a fair market value for such non-cash consideration, then the parties shall submit such issue to a panel of three arbitrators located in New York, New York (with one arbitrator being chosen by each party and the third being chosen jointly by the parties) for determination, which determination shall be binding upon each of the Company and Moelis.

Transaction Value also shall include, without duplication, (i) the aggregate amount of any extraordinary dividends, repurchases or other distributions declared by the Company (other than normal recurring dividends, repurchases or distributions) in connection or in conjunction with such Transaction, and (ii) in the case of a sale of assets, the net value of any working capital (other than cash) not acquired in such Transaction.

In connection with a sale, transfer or other disposition of 50% or more of the outstanding common stock of the Company, Transaction Value will be calculated as if 100% of the outstanding common stock on a fully diluted basis had been acquired at the same per share amount paid in such Transaction.

To the extent a Transaction Fee is payable hereunder, the aggregate amount of Transaction Fee(s) shall be subject to a minimum of US$2,500,000 (the "Aggregate Transaction Fee Minimum") such that at the termination of this agreement if Transaction Fee(s) are payable hereunder and the aggregate thereof is less than Aggregate Transaction Fee Minimum, such difference shall be payable to Moelis; provided, that the Aggregate Transaction Fee Minimum shall not be applicable if the only Transaction consummated is a sale or license of the Zontivity product.

SCHEDULE C

BIG BOY REPRESENTATION

The undersigned Purchaser represents and warrants that (*i*) the Purchaser is a sophisticated institutional accredited investor with extensive expertise and experience in financial and business matters and in evaluating private companies and purchasing and selling their securities; (ii) the Purchaser has conducted and relied upon its own due diligence investigation of the Company and its own in-depth analysis of the merits and risks of the Capital Transaction in making its investment decision and has not relied upon any information provided by Moelis or any investigation of the Company conducted by Moelis; and (iii) the Purchaser agrees that Moelis shall have no liability to the Purchaser in connection with its purchase of the Capital Transaction.

SCHEDULE C-1

BAD ACTOR REPRESENTATION AND COVENANT

The Company represents and warrants to Moelis that, as of the date of this engagement letter, neither the Company nor any of its respective managing members, general partners, directors and executive officers, any other officers participating in the Capital Transaction, any 20% beneficial owners of the Company, calculated on the basis of total voting power, promoters connected to the Company, nor any persons compensated for soliciting investors, including their directors, general partners and managing members (each a "Covered Person"), have been convicted of or are otherwise subject to any of the disqualifying events listed in Rule 506(d) of Regulation D under the Securities Act and as of the closing date of any Capital Transaction, neither the Company nor any Covered Person will have been convicted of or otherwise subject to any of the disqualifying events listed in Rule 506(d) of Regulation D under the Securities Act. Furthermore, the Company agrees to notify Moelis immediately if at any time it becomes aware that it or any of its Covered Persons have been convicted of or are otherwise subject to any of the disqualifying events listed in Rule 506(d) of Regulation D under the Securities Act.

SCHEDULE D

FINRA Suitability. Pursuant to FINRA Rule 2111, the Company acknowledges that (i) the Company is capable of evaluating investment risks independently, both in general and with regard to transactions and investment strategies involving a security or securities and will exercise independent judgment in evaluating recommendations (if any) of Moelis and its associated persons, and (ii) the Company is an Institutional Account as defined in FINRA Rule 4512(c).

USA Patriot Act. Moelis is required to obtain, verify, and record information that identifies the Company in a manner that satisfies the requirements of and in accordance with the USA Patriot Act.

Business Continuity. Moelis maintains a business continuity plan that is reviewed annually and is updated as necessary. Our disclosure statement is available on our website at www.moelis.com and a copy can be requested by contacting us at compliance@moelis.com.

TAB 3

Court File No. CV-18-603054-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	FRIDAY, THE 10TH
	)	
JUSTICE DUNPHY	)	DAY OF AUGUST, 2018

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

Applicants

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by Aralez Pharmaceuticals Inc. and Aralez Pharmaceuticals Canada Inc. (together the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Andrew I. Koven sworn August 9, 2018 and the Exhibits thereto (the **"Koven Affidavit"**), the affidavit of Andrew I. Koven sworn August 28, 2018 and the pre-filing report of Richter Advisory Group Inc. ("**Richter**"), in its capacity as proposed monitor (the "**Monitor**") to the Applicants, dated August 10, 2018, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel to the Applicants, counsel to the proposed Monitor and counsel to the DIP Lender (as that term is defined herein) and pre-filing secured lender ("**Deerfield**"), and on reading the consent of Richter to act as the Monitor,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the Koven Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management

System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

(b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicants following the date of this Order,

provided that, to the extent such expenses were incurred prior to the date of this Order, the Applicants shall only be entitled to pay such amounts if they are determined by the Applicants, in consultation with the Monitor and the DIP Lender, to be necessary to the continued operation

of the Business or preservation of the Property and such payments are approved in advance by the Monitor or by further Order of the Court.

8. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

(a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding $500,000 in any one transaction or $2,000,000 in the aggregate;

(b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and

(c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

12. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises

in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including September 7, 2018, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicants to carry on any business which the Applicants is not lawfully entitled to carry on, (b) affect such investigations,

actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. **THIS COURT ORDERS** that the Applicants shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**D&O Charge**") on the Property, which charge shall not exceed an aggregate amount of $1 million, as security for the indemnity provided in paragraph 20 of this Order. The D&O Charge shall have the priority set out in paragraphs 50 and 52 herein.

22. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the D&O Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the D&O Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPOINTMENT OF MONITOR

23. **THIS COURT ORDERS** that Richter is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

24. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

(a) monitor the Applicants' receipts and disbursements;

(b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;

(d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a bi-weekly basis or as otherwise agreed to by the DIP Lender;

(e) advise the Applicants in its development of the Plan and any amendments to the Plan;

(f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

(h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and

(i) perform such other duties as are required by this Order or by this Court from time to time.

25. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

28. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

29. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements incurred in respect of services rendered to the Applicants, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis and, in addition, the Applicants are hereby authorized and directed to pay to the Monitor, counsel to the Monitor, and counsel to the Applicants, retainers in the amounts of $100,000, $100,000 and $250,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

30. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

APPROVAL OF ENGAGEMENT OF A&M

31. **THIS COURT ORDERS** that the agreement dated as of July 9, 2018 (the "**A&M Engagement Letter**") pursuant to which the Applicants have engaged the services of Alvarez &

Marsal Canada Inc. and Alvarez & Marsal Healthcare Industry Group, LLC to act as the financial advisor (in such capacity, the "**Financial Advisor**") to the Applicants, is hereby approved *nunc pro tunc*, including, without limitation, the payment of fees and expenses contemplated thereby, and the Applicants are authorized to continue the engagement of the Financial Advisor on the terms set out in the A&M Engagement Letter.

