

**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 CERTAIN PROCEEDINGS TAKEN IN THE UNITED
STATES BANKRUPTCY COURT WITH RESPECT TO HORSEHEAD HOLDING
CORP., HORSEHEAD CORPORATION, HORSEHEAD METAL PRODUCTS, LLC,
THE INTERNATIONAL METALS RECLAMATION COMPANY, LLC AND
ZOCHEM INC. (collectively the "Debtors")**

**APPLICATION OF HORSEHEAD HOLDING CORP.
UNDER SECTION 46 OF THE
*COMPANIES' CREDITORS ARRANGEMENT ACT***

APPLICATION RECORD
(initially returnable February 2, 2016)

Date: February 2, 2016

AIRD & BERLIS LLP
Barristers & Solicitors
Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Sam Babe
LSUC # 49498B
Tel: 416.865.7718
Fax: 416.863.1515
E-mail: sbabe@airdberlis.com

Lawyers for the Applicant

TO: ATTACHED SERVICE LIST

SERVICE LIST

TO: AIRD & BERLIS LLP
Brookfield Place
1800 – 181 Bay Street
Toronto, ON M5J 2T9

Sam Babe (LSUC # 49498B)
Tel: 416.865.7718
Fax: 416.863.1515
Email: sbabe@airdberlis.com

Lawyers for the Applicant

AND TO: RICHTER ADVISORY GROUP INC.
3320 – 181 Bay Street
Toronto, ON M5J 2T3

Paul van Eyk
Tel: 416.485.4592
Email: PvanEyk@Richter.ca

Adam Sherman
Tel: 416.642.4836
Email: ASherman@Richter.ca

Pritesh Patel
Tel: 416.642.9421
Email: PPatel@Richter.ca

Proposed Information Officer

AND TO: GOODMANS LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Robert Chadwick
Tel: 416.597.4285
Fax: 416.979.1234
Email: rchadwick@goodmans.com

Lawyers for the Proposed Information Officer

AND TO: CASSELS BROCK & BLACKWELL LLP
Scotia Plaza
2100 - 40 King Street West
Toronto, ON M5H 3C2

Ryan C. Jacobs
Tel: 416.860.6465
Fax: 416.640.3189
Email: rjacobs@casselsbrock.com

Jane Dietrich
Tel: 416.860.5223
Fax: 416.640.3144
Email: jdietrich@casselsbrock.com

Natalie E. Levine
Tel: 416.860.6568
Fax: 416.640.3207
Email: nlevine@casselsbrock.com

Lawyers for the Ad Hoc Group of Senior Secured Noteholders, proposed Post-Petition Lenders and Cantor Fitzgerald Securities, as proposed DIP Agent

AND TO: BLAKE, CASSELS & GRAYDON LLP
199 Bay Street, Suite 4000
Toronto, ON M5L 1A9

Linc Rogers
Tel: 416.863.4168
Fax: 416.863.2653
Email: linc.rogers@blakes.com

Lawyers for PNC Bank, National Association

AND TO: UNIFOR LOCAL 591G
5045 Orbitor Drive, Bldg. 8, Suite 400
Mississauga, ON L4W 4Y4

Tel: 905.212.9309
Fax: 905.212.9834

AND TO: LIFTOW LIMITED
3150 American Drive
Mississauga, ON L4V 1B4

AND TO: LIFTCAPITAL CORPORATION
300 The East Mall, Suite 401
Toronto, ON M9B 6B7

**AND TO: FINANCIAL SERVICES COMMISSION OF ONTARIO (FSCO)
PENSION DIVISION**
5160 Yonge Street
P.O. Box 85, 4th Floor
Toronto, ON M2N 6L9

Deborah McPhail
Tel: 416.226.7764
Email: deborah.mcphail@fSCO.gov.on.ca

AND TO: DEPARTMENT OF JUSTICE CANADA
3400 – 130 King Street West
Toronto, ON M5X 1K6

Diane H.A. Winters
Tel: 416.973.3172
Fax: 416.973.0810
Email: diane.winters@justice.gc.ca

Edward Park
Tel: 416.973.3746
Email: edward.park@justice.gc.ca

Edward Harrison
Tel: 416.973.7126
Email: edward.harrison@justice.gc.ca

Lawyers for Canada Revenue Agency

AND TO: MINISTRY OF FINANCE (ONTARIO)

Legal Services Branch
777 Bay Street, 11th Floor
Toronto, ON M5G 2C8

Kevin O'Hara

Tel: 416.327.8463

Fax: 416.325.1460

Email: kevin.ohara@ontario.ca

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I N D E X

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1. Notice of Application
2. Draft Interim Order
3. Draft Interim Order blacklined to Model Supplemental Recognition Order
4. Draft Initial Recognition Order
5. Draft Initial Recognition Order blacklined to Model Order
6. Draft Supplemental Recognition Order
7. Draft Supplemental Recognition Order blacklined to Model Order
8. Affidavit of James M. Hensler sworn February 2, 2016

Exhibits to Affidavit

- (a) Petition of Horsehead Holding;
- (b) Petition of Horsehead Corporation;
- (c) Petition of Horsehead Metal Products, LLC
- (d) Petition of The International Metals Reclamation Company, LLC

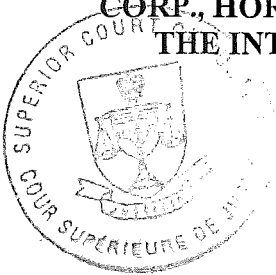
- (e) Petition of Zochem Inc.;
 - (f) First Day Declaration;
 - (g) Organization Chart;
 - (h) Corporate Profile Report;
 - (i) Cash Management System;
 - (j) Foreign Representative Resolution;
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Tab 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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**APPLICATION OF HORSEHEAD HOLDING CORP.
UNDER SECTION 46 OF THE
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NOTICE OF APPLICATION

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicants. The claim made by the applicants appears on the following pages.

THIS APPLICATION will come on for an interim hearing before a Judge presiding over the Commercial List on Tuesday, February 2, 2016, at 2:15 p.m. or so soon thereafter as the application can be heard, and then for an initial hearing before a Judge presiding over the Commercial List on a date to be set by the Court, each at 330 University Avenue, Toronto.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the applicants' lawyer or, where the applicants do not have a lawyer, serve it on the applicants, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

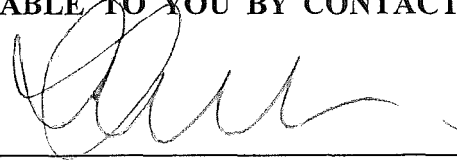
IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicants' lawyer or, where the applicants do not have a lawyer, serve it on the applicants, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2 p.m. on the day before the hearing.

**IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN
IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.**

**IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY
LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A
LOCAL LEGAL AID OFFICE.**

Date: February 2, 2016

Issued by:



Local Registrar

C. Irwin

Registrar

Address of court office:

330 University Avenue
7th Floor
Toronto, ON M5G 1R7

TO: RICHTER ADVISORY GROUP INC.
3320 – 181 Bay Street
Toronto, ON M5J 2T3

Paul van Eyk
Tel: 416.485.4592
Email: PvanEyke@Richter.ca

Adam Sherman
Tel: 416.642.4836
Email: ASherman@Richter.ca

Pritesh Patel
Tel: 416.642.9421
Email: PPatel@Richter.ca

Proposed Information Officer

AND TO: GOODMANS LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Robert Chadwick
Tel: 416.597.4285
Fax: 416.979.1234
Email: rchadwick@goodmans.com

Lawyers for the Proposed Information Officer

AND TO: CASSELS BROCK & BLACKWELL LLP
Scotia Plaza
2100 - 40 King Street West
Toronto, ON M5H 3C2

Ryan C. Jacobs
Tel: 416.860.6465
Fax: 416.640.3189
Email: rjacobs@casselsbrock.com

Jane Dietrich
Tel: 416.860.5223
Fax: 416.640.3144
Email: jdietrich@casselsbrock.com

Natalie E. Levine

Tel: 416.860.6568

Fax: 416.640.3207

Email: nlevine@casselsbrock.com

Lawyers for the Ad Hoc Group of Senior Secured Noteholders, proposed Post-Petition Lenders and Cantor Fitzgerald Securities, as proposed Administrative Agent

AND TO: BLAKE, CASSELS & GRAYDON LLP

199 Bay Street, Suite 4000

Toronto, ON M5L 1A9

Linc Rogers

Tel: 416.863.4168

Fax: 416.863.2653

Email: linc.rogers@blakes.com

Lawyers for PNC Bank, National Association

AND TO: UNIFOR LOCAL 591G

5045 Orbitor Drive, Bldg. 8, Suite 400

Mississauga, ON L4W 4Y4

Tel: 905.212.9309

Fax: 905.212.9834

AND TO: LIFTOW LIMITED

3150 American Drive

Mississauga, ON L4V 1B4

AND TO: LIFTCAPITAL CORPORATION

300 The East Mall, Suite 401

Toronto, ON M9B 6B7

AND TO: FINANCIAL SERVICES COMMISSION OF ONTARIO (FSCO)
PENSION DIVISION
5160 Yonge Street
P.O. Box 85, 4th Floor
Toronto, ON M2N 6L9

Deborah McPhail
Tel: 416.226.7764
Email: deborah.mcphail@fSCO.gov.on.ca

AND TO: DEPARTMENT OF JUSTICE CANADA
3400 – 130 King Street West
Toronto, ON M5X 1K6

Diane H.A. Winters
Tel: 416.973.3172
Fax: 416.973.0810
Email: diane.winters@justice.gc.ca

Edward Park
Tel: 416.973.3746
Email: edward.park@justice.gc.ca

Edward Harrison
Tel: 416.973.7126
Email: edward.harrison@justice.gc.ca

Lawyers for Canada Revenue Agency

AND TO: MINISTRY OF FINANCE (ONTARIO)
Legal Services Branch
777 Bay Street, 11th Floor
Toronto, ON M5G 2C8

Kevin O'Hara
Tel: 416.327.8463
Fax: 416.325.1460
Email: kevin.ohara@ontario.ca

APPLICATION

1. Horsehead Holding Corp. (the “**Applicant**”) makes an application (the “**Application**”), on its own behalf and in its capacity as proposed foreign representative of the Debtors, for three orders in substantially the forms included in the Application Record, including orders, among other things:

Interim Order

- (a) abridging the time for service and filing of this Notice of Application and the Application Record and dispensing with service thereof on any interested party other than those served with these proceedings;
- (b) granting a stay of proceedings in respect of the Debtors and their property and business of the Debtors, and in respect of their directors and officers, pending hearing of the application to recognize the proceedings commenced by the Debtors in the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”) under chapter 11 of title 11 of the United States Code (the “**Chapter 11 Proceedings**”);

Initial Recognition Order

- (c) declaring that the Applicant is a “foreign representative” pursuant to section 45 of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”);
- (d) recognizing the Chapter 11 Proceedings as a “foreign main proceeding” as defined in section 45 of the CCAA;
- (e) staying all proceedings against the Debtors;

Supplemental Recognition Order

- (f) recognizing in Canada and enforcing the following orders of the U.S. Court made in the Chapter 11 Proceedings:

- (i) Order Directing Joint Administration of Chapter 11 Cases;
- (ii) Order Authorizing Horsehead Holding Corp. to Act as Foreign Representative Pursuant to 11 U.S.C § 1505;
- (iii) Interim Order Authorizing Debtors to (a) Continue to Operate their Cash Management Systems, (b) Honor Certain Prepetition Obligations related Thereto, (c) Maintain Existing Business Forms and (d) Continue to Perform Intercompany Transactions;
- (iv) Interim Order Authorizing, But Not Directing, Debtors to (a) Pay Prepetition Wages, Salaries, Other Compensation, Reimbursable Expenses, and Payroll Processing Fees, (b) Pay Withholding Obligations, (c) Continue Employee Benefits Programs, and (d) Continue Ordinary Course Incentive Programs for Non-Insiders;
- (v) Interim Order Authorizing Debtors to (a) Pay Prepetition Claims of Shippers and Miscellaneous Lien Claimants, (b) Pay Section 503(b)(9) Claims, and (c) Grant Administrative Expense Priority to all Undisputed Obligations for Goods Ordered Prepetition and Delivered Postpetition and Satisfy such Obligations in the Ordinary Course of Business;
- (vi) Interim Order (a) Determining Adequate Assurance of Payment for Future Utility Services; (b) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Services; (c) Establishing Procedures for Determining Adequate Assurance of Payment;
- (vii) Interim Order Authorizing Debtors to (a) Continue Insurance Coverage Entered Into Prepetition; (b) Honor their Prepetition Insurance Premium Financing Agreements; and (c) Renew their Premium Financing Agreements in the Ordinary Course of Business;
- (viii) Order Authorizing, But Not Directing, Debtors to Remit and Pay Certain Prepetition Taxes, Governmental Assessments, and Fees;

- (ix) Interim Order Authorizing Debtors to Pay Certain Prepetition Claims of Critical Vendors;
- (x) Interim Order Approving Notification and Hearing Procedures for Certain Transfers of, and Declarations of Worthlessness with Respect to, Common Stock;
- (xi) Order Authorizing Debtors to (a) File a Consolidated List of Creditors in Lieu of Submitting Separate Mailing Matrices for each Debtor and (b) Authorizing Debtors to Redact Certain Personal Identification Information for Individual Creditors;
- (xii) Order Extending the Deadline by which the Debtors Must File their Schedules of Assets and Liabilities, Schedules of Current Income and Expenditures, Schedules of Executory Contracts and Unexpired Leases, and Statements of Financial Affairs; and
- (xiii) Interim Order (A) Authorizing the Debtors to Obtain Postpetition Secured Financing Pursuant to Section 364 of the Bankruptcy Code, (B) Authorizing the Debtors to Use Cash Collateral, (C) Granting Adequate Protection to the Prepetition Secured Parties, (D) Scheduling a Final Hearing, and (E) Granting Related Relief (the “**U.S. DIP Order**”);
- (g) appointing Richter Advisory Group Inc. (“**Richter**”) as information officer (the “**Information Officer**”);
- (h) staying any proceeding or enforcement process against the Debtors, their business or property, or their officer and directors;
- (i) suspending the right of any person to, among other things, discontinue or terminate any agreement with the Debtors, including for supply of goods or services;

- (j) granting a priority charge over the property of the Debtors in Canada in the principal amount of \$100,000 to secure the fees and disbursements of the Information Officer and counsel to the Information Officer (the “**Administration Charge**”);
- (k) staying any proceeding or enforcement process against Information Officer;
- (l) granting a priority charge over the property of the Debtors in Canada consistent with the liens and charges created by the U.S. DIP Order (the “**DIP Lenders’ Charge**”); and
- (m) granting such further and other relief as counsel may request and this Honourable Court may permit.

