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Chapter 15

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10 UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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

Lead Case No. 24-12675

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

**VERIFIED PETITION FOR
RECOGNITION OF FOREIGN MAIN
PROCEEDING AND RELATED
RELIEF**

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18 **I. INTRODUCTION & RELIEF REQUESTED**

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

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

1 *Main Proceeding and Related Relief* (the “Verified Petition”), together with the Official Form 401
2 *Chapter 15 Petition for Recognition of a Foreign Proceeding* (the “Form Petition”) (ECF No. 1),
3 and requests entry of an order recognizing the Canadian Proceeding as a “foreign main proceeding”
4 pursuant to 11 U.S.C. §§ 1517(b)(1) and 1502(4) and granting additional relief pursuant to 11
5 U.S.C. § 1521 to preserve and administer the Debtors’ assets located in the United States.

6 The Receiver is petitioning this Court pursuant to 11 U.S.C. § 1515 for recognition of the
7 Canadian Proceeding as a “foreign main proceeding” pursuant to 11 U.S.C. § 1517, so that the
8 Receiver can obtain legal authority and control over the Debtors’ assets located in the United
9 States, so as to avoid loss and maximize the potential return to the Debtors’ creditors everywhere.

10 The Canadian Proceeding should be recognized as a “foreign main proceeding” because
11 (i) the Canadian Proceeding is pending in the country where the Debtors’ “center of main interest”
12 is located; (ii) the Canadian Proceeding is a “foreign proceeding” within the meaning of 11 U.S.C.
13 § 101(23); (iii) the Receiver is a “foreign representative” within the meaning of 11 U.S.C. §
14 101(24); and (iv) all other requirements for Chapter 15 recognition are satisfied by the Form
15 Petition and this Verified Petition (together, the “Petition”).

16 **II. JURISDICTION & VENUE**

17 This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and (b) and
18 1334(a) and (b).

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

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

26 The Debtors are eligible to be debtors under Chapter 15 pursuant to 11 U.S.C. §§ 109(a)
27 and 1501(b) because the Debtors have real and personal property in the United States, and the

1 Receiver is a foreign representative for the Debtors seeking assistance in the United States in
2 connection with a foreign proceeding.

3 This Chapter 15 case was properly commenced pursuant to 11 U.S.C. §§ 1504 and 1509(a)
4 by the Receiver filing the Petition, applying to this Court pursuant to 11 U.S.C. § 1515 for
5 recognition of the Canadian Proceeding as a foreign main proceeding pursuant to 11 U.S.C. §
6 1517(b)(1).

7 The statutory predicates for the relief requested herein are 11 U.S.C. §§ 105(a), 1504, 1509,
8 1515, 1517, 1520, and 1521.

9 **III. STATEMENT OF FACTS**

10 **A. The Debtors.**

11 Vicinity Motor Corp. ("Vicinity Parent") is a public company listed on the TSX Venture
12 Exchange. Vicinity Parent's direct and indirect subsidiaries include Vicinity Motor (Bus) Corp.
13 ("Vicinity Canada"), Vicinity Motor (Bus) USA Corp. ("Vicinity USA"), and Vicinity Motor
14 Property, LLC ("Vicinity Property"). Powell Decl. ¶ 4.

15 The Debtors collectively conduct business as a North American supplier of electric
16 commercial vehicles for both public and commercial enterprise use, operating primarily in British
17 Columbia, Canada and in Washington State. Powell Decl. ¶ 5. The Debtors' management and
18 operations are directed from and located in Canada, along with some of the Debtors' assets;
19 however, the Debtors also own valuable assets located in the United States, including real and
20 personal property in Washington. Powell Decl. ¶ 6. The Debtors' primary assets are interests in
21 various electric buses and trucks and other motor vehicles ("Electric Vehicles"), and certain real
22 property located at 5453 and 5457, Pacific Fern Drive, Ferndale, Washington (the "Ferndale
23 Property"). Powell Decl. ¶ 7.

24 **B. The Canadian Proceeding.**

25 On October 21, 2024, in the Canadian Proceeding, the Debtors were placed into a
26 receivership proceeding under Section 243(1) of Canada's *Bankruptcy and Insolvency Act*, R.S.C.
27 1985, c. B-3, as amended (the "BIA") and Section 39 of Canada's *Law and Equity Act*, R.S.B.C.

1 1996 c. 253, as amended (the “LEA”), and the Receiver was appointed by the Supreme Court of
2 British Columbia to administer the Debtors’ estates pursuant to the BIA and LEA. *See* ECF No.
3 1, Attachment No. 1 (the “Receiver Order”); *see also* Powell Decl. ¶ 3, Ex. A (Receiver Order).