32. **THIS COURT ORDERS** that the Financial Advisor shall be entitled to the benefit of the Administration Charge (as defined below) in respect of any obligations of the Applicants under the A&M Engagement Letter, whether for payment of compensation, fees, expenses, indemnities or otherwise.

33. **THIS COURT ORDERS** that all claims of the Financial Advisor pursuant to the Engagement Letter are not claims that may be compromised pursuant to any Plan, or proposal under the *Bankruptcy and Insolvency Act* (the "**BIA**") or any other restructuring, and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the Financial Advisor pursuant to the terms of the Engagement Letter.

34. **THIS COURT ORDERS** that the Financial Advisor, its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of either its engagement by the Applicants as Financial Advisor or any matter referred to in the Engagement Letter except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Financial Advisor in performing its obligations under the Engagement Letter.

APPROVAL OF ENGAGEMENT OF MOELIS

35. **THIS COURT ORDERS** that the agreement dated as of July 18, 2018 (the "**Moelis Engagement Letter**") pursuant to which the Applicants have engaged the services of Moelis & Company LLC ("**Moelis**") to act as the investment banker (in such capacity, the "**Investment Banker**") to the Applicants, is hereby approved *nunc pro tunc*, including, without limitation, the payment of fees and expenses contemplated thereby, and the Applicants are authorized to continue the engagement of the Investment Banker on the terms set out in the Moelis Engagement Letter.

36. **THIS COURT ORDERS** that the Investment Banker shall be entitled to the benefit of a charge in respect of any obligation of the Applicants to pay a Transaction, Restructuring and/or Refinancing Fee (as those terms are defined in the Moelis Engagement Letter) (the "**Transactional Charge**") to a maximum of US$2.5 million. The Transactional Charge shall have the priority set out in paragraphs 50 and 52 hereof.

37. **THIS COURT ORDERS** that all claims of the Investment Banker pursuant to the Engagement Letter are not claims that may be compromised pursuant to any Plan, or proposal under the BIA or any other restructuring, and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the Financial Advisor pursuant to the terms of the Investment Banker Engagement Letter.

38. **THIS COURT ORDERS** that the Investment Banker, its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of either its engagement by the Applicants as Financial Advisor or any matter referred to in the Engagement Letter except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Financial Advisor in performing its obligations under the Engagement Letter.

ADMINISTRATION CHARGE

39. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Financial Advisor, the Investment Banker and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of $1 million, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor, the Monitor's counsel, the Financial Advisor, and the Applicants' counsel, and for 50% of the Monthly Fee (as that term is defined in the Moelis Engagement Letter) of the Investment Banker, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 50 and 52 hereof.

40. **THIS COURT ORDERS** that the Applicants are authorized and directed to return to this Court to seek approval of an allocation of fees payable to the Financial Advisor and the

Investment Banker based on the proceeds of any sales completed within these proceedings and the Chapter 11 proceedings of the related Aralez Entities, if necessary.

DIP FINANCING

41. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from Deerfield Private Design Fund III, L.P. and Deerfield Partners, L.P. (the "**DIP Lenders**") in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed USD$10 million unless permitted by further Order of this Court.

42. **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the agreement between the Applicants and the DIP Lender dated as of August 10, 2018 (the "**DIP Agreement**"), filed.

43. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

44. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 50 and 52 hereof.

45. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

(a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;

(b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon five days' written notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

46. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *BIA*, with respect to any advances made under the Definitive Documents.

47. **THIS COURT ORDERS** that all claims of the DIP Lender pursuant to the Definitive Documents are not claims that may be compromised pursuant to any Plan, or proposal under the *BIA* or any other restructuring, and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the DIP Lender pursuant to the Definitive Documents.

48. **THIS COURT ORDERS** that during the period from August 10, 2018 to August 21, 2018, the Applicants shall not draw in excess of USD$1 million on the facility available under the DIP Agreement.

49. **THIS COURT ORDERS** that, notwithstanding any other provision herein (other than paragraph 48), the foregoing approval of the DIP Agreement and the DIP Lenders' Charge is subject to the right of any Person not served with notice of this Application to return to Court to object to the DIP Agreement and the DIP Lenders' Charge (such motion, a "**DIP Objection Motion**") by giving notice to the Applicants, the Monitor and the DIP Lender no later than August 21, 2018. In the event that notice of a DIP Objection Motion is not given by August 21, 2018, the DIP Agreement and the DIP Lenders' Charge shall no longer be subject to this paragraph. If notice of a DIP Objection Motion is given in accordance with this paragraph, the Court shall schedule the hearing of the DIP Objection Motion forthwith.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

50. **THIS COURT ORDERS** that the priorities of the Administration Charge, the DIP Lender's Charge, the D&O Charge and the Transactional Fee Charge and as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $1 million);

Second – DIP Lender's Charge;

Third – D&O Charge (to the maximum amount of $1 million);

Fourth – Transactional Fee Charge (to the maximum amount of $2.5 million);

51. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the DIP Lender's Charge, the D&O Charge and the Transactional Fee Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

52. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

53. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Charges, or further Order of this Court.

54. **THIS COURT ORDERS** that the Charges, the DIP Agreement, and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

(a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

(c) the payments made by the Applicants pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

55. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

CROSS-BORDER PROTOCOL

56. **THIS COURT ORDERS** that the cross-border protocol in the form attached as Schedule "A" hereto (the "**Cross-Border Protocol**") is hereby approved and shall become effective upon its approval by the United States Bankruptcy Court for the Southern District of New York, and the parties to these proceedings and any other Person shall be governed by and shall comply with the Cross-Border Protocol.

SERVICE AND NOTICE

57. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA, (b) within five days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than $1000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

58. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/ shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the

Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: http://insolvency.richter.ca/A/Aralez-Pharmaceuticals.

59. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

COMEBACK MOTION

60. **THIS COURT ORDERS** that the Applicants are authorized to serve their motion materials, with respect to one or more motions at which the Applicants intend to seek, *inter alia*, approval of a cross-border protocol, an extension of the Stay Period, a charge in respect of certain transaction fees of the Applicants' investment banker, and approval of a key employee retention plan (the "**Comeback Motion**") by forwarding a copy of this Order and any additional materials to be filed with respect to the Comeback Motion by electronic transmission, where available, or by courier to the parties likely to be affected by the relief to be sought at such parties' respective addresses as last shown on the records of the Applicants as soon as practicable.

GENERAL

61. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

62. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

63. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

64. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

65. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

66. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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SCHEDULE "A"

CROSS-BORDER INSOLVENCY PROTOCOL

1. 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 herein).

2. The Guidelines for Communication and Cooperation Between Courts in Cross-Border Insolvency Matters (the "Guidelines"), annexed hereto as "Schedule A" hereto, shall be incorporated by reference and form part of this Protocol. To the extent there is any discrepancy between the Protocol and the Guidelines, this Protocol shall prevail.