2. The Application in respect of the Interim Order will be heard the date hereof, and the Application in respect of the Initial Recognition Order and the Supplemental Recognition Order will be heard on a date to be set by the Court.

3. The grounds for the application are:

Overview of the Debtors

- (a) together with their predecessors, the Debtors have operated in the zinc industry for more than 150 years and in the nickel-bearing waste industry for more than 30 years;
- (b) the Debtors operate through three business units: Horsehead Corporation and its subsidiaries (collectively, “**Horsehead**”), Zochem Inc. (“**Zochem**”), and The International Metals Reclamation Company, LLC (“**INMETCO**”);
- (c) Horsehead, Zochem, and INMETCO are each subsidiaries of the Applicant, a publicly-traded company whose common stock trades on the NASDAQ Stock Market, under the ticker symbol ZINC;

- (d) Horsehead is a prominent recycler of electric arc furnace (“EAF”) dust, a zinc-containing waste generated by North American steel “mini-mills”, and in turn uses the recycled EAF dust to produce specialty zinc and zinc-based products;
- (e) Zochem is one of the largest single-site producers of zinc oxide in North America;
- (f) INMETCO is a recycler of nickel-bearing wastes and nickel-cadmium batteries, and a producer of nickel-chromium-molybdenum-iron remelt alloy for the stainless steel and specialty steel industries;
- (g) collectively, the Debtors hold a market-leading position in zinc production in the United States, zinc oxide production in North America, EAF dust recycling in North America, and are a leading environmental service provider to the U.S. steel industry;
- (h) the Debtors are managed from Pittsburgh, Pennsylvania, largely sharing the same set of officers;
- (i) other than Zochem’s general manager, a former Horsehead employee from Pennsylvania, all officers of the Debtors operate from Pittsburgh;
- (j) Zochem’s communications decisions, pricing decisions, and business development decisions are made in Pittsburgh, and its accounts receivable, accounts payable and treasury departments are located in Pittsburgh;
- (k) Zochem’s banking relationship and the core of its cash management system are also located in Pennsylvania;

Recognition of Chapter 11 Proceedings is appropriate

- (l) the Applicant is the direct or indirect parent of each of the other Debtors and largely shares the same directors and officers as the other Debtors;

- (m) the Applicant will be appointed as the foreign representative of itself and the other Debtors in the Chapter 11 Proceedings and will therefor fall under the definition of “foreign representative” in subsection 45(1) of the CCAA;
- (n) the Chapter 11 Proceedings falls under the definition of a “foreign proceeding” in subsection 45(1) of the CCAA;
- (o) pursuant to subsection 46(1) of the CCAA, the Applicant, as a foreign representative, may apply to the Court for recognition of the Chapter 11 Proceedings;
- (p) if the Court is satisfied that the application relates to “foreign proceedings” and that the Applicant is a “foreign representative”, then, pursuant to subsection 47(1) of the CCAA, the Court shall make an order recognizing the Chapter 11 Proceedings;
- (q) the Chapter 11 Proceedings should be recognized as a “foreign main proceeding” pursuant to subsection 47(2) of the CCAA because the centre of main interest of each of the Debtors is in the United States;
- (r) the success of the Debtors’ restructuring efforts rests on recognition of the Chapter 11 Proceedings as a foreign main proceeding because, among other things, it was a condition of access the DIP financing needed by all the Debtors;

Stay of Proceedings is Appropriate

- (s) if the Chapter 11 Proceedings is recognized as foreign main proceeding, the Court shall, pursuant to subsection 48(1) of the CCAA, stay the commencement or continuation of any proceeding against the Debtors, subject to any terms or conditions it considers appropriate;
- (t) a stay of proceedings in Canada is essential to the Chapter 11 Proceedings because of the value of the Zochem assets and business located in Canada;

DIP Lenders' Charge is Appropriate

- (u) because of enforcement steps taken by their existing lenders, the Debtors' operations have had highly limited access to cash for almost three weeks, with associated levels of business disruption;
- (v) a number of significant vendors, suppliers, and transportation service providers have either threatened to suspend their working relationship with the Debtors or cut off the Debtors completely;
- (w) the non-binding term sheet from the DIP Lenders (as defined in the Supplemental Order) is the result of a competitive process run by the Debtors and their professional advisors and the DIP Credit Agreement (as defined in the Supplemental Order) it contemplates will be necessary to satisfy the outstanding demand made by Zochem's lender and to fund the Debtors' ongoing operations during the Chapter 11 Proceedings;
- (x) the DIP Credit Agreement makes the granting of the DIP Lenders' Charge a condition of any advance;
- (y) no potential lender was willing to provide a debtor-in-possession facility without security over all the assets of the Debtors, including those of Zochem;
- (z) the DIP Lenders (as defined in the Supplemental Order) were, however, the only ones willing to take second priority to collateral already pledged to the U.S. Debtors' existing secured lender;

Appointment of Information Officer and Administration Charge are Appropriate

- (aa) the Information Officer could be of assistance to:
 - (i) the Court in providing report and recommendations with regard to the Chapter 11 Proceedings;

- (ii) the Foreign Representative and the Debtors in carrying out their duties;
and
- (iii) stakeholders in handling information requests;
- (b) Richter is a licensed insolvency trustee with experience acting in the role of an information officer;
- (c) Richter has consented to act as the Information Officer subject to the granting of the Administration Charge;
- (d) The DIP Lenders have approved of the selection of Richter as the Proposed Information Officer and have consented to the Administration Charge ranking in priority to the DIP Lenders' Charge;

General

- (bb) such other grounds set forth in the affidavit of James M. Hensler sworn February 2, 2016 (the "**Hensler Affidavit**");
 - (cc) the provisions of the CCAA and, in particular, sections 9, 11, 11.02, 11.03, 11.2 and 44 through 50;
 - (dd) rules 2.03, 3.02, 14.05 and 16 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194;
 - (ee) sections 97 and 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
 - (ff) the equitable jurisdiction of this Honourable Court; and
 - (gg) such further and other grounds as counsel may advise and this Honourable Court may permit.
4. The following documentary evidence will be used at the hearing of the application:
- (a) the Hensler Affidavit;

- (b) the consent of Richter dated February 1, 2016 to act as Information Officer; and
- (c) such further and other evidence as counsel may advise and this Honourable Court may permit.

February 2, 2016

AIRD & BERLIS LLP
Barristers & Solicitors
Brookfield Place
Suite 1800, P.O. Box 754
181 Bay Street
Toronto, ON M5J 2T9

Sam Babe (LSUC # 49498B)
Tel: 416.865.7718
Fax: 416.863.1515
Email: sbabe@airdberlis.com

Lawyers for the Applicant

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED,
IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT WITH RESPECT
TO THE DEBTORS, AND APPLICATION OF HORSEHEAD HOLDING CORP. UNDER SECTION 46 OF THE
*COMPANIES' CREDITORS ARRANGEMENT ACT***

Court File No. CV-16-11271 -00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

NOTICE OF APPLICATION

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
Suite 1800, Box 754
181 Bay Street
Toronto, ON M5J 2T9

Sam Babe (LSUC # 49498B)
Tel: 416.865.7718
Fax: 416.863.1515

Lawyers for the Applicant

Tab 2

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.) TUESDAY, THE 2ND
)
JUSTICE NEWBOULD) DAY OF FEBRUARY, 2016

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

AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED
STATES BANKRUPTCY COURT WITH RESPECT TO HORSEHEAD HOLDING
CORP., HORSEHEAD CORPORATION, HORSEHEAD METAL PRODUCTS, LLC,
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ZOCHEM INC. (collectively, the "Debtors")

APPLICATION OF HORSEHEAD HOLDING CORP.
UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT

INTERIM ORDER
(FOREIGN MAIN PROCEEDING)

THIS APPLICATION, made by Horsehead Holding Corp. in its capacity as the proposed foreign representative (the "**Foreign Representative**") of the Debtors in respect of the proceedings commenced on February 2, 2016, in the United States Bankruptcy Court for the District of Delaware, under chapter 11 of title 11 of the United States Code (the "**Foreign Proceeding**"), for an Order substantially in the form enclosed in the Application Record, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Application, the affidavit of James M. Hensler sworn February 2, 2016, and on hearing the submissions of counsel for the Foreign Representative, counsel to Richter Advisory Group Inc., in its capacity as proposed information officer (the "**Proposed Information Officer**"), counsel to PNC Bank, National Association, counsel to

the Ad Hoc Group of Senior Secured Noteholders and proposed Post-Petition Lenders (the “**DIP Lenders**”) and Cantor Fitzgerald Securities, as administrative agent (the “**DIP Agent**”), no one else appearing although duly served as appears from the affidavit of service of <*> sworn February 2, 2016, filed:

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.

STAY OF PROCEEDINGS

2. **THIS COURT ORDERS** that from the date hereof until and unless otherwise ordered by the Court (the “**Stay Period**”) no proceeding or enforcement process in any court or tribunal in Canada (each, a “**Proceeding**” and, collectively, “**Proceedings**”) including, without limitation, a Proceeding taken or that might be taken against the Debtors under the *Bankruptcy and Insolvency Act*, R.S.C., 1985 c. B-3, as amended, or the *Winding-up and Restructuring Act*, R.S.C. 1985, c. W-11, as amended, shall be commenced or continued against or in respect of the Debtors or affecting their business in Canada (the “**Business**”) or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate in Canada, including all proceeds thereof (the “**Property**”), except with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

3. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, agency, governmental or quasi-governmental body, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against, in respect of or affecting the Debtors, or affecting the Business or the Property, are hereby stayed and suspended except with leave of this Court, provided that nothing in this Order shall (i) prevent the assertion of or the exercise of rights and remedies in the Foreign

Proceedings, (ii) empower any of the Debtors to carry on any business in Canada which that Debtor is not lawfully entitled to carry on, or (iii) affect such investigations or Proceedings by a regulatory body as are permitted by section 11.1 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA").

NO INTERFERENCE WITH RIGHTS

4. **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 any of the Debtors in Canada, except with leave of this Court.

ADDITIONAL PROTECTIONS

5. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services in Canada, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services provided in respect of the Property or Business of the Debtors, 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 Debtors, and that the Debtors shall be entitled to the continued use in Canada of their, among other things, their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices and charges for all such goods and services received after the date of this Order are paid by the Debtors in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the relevant Debtor(s), or as may be ordered by this Court.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

6. **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 Debtors with respect to any

claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Debtors 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 plan of reorganization in respect of the Debtors, if one is filed in the Foreign Proceeding, is recognized by this Court and becomes effective in accordance with its terms, or unless otherwise ordered by this Court.

NO SALE OF PROPERTY

7. **THIS COURT ORDERS** that each of the Debtors is prohibited from selling or otherwise disposing of, outside the ordinary course of its business, any of its Property in Canada that relates to the Business and from selling or otherwise disposing of any of their other Property in Canada, provided however, that nothing herein shall prevent the Debtors from seeking approval in the Foreign Proceeding or from this Court to sell or otherwise dispose of the Property.

SERVICE AND NOTICE

8. **THIS COURT ORDERS** that that the E-Service Protocol 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.

9. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Debtors, the Foreign Representative is 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 Debtors’ creditors or other interested parties at their respective addresses as last shown on the records of the applicable

Debtor 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.

GENERAL

10. **THIS COURT ORDERS** that any party may, from time to time, apply to this Court for such further or other relief as it may advise from time to time, including for directions in respect of the proper execution of this Order.

11. **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 Debtors and the Foreign Representative, and 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 Debtors and the Foreign Representative, as may be necessary or desirable to give effect to this Order, or to assist the Debtors and the Foreign Representative, and their respective agents in carrying out the terms of this Order.

12. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Debtors, the Foreign Representative, the Proposed Information Officer and their respective counsel, to counsel to the DIP Lenders and DIP Agent, and 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.

13. **THIS COURT ORDERS** that this Order shall be effective as of 12:01 a.m. on the date of this Order.

25033289.4

Tab 3

Court File No. ——— CV-16-11271-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE ——— MR.) WEEKDAY TUESDAY, THE # 2ND
)
JUSTICE ——— NEWBOULD) DAY OF MONTH FEBRUARY,
) 20YR 2016

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

**AND IN THE MATTER OF THE [~~LIST DEBTOR NAMES~~]~~(CERTAIN~~
PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT WITH
RESPECT TO HORSEHEAD HOLDING CORP., HORSEHEAD CORPORATION,
HORSEHEAD METAL PRODUCTS, LLC, THE INTERNATIONAL METALS
RECLAMATION COMPANY, LLC AND ZOCHEM INC. (collectively, the
"Debtors"))**

**APPLICATION OF [~~NAME OF FOREIGN REPRESENTATIVE~~]
HORSEHEAD HOLDING CORP.
UNDER SECTION 46 OF THE
*COMPANIES' CREDITORS ARRANGEMENT ACT***

**SUPPLEMENTAL INTERIM ORDER¹
(FOREIGN MAIN² PROCEEDING)**

¹As noted in several footnotes in this model order, practice under Part IV of the CCAA is still developing, and as certain issues are determined by Canadian courts, this model order will be amended to reflect the development of the law in this area.

²If the Canadian Court has recognized a foreign proceeding as a "main" proceeding, then section 48 of the CCAA provides that the Court must grant certain relief, subject to any terms and conditions it considers appropriate. The provisions of the model Initial Recognition Order (Foreign Main Proceeding) fulfill the mandatory requirements of section 48 with respect to a foreign main proceeding. Section 49 of the CCAA also allows the Court to make any order that it considers appropriate for the protection of the debtor company's property or the interests of a creditor or creditors. This Supplemental Order contains discretionary relief that might be granted by the Court in the appropriate circumstances. The Model Order Subcommittee has attempted to make the provisions of this model Order consistent with similar provisions in other model Orders. Supplemental relief (whether contained in this Order or in subsequent Orders) may also include provisions dealing with the sale of assets, the recognition of critical vendors, a claims process, or any number of other matters, or may recognize foreign orders or laws granting such relief.

THIS APPLICATION, made by ~~[NAME OF FOREIGN REPRESENTATIVE]~~Horsehead Holding Corp. in its capacity as the proposed foreign representative (the “Foreign Representative”) of the Debtors, pursuant to the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the “CCAA”) of the Debtors in respect of the proceedings commenced on February 2, 2016, in the United States Bankruptcy Court for the District of Delaware, under chapter 11 of title 11 of the United States Code (the “Foreign Proceeding”), for an Order substantially in the form enclosed in the Application Record, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Application, the affidavit of ~~[NAME]~~ sworn ~~[DATE]~~, ~~[the preliminary report of [NAME], in its capacity as proposed information officer dated [DATE]]~~, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, James M. Hensler sworn February 2, 2016, and on hearing the submissions of counsel for the Foreign Representative, ~~[counsel for the to Richter Advisory Group Inc., in its capacity as proposed information officer,]~~ counsel for [OTHER-PARTIES], no one appearing for [NAME]³ (the “Proposed Information Officer”), counsel to PNC Bank, National Association, counsel to the Ad Hoc Group of Senior Secured Noteholders and proposed Post-Petition Lenders (the “DIP Lenders”) and Cantor Fitzgerald Securities, as administrative agent (the “DIP Agent”), no one else appearing although duly served as appears from the affidavit of service of ~~[NAME]~~ sworn ~~[DATE]~~, and on reading the consent of ~~[NAME OF PROPOSED INFORMATION OFFICER]~~ to act as the information officer ~~<*>~~ sworn February 2, 2016, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated⁴ so that this Application is properly returnable today and hereby dispenses with further service thereof.

³ Include names of secured creditors or other persons who must be served before certain relief in this model Order may be granted. See, for example, CCAA Sections 11.2(1) and 11.52(1).

⁴ If service is effected in a manner other than as authorized by the Ontario *Rules of Civil Procedure*, an order validating irregular service is required pursuant to Rule 16.08 of the *Rules of Civil Procedure* and may be granted in the appropriate circumstances.

~~INITIAL RECOGNITION ORDER~~

2. ~~THIS COURT ORDERS~~ that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Initial Recognition Order (Foreign Main Proceeding) dated [DATE] (the "Recognition Order").

3. ~~THIS COURT ORDERS~~ that the provisions of this Supplemental Order shall be interpreted in a manner complementary and supplementary to the provisions of the Recognition Order, provided that in the event of a conflict between the provisions of this Supplemental Order and the provisions of the Recognition Order, the provisions of the Recognition Order shall govern.

~~RECOGNITION OF FOREIGN ORDERS⁵~~

4. ~~THIS COURT ORDERS~~ that the following orders (collectively, the "Foreign Orders") of [NAME OF FOREIGN COURT] made in the Foreign Proceeding are hereby recognized and given full force and effect⁶ in all provinces and territories of Canada pursuant to Section 49 of the CCAA:

- (a) ~~[list Foreign Orders, or portions of Foreign Orders, copies of which should be attached as schedules to this Order], attached as Schedule A to this Order,~~

~~provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada.~~

⁵ ~~This model Order adopts an approach that might be applicable to some foreign proceedings, but not others. For example, U.S. proceedings will typically generate court orders that will be brought to the Canadian Courts for recognition. Other jurisdictions may have statutory or regulatory rights (rather than court orders) that need to be recognized in Canada.~~

⁶ ~~Section 50 of the CCAA provides that an order made under Part IV of the CCAA may be made on any terms and conditions that the Court considers appropriate in the circumstances. Such terms and conditions would presumably need to be consistent with the orders or laws applicable to the foreign proceeding, subject to (i) the limitations imposed by section 48(2) (an order made under section 48(1) must be consistent with any order made under the CCAA), and (ii) the limitations imposed in section 61 (which provides that the Court may apply legal or equitable rules that are not inconsistent with the CCAA, and further that the Court may refuse to do something that would be contrary to public policy). All of the Foreign Orders should be reviewed by counsel with these issues in mind, and the Court may require confirmation from counsel that there is nothing in the Foreign Orders that is inconsistent with the CCAA or that would raise the public policy exception referenced in section 61 of the CCAA.~~

APPOINTMENT OF INFORMATION OFFICER⁷

5. ~~THIS COURT ORDERS~~ that [NAME OF INFORMATION OFFICER] (the "Information Officer") is hereby appointed as an officer of this Court, with the powers and duties set out herein. ~~NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY⁸~~ **STAY OF PROCEEDINGS**

2. ~~6.~~ **THIS COURT ORDERS** that ~~until such date as this Court may order from the date hereof until and unless otherwise ordered by the Court~~ (the "**Stay Period**") no proceeding or enforcement process in any court or tribunal in Canada (each, a "Proceeding") "**Proceeding**" and, collectively, "**Proceedings**") including, without limitation, a Proceeding taken or that might be taken against the Debtors under the *Bankruptcy and Insolvency Act*, R.S.C., 1985 c. B-3, as amended, or the *Winding-up and Restructuring Act*, R.S.C. 1985, c. W-11, as amended, shall be commenced or continued against or in respect of the Debtors or affecting their business in Canada (the "**Business**") or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate in Canada, including all proceeds thereof (the "**Property**"), except with leave of this Court,⁹ and any and all Proceedings currently under way against or in respect of any of the Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

3. ~~7.~~ **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, agency, governmental or quasi-governmental body ~~or~~

⁷The appointment of an Information Officer is not required by the CCAA, and is in the discretion of the Court. Information Officers are normally trustees licensed under the *Bankruptcy and Insolvency Act*.

⁸The Model Order Subcommittee notes that a "Non-Derogation of Rights" section (found, for example, in the Model Initial CCAA Order) has not been included in this model Order. In a 'full' CCAA proceeding, which would typically include a stay of proceedings made under section 11.02 of the CCAA, a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, and 11.1(2). However, in a Part IV proceeding, section 48 of the CCAA (rather than section 11.02 of the CCAA) is being relied upon when a stay of proceedings is being sought, and despite the wording of section 48(2) and section 61, it is not clear if the restrictions applicable to a section 11.02 stay of proceedings are also applicable to a section 48 stay of proceedings, or would restrict the recognition of foreign proceedings or foreign orders that include a stay of proceedings broader than permitted in a section 11.02 stay of proceedings. These issues remain open for determination by Canadian courts.

⁹Where the Court considers it to be appropriate, it may authorize other Persons, including a Court-appointed Information Officer, to provide consent to any Proceeding. This same comment applies in paragraphs 6 through 11 of this Order.

agency, or any other entities (all of the foregoing, collectively being "Persons") and each being a "Person") against or, in respect of or affecting the Debtors [~~or the Foreign Representative~~], or affecting the Business or the Property, are hereby stayed and suspended except with leave of this Court, provided that nothing in this Order shall (i) prevent the assertion of or the exercise of rights and remedies ~~outside of Canada~~ in the Foreign Proceedings, (ii) empower any of the Debtors to carry on any business in Canada which that Debtor is not lawfully entitled to carry on, or (iii) ~~affect such investigations or Proceedings by a regulatory body as are permitted by section 11.1 of the CCAA,~~ (iv) ~~prevent the filing of any registration to preserve or perfect a security interest, or (v) prevent the registration of a claim for lien~~ Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "CCAA").

NO INTERFERENCE WITH RIGHTS

4. ~~8.~~ **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 any of the Debtors ~~and affecting the Business~~ in Canada, except with leave of this Court.

ADDITIONAL PROTECTIONS

5. ~~9.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services in Canada, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services provided in respect of the Property or Business of the Debtors, 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 Debtors, and that the Debtors shall be entitled to the continued use in Canada of their, among other things, their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices and charges for all such goods and services received after the date of this Order are paid by the Debtors in accordance with normal payment practices of the Debtors or such other

practices as may be agreed upon by the supplier or service provider and the relevant Debtor(s), or as may be ordered by this Court.¹⁰

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

6. ~~10.~~ **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 Debtors with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Debtors 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 plan of reorganization in respect of the Debtors, if one is filed in the Foreign Proceeding, is recognized by this Court and becomes effective in accordance with its terms, or unless otherwise ordered by this Court.¹¹

~~11. THIS COURT ORDERS that no Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded the Information Officer herein, or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a Monitor under the CCAA, and 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.~~

OTHER PROVISIONS RELATING TO INFORMATION OFFICER

~~12. THIS COURT ORDERS that the Information Officer:~~

- ~~(a) is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;~~

¹⁰ Section 11.01 of the CCAA provides that no order made under section 11 or 11.02 has the effect of (a) prohibiting a person from requiring immediate payment for good, services, etc. provided after the order is made, or (b) requiring the further advance of money or credit. It is unclear whether these provisions also apply to an order made pursuant to section 48 of the CCAA. Please see the discussion in footnote 8 above.

¹¹ Counsel should specifically address with the Court whether this provision is appropriate in the context of this Order.

- (b) shall report to this Court at least once every [three] months with respect to the status of these proceedings and the status of the Foreign Proceedings, which reports may include information relating to the Property, the Business, or such other matters as may be relevant to the proceedings herein;
- (c) in addition to the periodic reports referred to in paragraph 12(b) above, the Information Officer may report to this Court at such other times and intervals as the Information Officer may deem appropriate with respect to any of the matters referred to in paragraph 12(b) above;
- (d) shall 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 Debtors, to the extent that is necessary to perform its duties arising under this Order; and
- (e) shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order.

13. THIS COURT ORDERS that the Debtors and the Foreign Representative shall (i) advise the Information Officer of all material steps taken by the Debtors or the Foreign Representative in these proceedings or in the Foreign Proceedings, (ii) co-operate fully with the Information Officer in the exercise of its powers and discharge of its obligations, and (iii) provide the Information Officer with the assistance that is necessary to enable the Information Officer to adequately carry out its functions.

14. THIS COURT ORDERS that the Information Officer 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.

15. THIS COURT ORDERS that the Information Officer (i) shall post on its website all Orders of this Court made in these proceedings, all reports of the Information Officer filed

herein, and such other materials as this Court may order from time to time, and (ii) may post on its website any other materials that the Information Officer deems appropriate.

~~16. THIS COURT ORDERS that the Information Officer may provide any creditor of a Debtor with information provided by the Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer 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 Information Officer has been advised by the Debtors is privileged or confidential, the Information Officer shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Information Officer, the Foreign Representative and the relevant Debtors may agree.~~

~~17. THIS COURT ORDERS that the Information Officer and counsel to the Information Officer shall be paid by the Debtors their reasonable fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts. The Debtors are hereby authorized and directed to pay the accounts of the Information Officer and counsel for the Information Officer on a [TIME INTERVAL] basis and, in addition, the Debtors are hereby authorized to pay to the Information Officer and counsel to the Information Officer, retainers in the amount[s] of \$[AMOUNT OR AMOUNTS] [, respectively,] to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.~~

NO SALE OF PROPERTY

~~7. 18. THIS COURT ORDERS that the Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice, and the accounts of the Information Officer and its counsel shall not be subject to approval in the Foreign Proceeding.~~ each of the Debtors is prohibited from selling or otherwise disposing of, outside the ordinary course of its business, any of its Property in Canada that relates to the Business and from selling or otherwise disposing of any

of their other Property in Canada, provided however, that nothing herein shall prevent the Debtors from seeking approval in the Foreign Proceeding or from this Court to sell or otherwise dispose of the Property.