A. Background

3. On August 10, 2018 (the "Filing Date"), Aralez Pharmaceuticals US Inc. and certain of its affiliates (collectively, the "U.S. Debtors")[1] commenced cases (collectively, the "U.S. Proceedings") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York and Aralez Pharmaceuticals Inc., the U.S. Debtors' ultimate parent company, and Aralez Pharmaceuticals Canada Inc. (together with Aralez Pharmaceuticals Inc., the "Canadian Debtors," and with the U.S. Debtors, the "Debtors"), the U.S. Debtors' affiliate, also commenced a reorganization proceeding in Canada (the "Canadian Proceedings" and together with the U.S. Proceedings, the "Insolvency Proceedings") by filing an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") with the Ontario Superior Court of Justice (Commercial List) (the "Canadian Court" and together with the U.S. Court, the "Courts" and each individually, a "Court").

4. On the Filing Date, the Canadian Debtors have sought an initial order from the Canadian Court (as may be amended from time to time, the "CCAA Order") which would, *inter alia*, (a) grant the Canadian Debtors relief under the CCAA; (b) appoint Richter Advisory Group Inc. as monitor of the Canadian Debtors, with the rights, powers, duties and limitations upon liabilities set forth in the CCAA Order; and (c) grant a stay of proceedings in respect of the Canadian Debtors.

5. The U.S. Debtors continue to operate and maintain their businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. The Office of the United States Trustee (the "U.S. Trustee") has not yet appointed any official committee of unsecured creditors (the "U.S. Creditors' Committee") in the U.S. Proceedings.

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[1] The Debtors in these chapter 11 cases and the last four digits of each Debtor's federal taxpayer identification number are as follows: Aralez Pharmaceuticals Holdings Limited (5824); Aralez Pharmaceuticals Management Inc. (7166); POZEN Inc. (7552); Aralez Pharmaceuticals Trading DAC (1627); Aralez Pharmaceuticals US Inc. (6948); Aralez Pharmaceuticals R&D Inc. (9731); Halton Laboratories LLC (9342). For the purposes of these chapter 11 cases, the Debtors' mailing address is: 400 Alexander Park Drive, Princeton, NJ 08540.

B. Purpose and Goals

6. While the U.S. Proceedings and the Canadian Proceedings are full and separate proceedings pending in the U.S. and Canada, the implementation of basic administrative procedures is both necessary and desirable to coordinate certain activities in the Insolvency Proceedings, protect the rights of parties thereto and ensure the maintenance of the Court's independent jurisdiction and comity. Accordingly, this Protocol has been developed to promote the following mutually desirable goals and objectives in the Insolvency Proceedings:

(a) harmonize and coordinate activities in the Insolvency Proceedings before the Courts;

(b) 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;

(c) honor the independence and integrity of the Courts and other courts and tribunals of the U.S. and Canada, respectively;

(d) promote international cooperation and respect for comity among the Courts, the Debtors, any U.S. Creditors' Committee, the U.S. Representatives (defined below), the Canadian Representatives (defined below) (together with the U.S. Representatives, the "Estate Representatives"), the U.S. Trustee and other creditors and interested parties in the Insolvency Proceedings;

(e) facilitate the fair, open and efficient administration of the Insolvency Proceedings for the benefit of all of the creditors and interested parties of the Debtors, wherever located; and

(f) implement a framework of general principles to address basic administrative issues arising out of the cross-border and international nature of the Insolvency Proceedings.

C. Comity and Independence of the Courts

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

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

conduct of the Canadian Proceedings and the hearing and determination of matters arising in the Canadian Proceedings.

9. In accordance with the principles of comity and independence established in the two preceding paragraphs, nothing contained herein shall be construed to:

(a) increase, decrease or otherwise modify the independence, sovereignty or jurisdiction of the U.S. Court, the Canadian Court or any other court or tribunal in the U.S. or Canada, including the ability of any such court or tribunal to provide appropriate relief under applicable law on an *ex parte* or "limited notice" basis;

(b) require the U.S. Court to take any action that is inconsistent with its obligations under the laws of the U.S.;

(c) require the Canadian Court to take any action that is inconsistent with its obligations under the laws of Canada;

(d) require the Debtors, the Monitor, the U.S. Creditors' Committee, the Estate Representatives or the U.S. Trustee 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;

(e) authorize any action that requires the specific approval of one or both of the Courts under the Bankruptcy Code or the CCAA after appropriate notice and a hearing (except to the extent that such action is specifically described in this Protocol); or

(f) preclude the Debtors, the Monitor, the U.S. Creditors' Committee, the Estate Representatives, the U.S. Trustee, or any creditor or other interested party from asserting such party's substantive rights under the applicable laws of the U.S., Canada or any other relevant jurisdiction including, without limitation, the rights of interested parties or affected persons to appeal from the decisions taken by one or both of the Courts.

10. Subject to the terms hereof, the Debtors, the U.S. Creditors' 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, the CCAA Order and other applicable laws and orders of the Courts, as applicable.

D. Cooperation

11. To assist in the efficient administration of the Insolvency Proceedings, the Debtors and the Estate Representatives shall where appropriate:

(a) reasonably cooperate with each other in connection with actions taken in both the U.S. Court and the Canadian Court; and

(b) take any other reasonable steps to coordinate the administration of the U.S. Proceedings and the Canadian Proceedings for the benefit of the Debtors' respective estates and stakeholders.

12. To harmonize and coordinate the administration of the Insolvency Proceedings, the U.S. Court and the Canadian Court each may coordinate activities with and defer to the judgment of the other Court, where appropriate and feasible. In furtherance of the foregoing:

(a) The U.S. Court and the Canadian Court may communicate with one another, with or without counsel present, with respect to any procedural or substantive matter relating to the Insolvency Proceedings;

(b) Where the issue of the proper jurisdiction or Court to determine an issue is raised by an interested party in either of the Insolvency Proceedings with respect to a motion or an application filed in either Court, the Court before which such motion or application was initially filed may contact the other Court to determine an appropriate process by which the issue of jurisdiction will be determined. Such process shall be subject to submissions by the Debtors, the Estate Representatives, any U.S. Creditors' Committee, the U.S. Trustee, the Monitor and any interested party before any determination on the issue of jurisdiction is made by either Court; and

(c) The Courts may, but are not obligated to, coordinate activities in the Insolvency Proceedings such that the subject matter of any particular action, suit, request, application, contested matter or other proceeding is determined in a single Court.

13. The U.S. Court and the Canadian 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. Proceedings and the Canadian Proceedings, if both Courts consider such joint hearings to be necessary or advisable and, in particular, to facilitate or coordinate with the proper and efficient conduct of the U.S. Proceedings and the Canadian Proceedings. With respect to any such hearing, unless otherwise ordered, the following procedures will be followed:

(a) a telephone or video link shall be established so that both the U.S. Court and the Canadian Court shall be able to simultaneously hear the proceedings in the other Court;

(b) notices, 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 to 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 shall be filed with both Courts.