~~19. THIS COURT ORDERS that the Information Officer and counsel to the Information Officer, if any, shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property in Canada, which charge shall not exceed an aggregate amount of \$[AMOUNT], as security for their professional fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs [21] and [23] hereof.~~

~~INTERIM FINANCING~~¹²

~~20. 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 in Canada, which DIP Lender's Charge shall be consistent with the liens and charges created by the [DESCRIBE DIP LOAN ORDER MADE IN THE FOREIGN PROCEEDING], provided however that the DIP Lender's Charge (i) shall not secure an obligation that exists before this Order is made,¹³ and (ii) with respect to the Property in Canada, shall have the priority set out in paragraphs [21] and [23] hereof, and further provided that the DIP Lender's Charge shall not be enforced except with leave of this Court.~~

~~VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER~~

~~21. THIS COURT ORDERS that the priorities of the Administration Charge and the DIP Lender's Charge, as among them, shall be as follows:¹⁴~~

~~First—Administration Charge (to the maximum amount of \$[AMOUNT]); and~~

¹² Optional— if there is a DIP Lender which takes security over assets in Canada or in respect of Canadian Debtors. If more comprehensive interim financing provisions are required, please refer to the model CCAA Initial Order for sample provisions.

¹³ This restriction appears in the interim financing provisions found in section 11.2(1) of the CCAA. It is unclear if this prohibits the recognition of a foreign order that creates a DIP Lender's Charge securing pre-filing obligations.

¹⁴ The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.

Second—DIP Lender's Charge.

22. ~~THIS COURT ORDERS that the filing, registration or perfection of the Administration Charge or the DIP Lender's 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 the Charges.~~

23. ~~THIS COURT ORDERS that each of the Administration Charge and the DIP Lender's Charge (all as constituted and defined herein) shall constitute a charge on the Property in Canada 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.~~

24. ~~THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Debtors shall not grant any Encumbrances over any Property in Canada that rank in priority to, or *pari passu* with, the Administration Charge or the DIP Lender's Charge, unless the Debtors also obtain the prior written consent of the Information Officer and the DIP Lender.~~

25. ~~THIS COURT ORDERS that the Administration Charge and the DIP Lender's Charge 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") shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) 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 any Debtor, and notwithstanding any provision to the contrary in any Agreement.~~

- (a) ~~the creation of the Charges shall not create or be deemed to constitute a breach by a Debtor 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 creation of the Charges; and~~
- (c) ~~the payments made by the Debtors to the Chargees pursuant to this Order, 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.~~

26. ~~THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Debtor's interest in such real property leases.~~

SERVICE AND NOTICE

8. ~~27.~~ **THIS COURT ORDERS** that that the E-Service Protocol 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/e-service-protocol/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: <@>.~~

9. ~~28.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Debtors, the Foreign Representative and ~~the Information Officer 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 Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the applicable Debtor 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.

GENERAL

10. ~~29.~~ **THIS COURT ORDERS** that the Information Officer any party may, from time to time, apply to this Court for advice ~~and such further or other relief as it may advise from time to time, including for directions in respect of the discharge of its powers and duties hereunder.~~

30. ~~THIS COURT ORDERS~~ that nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Debtor, the Business or the Property proper execution of this Order.

11. ~~31.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the ~~[JURISDICTION OF THE FOREIGN PROCEEDING]~~ United States, to give effect to this Order and to assist the Debtors, and the Foreign Representative, the Information Officer, ~~and the~~ and their and 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 Debtors, and the Foreign Representative, ~~and the Information Officer, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Debtors, and the Foreign Representative, and the Information Officer and their respective agents in carrying out the terms of this Order.~~

32. ~~THIS COURT ORDERS~~ that each of the Debtors, the Foreign Representative and the Information Officer 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.

~~33. THIS COURT ORDERS that the Guidelines for Court-to-Court Communications in Cross-Border Cases developed by the American Law Institute and attached as Schedule [*] hereto is adopted by this Court for the purposes of these recognition proceedings.~~

~~12. 34.~~ **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Debtors, the Foreign Representative, the Proposed Information Officer and their respective counsel, to counsel to the DIP Lenders and DIP Agent, and 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.

~~13. 35.~~ **THIS COURT ORDERS** that this Order shall be effective as of ~~{TIME}~~12:01 a.m. on the date of this Order.⁴⁵

⁴⁵ The time referenced in this Order should be the same time as the time referenced in the Recognition Order, if the two Orders are made on the same date. In the absence of such a provision, Rule 59.01 of the Ontario *Rules of Civil Procedure* appears to indicate that an Order is effective as of 12:01 a.m. on the date of the Order (Rule 59.01 provides that "An order is effective from the date on which it is made, unless it provides otherwise").

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~~[ATTACH APPROPRIATE SCHEDULES]~~

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Tab 4

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.) TUESDAY, THE 2ND
)
JUSTICE NEWBOULD) DAY OF FEBRUARY, 2016

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

AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED
STATES BANKRUPTCY COURT WITH RESPECT TO HORSEHEAD HOLDING
CORP., HORSEHEAD CORPORATION, HORSEHEAD METAL PRODUCTS, LLC,
THE INTERNATIONAL METALS RECLAMATION COMPANY, LLC AND
ZOCHEM INC. (collectively, the "Debtors")

APPLICATION OF HORSEHEAD HOLDING CORP.
UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT

INITIAL RECOGNITION ORDER
(FOREIGN MAIN PROCEEDING)

THIS APPLICATION, made by Horsehead Holding Corp., in its capacity as the foreign representative (the "**Foreign Representative**") of the Debtors, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order substantially in the form enclosed in the Application Record, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Application, the affidavit of James M. Hensler sworn February 2, 2016, the preliminary report of Richter Advisory Group Inc. ("**Richter**") , in its capacity as proposed information officer (the "**Proposed Information Officer**") dated February

<*>, 2016, each filed, and upon being provided with copies of the documents required by s.46 of the CCAA,

AND UPON BEING ADVISED by counsel for the Foreign Representative that in addition to this Initial Recognition Order, a Supplemental Order (Foreign Main Proceeding) is being sought (the “**Supplemental Order**”),

AND UPON HEARING the submissions of counsel for the Foreign Representative, counsel for the Proposed Information Officer, counsel for PNC Bank, National Association, counsel to the Ad Hoc Group of Senior Secured Noteholders and proposed Post-Petition Lenders (the “**DIP Lenders**”) and Cantor Fitzgerald Securities, as administrative agent (the “**DIP Agent**”), no one else appearing although duly served as appears from the affidavit of service of <*> sworn February 2, 2016, filed

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.

FOREIGN REPRESENTATIVE

2. **THIS COURT ORDERS AND DECLARES** that the Foreign Representative is the “foreign representative” as defined in section 45 of the CCAA of the Debtors in respect of the proceedings commenced on February 2, 2016, in the United States Bankruptcy Court for the District of Delaware, under chapter 11 of title 11 of the United States Code (the “**Foreign Proceeding**”).

CENTRE OF MAIN INTEREST AND RECOGNITION OF FOREIGN PROCEEDING

3. **THIS COURT DECLARES** that the centre of its main interests for each of the Debtors is the United States, and that the Foreign Proceeding is hereby recognized as a “foreign main proceeding” as defined in section 45 of the CCAA.

STAY OF PROCEEDINGS

4. **THIS COURT ORDERS** that until otherwise ordered by this Court:
- (a) all proceedings taken or that might be taken against any Debtor under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act* are stayed;
 - (b) further proceedings in any action, suit or proceeding against any Debtor are restrained; and
 - (c) the commencement of any action, suit or proceeding against any Debtor is prohibited.

NO SALE OF PROPERTY

5. **THIS COURT ORDERS** that, except with leave of this Court, each of the Debtors is prohibited from selling or otherwise disposing of:
- (a) outside the ordinary course of its business, any of its property in Canada that relates to the business; and
 - (b) any of its other property in Canada.

GENERAL

6. **THIS COURT ORDERS** that within two business days from the date of this Order, or as soon as practicable thereafter, the Information Officer (as defined in the Supplemental Order) shall cause to be published a notice substantially in the form attached to this Order as **Schedule "A"**, once a week for two consecutive weeks, in the *Globe & Mail*, national edition.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, to give effect to this Order and to assist the Debtors and the Foreign Representative and their respective counsel and agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS AND DECLARES** that the Interim Initial Order made on February 2, 2016 shall be of no further force and effect once this Order becomes effective, and that this Order shall be effective as of 12:01 a.m. on the date of this Order, provided that nothing herein shall invalidate any action taken in compliance with such Interim Initial Order prior to the effective time of this Order.

9. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Debtors and the Foreign Representative and their respective counsel, to counsel to the DIP Lenders and the DIP Agent, and 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.

[ATTACH SCHEDULE(S)]

24965334.4

Tab 5

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.) WEEKDAY TUESDAY, THE #2ND
JUSTICE NEWBOULD) DAY OF MONTH FEBRUARY, 20YR2016

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

AND IN THE MATTER OF THE ~~[LIST DEBTOR NAMES]~~ CERTAIN PROCEEDINGS
TAKEN IN THE UNITED STATES BANKRUPTCY COURT WITH RESPECT TO
HORSEHEAD HOLDING CORP., HORSEHEAD CORPORATION, HORSEHEAD
METAL PRODUCTS, LLC, THE INTERNATIONAL METALS RECLAMATION
COMPANY, LLC AND ZOCHEM INC. (collectively, the "Debtors")

APPLICATION OF ~~[NAME OF FOREIGN REPRESENTATIVE]~~ HORSEHEAD HOLDING
CORP.
UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT

INITIAL RECOGNITION ORDER
(FOREIGN MAIN¹ PROCEEDING)

THIS APPLICATION,² made by ~~[NAME OF FOREIGN
REPRESENTATIVE]~~ Horsehead Holding Corp., in its capacity as the foreign representative (the
"Foreign Representative") of the Debtors, pursuant to the *Companies' Creditors Arrangement
Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an Order substantially in the form

¹ Under section 47 the Canadian Court must be satisfied that the application for the recognition of a foreign proceeding relates to a foreign proceeding and that the applicant is a foreign representative in respect of that foreign proceeding, and then determine if the foreign proceeding is a foreign "main" or a foreign "non-main" proceeding. If the Canadian Court recognizes a foreign proceeding as a "main" proceeding, then section 48 of the CCAA provides that the Court must grant certain relief, subject to any terms and conditions it considers appropriate. The provisions of this model Order are minimal, and based on the mandatory relief set out in section 48 of the CCAA with respect to a foreign main proceeding. As noted below, supplemental and other relief is set out in the model Supplemental Order (Foreign Main Proceeding).

² Part IV of the CCAA governs cross-border insolvencies.

enclosed in the Application Record, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Application, the affidavit of [NAME] James M. Hensler sworn [DATE], February 2, 2016, the preliminary report of [NAME] Richter Advisory Group Inc. (“Richter”), in its capacity as proposed information officer (the “Proposed Information Officer”) dated [DATE], February <*>, 2016, each filed, and upon being provided with copies of the documents required by s.46 of the CCAA,

AND UPON BEING ADVISED by counsel for the Foreign Representative that in addition to this Initial Recognition Order, a Supplemental Order (Foreign Main Proceeding) ~~will be/is being~~ sought (the “Supplemental Order”),³

AND UPON HEARING the submissions of counsel for the Foreign Representative, ~~counsel for the Proposed Information Officer,~~ counsel for [OTHER PARTIES], ~~and upon being advised that no other persons were served with the Notice of Application:~~⁴ PNC Bank, National Association, counsel to the Ad Hoc Group of Senior Secured Noteholders and proposed Post-Petition Lenders (the “DIP Lenders”) and Cantor Fitzgerald Securities, as administrative agent (the “DIP Agent”), no one else appearing although duly served as appears from the affidavit of service of <*> sworn February 2, 2016, filed

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated⁵ so that this Application is properly returnable today and hereby dispenses with further service thereof.

FOREIGN REPRESENTATIVE

2. **THIS COURT ORDERS AND DECLARES** that the Foreign Representative is the “foreign representative” as defined in section 45 of the CCAA of the Debtors in respect of

³ In addition to the mandatory relief contained in this Order pursuant to section 48 of the CCAA, certain discretionary relief may be granted by the Court pursuant to section 49 of the CCAA. Examples of such discretionary relief are contained in a model Supplemental Order (Foreign Main Proceeding), also available on the Commercial List website.

⁴ Revise to be consistent with the service recital in the Supplemental Order, if it is being sought concurrently.

⁵ If service is effected in a manner other than as authorized by the Ontario *Rules of Civil Procedure*, an order validating irregular service is required pursuant to Rule 16.08 of the *Rules of Civil Procedure* and may be granted in the appropriate circumstances.

~~[DESCRIBE FOREIGN PROCEEDING]~~ (the "the proceedings commenced on February 2, 2016, in the United States Bankruptcy Court for the District of Delaware, under chapter 11 of title 11 of the United States Code (the "Foreign Proceeding")").

CENTRE OF MAIN INTEREST AND RECOGNITION OF FOREIGN PROCEEDING

3. **THIS COURT DECLARES** that the centre of its main interests for each of the Debtors is ~~[FILING JURISDICTION FOR FOREIGN PROCEEDING]~~ the United States,⁶ and that the Foreign Proceeding is hereby recognized as a “foreign main proceeding”⁷ as defined in section 45 of the CCAA.

STAY OF PROCEEDINGS⁸

4. **THIS COURT ORDERS** that until otherwise ordered by this Court:
- (a) all proceedings taken or that might be taken against any Debtor under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act* are stayed;
 - (b) further proceedings in any action, suit or proceeding against any Debtor are restrained; and
 - (c) the commencement of any action, suit or proceeding against any Debtor is prohibited.