(c) any party intending to rely on any written evidentiary materials in support of a submission to the U.S. Court or the Canadian Court in connection with any joint hearing shall file such materials, which shall be identical insofar as possible and shall be consistent with the procedure and evidentiary rules and requirements of each Court, in advance of the time of such hearing or the submissions of such application;

(d) 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;

(e) the Judge of the U.S. Court and the Justice of the Canadian Court who will hear any such application shall be entitled to communicate with each other in advance of the hearing on the application, with or without counsel being present, to establish guidelines for the orderly submission of pleadings, papers and other materials and the rendering of decisions by the U.S. Court and the Canadian Court, and to address any related procedural, administrative or preliminary matters; and

(f) the Judge of the U.S. Court and the Justice of the Canadian Court, having heard any such application, shall be entitled to communicate with each other after the hearing on such application, without counsel present, for the purpose of determining whether consistent rulings can be made by both Courts, and coordinating the terms upon which such rulings shall be made, as well as to address any other procedural or non-substantive matter relating to such applications.

14. Notwithstanding the terms of the preceding paragraph, the Protocol recognizes that the U.S. Court and the Canadian Court are independent courts. Accordingly, although the Courts will seek to cooperate and coordinate 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 matters presented to such Court; and

(b) matters presented to such Court, including without limitation, the right to determine if matters are properly before such Court.

15. Where one Court has jurisdiction over a matter which requires the application of the law of the jurisdiction of the other Court in order to determine an issue before it, the Court with jurisdiction over such matter may, among other things, hear expert evidence or seek the advice and direction of the other Court in respect of the foreign law to be applied, subject to paragraph 35 herein.

E. Retention and Compensation of Estate Representatives and Professionals

16. The Monitor, its officers, directors, employees, counsel, agents, and any other professionals related therefor, wherever located (collectively, the "Monitor Parties") and any other estate representatives in the Canadian Proceedings (collectively with the Monitor Parties, the "Canadian Representatives") shall all be subject to the sole and exclusive jurisdiction of the Canadian Court with respect to all matters, including:

(a) the Canadian Representatives' appointment and 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 matters relating to the Canadian Representatives arising in the Canadian Proceedings under the CCAA or other applicable Canadian law.

17. Additionally, the Canadian Representatives:

(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.

18. The Monitor Parties shall be entitled to the same protections and immunities in the U.S. 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 Proceedings, the Monitor Parties shall incur no liability or obligations as a result of the appointment of the Monitor, the carrying out of its duties or the provisions of the CCAA and the CCAA Order by the Monitor Parties, except any such liability arising from actions of the Monitor Parties constituting gross negligence or willful misconduct.

19. Any estate representative appointed in the U.S. Proceedings, including without limitation, any U.S Creditors' Committee and any examiner or trustee appointed pursuant to section 1104 of the Bankruptcy Code (collectively, the "U.S. 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 U.S. Representatives' retention and compensation;

(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. Proceedings under the Bankruptcy Code or other applicable laws of the U.S.

20. The U.S. Representatives shall not be required to seek approval of their retention in the Canadian Court. Additionally, the U.S. Representatives:

(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.

21. Any professionals retained by or with the approval of the Canadian Debtors for activities performed in Canada or in connection with the Canadian Proceeding, including, in each case, counsel, financial advisors, accountants, consultants and experts (collectively, the "Canadian Professionals") shall be subject to the sole and exclusive jurisdiction of the Canadian Court. Accordingly, the Canadian Professionals: (a) shall be subject to the procedures and standards for retention and compensation applicable in the Canadian Court under the CCAA, the CCAA Order any other applicable Canadian law or orders of the Canadian Court; and (b) shall not be required to seek approval of their retention or compensation in the U.S. Court. The Debtors will include the identity and the amount of payments with respect to the Canadian Professionals in the Debtors' monthly operating reports.

22. Any professionals retained by or with approval of the Debtors for activities performed in the U.S. or in connection with the U.S. Proceedings, including, in each case, counsel, financial advisors, accountants, consultants and experts (collectively, the "U.S. Professionals") shall be subject to the sole and exclusive jurisdiction of the U.S. Court. Accordingly, the U.S. Professionals: (a) 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 U.S. or orders of the U.S. Court; and (b) shall not be required to seek approval of their retention of compensation in the Canadian Court.

23. Any professionals retained by the U.S. Creditors' Committee, including, in each case, counsel and financial advisors (collectively, the "Committee Professionals") shall be subject to the sole and exclusive jurisdiction of the U.S. Court. Accordingly, the Committee Professionals: (a) 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 U.S. or orders of the U.S. Court; and (b) shall not be required to seek approval of their retention of compensation in the Canadian Court.

F. Rights to Appear and Be Heard

24. Each of the Debtors, their creditors and other interested parties in the Insolvency Proceedings, including the Canadian Representatives and the U.S. Representatives, shall have the right and standing to:

(a) appear and be heard in either the U.S. Court or the Canadian Court in the Insolvency Proceedings to the same extent as a creditor and other interested party domiciled in the forum country, but solely to the extent such party is a creditor or other interested party 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 U.S. Court or the Canadian 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 U.S. Creditors' Committee in the Canadian Proceedings shall not form a basis for personal jurisdiction in Canada over the members of the U.S. Committee or vice versa. Notwithstanding the foregoing, and in accordance with the policies set forth above:

(i) 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

(ii) 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.

G. Notice

25. Notice of any motion, application or other pleading or paper filed in one or both of the Insolvency Proceedings relating to matters addressed by this Protocol and notice of any related hearings or other proceedings 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 paragraph, to:

(i) Proposed Counsel to the U.S. Debtors, Willkie Farr & Gallagher, 787 Seventh Avenue, New York, New York, U.S.A., 10019, attention: Robin Spigel, Esq. and Debra C. McElligott, Esq.;

(ii) Proposed Counsel to the Canadian Debtors, Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, Ontario, M5L 1B9, Canada, attention: Ashley John Taylor and Kathryn Esaw;

(iii) Proposed Counsel to Deerfield Partners, L.P., Deerfield Private Design Fund III, L.P., Katten Muchin Rosenman LLP, 525 Monroe Street, Chicago, Illinois 60662 (Attn: Peter A. Siddiqui, Esq.), and Katten Muchin Rosenman LLP, 575 Madison Ave, New York, NY 10022 (Attn: Steven J. Reisman, Esq.);

(iv) the Monitor, Richter Advisory Group, 3320 Bay Wellington Tower, 181 Bay Street, Toronto, Ontario M5J 2T3 (Attn: Paul Van Eyk (pvaneyk@richter.ca)), and its counsel, Torys LLP, 3000 TD South Tower, 79 Wellington Street West, Toronto, Ontario M5K 1N2 (Attn: David Bish (dbish@torys.com));

(v) counsel to any statutory committee or any other official appointed in the U.S. Cases or the Canadian Cases;

(vi) the Office of the United States Trustee for Region 2, 201 Varick Street, Suite 1006, New York, New York, 10014;

(vii) and such other parties as may be designated by either Court from time to time.