NO SALE OF PROPERTY⁹

5. **THIS COURT ORDERS** that, except with leave of this Court, each of the Debtors is prohibited from selling or otherwise disposing of:
- (a) outside the ordinary course of its business, any of its property in Canada that relates to the business; and
 - (b) any of its other property in Canada.

⁶ A “foreign main proceeding” as defined in section 45 of the CCAA is “a foreign proceeding in a jurisdiction where the debtor company has the centre of its main interests”. Accordingly, the Court must make this determination in concluding that the proceeding being recognized is a foreign main proceeding. This determination should be made for each individual Debtor.

⁷ A separate model order is being developed with respect to foreign non-main proceedings.

⁸ The provisions of this paragraph 4 are based on section 48 of the CCAA. More comprehensive stay provisions are found in the model Supplemental Order (Foreign Main Proceeding).

⁹ Based on section 48(d) of the CCAA.

GENERAL

6. **THIS COURT ORDERS** that ~~[without delay]~~~~[within [NUMBER]two business days~~ from the date of this Order, or as soon as practicable thereafter]¹⁰, ~~the Foreign Representative, the Information Officer (as defined in the Supplemental Order)~~ shall cause to be published a notice substantially in the form attached to this Order as **Schedule [*]"A"**,¹¹ once a week for two consecutive weeks, in ~~[NAME OF NEWSPAPER(S)]the Globe & Mail, national edition.~~¹²

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, to give effect to this Order and to assist the Debtors and the Foreign Representative and their respective counsel and agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS AND DECLARES** that ~~[the Interim Initial Order made on [DATE]February 2, 2016 shall be of no further force and effect once this Order becomes effective, and that]~~ this Order shall be effective as of ~~[TIME]~~¹³ 12:01 a.m. on the date of this Order~~], provided that nothing herein shall invalidate any action taken in compliance with such Interim Initial Order prior to the effective time of this Order.]~~¹⁴

9. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Debtors and the Foreign Representative and their respective counsel, to counsel to the DIP Lenders and the DIP Agent, and 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.

¹⁰ ~~Section 53 of the CCAA requires publication "without delay after the order is made". The alternative language, above, may provide more certainty as to when that publication must take place.~~

¹¹ ~~The notice must contain information prescribed under the CCAA (section 53(b)).~~

¹² ~~Section 53(b) of the CCAA requires that the Foreign Representative publish, unless otherwise directed by the Court, notice of the Recognition Order once a week for two consecutive weeks, in one or more newspapers in Canada specified by the Court. In addition, the Foreign Representative has ongoing reporting obligations pursuant to section 53(a) of the CCAA.~~

¹³ ~~This time should be after the effective time that the Foreign Representative was appointed in the Foreign Proceeding.~~

¹⁴ ~~If an Interim Initial Order was not made, references to an Interim Initial Order should be removed from this paragraph.~~

[ATTACH APPROPRIATE SCHEDULE(S)]

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Tab 6

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.) TUESDAY, THE 2ND
)
JUSTICE NEWBOULD) DAY OF FEBRUARY, 2016

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

AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED
STATES BANKRUPTCY COURT WITH RESPECT TO HORSEHEAD HOLDING
CORP., HORSEHEAD CORPORATION, HORSEHEAD METAL PRODUCTS, LLC,
THE INTERNATIONAL METALS RECLAMATION COMPANY, LLC AND
ZOCHEM INC. (collectively, the "Debtors")

APPLICATION OF HORSEHEAD HOLDING CORP.
UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT

SUPPLEMENTAL ORDER
(FOREIGN MAIN PROCEEDING)

THIS APPLICATION, made by Horsehead Holding Corp. ("**Horsehead Holding**") in its capacity as the foreign representative (the "**Foreign Representative**") of the Debtors, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order substantially in the form enclosed in the Application Record, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Application, the affidavit of James M. Hensler sworn February 2, 2016, and on hearing the submissions of counsel for the Foreign Representative, counsel to Richter Advisory Group Inc. ("**Richter**"), in its capacity as proposed information officer (the "**Proposed Information Officer**"), counsel to PNC Bank, National Association, counsel to the Ad Hoc Group of Senior Secured Noteholders and proposed Post-Petition

Lenders (the “**DIP Lenders**”) and Cantor Fitzgerald Securities, as administrative agent (the “**DIP Agent**”), no one else appearing although duly served as appears from the affidavit of service of <*> sworn February 2, 2016, and on reading the consent of Richter to act as the information officer:

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.

INITIAL RECOGNITION ORDER

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Initial Recognition Order (Foreign Main Proceeding) dated February <*>, 2016 (the “**Recognition Order**”).

3. **THIS COURT ORDERS** that the provisions of this Supplemental Order shall be interpreted in a manner complementary and supplementary to the provisions of the Recognition Order, provided that in the event of a conflict between the provisions of this Supplemental Order and the provisions of the Recognition Order, the provisions of the Recognition Order shall govern.

RECOGNITION OF FOREIGN ORDERS

4. **THIS COURT ORDERS** that the following orders (collectively, the “**Foreign Orders**”) of United States Bankruptcy Court for the District of Delaware made in the Foreign Proceeding are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA:

- (a) Order Directing Joint Administration of Chapter 11 Cases, attached as **Schedule “A”** to this Order;
- (b) Order Authorizing Horsehead Holding Corp. to Act as Foreign Representative Pursuant to 11 U.S.C § 1505, attached as **Schedule “B”** to this Order;

- (c) Interim Order Authorizing Debtors to (a) Continue to Operate their Cash Management Systems, (b) Honor Certain Prepetition Obligations related Thereto, (c) Maintain Existing Business Forms and (d) Continue to Perform Intercompany Transactions, attached as **Schedule “C”** to this Order;
- (d) Interim Order Authorizing, But Not Directing, Debtors to (a) Pay Prepetition Wages, Salaries, Other Compensation, Reimbursable Expenses, and Payroll Processing Fees, (b) Pay Withholding Obligations, (c) Continue Employee Benefits Programs, and (d) Continue Ordinary Course Incentive Programs for Non-Insiders, attached as **Schedule “D”** to this Order;
- (e) Interim Order Authorizing Debtors to (a) Pay Prepetition Claims of Shippers and Miscellaneous Lien Claimants, (b) Pay Section 503(b)(9) Claims, and (c) Grant Administrative Expense Priority to all Undisputed Obligations for Goods Ordered Prepetition and Delivered Postpetition and Satisfy such Obligations in the Ordinary Course of Business, attached as **Schedule “E”** to this Order;
- (f) Interim Order (a) Determining Adequate Assurance of Payment for Future Utility Services; (b) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Services; (c) Establishing Procedures for Determining Adequate Assurance of Payment, attached as **Schedule “F”** to this Order;
- (g) Interim Order Authorizing Debtors to (a) Continue Insurance Coverage Entered Into Prepetition; (b) Honor their Prepetition Insurance Premium Financing Agreements; and (c) Renew their Premium Financing Agreements in the Ordinary Course of Business, attached as **Schedule “G”** to this Order;
- (h) Order Authorizing, But Not Directing, Debtors to Remit and Pay Certain Prepetition Taxes, Governmental Assessments, and Fees, attached as **Schedule “H”** to this Order;
- (i) Interim Order Authorizing Debtors to Pay Certain Prepetition Claims of Critical Vendors, attached as **Schedule “I”** to this Order;

- (j) Interim Order Approving Notification and Hearing Procedures for Certain Transfers of, and Declarations of Worthlessness with Respect to, Common Stock, attached as **Schedule “J”** to this Order;
- (k) Order Authorizing Debtors to (a) File a Consolidated List of Creditors in Lieu of Submitting Separate Mailing Matrices for each Debtor and (b) Authorizing Debtors to Redact Certain Personal Identification Information for Individual Creditors, attached as **Schedule “K”** to this Order;
- (l) Order Extending the Deadline by which the Debtors Must File their Schedules of Assets and Liabilities, Schedules of Current Income and Expenditures, Schedules of Executory Contracts and Unexpired Leases, and Statements of Financial Affairs, attached as **Schedule “L”** to this Order; and
- (m) Interim Order (A) Authorizing the Debtors to Obtain Postpetition Secured Financing Pursuant to Section 364 of the Bankruptcy Code, (B) Authorizing the Debtors to Use Cash Collateral, (C) Granting Adequate Protection to the Prepetition Secured Parties, (D) Scheduling a Final Hearing, and (E) Granting Related Relief (the “**U.S. DIP Order**”), attached as **Schedule “M”** to this Order.

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada.

APPOINTMENT OF INFORMATION OFFICER

5. **THIS COURT ORDERS** that Richter is hereby appointed as an officer of this Court, with the powers and duties set out herein (the “**Information Officer**”).

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

6. **THIS COURT ORDERS** that until such date as this Court may order (the “**Stay Period**”) no proceeding or enforcement process in any court or tribunal in Canada (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Debtors or

affecting their business (the “**Business**”) or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”), except with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

7. **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 Debtors or the Foreign Representative, or affecting the Business or the Property, are hereby stayed and suspended except with leave of this Court, provided that nothing in this Order shall (i) prevent the assertion of or the exercise of rights and remedies outside of Canada, (ii) empower any of the Debtors to carry on any business in Canada which that Debtor is not lawfully entitled to carry on, (iii) affect such investigations or Proceedings by a regulatory body as are permitted by section 11.1 of the CCAA, (iv) prevent the DIP Lenders under the post-filing financing approved in the Foreign Proceeding pursuant to the U.S. DIP Order (the “**DIP Credit Agreement**”) or the agent thereunder (the “**DIP Agent**”) from making any filing or registration contemplated by or consistent with the DIP Credit Agreement, or (v) prevent the indenture trustee for the prepetition secured noteholders from making any filing or registration contemplated by or consistent with the U.S. DIP Order.

NO INTERFERENCE WITH RIGHTS

8. **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 any of the Debtors and affecting the Business in Canada, except with leave of this Court.

ADDITIONAL PROTECTIONS

9. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of

goods and/or services in Canada, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services provided in respect of the Property or Business of the Debtors, 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 Debtors, and that the Debtors shall be entitled to the continued use in Canada of their current premises, bank accounts, telephone numbers, facsimile numbers, internet addresses and domain names.

10. **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 Debtors with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Debtors 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.

11. **THIS COURT ORDERS** that no Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded the Information Officer herein, or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a Monitor under the CCAA, and 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.

OTHER PROVISIONS RELATING TO INFORMATION OFFICER

12. **THIS COURT ORDERS** that the Information Officer:

- (a) is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;

- (b) shall report to this Court at least once every three months with respect to the status of these proceedings and the status of the Foreign Proceedings, which reports may include information relating to the Property, the Business, or such other matters as may be relevant to the proceedings herein;
- (c) in addition to the periodic reports referred to in paragraph 12(b) above, the Information Officer may report to this Court at such other times and intervals as the Information Officer may deem appropriate with respect to any of the matters referred to in paragraph 12(b) above;
- (d) shall 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 Debtors, to the extent that is necessary to perform its duties arising under this Order; and
- (e) shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order.

13. **THIS COURT ORDERS** that the Debtors and the Foreign Representative shall (i) advise the Information Officer of all material steps taken by the Debtors or the Foreign Representative in these proceedings or in the Foreign Proceedings, (ii) co-operate fully with the Information Officer in the exercise of its powers and discharge of its obligations, and (iii) provide the Information Officer with the assistance that is necessary to enable the Information Officer to adequately carry out its functions.

14. **THIS COURT ORDERS** that the Information Officer 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.

15. **THIS COURT ORDERS** that the Information Officer (i) shall post on its website all Orders of this Court made in these proceedings, all reports of the Information Officer filed

herein, and such other materials as this Court may order from time to time, and (ii) may post on its website any other materials that the Information Officer deems appropriate.

16. **THIS COURT ORDERS** that the Information Officer may provide any creditor of a Debtor with information provided by the Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer 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 Information Officer has been advised by the Debtors is privileged or confidential, the Information Officer shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Information Officer, the Foreign Representative and the relevant Debtors may agree.

17. **THIS COURT ORDERS** that the Information Officer and counsel to the Information Officer shall be paid by the Debtors their reasonable fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts. The Debtors are hereby authorized and directed to pay the accounts of the Information Officer and counsel for the Information Officer on a bi-weekly basis and, in addition, the Debtors are hereby authorized to pay to the Information Officer and counsel to the Information Officer, retainers in the amounts of \$<*> and \$<*>, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

18. **THIS COURT ORDERS** that the Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice, and the accounts of the Information Officer and its counsel shall not be subject to approval in the Foreign Proceeding.

19. **THIS COURT ORDERS** that the Information Officer and counsel to the Information Officer, if any, shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property in Canada, which charge shall not exceed an aggregate amount of \$100,000, as security for their professional fees and disbursements

incurred in respect of these proceedings, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs 21 and 23 hereof.

INTERIM FINANCING

20. **THIS COURT ORDERS** that the DIP Agent shall be entitled, for its own benefit and the benefit of the DIP Lenders, to the benefit of and is hereby granted a charge (the “**DIP Lenders’ Charge**”) on the Property in Canada, which DIP Lenders’ Charge shall be consistent with the liens and charges created by the U.S. DIP Order, provided however that the DIP Lenders’ Charge (i) shall not secure an obligation that exists before this Order is made, and (ii) with respect to the Property in Canada, shall have the priority set out in paragraphs 21 and 23 hereof, and further provided that the DIP Lenders’ Charge shall not be enforced except in accordance with the terms of the U.S. DIP Order.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

21. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP Lenders’ Charge (collectively, the “**Charges**”), as among them, shall be as follows:

First – the Administration Charge; and

Second – the DIP Lenders’ Charge.