26. Notice in accordance with this paragraph 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 U.S. Debtors or the Canadian Debtors shall provide the U.S. Court or the Canadian Court, as the case may be, with copies of any orders, decisions, opinions or similar papers issued by the other Court in the Insolvency Proceedings.

27. When any cross-border issues or matters addressed by this Protocol are to be addressed before a Court, notices shall be provided in the manner and to the parties referred to in paragraph 25 above.

H. Recognition of Stays of Proceedings

28. The Canadian Court hereby recognizes the validity of the stay of proceedings and actions against or respecting the U.S. Debtors and their property under section 362 of the Bankruptcy Code (the "U.S. Stay"). In implementing the terms of this paragraph, the Canadian Court may consult with the U.S. Court regarding the interpretation, extent, scope and

applicability of the U.S. Stay, and any orders of this U.S. Court modifying or granting relief from the U.S. Stay.

29. The U.S. Court hereby recognizes the validity of the stay of proceedings and actions against or respecting the Canadian Debtors, its property and the current and former directors and officers of the Canadian Debtors under the CCAA and the Initial Order (the "Canadian Stay"). In implementing the terms of this paragraph, the U.S. Court may consult with the Canadian Court regarding the interpretation, extent, scope and applicability of the Canadian Stay, and any orders of the Canadian Court modifying or granting relief from the Canadian Stay.

30. Nothing contained herein shall affect or limit the Debtors or other parties' rights to assert the applicability or non-applicability of the U.S. Stay or the Canadian Stay to any particular proceeding, property, asset, activity or other matter, wherever pending or located. Subject to the terms hereof: (a) any motion with respect to the application of the stay of proceedings issued by the Canadian Court in the CCAA Proceeding shall be heard and determined by the Canadian Court and (b) any motion with respect to the application of the stay under section 362 of the Bankruptcy Code shall be heard and determined by the U.S. Court.

I. Effectiveness; Modification

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

32. This Protocol may not be supplemented, modified, terminated or replaced in any manner except by the U.S. Court and the Canadian 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 the notice provision contained in this Protocol.

J. Procedure for Resolving Disputes Under the Protocol

33. 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 as set forth in paragraph 25 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 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.

34. Notwithstanding the foregoing, each Court in making a determination shall have regard to the independence, comity or inherent jurisdiction of the other Court established under existing law.

35. In implementing the terms of the Protocol, the U.S. Court and the Canadian Court may, in their sole, respective discretion, provide advice or guidance to each other with respect to legal issues in accordance with the following procedures:

(a) The U.S. Court or the Canadian Court, as applicable, may determine that such advice or guidance is appropriate under the circumstances;

(b) The Court issuing such advice or guidance shall provide it to the non-issuing Court in writing;

(c) Copies of such written advice or guidance shall be served by the applicable Court in accordance with paragraph 25 hereof; and

(d) The Courts may jointly decide to invite the Debtors, the Estate Representatives, the U.S. Trustee, the Monitor and any other affected or interested party to make submissions to the appropriate Court in response to or in connection with any written advice or guidance received from the other Court.

36. For clarity, the provisions of paragraph 35 shall not be construed to restrict the ability of the U.S. Court or the Canadian Court to confer, as provided above, whenever they deem it appropriate to do so.

K. Preservation of Rights

37. Except as specifically provided herein, neither the terms of this Protocol nor any actions taken under the terms of this Protocol shall (a) prejudice or affect the powers, rights, claims and defenses of the Debtors and their estates, the Estate Representatives, the U.S. Trustee, the Monitor or any of the Debtors' creditors under applicable law, including the Bankruptcy Code, the CCAA and the Orders of the Courts or (b) preclude or prejudice the rights of any person to assert or pursue such person's substantive rights against any other person under the applicable laws of the United States or Canada.

SCHEDULE A

GUIDELINES FOR COMMUNICATION AND COOPERATION BETWEEN COURTS IN CROSS-BORDER INSOLVENCY MATTERS[1]

INTRODUCTION

A. The overarching objective of these Guidelines is to improve in the interests of all stakeholders the efficiency and effectiveness of cross-border proceedings relating to insolvency or adjustment of debt opened in more than one jurisdiction ("Parallel Proceedings") by enhancing coordination and cooperation among courts under whose supervision such proceedings are being conducted. These Guidelines represent best practice for dealing with Parallel Proceedings.

B. In all Parallel Proceedings, these Guidelines should be considered at the earliest practicable opportunity.

C. In particular, these Guidelines aim to promote:

(i) the efficient and timely coordination and administration of Parallel Proceedings;

(ii) the administration of Parallel Proceedings with a view to ensuring relevant stakeholders' interests are respected;

(iii) the identification, preservation, and maximization of the value of the debtor's assets, including the debtor's business;

(iv) the management of the debtor's estate in ways that are proportionate to the amount of money involved, the nature of the case, the complexity of the issues, the number of creditors, and the number of jurisdictions involved in Parallel Proceedings;

(v) the sharing of information in order to reduce costs; and

(vi) the avoidance or minimization of litigation, costs, and inconvenience to the parties[2] in Parallel Proceedings.

D. These Guidelines should be implemented in each jurisdiction in such manner as the jurisdiction deems fit.[3]

E. These Guidelines are not intended to be exhaustive and in each case consideration ought to be given to the special requirements in that case.

F. Courts should consider in all cases involving Parallel Proceedings whether and how to implement these Guidelines. Courts should encourage and where necessary direct, if they have the power to do so, the parties to make the necessary applications to the court to facilitate such implementation by a protocol or order derived from these Guidelines, and encourage them to act so as to promote the objectives and aims of these Guidelines wherever possible.

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[1] These Guidelines are distilled in large part from the ALI/ABA/III Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases.

[2] The term "parties" when used in these Guidelines shall be interpreted broadly.

[3] Possible means for the implementation of these Guidelines include practice directions and commercial guides.

ADOPTION AND INTERPRETATION

Guideline 1: In furtherance of paragraph F above, the courts should encourage administrators in Parallel Proceedings to cooperate in all aspects of the case, including the necessity of notifying the courts at the earliest practicable opportunity of issues present and potential that may (a) affect those proceedings; and (b) benefit from communication and coordination between the courts. For the purpose of these Guidelines, "administrator" includes a liquidator, trustee, judicial manager, administrator in administration proceedings, debtor-in-possession in a reorganization or scheme of arrangement, or any fiduciary of the estate or person appointed by the court.