22. **THIS COURT ORDERS** that the filing, registration or perfection of 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 the Charges.

23. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property in Canada and such Charges shall rank in priority to all other security interests, trusts (including, without limitation, constructive trusts and any deemed trust that may be created under the Ontario *Pension Benefits Act*), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.

24. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Debtors shall not grant any Encumbrances over any Property in Canada that rank in priority to, or *pari passu* with, either the Administration Charge or the DIP Lender's Charge.

25. **THIS COURT ORDERS** that the Charges 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**") shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) 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 any Debtor, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by a Debtor 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 creation of the Charges; and
- (c) the payments made by the Debtors to the Chargees pursuant to this Order, 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.

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

SERVICE AND NOTICE

27. THIS COURT ORDERS that that the E-Service Protocol 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 ‘<@>’.

28. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Debtors, the Foreign Representative and the Information Officer 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 Debtors’ creditors or other interested parties at their respective addresses as last shown on the records of the applicable Debtor 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.

GENERAL

29. **THIS COURT ORDERS** that the Information Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

30. **THIS COURT ORDERS** that nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Debtor, the Business or the Property.

31. **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 Debtors, the Foreign Representative, the Information Officer, 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 Debtors, the Foreign Representative, and the Information Officer, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Debtors, the Foreign Representative, and the Information Officer and their respective agents in carrying out the terms of this Order.

32. **THIS COURT ORDERS** that each of the Debtors, the Foreign Representative and the Information Officer 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.

33. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Debtors, the Foreign Representative, the Information Officer and their respective counsel, to counsel to the DIP Lenders and the DIP Agent, and 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.

34. **THIS COURT ORDERS** that this Order shall be effective as of 12:01 a.m. on the date of this Order.

24934060.5

[ATTACH APPROPRIATE SCHEDULES]

Tab 7

Court File No. CV-16-11271-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR.) WEEKDAY TUESDAY, THE #2ND
)
JUSTICE NEWBOULD) DAY OF MONTH FEBRUARY,
) 20YR 2016

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

**AND IN THE MATTER OF THE ~~[LIST DEBTOR NAMES]~~ CERTAIN
PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT WITH
RESPECT TO HORSEHEAD HOLDING CORP., HORSEHEAD CORPORATION,
HORSEHEAD METAL PRODUCTS, LLC, THE INTERNATIONAL METALS
RECLAMATION COMPANY, LLC AND ZOICHEM INC. (collectively, the
"Debtors")**

**APPLICATION OF ~~[NAME OF FOREIGN REPRESENTATIVE]~~
HORSEHEAD HOLDING CORP.
UNDER SECTION 46 OF THE
*COMPANIES' CREDITORS ARRANGEMENT ACT***

**SUPPLEMENTAL ORDER¹
(FOREIGN MAIN² PROCEEDING)**

¹As noted in several footnotes in this model order, practice under Part IV of the CCAA is still developing, and as certain issues are determined by Canadian courts, this model order will be amended to reflect the development of the law in this area.
²If the Canadian Court has recognized a foreign proceeding as a "main" proceeding, then section 48 of the CCAA provides that the Court must grant certain relief, subject to any terms and conditions it considers appropriate. The provisions of the model Initial Recognition Order (Foreign Main Proceeding) fulfill the mandatory requirements of section 48 with respect to a foreign main proceeding. Section 49 of the CCAA also allows the Court to make any order that it considers appropriate for the protection of the debtor company's property or the interests of a creditor or creditors. This Supplemental Order contains discretionary relief that might be granted by the Court in the appropriate circumstances. The Model Order Subcommittee has attempted to make the provisions of this model Order consistent with similar provisions in other model Orders. Supplemental relief (whether contained in this Order or in subsequent Orders) may also include provisions dealing with the sale of assets, the recognition of critical vendors, a claims process, or any number of other matters, or may recognize foreign orders or laws granting such relief.

THIS APPLICATION, made by ~~[NAME OF FOREIGN REPRESENTATIVE]~~Horsehead Holding Corp. ("Horsehead Holding") in its capacity as the foreign representative (the "Foreign Representative") of the Debtors, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an Order substantially in the form enclosed in the Application Record, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Application, the affidavit of ~~[NAME]~~ sworn ~~[DATE]~~, ~~[the preliminary report of [NAME], in its capacity as proposed information officer dated [DATE]]~~, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, James M. Hensler sworn February 2, 2016, and on hearing the submissions of counsel for the Foreign Representative, ~~[counsel for the proposed information officer,]~~ counsel for [OTHER PARTIES]counsel to Richter Advisory Group Inc. ("Richter"), in its capacity as proposed information officer (the "Proposed Information Officer"), counsel to PNC Bank, National Association, counsel to the Ad Hoc Group of Senior Secured Noteholders and proposed Post-Petition Lenders (the "DIP Lenders") and Cantor Fitzgerald Securities, as administrative agent (the "DIP Agent"), no one else appearing for ~~[NAME]~~³ although duly served as appears from the affidavit of service of ~~[NAME]~~~~<*>~~ sworn ~~[DATE]~~,February 2, 2016, and on reading the consent of ~~[NAME OF PROPOSED INFORMATION OFFICER]~~Richter to act as the information officer:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated⁴ so that this Application is properly returnable today and hereby dispenses with further service thereof.

³ Include names of secured creditors or other persons who must be served before certain relief in this model Order may be granted. See, for example, CCAA Sections 11.2(1) and 11.52(1).

⁴ If service is effected in a manner other than as authorized by the Ontario *Rules of Civil Procedure*, an order validating irregular service is required pursuant to Rule 16.08 of the *Rules of Civil Procedure* and may be granted in the appropriate circumstances.

INITIAL RECOGNITION ORDER

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Initial Recognition Order (Foreign Main Proceeding) dated [DATE]February <*>, 2016 (the **“Recognition Order”**).

3. **THIS COURT ORDERS** that the provisions of this Supplemental Order shall be interpreted in a manner complementary and supplementary to the provisions of the Recognition Order, provided that in the event of a conflict between the provisions of this Supplemental Order and the provisions of the Recognition Order, the provisions of the Recognition Order shall govern.

RECOGNITION OF FOREIGN ORDERS⁵

4. **THIS COURT ORDERS** that the following orders (collectively, the **“Foreign Orders”**) of [NAME OF FOREIGN COURT] of United States Bankruptcy Court for the District of Delaware made in the Foreign Proceeding are hereby recognized and given full force and effect⁶ in all provinces and territories of Canada pursuant to Section 49 of the CCAA:

- (a) ~~[list Foreign Orders, or portions of Foreign Orders, copies of which should be attached as schedules to this Order]~~Order Directing Joint Administration of Chapter 11 Cases, attached as Schedule “A” to this Order;
- (b) Order Authorizing Horsehead Holding Corp. to Act as Foreign Representative Pursuant to 11 U.S.C § 1505, attached as Schedule “B” to this Order;

⁵ This model Order adopts an approach that might be applicable to some foreign proceedings, but not others. For example, U.S. proceedings will typically generate court orders that will be brought to the Canadian Courts for recognition. Other jurisdictions may have statutory or regulatory rights (rather than court orders) that need to be recognized in Canada.

⁶ Section 50 of the CCAA provides that an order made under Part IV of the CCAA may be made on any terms and conditions that the Court considers appropriate in the circumstances. Such terms and conditions would presumably need to be consistent with the orders or laws applicable to the foreign proceeding, subject to (i) the limitations imposed by section 48(2) (an order made under section 48(1) must be consistent with any order made under the CCAA), and (ii) the limitations imposed in section 61 (which provides that the Court may apply legal or equitable rules that are not inconsistent with the CCAA, and further that the Court may refuse to do something that would be contrary to public policy). All of the Foreign Orders should be reviewed by counsel with these issues in mind, and the Court may require confirmation from counsel that there is nothing in the Foreign Orders that is inconsistent with the CCAA or that would raise the public policy exception referenced in section 61 of the CCAA.

- (c) Interim Order Authorizing Debtors to (a) Continue to Operate their Cash Management Systems, (b) Honor Certain Prepetition Obligations related Thereto, (c) Maintain Existing Business Forms and (d) Continue to Perform Intercompany Transactions, attached as **Schedule “C”** to this Order;
- (d) Interim Order Authorizing, But Not Directing, Debtors to (a) Pay Prepetition Wages, Salaries, Other Compensation, Reimbursable Expenses, and Payroll Processing Fees, (b) Pay Withholding Obligations, (c) Continue Employee Benefits Programs, and (d) Continue Ordinary Course Incentive Programs for Non-Insiders, attached as **Schedule “D”** to this Order;
- (e) Interim Order Authorizing Debtors to (a) Pay Prepetition Claims of Shippers and Miscellaneous Lien Claimants, (b) Pay Section 503(b)(9) Claims, and (c) Grant Administrative Expense Priority to all Undisputed Obligations for Goods Ordered Prepetition and Delivered Postpetition and Satisfy such Obligations in the Ordinary Course of Business, attached as **Schedule “E”** to this Order;
- (f) Interim Order (a) Determining Adequate Assurance of Payment for Future Utility Services; (b) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Services; (c) Establishing Procedures for Determining Adequate Assurance of Payment, attached as **Schedule “F”** to this Order;
- (g) Interim Order Authorizing Debtors to (a) Continue Insurance Coverage Entered Into Prepetition; (b) Honor their Prepetition Insurance Premium Financing Agreements; and (c) Renew their Premium Financing Agreements in the Ordinary Course of Business, attached as **Schedule “G”** to this Order;
- (h) Order Authorizing, But Not Directing, Debtors to Remit and Pay Certain Prepetition Taxes, Governmental Assessments, and Fees, attached as **Schedule “H”** to this Order;
- (i) Interim Order Authorizing Debtors to Pay Certain Prepetition Claims of Critical Vendors, attached as **Schedule “I”** to this Order;

- (j) Interim Order Approving Notification and Hearing Procedures for Certain Transfers of, and Declarations of Worthlessness with Respect to, Common Stock, attached as Schedule “J” to this Order;
- (k) Order Authorizing Debtors to (a) File a Consolidated List of Creditors in Lieu of Submitting Separate Mailing Matrices for each Debtor and (b) Authorizing Debtors to Redact Certain Personal Identification Information for Individual Creditors, attached as Schedule “K” to this Order;
- (l) Order Extending the Deadline by which the Debtors Must File their Schedules of Assets and Liabilities, Schedules of Current Income and Expenditures, Schedules of Executory Contracts and Unexpired Leases, and Statements of Financial Affairs, attached as Schedule “L” to this Order; and
- (m) Interim Order (A) Authorizing the Debtors to Obtain Postpetition Secured Financing Pursuant to Section 364 of the Bankruptcy Code, (B) Authorizing the Debtors to Use Cash Collateral, (C) Granting Adequate Protection to the Prepetition Secured Parties, (D) Scheduling a Final Hearing, and (E) Granting Related Relief (the “U.S. DIP Order”), attached as Schedule “M” to this Order.

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada.

APPOINTMENT OF INFORMATION OFFICER⁷

5. **THIS COURT ORDERS** that [~~NAME OF INFORMATION OFFICER~~] (the ~~“Information Officer”~~) Richter is hereby appointed as an officer of this Court, with the powers and duties set out herein (the **“Information Officer”**).

⁷ The appointment of an Information Officer is not required by the CCAA, and is in the discretion of the Court. Information Officers are normally trustees licensed under the *Bankruptcy and Insolvency Act*.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY⁸

6. **THIS COURT ORDERS** that until such date as this Court may order (the **"Stay Period"**) no proceeding or enforcement process in any court or tribunal in Canada (each, a **"Proceeding"**) shall be commenced or continued against or in respect of the Debtors or affecting their business (the **"Business"**) or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the **"Property"**), except with leave of this Court,⁹ and any and all Proceedings currently under way against or in respect of any of the Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

7. **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 Debtors [for the Foreign Representative], or affecting the Business or the Property, are hereby stayed and suspended except with leave of this Court, provided that nothing in this Order shall (i) prevent the assertion of or the exercise of rights and remedies outside of Canada, (ii) empower any of the Debtors to carry on any business in Canada which that Debtor is not lawfully entitled to carry on, (iii) [affect such investigations or Proceedings by a regulatory body as are permitted by section 11.1 of the CCAA,] ~~(iv) prevent the filing of any registration to preserve or perfect a security interest, or (v) prevent the registration of a claim for lien,~~ (iv) prevent the DIP Lenders under the post-filing financing approved in the Foreign Proceeding pursuant to the U.S. DIP Order (the "DIP Credit Agreement") or the agent

⁸The Model Order Subcommittee notes that a "Non-Derogation of Rights" section (found, for example, in the Model Initial CCAA Order) has not been included in this model Order. In a 'full' CCAA proceeding, which would typically include a stay of proceedings made under section 11.02 of the CCAA, a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, and 11.1(2). However, in a Part IV proceeding, section 48 of the CCAA (rather than section 11.02 of the CCAA) is being relied upon when a stay of proceedings is being sought, and despite the wording of section 48(2) and section 61, it is not clear if the restrictions applicable to a section 11.02 stay of proceedings are also applicable to a section 48 stay of proceedings, or would restrict the recognition of foreign proceedings or foreign orders that include a stay of proceedings broader than permitted in a section 11.02 stay of proceedings. These issues remain open for determination by Canadian courts.

⁹Where the Court considers it to be appropriate, it may authorize other Persons, including a Court-appointed Information Officer, to provide consent to any Proceeding. This same comment applies in paragraphs 6 through 11 of this Order.

thereunder (the “DIP Agent”) from making any filing or registration contemplated by or consistent with the DIP Credit Agreement, or (v) prevent the indenture trustee for the perpetuation secured noteholders from making any filing or registration contemplated by or consistent with the U.S. DIP Order.

NO INTERFERENCE WITH RIGHTS

8. **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 any of the Debtors and affecting the Business in Canada, except with leave of this Court.

ADDITIONAL PROTECTIONS

9. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services in Canada, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services provided in respect of the Property or Business of the Debtors, 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 Debtors, and that the Debtors shall be entitled to the continued use in Canada of their current premises, bank accounts, telephone numbers, facsimile numbers, internet addresses and domain names.⁴⁹

10. **{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 Debtors with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Debtors whereby the directors or officers are alleged under any law to be

⁴⁹ Section 11.01 of the CCAA provides that no order made under section 11 or 11.02 has the effect of (a) prohibiting a person from requiring immediate payment for goods, services, etc. provided after the order is made, or (b) requiring the further advance of money or credit. It is unclear whether these provisions also apply to an order made pursuant to section 48 of the CCAA. Please see the discussion in footnote 8 above.

liable in their capacity as directors or officers for the payment or performance of such obligations.^{††}

11. **THIS COURT ORDERS** that no Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded the Information Officer herein, or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a Monitor under the CCAA, and 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.

OTHER PROVISIONS RELATING TO INFORMATION OFFICER

12. **THIS COURT ORDERS** that the Information Officer:

- (a) is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;
- (b) shall report to this Court at least once every [three] months with respect to the status of these proceedings and the status of the Foreign Proceedings, which reports may include information relating to the Property, the Business, or such other matters as may be relevant to the proceedings herein;
- (c) in addition to the periodic reports referred to in paragraph 12(b) above, the Information Officer may report to this Court at such other times and intervals as the Information Officer may deem appropriate with respect to any of the matters referred to in paragraph 12(b) above;
- (d) shall 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 Debtors, to the extent that is necessary to perform its duties arising under this Order; and

^{††} Counsel should specifically address with the Court whether this provision is appropriate in the context of this Order.

- (e) shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order.

13. **THIS COURT ORDERS** that the Debtors and the Foreign Representative shall (i) advise the Information Officer of all material steps taken by the Debtors or the Foreign Representative in these proceedings or in the Foreign Proceedings, (ii) co-operate fully with the Information Officer in the exercise of its powers and discharge of its obligations, and (iii) provide the Information Officer with the assistance that is necessary to enable the Information Officer to adequately carry out its functions.

14. **THIS COURT ORDERS** that the Information Officer 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.

15. **THIS COURT ORDERS** that the Information Officer (i) shall post on its website all Orders of this Court made in these proceedings, all reports of the Information Officer filed herein, and such other materials as this Court may order from time to time, and (ii) may post on its website any other materials that the Information Officer deems appropriate.

16. **THIS COURT ORDERS** that the Information Officer may provide any creditor of a Debtor with information provided by the Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer 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 Information Officer has been advised by the Debtors is privileged or confidential, the Information Officer shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Information Officer, the Foreign Representative and the relevant Debtors may agree.

17. **THIS COURT ORDERS** that the Information Officer and counsel to the Information Officer shall be paid by the Debtors their reasonable fees and disbursements incurred in

respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts. The Debtors are hereby authorized and directed to pay the accounts of the Information Officer and counsel for the Information Officer on a ~~{TIME INTERVAL}~~ bi-weekly basis and, in addition, the Debtors are hereby authorized to pay to the Information Officer and counsel to the Information Officer, retainers in the amount[s] of ~~{AMOUNT OR AMOUNTS}~~ amounts of \$<*> and \$<*>, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

18. **THIS COURT ORDERS** that the Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice, and the accounts of the Information Officer and its counsel shall not be subject to approval in the Foreign Proceeding.

19. **THIS COURT ORDERS** that the Information Officer and counsel to the Information Officer, if any, shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property in Canada, which charge shall not exceed an aggregate amount of ~~{AMOUNT}~~ 100,000, as security for their professional fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs {21} and {23} hereof.

INTERIM FINANCING¹²

20. **THIS COURT ORDERS** that the DIP ~~Lender~~ Agent shall be entitled, for its own benefit and the benefit of the DIP Lenders, to the benefit of and is hereby granted a charge (the "DIP Lender's Lenders' Charge") on the Property in Canada, which DIP ~~Lender's~~ Lenders' Charge shall be consistent with the liens and charges created by the ~~{DESCRIBE DIP LOAN ORDER MADE IN THE FOREIGN PROCEEDING}~~ U.S. DIP

¹² Optional—if there is a DIP Lender which takes security over assets in Canada or in respect of Canadian Debtors. If more comprehensive interim financing provisions are required, please refer to the model CCAA Initial Order for sample provisions.

Order, provided however that the DIP ~~Lender's~~Lenders' Charge (i) shall not secure an obligation that exists before this Order is made,⁴³ and (ii) with respect to the Property in Canada, shall have the priority set out in paragraphs {21} and {23} hereof, and further provided that the DIP ~~Lender's~~Lenders' Charge shall not be enforced except in accordance with leave of this Court:the terms of the U.S. DIP Order.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

21. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP ~~Lender's~~Lenders' Charge (collectively, the "Charges"), as among them, shall be as follows:⁴⁴

First – ~~the Administration Charge (to the maximum amount of \$[AMOUNT]);~~
and

Second – ~~the DIP Lender's~~Lenders' Charge.

22. **THIS COURT ORDERS** that the filing, registration or perfection of the ~~Administration Charge or the DIP Lender's Charge (collectively, the "Charges")~~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 the Charges.

23. **THIS COURT ORDERS** that each of the ~~Administration Charge and the DIP Lender's Charge~~Charges (all as constituted and defined herein) shall constitute a charge on the Property in Canada and such Charges shall rank in priority to all other security interests, trusts (including, without limitation, constructive trusts and any deemed trust that may be created under the Ontario Pension Benefits Act), liens, charges and encumbrances, claims of

⁴³ This restriction appears in the interim financing provisions found in section 11.2(1) of the CCAA. It is unclear if this prohibits the recognition of a foreign order that creates a DIP Lender's Charge securing pre-filing obligations.

⁴⁴ The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.

secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person.

24. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Debtors shall not grant any Encumbrances over any Property in Canada that rank in priority to, or *pari passu* with, either the Administration Charge or the DIP Lender's Charge, ~~unless the Debtors also obtain the prior written consent of the Information Officer and the DIP Lender.~~

25. **THIS COURT ORDERS** that the ~~Administration Charge and the DIP Lender's Charge~~ Charges 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") shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) 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 any Debtor, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by a Debtor 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 creation of the Charges; and
- (c) the payments made by the Debtors to the Chargees pursuant to this Order, 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.

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

SERVICE AND NOTICE

27. **THIS COURT ORDERS** that that the E-Service Protocol 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/e-service-protocol/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 ‘<@>’.

28. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Debtors, the Foreign Representative and the Information Officer 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 Debtors’ creditors or other interested parties at their respective addresses as last shown on the records of the applicable Debtor 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.

GENERAL

29. **THIS COURT ORDERS** that the Information Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

30. **THIS COURT ORDERS** that nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Debtor, the Business or the Property.

31. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the ~~JURISDICTION OF THE FOREIGN PROCEEDING~~ United States, to give effect to this Order and to assist the Debtors, the Foreign Representative, the Information Officer, 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 Debtors, the Foreign Representative, and the Information Officer, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Debtors, the Foreign Representative, and the Information Officer and their respective agents in carrying out the terms of this Order.

32. **THIS COURT ORDERS** that each of the Debtors, the Foreign Representative and the Information Officer 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.

~~33. THIS COURT ORDERS that the Guidelines for Court-to-Court Communications in Cross-Border Cases developed by the American Law Institute and attached as Schedule [*] hereto is adopted by this Court for the purposes of these recognition proceedings.~~

33. ~~34.~~ **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Debtors, the Foreign Representative, the Information Officer and their respective counsel, to counsel to the DIP Lenders and the DIP Agent, and 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.

34. ~~35.~~ **THIS COURT ORDERS** that this Order shall be effective as of [~~TIME~~]12:01
a.m. on the date of this Order.⁴⁵

⁴⁵ The time referenced in this Order should be the same time as the time referenced in the Recognition Order, if the two Orders are made on the same date. In the absence of such a provision, Rule 59.01 of the Ontario *Rules of Civil Procedure* appears to indicate that an Order is effective as of 12:01 a.m. on the date of the Order (Rule 59.01 provides that "An order is effective from the date on which it is made, unless it provides otherwise").

[ATTACH APPROPRIATE SCHEDULES]

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Document comparison by Workshare Compare on February-02-16 12:25:18 PM

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Moved to	1
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Format changed	0
Total changes	236

Tab 8

**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 CERTAIN PROCEEDINGS TAKEN IN THE UNITED
STATES BANKRUPTCY COURT WITH RESPECT TO HORSEHEAD HOLDING
CORP., HORSEHEAD CORPORATION, HORSEHEAD METAL PRODUCTS, LLC,
THE INTERNATIONAL METALS RECLAMATION COMPANY, LLC AND
ZOCHEM INC. (collectively, the "Debtors")**

**APPLICATION OF HORSEHEAD HOLDING CORP.
UNDER SECTION 46 OF THE
*COMPANIES' CREDITORS ARRANGEMENT ACT***

**AFFIDAVIT OF JAMES M. HENSLER
(sworn February 2, 2016)**

I, **JAMES M. HENSLER**, of Gibsonia, in Pine Township, in the State of Pennsylvania,
MAKE OATH AND SAY AS FOLLOWS:

1. I am the Chairman of the Board, President and Chief Executive Officer of Horsehead Holding Corp. ("**Horsehead Holding**"), the indirect parent of Horsehead Metal Products, LLC and the direct parent of the remaining Debtors, including Zochem Inc. ("**Zochem**"). I am also the President, the Chief Executive Officer and a Director of Zochem. As such, I have personal knowledge of the matters to which I hereinafter depose in this Affidavit. Where I do not have personal knowledge of the matters set out herein, I have stated the source of my information and, in all such cases, believe it to be true.

I. BACKGROUND

Background to the Debtors

2. This Affidavit is sworn in support of an application by Horsehead Holding for an order, among other things, recognizing the Chapter 11 Proceedings (as defined below) as a foreign

main proceeding pursuant to Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**").

3. On February 1, 2016, the Debtors commenced proceedings (collectively, the "**Chapter 11 Proceedings**") by each filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**U.S. Court**"). Copies of these voluntary petitions are attached to this Affidavit as follows:

- (a) the petition of Horsehead Holding is attached as **Exhibit "A"**;
- (b) the petition of Horsehead Corporation is attached as **Exhibit "B"**;
- (c) the petition of Horsehead Metal Products, LLC ("**Horsehead Metals**") is attached as **Exhibit "C"**;
- (d) the petition of The International Metals Reclamation Company, LLC ("**INMETCO**") is attached as **Exhibit "D"**; and
- (e) the petition of Zochem is attached as **Exhibit "E"**.

4. I have filed a declaration in the Chapter 11 Proceedings (the "**Declaration**"), which provides background on the Debtors and outlines the various relief being sought from the U.S. Court in the first day motions (collectively, the "**First Day Motions**"). A copy of the Declaration is attached as **Exhibit "F"** to this affidavit.

5. There are no other foreign proceedings currently pending for any of the Debtors.

6. The Debtors have indicated in the Chapter 11 Proceedings that they intend to continue to operate their business in the ordinary course during the Chapter 11 Proceedings. Further background and details of the Chapter 11 Proceedings are disclosed in the material filed by the Chapter 11 Debtors in the U.S. Court, which may be obtained at the website of the noticing agent appointed in the Chapter 11 Proceedings at <http://dm.epiq11.com/Horsehead>.

7. A copy of an organization chart for the Debtors is attached as **Exhibit "G"** to this Affidavit.

8. Together with their predecessors, the Debtors have operated in the zinc industry for more than 150 years and in the nickel-bearing waste industry for more than 30 years. The Debtors operate through three business units: Horsehead Corporation and its subsidiaries (collectively, “**Horsehead**”), Zochem, and INMETCO. Horsehead, Zochem, and INMETCO are each subsidiaries of Horsehead Holding. Horsehead is a prominent recycler of electric arc furnace (“**EAF**”) dust, a zinc-containing waste generated by North American steel “mini-mills”, and in turn uses the recycled EAF dust to produce specialty zinc and zinc-based products. Zochem is a producer of zinc oxide. INMETCO is a recycler of nickel-bearing wastes and nickel-cadmium batteries, and a producer of nickel-chromium-molybdenum-iron remelt alloy for the stainless steel and specialty steel industries. Collectively, the Debtors hold a market-leading position in zinc production in the United States, zinc oxide production in North America, EAF dust recycling in North America, and are a leading environmental service provider to the U.S. steel industry.

9. Horsehead Holding is publicly-traded company and trades its common stock on the NASDAQ Stock Market, listed under the ticker symbol ZINC.