Guideline 2: Where a court intends to apply these Guidelines (whether in whole or in part and with or without modification) in particular Parallel Proceedings, it will need to do so by a protocol or an order[4], following an application by the parties or pursuant to a direction of the court if the court has the power to do so.

Guideline 3: Such protocol or order should promote the efficient and timely administration of Parallel Proceedings. It should address the coordination of requests for court approvals of related decisions and actions when required and communication with creditors and other parties. To the extent possible, it should also provide for timesaving procedures to avoid unnecessary and costly court hearings and other proceedings.

Guideline 4: These Guidelines when implemented are not intended to:

(i) interfere with or derogate from the jurisdiction or the exercise of jurisdiction by a court in any proceedings including its authority or supervision over an administrator in those proceedings;

(ii) interfere with or derogate from the rules or ethical principles by which an administrator is bound according to any applicable law and professional rules;

(iii) prevent a court from refusing to take an action that would be manifestly contrary to the public policy of the jurisdiction or which would not sufficiently protect the interests of the creditors and other interested entities, including the debtor; or

(iv) confer or change jurisdiction, alter substantive rights, interfere with any function or duty arising out of any applicable law, or encroach upon any applicable law.

Guideline 5: For the avoidance of doubt, a protocol or order under these Guidelines is procedural in nature. It should not constitute a limitation on or waiver by the court of any powers, responsibilities, or authority or a substantive determination of any matter in controversy before the court or before the other court or a waiver by any of the parties of any of their substantive rights and claims, except to the extent specifically provided in such protocol or order as permitted by applicable law.

Guideline 6: In the interpretation of these Guidelines or any protocol or order approved under these Guidelines, due regard shall be given to their international origin and to the need to promote good faith and uniformity in their application.

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[4] In the normal case, the parties will agree on a protocol derived from these Guidelines and obtain the approval of each court in which the protocol is to apply. Pending such approval, or in Parallel Proceedings where there is no protocol, administrators and other parties are expected to comply with these Guidelines.

COMMUNICATION BETWEEN COURTS[5]

Guideline 7: A court may receive communications from a foreign court and may respond directly to them. Such communications may occur for the purpose of the orderly making of submissions and rendering of decisions by the courts, and to coordinate and resolve any procedural, administrative or preliminary matters relating to any joint hearing where Annex A is applicable. Such communications may take place through the following methods or such other method as may be agreed by the two courts in a specific case:

(i) Sending or transmitting copies of formal orders, judgments, opinions, reasons for decision, endorsements, transcripts of proceedings or other documents directly to the other court and providing advance notice to counsel for affected parties in such manner as the court considers appropriate.

(ii) Directing counsel to transmit or deliver copies of documents, pleadings, affidavits, briefs or other documents that are filed or to be filed with the court to the other court, or other appropriate person, in such fashion as may be appropriate and providing advance notice to counsel for affected parties in such manner as the court considers appropriate.

(iii) Participating in two-way communications with the other court, including by telephone, video conference call, or other electronic means, in which case Guideline 8 should be considered.

Guideline 8: In the event of communications between courts, other than on procedural matters, unless otherwise directed by any court involved in the communications whether on an *ex parte* basis or otherwise, or permitted by a protocol or order, the following shall apply:

(i) In the normal case, parties may be present.

(ii) If the parties are entitled to be present, advance notice of the communications shall be given to all parties in accordance with the rules of procedure applicable in each of the courts to be involved in the communications, and the communications between the courts shall be recorded and may be transcribed. A written transcript may be prepared from a recording of the communications that, with the approval of each court involved in the communications, may be treated as the official transcript of the communications.

(iii) Copies of any recording of the communications, of any transcript of the communications prepared pursuant to any direction of any court involved in the communications, and of any official transcript prepared from a recording may be filed as part of the record in the proceedings and made available to the parties and subject to such directions as to confidentiality as any court may consider appropriate.

(iv) The time and place for communications between the courts shall be as directed by the courts. Personnel other than judges in each court may communicate with

[5] Communications between administrators are also expected under and to be consistent with these Guidelines.

each other to establish appropriate arrangements for the communications without the presence of the parties.

Guideline 9: A court may direct that notice of its proceedings be given to parties in proceedings in another jurisdiction. All notices, applications, motions, and other materials served for purposes of the proceedings before the court may be ordered to be provided to such other parties by making such materials available electronically in a publicly accessible system or by facsimile transmission, certified or registered mail or delivery by courier, or in such other manner as may be directed by the court in accordance with the procedures applicable in the court.

APPEARANCE IN COURT

Guideline 10: A court may authorize a party, or an appropriate person, to appear before and be heard by a foreign court, subject to approval of the foreign court to such appearance.

Guideline 11: If permitted by its law and otherwise appropriate, a court may authorize a party to a foreign proceeding, or an appropriate person, to appear and be heard on a specific matter by it without thereby becoming subject to its jurisdiction for any purpose other than the specific matter on which the party is appearing.

CONSEQUENTIAL PROVISIONS

Guideline 12: A court shall, except on proper objection on valid grounds and then only to the extent of such objection, recognize and accept as authentic the provisions of statutes, statutory or administrative regulations, and rules of court of general application applicable to the proceedings in other jurisdictions without further proof. For the avoidance of doubt, such recognition and acceptance does not constitute recognition or acceptance of their legal effect or implications.

Guideline 13: A court shall, except upon proper objection on valid grounds and then only to the extent of such objection, accept that orders made in the proceedings in other jurisdictions were duly and properly made or entered on their respective dates and accept that such orders require no further proof for purposes of the proceedings before it, subject to its law and all such proper reservations as in the opinion of the court are appropriate regarding proceedings by way of appeal or review that are actually pending in respect of any such orders. Notice of any amendments, modifications, extensions, or appellate decisions with respect to such orders shall be made to the other court(s) involved in Parallel Proceedings, as soon as it is practicable to do so.

Guideline 14: A protocol or order made by a court under these Guidelines is subject to such amendments, modifications, and extensions as may be considered appropriate by the court consistent with these Guidelines, and to reflect the changes and developments from time to time in any Parallel Proceedings. Notice of such amendments, modifications, or extensions shall be made to the other court(s) involved in Parallel Proceedings, as soon as it is practicable to do so.

ANNEX A (JOINT HEARINGS)

Annex A to these Guidelines relates to guidelines on the conduct of joint hearings. Annex A shall be applicable to, and shall form a part of these Guidelines, with respect to courts that may signify their assent to Annex A from time to time. Parties are encouraged to address the matters set out in Annex A in a protocol or order.

ANNEX A: JOINT HEARINGS

A court may conduct a joint hearing with another court. In connection with any such joint hearing, the following shall apply, or where relevant, be considered for inclusion in a protocol or order:

(i) The implementation of this Annex shall not divest nor diminish any court's respective independent jurisdiction over the subject matter of proceedings. By implementing this Annex, neither a court nor any party shall be deemed to have approved or engaged in any infringement on the sovereignty of the other jurisdiction.