10. The jurisdiction of organization and location of head office of each of the Debtors is as follows:

Debtor	Jurisdiction of Organization	Location of Head Office
Horsehead Holding	Delaware	Pennsylvania
Horsehead Corporation	Delaware	Pennsylvania
Horsehead Metals	North Carolina	Pennsylvania
INMETCO	Delaware	Pennsylvania
Zochem	Canada	Pennsylvania

Zochem

11. Zochem is a *Canada Business Corporations Act* corporation with its head office in Pittsburgh, Pennsylvania and its operations located in owned premises at 1 Tilbury Court, Brampton, Ontario (the “**Ontario Premises**”). Zochem’s registered office address is the Ontario

Premises. Zochem was formed by the amalgamation of Horsehead Canada Holding Corp., a British Columbia corporation, and Zochem Inc., an Ontario corporation, on June 28, 2012. A corporation information report for Zochem, obtained from Industry Canada, is attached as **Exhibit “H”** to this Affidavit.

12. The pre-amalgamation Zochem Inc. was acquired by Horsehead Holding in November 2011. Zochem is one of the largest single-site producers of zinc oxide in North America. Zinc oxide is used as an additive in various materials and products, including plastics, ceramics, glass, rubbers, cement, lubricants, pigments, sealants, ointments, fire retardants, and batteries. The Debtors sell zinc oxide to over 250 producers of tire and rubber products, chemicals, paints, plastics, and pharmaceuticals, and have supplied zinc oxide to the majority of their largest customers for over ten years. Zochem has the capacity to produce approximately 72,000 tons of zinc oxide a year.

13. As of December 31, 2015, Zochem had 19 salaried personnel and 25 hourly personnel. Approximately 25 of these employees are organized under Unifor and its Local 591-G-850 (successor by merger to the Communications, Energy and Paperworkers Union Local 591-G-850), whose collective labour agreement is set to expire on June 30, 2016. Zochem uses ADP as its payroll service provider.

14. Zochem maintains separate pension plans for its salaried and hourly personnel, which have been closed to new members since July 1, 2012. Newer employees have joined Zochem’s group RRSP. According to a report prepared by Corporate Benefit Analysis, Inc., the pensions were, collectively, overfunded as at December 31, 2015, though the salaried plan had a small unfunded projected benefit obligation in the amount of \$181,499. Neither plan has been wound up.

15. Zochem is operational in its focus. Three out of four of Zochem’s officers and three out of four of its directors are residents of Pennsylvania. Most of Zochem’s officers are also officers of each of the other Debtors. Zochem’s statutorily required one Canadian director (representing 25% of the board) is a partner at the law firm Aird & Berlis LLP (“**A&B**”), the Debtors’ Canadian counsel. The only Zochem officer resident in Canada is the plant’s general manager, who formerly was resident in Pennsylvania and employed by the U.S. Debtors.

Otherwise, all local functions associated with managing and operating the Zochem facility are performed from the Debtors' Pittsburgh, Pennsylvania headquarters in the United States

16. Zochem and the U.S. Debtors maintain a highly integrated business. Zochem's communications decisions, pricing decisions, and business development decisions are made in Pittsburgh. Zochem's accounts receivable, accounts payable and treasury departments are also located in Pittsburgh.

17. On April 29, 2014, Zochem, as borrower, and Horsehead Holding, as guarantor, entered into a U.S. \$20 million secured revolving credit facility (the "**Zochem Facility**") with PNC Bank, National Association ("**PNC**"), as agent and lender. The Zochem Facility is secured by a first priority lien (subject to certain permitted liens) on substantially all of Zochem's tangible and intangible personal property, and, pursuant to the terms of the PNC Forbearance Agreement (as defined in paragraph 25 below, a charge on the Ontario Premises. Approximately U.S. \$16.9 million remains outstanding under the Zochem Facility. Zochem's obligations to PNC are guaranteed by its parent, Horsehead Holding.

18. On January 27, 2016, PNC assigned its position as lender under the Zochem Facility to an arm's length party. PNC remains the agent under Zochem Facility.

19. Zochem operates a cash management system (the "**Zochem Cash Management System**") is in place whereby:

- (a) all receipts flow into a collection account at PNC in the United States, in part via a lockbox maintained at PNC;
- (b) funds from the PNC collection account are transferred daily into an operating account at PNC in the United States; and
- (c) funds are then transferred, as the Debtors' treasury department (in Pittsburgh) determines is required, to a U.S. dollar operating account and a Canadian dollar operating account at Scotiabank in Canada to pay vendors and payroll, as applicable.

The chart at **Exhibit “I”** to this Affidavit illustrates the Zochem Cash Management System in simplified form.

20. In the above ways, the business and operation of Zochem is part of a larger, U.S.-based enterprise. The Debtors are all managed in the United States as an integrated group from a corporate, strategic, financial and management perspective.

21. I have been advised by Aird & Berlis LLP (“**A&B**”), Canadian counsel to the Debtors, that lien searches were conducted on January 25, 2016 against Zochem under the *Personal Property Security Act* in Ontario and Manitoba (where Zochem is extra-provincially registered). Other than registrations in favour of PNC, the only registrations were:

- (a) one in favour of Liftcapital Corporation, in respect of specific equipment; and
- (b) one in favour of Liftow Limited, in respect of specific equipment.

Financial Difficulties and Default

22. Notwithstanding their market-leading position, the Debtors' financial position has been negatively impacted by low commodity prices coupled with weaker near-term global demand. Spot London Metals Exchange prices have declined approximately 30% over the past year. Material decreases in zinc prices significantly and directly affects the Debtors' revenue because the Debtors' zinc pricing is generally tied to overall market pricing. The Debtors' stressed pricing environment has been further impacted by operational challenges at their zinc processing facility located in Mooresboro, North Carolina. Collectively, these macroeconomic factors and operational issues have strained the Debtors' ability to sustain their existing debt load.

23. On January 5, 2016, the Debtors in the United States (the “**US Debtors**”) received a notice of default (due to, among other things, insufficient availability) under their asset-based lending facility with Macquarie Bank Limited (“**Macquarie**”). Macquarie froze certain of the US Debtors' bank accounts, including their main operating account. As a result, the US Debtors have been unable to access a material portion of their liquidity. Approximately U.S. \$27.3 million remains outstanding under the Macquarie credit facility.

24. On January 6, 2016, PNC also asserted an event of default arising under the Zochem Facility on account of, among other things, the Debtors' failure to comply with a fixed charge covenant test as of November 30, 2015. On January 13, 2016, PNC froze certain of the Debtors' bank accounts associated with their Zochem operations, and demanded immediate payment of all outstanding obligations. PNC's demand was accompanied by a notice of intention to enforce security under section 244 of the *Bankruptcy and Insolvency Act* (the "**BIA**").

25. Since that time, the Debtors and their advisors have engaged in ongoing negotiations with their lenders to obtain incremental access to liquidity. Through significant efforts by all parties, the Debtors entered into a forbearance agreement on January 14, 2016 with PNC with respect to the asset-based lending facility at Zochem (the "**PNC Forbearance Agreement**"), pursuant to which PNC agreed to temporarily forbear from exercising rights and remedies related to certain events of defaults for the failure to comply with the fixed-charge coverage ratio covenant. In consideration for the Zochem Forbearance, the Debtors agreed, among other things, to pay a forbearance fee to PNC of U.S. \$1 million, due and payable at the termination of the forbearance period, and to provide a mortgage on Zochem's unencumbered real property in Ontario, Canada.

26. The Debtors further entered into a separate forbearance agreement with Macquarie (the "**Macquarie Forbearance**") with respect to the Macquarie Credit Facility on January 15, 2016. Pursuant to the Macquarie Forbearance, Macquarie agreed to temporarily forbear from exercising rights and remedies related to certain events of default related to insufficient availability under the Macquarie Credit Facility. In exchange, the Debtors agreed to, among other things, pay down borrowings under the Macquarie Credit Facility, pay a restructuring fee in an amount ranging from U.S. \$1 million in the event that obligations under the Macquarie Credit Facility are not paid in full by February 1, 2016, with the put fee increasing over time.

27. Horsehead Holding was authorized to file in the Chapter 11 Proceedings and appointed as the foreign representative of the Debtors therein pursuant to a written resolution of its authorizing body by written consent on January 31, 2016 (the "**Foreign Representative Resolution**"). A copy of the Foreign Representative Resolution is attached as **Exhibit "J"** to this Affidavit.

28. I understand that a copy of the order authorizing Horsehead Holding to act as the foreign representative, if granted by the U.S. Court, will be provided to this Court.

DIP Facility

29. The Debtors, with the assistance of their advisors, Lazard Middle Market LLC, solicited debtor-in-possession financing from not less than twenty-five third party lenders, hedge funds, and financial institutions, as well as existing noteholders. As a result of these discussions and ensuing negotiations, the Debtors have received a non-binding term sheet for a senior secured super priority debtor-in-possession credit facility in the amount of U.S. \$90 million (the “**DIP Facility**”) from a group of Horsehead Holding secured noteholders (collectively, the “**DIP Lenders**”). The DIP Lenders’ existing notes are subordinate to the Macquarie facility and represent the single-largest class of funded debt in the Debtors’ prepetition capital structure, totaling \$205 million of the approximately \$450 million of funded debt outstanding. The DIP Facility will be used to pay off the Zochem Facility and to finance the Debtors’ operations and the Chapter 11 Proceedings. A condition of advance under the DIP Facility is the granting of a super-priority charge over the assets of the Debtors in Canada in favour of the DIP Lender.

30. The DIP Facility will, however, only have a second priority security over assets that are currently Macquarie’s first priority collateral. In contrast, no other potential third party lender was willing to finance with less than first priority security over all the Debtors’ assets.

31. Because of the steps taken by Macquarie and PNC, the Debtors’ operations have had highly limited access to cash for almost three weeks, with associated levels of business disruption. A number of significant vendors, suppliers, and transportation service providers have either threatened to suspend their working relationship with the Debtors or in fact cut off the Debtors completely. The DIP Facility provides a necessary liquidity infusion that will benefit all stakeholders while also sending a strong signal to customers, vendors, and contract counterparties that operations are appropriately funded as the Debtors enter restructuring.

II. NATURE OF APPLICATION AND RELIEF SOUGHT

32. Horsehead Holding is seeking three orders: an interim order (the “**Interim Order**”); an initial order (the “**Initial Order**”); and a supplemental order (the “**Supplemental Order**”). The

Interim Order would be sought as soon as possible after filing of Horsehead Holding's application, to impose a stay of proceedings until the hearing date for the Initial Order and Supplemental Order. The Initial Order would, among other things:

- (a) recognize Horsehead Holding as the foreign representative of the Debtors in respect of the Chapter 11 Proceedings;
- (b) recognize the Chapter 11 Proceedings as a foreign main proceeding; and
- (c) stay all proceedings against the Debtors (the "**Stay**").

33. The Supplemental Order would, among other things:

- (a) recognize the orders sought in the First Day Motions, which are outlined in detail in the Declaration;
- (b) appoint Richter Advisory Group Inc. ("**Richter**") as the Court's information officer (the "**Information Officer**");
- (c) broaden the Stay to include any exercise or enforcement of claims, rights or liens, and to protect directors and officers of the Debtors as well;
- (d) restrain the right of any person to discontinue or terminate supply to the Debtors to protect the Debtors' efforts at a restructuring plan in the Chapter 11 Proceedings;
- (e) grant an administration charge in over the assets of the Debtors in Canada in favour of the Information Officer and its counsel (if any), in the maximum amount of \$100,000 (the "**Administration Charge**"); and
- (f) grant a charge over the assets of the Debtors in Canada in favour of the DIP Lender (the "**DIP Charge**" and, together with the Administration Charge, the "**Charges**").

34. The Charges would rank in priority to all claims other than properly perfected purchase money security interests and certain statutory liens or trusts. The Administration Charge would rank above the DIP Charge.

35. The United States is the center of main interest of each of the Debtors. Specifically, with respect to Zochem (being the only Debtor with a registered head office in Canada), the true centre of main interest is the United States, as demonstrated by the previously discussed facts that Pennsylvania is the location of:

- (a) Zochem's management;
- (b) its banking relationship with PNC (and, going forward, with the DIP Lender);
- (c) the core of its cash management system;
- (d) its accounts receivable, accounts payable and treasury department; and
- (e) communications, pricing and business development decision-making.

36. The Stay is necessary in order to protect the Debtors' efforts at a restructuring plan in the Chapter 11 Proceedings. Zochem generates approximately 30% of the Debtors' revenues, its assets are a significant part of the Debtors' holdings and Horsehead Holding has guaranteed the Zochem Facility. A stay of proceedings will restrain temporarily the exercise of rights and remedies under the various agreements, preserving the status quo.

37. Richter is a trustee licensed under the BIA and has consented to act as Information Officer, subject to the Court order, and subject to the granting of the Administration Charge.

38. The DIP Facility is the result of a competitive process and is necessary to satisfy the outstanding demand made by PNC and to fund the Debtors' ongoing operations during the Chapter 11 Proceedings, including those of Zochem. The DIP Facility is conditional on the granting of the DIP Charge. A definitive agreement for the DIP Facility is close to completion.

39. This Affidavit is sworn in support of the relief requested by the Applicants and for no other or improper purposes.

SWORN BEFORE ME at the City of)
Pittsburgh, in the State of Pennsylvania,)
this 2nd day of February, 2016.)
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)
)
)
)

Deborah J. Lherbier)
A Notary for the State of Pennsylvania)

James M. Hensler
JAMES M. HENSLER