(ii) Each court shall have sole and exclusive jurisdiction and power over the conduct of its own proceedings and the hearing and determination of matters arising in its proceedings.

(iii) Each court should be able simultaneously to hear the proceedings in the other court. Consideration should be given as to how to provide the best audio-visual access possible.

(iv) Consideration should be given to coordination of the process and format for submissions and evidence filed or to be filed in each court.

(v) A court may make an order permitting foreign counsel or any party in another jurisdiction to appear and be heard by it. If such an order is made, consideration needs to be given as to whether foreign counsel or any party would be submitting to the jurisdiction of the relevant court and/or its professional regulations.

(vi) A court should be entitled to communicate with the other court in advance of a joint hearing, with or without counsel being present, to establish the procedures for the orderly making of submissions and rendering of decisions by the courts, and to coordinate and resolve any procedural, administrative or preliminary matters relating to the joint hearing.

(vii) A court, subsequent to the joint hearing, should be entitled to communicate with the other court, with or without counsel present, for the purpose of determining outstanding issues. Consideration should be given as to whether the issues include procedural and/or substantive matters. Consideration should also be given as to whether some or all of such communications should be recorded and preserved.

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

Court File No. CV-18-603054-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

INITIAL ORDER

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TAB 4

Court File No. CV-18-603054-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	WEDNESDAY, THE 5TH
	)	
JUSTICE DUNPHY	)	DAY OF SEPTEMBER, 2018

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

Applicants

STAY EXTENSION ORDER

THIS MOTION, made by Aralez Pharmaceuticals Inc. and Aralez Pharmaceuticals Canada Inc. (together the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for, among other things, an order approving an extension of the stay of proceedings referred to in the Initial Order made August 10, 2018 (the "**Initial Order**"), to November 14, 2018 was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Andrew I. Koven sworn August 28, 2018 and the Exhibits attached thereto, and the ● Report of Richter Advisory Group Inc., in its capacity as Court-appointed Monitor (the "**● Report**"), and on hearing the submissions of counsel for the Applicants and the Monitor (as those terms are defined in the Koven Affidavit), no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of ● sworn August ●, 2018 and filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

EXTENSION OF STAY PERIOD

2. **THIS COURT ORDERS** that the Stay Period, as such term is defined in the Amended and Restated Initial Order of the Honourable Justice Dunphy dated August 10, 2018 (the "**Initial Order**") be and is hereby extended until November 14, 2018.

GENERAL

3. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order

_____

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

Court File No: CV-18-603054-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

STAY EXTENSION ORDER

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Lawyers for the Applicants

TAB 5

Court File No. CV-18-603054-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	FRIDAY, THE 10TH
	)	
JUSTICE DUNPHY	)	DAY OF AUGUST, 2018

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

Applicants

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by Aralez Pharmaceuticals Inc. and Aralez Pharmaceuticals Canada Inc. (together the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Andrew I. Koven sworn August 9, 2018 and the Exhibits thereto (the **"Koven Affidavit"**), the affidavit of Andrew I. Koven sworn August 28, 2018 and the pre-filing report of Richter Advisory Group Inc. ("**Richter**"), in its capacity as proposed monitor (the "**Monitor**") to the Applicants, dated August 10, 2018, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel to the Applicants, counsel to the proposed Monitor and counsel to the DIP Lender (as that term is defined herein) and pre-filing secured lender ("**Deerfield**"), and on reading the consent of Richter to act as the Monitor,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the Koven Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management

System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

(b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicants following the date of this Order,

provided that, to the extent such expenses were incurred prior to the date of this Order, the Applicants shall only be entitled to pay such amounts if they are determined by the Applicants, in consultation with the Monitor and the DIP Lender, to be necessary to the continued operation

of the Business or preservation of the Property and such payments are approved in advance by the Monitor or by further Order of the Court.

8. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

(a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding $500,000 in any one transaction or $2,000,000 in the aggregate;

(b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and

(c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

12. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease

pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including September 7, 2018, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicants to carry on any business which the Applicants is not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA,

(c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. **THIS COURT ORDERS** that the Applicants shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**D&O Charge**") on the Property, which charge shall not exceed an aggregate amount of $1 million, as security for the indemnity provided in paragraph 20 of this Order. The D&O Charge shall have the priority set out in paragraphs ~~48~~50 and ~~50~~52 herein.

22. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the D&O Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the D&O Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPOINTMENT OF MONITOR

23. **THIS COURT ORDERS** that Richter is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

24. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

(a) monitor the Applicants' receipts and disbursements;

(b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;

(d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a bi-weekly basis or as otherwise agreed to by the DIP Lender;

(e) advise the Applicants in its development of the Plan and any amendments to the Plan;

(f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

(h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and

(i) perform such other duties as are required by this Order or by this Court from time to time.

25. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants in response to

reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

28. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

29. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements incurred in respect of services rendered to the Applicants, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis and, in addition, the Applicants are hereby authorized and directed to pay to the Monitor, counsel to the Monitor, and counsel to the Applicants, retainers in the amounts of $100,000, $100,000 and $250,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

30. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

APPROVAL OF ENGAGEMENT OF A&M

31. **THIS COURT ORDERS** that the agreement dated as of July 9, 2018 (the "**A&M Engagement Letter**") pursuant to which the Applicants have engaged the services of Alvarez & Marsal Canada Inc. and Alvarez & Marsal Healthcare Industry Group, LLC to act as the financial advisor (in such capacity, the "**Financial Advisor**") to the Applicants, is hereby approved *nunc pro tunc*, including, without limitation, the payment of fees and expenses contemplated thereby,

and the Applicants are authorized to continue the engagement of the Financial Advisor on the terms set out in the A&M Engagement Letter.

32. **THIS COURT ORDERS** that the Financial Advisor shall be entitled to the benefit of the Administration Charge (as defined below) in respect of any obligations of the Applicants under the A&M Engagement Letter, whether for payment of compensation, fees, expenses, indemnities or otherwise.

33. **THIS COURT ORDERS** that all claims of the Financial Advisor pursuant to the Engagement Letter are not claims that may be compromised pursuant to any Plan, or proposal under the *Bankruptcy and Insolvency Act* (the "**BIA**") or any other restructuring, and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the Financial Advisor pursuant to the terms of the Engagement Letter.

34. **THIS COURT ORDERS** that the Financial Advisor, its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of either its engagement by the Applicants as Financial Advisor or any matter referred to in the Engagement Letter except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Financial Advisor in performing its obligations under the Engagement Letter.

APPROVAL OF ENGAGEMENT OF MOELIS

35. **THIS COURT ORDERS** that the agreement dated as of July 18, 2018 (the "**Moelis Engagement Letter**") pursuant to which the Applicants have engaged the services of Moelis & Company LLC ("**Moelis**") to act as the investment banker (in such capacity, the "**Investment Banker**") to the Applicants, is hereby approved *nunc pro tunc*, including, without limitation, the payment of fees and expenses contemplated thereby, and the Applicants are authorized to continue the engagement of the Investment Banker on the terms set out in the Moelis Engagement Letter.

36. **THIS COURT ORDERS** that the Investment Banker shall be entitled to the benefit of a charge in respect of any obligation of the Applicants to pay a Transaction, Restructuring and/or Refinancing Fee (as those terms are defined in the Moelis Engagement Letter) (the

"**Transactional Charge**") to a maximum of US$2.5 million. The Transactional Charge shall have the priority set out in paragraphs 50 and 52 hereof.

37. **THIS COURT ORDERS** that all claims of the Investment Banker pursuant to the Engagement Letter are not claims that may be compromised pursuant to any Plan, or proposal under the BIA or any other restructuring, and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the Financial Advisor pursuant to the terms of the Investment Banker Engagement Letter.

38. ~~36.~~ **THIS COURT ORDERS** that the Investment Banker, its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of either its engagement by the Applicants as Financial Advisor or any matter referred to in the Engagement Letter except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Financial Advisor in performing its obligations under the Engagement Letter.

ADMINISTRATION CHARGE

39. ~~37.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Financial Advisor, the Investment Banker and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of $1 million, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor, the Monitor's counsel, the Financial Advisor, and the Applicants' counsel, and for 50% of the Monthly Fee (as that term is defined in the Moelis Engagement Letter) of the Investment Banker, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs ~~48~~50 and ~~50~~52 hereof.

40. ~~38.~~ **THIS COURT ORDERS** that the Applicants are authorized and directed to return to this Court to seek approval of an allocation of fees payable to the Financial Advisor and the Investment Banker based on the proceeds of any sales completed within these proceedings and the Chapter 11 proceedings of the related Aralez Entities, if necessary.

DIP FINANCING

41. ~~39.~~ **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from Deerfield Private Design Fund III, L.P. and Deerfield Partners, L.P. (the "**DIP Lenders**") in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed USD$10 million unless permitted by further Order of this Court.

42. ~~40.~~ **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the agreement between the Applicants and the DIP Lender dated as of August 10, 2018 (the "**DIP Agreement**"), filed.

43. ~~41.~~ **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

44. ~~42.~~ **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs ~~48~~50 and ~~50~~52 hereof.

45. ~~43.~~ **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

(a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;

(b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon five days' written notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

46. ~~44.~~ **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *BIA*, with respect to any advances made under the Definitive Documents.

47. ~~45.~~ **THIS COURT ORDERS** that all claims of the DIP Lender pursuant to the Definitive Documents are not claims that may be compromised pursuant to any Plan, or proposal under the *BIA* or any other restructuring, and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the DIP Lender pursuant to the Definitive Documents.

48. ~~46.~~ **THIS COURT ORDERS** that during the period from August 10, 2018 to August 21, 2018, the Applicants shall not draw in excess of USD$1 million on the facility available under the DIP Agreement.

49. ~~47.~~ **THIS COURT ORDERS** that, notwithstanding any other provision herein (other than paragraph ~~46~~48), the foregoing approval of the DIP Agreement and the DIP Lenders'

Charge is subject to the right of any Person not served with notice of this Application to return to Court to object to the DIP Agreement and the DIP Lenders' Charge (such motion, a "**DIP Objection Motion**") by giving notice to the Applicants, the Monitor and the DIP Lender no later than August 21, 2018. In the event that notice of a DIP Objection Motion is not given by August 21, 2018, the DIP Agreement and the DIP Lenders' Charge shall no longer be subject to this paragraph. If notice of a DIP Objection Motion is given in accordance with this paragraph, the Court shall schedule the hearing of the DIP Objection Motion forthwith.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

50. ~~48.~~ **THIS COURT ORDERS** that the priorities of the Administration Charge, the DIP Lender's Charge ~~and~~, the D&O Charge, and the Transactional Fee Charge and as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $1 million);

Second – DIP Lender's Charge; ~~and~~

Third – D&O Charge (to the maximum amount of $1 million); ~~.~~

Fourth – Transactional Fee Charge (to the maximum amount of $2.5 million);

51. ~~49.~~ **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the DIP Lender's Charge, the D&O Charge and the ~~D&O~~Transactional Fee Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

52. ~~50.~~ **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

53. ~~51.~~ **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any

Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Charges, or further Order of this Court.

54. ~~52.~~ **THIS COURT ORDERS** that the Charges, the DIP Agreement, and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

(a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

(c) the payments made by the Applicants pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

55. ~~53.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

CROSS-BORDER PROTOCOL

56. **THIS COURT ORDERS** that the cross-border protocol in the form attached as Schedule "A" hereto (the "**Cross-Border Protocol**") is hereby approved and shall become effective upon its approval by the United States Bankruptcy Court for the Southern District of New York, and the parties to these proceedings and any other Person shall be governed by and shall comply with the Cross-Border Protocol.

SERVICE AND NOTICE

57. ~~54.~~ **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA, (b) within five days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than $1000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

58. ~~55.~~ **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/ shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: http://insolvency.richter.ca/A/Aralez-Pharmaceuticals.

59. ~~56.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices

or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

COMEBACK MOTION

60. ~~57.~~ **THIS COURT ORDERS** that the Applicants are authorized to serve their motion materials, with respect to one or more motions at which the Applicants intend to seek, *inter alia*, approval of a cross-border protocol, an extension of the Stay Period, a charge in respect of certain transaction fees of the Applicants' investment banker, and approval of a key employee retention plan (the "**Comeback Motion**") by forwarding a copy of this Order and any additional materials to be filed with respect to the Comeback Motion by electronic transmission, where available, or by courier to the parties likely to be affected by the relief to be sought at such parties' respective addresses as last shown on the records of the Applicants as soon as practicable.

GENERAL

61. ~~58.~~ **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

62. ~~59.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

63. ~~60.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding,

or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

64. ~~61.~~ **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

65. ~~62.~~ **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

66. ~~63.~~ **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

_____

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

Court File No. CV-18-603054-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

INITIAL ORDER

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Document 2 ID	PowerDocs://SETOR1/6928411/4
Description	SETOR1-#6928411-v4-Aralez_-_Amended_and_Restated_Initial_Order_-_Sept_5_Comeback
Rendering set	standard

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Insertion	
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Padding cell	

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	Count
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Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	64

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

Court File No.: CV-18-603054-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

MOTION RECORD
(Returnable September 5, 2018)
(Re: Stay Extension, Transactional Charge, Cross Border Protocol)

STIKEMAN ELLIOTT LLP
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