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

7 2. The Receiver is empowered and authorized, but not obligated, to act at once
8 in respect of the Property and, without in any way limiting the generality of the
9 foregoing, the Receiver is expressly empowered and authorized to do any of the
10 following where the Receiver considers it necessary or desirable... (t) commence
11 one or more foreign legal proceedings to further the objectives of this proceeding,
12 including by way of example and not limitation, ancillary receiverships in the
13 United States of America, proceedings under the Model Law on Cross-Border
14 Insolvency (including Chapter 15 of the United States Bankruptcy Code, Title 11,
15 United States Code, 11 U.S.C. Section 1501 et seq), petitions under Title 11, United
16 States Code, Chapters 7 and 11, as well as any other foreign legal proceedings
17 wherever required to be filed by the Receiver in its judgment to pursue recovery of
18 the Debtors’ Property.

19 ***

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

30 38. The Receiver is authorized and empowered to apply to any court, tribunal
31 or regulatory or administrative body, wherever located, for recognition of this Order
32 and for assistance in carrying out the terms of this Order and the Receiver is
33 authorized and empowered to act as a representative in respect of the within
34 proceedings for the purpose of having these proceedings recognized in a
35 jurisdiction outside Canada.

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

1 **IV. STATEMENT OF ISSUE**

2 Whether the Court should enter the Receiver’s proposed order recognizing the Canadian
3 Proceeding as a “foreign main proceeding” pursuant to 11 U.S.C. §§ 1517(b)(1) and 1502(4) and
4 granting additional relief pursuant to 11 U.S.C. § 1521.

5 **V. EVIDENCE RELIED UPON**

6 This *Verified Petition* relies upon the Form Petition and attachments thereto (ECF No. 1),
7 the Declaration of Tom Powell and exhibits thereto (“Powell Decl.”) filed concurrently herewith,
8 the Receiver’s proposed recognition order attached hereto as Exhibit A, and the other papers and
9 pleadings on file in this matter.

10 **VI. RECEIVER’S PROPOSED RECOGNITION ORDER**

11 Notwithstanding the worldwide application of the stay imposed by the BIA and LEA, there
12 is a risk the Debtors’ US-based assets, including the Ferndale Property and Electric Vehicles, may
13 be subject to enforcement actions by the Debtors’ creditors; sold or otherwise transferred without
14 the Receiver’s consent, notice to creditors, or Canadian/US court oversight; inadequately protected
15 and insured; or otherwise interfered with by third parties while the Receiver is attempting to
16 investigate, preserve, and administer the Debtors’ receivership estates.

17 To protect against these risks, the Receiver commenced these Chapter 15 cases by filing
18 the Petition pursuant to 11 U.S.C. §§ 1504, 1509(a), and 1515(a), and now the Receiver
19 respectfully petitions the Court for entry of the proposed order attached hereto as Exhibit A (the
20 “Recognition Order”) granting the following relief:

- 21 1. Recognizing the Canadian Proceeding as a “foreign main proceeding” as
22 defined in 11 U.S.C. §§ 1502(4) and 1517(b)(1).
- 23 2. Granting the Receiver the relief afforded under 11 U.S.C. § 1520, as is
24 provided by right upon the recognition of the Canadian Proceeding as a
25 foreign main proceeding, including:
26 a. Applying 11 U.S.C. §§ 361 and 362 with respect to the Debtors and
27 the Debtors’ property within the territorial jurisdiction of the United
States;

- 1 b. Applying 11 U.S.C. §§ 363, 549, and 552 to a transfer of an interest
2 of the Debtors in property that is within the territorial jurisdiction of
3 the United States to the same extent that the sections would apply to
4 property of an estate under another chapter;
- 5 c. Authorizing the Receiver to operate the Debtors' businesses and
6 exercise the rights and powers of a trustee under and to the extent
7 provided by 11 U.S.C. §§ 363 and 552; and
- 8 d. Applying 11 U.S.C. § 552 to property of the Debtors that is within
9 the territorial jurisdiction of the United States.
- 10 3. To the extent not granted by 11 U.S.C. § 1520, granting further additional
11 relief as authorized by 11 U.S.C. § 1521(a) including:
- 12 a. Staying the commencement or continuation of an individual action
13 or proceeding concerning the Debtors' assets, rights, obligations or
14 liabilities to the extent they have not been stayed under 11 U.S.C. §
15 1520;
- 16 b. Staying execution against the Debtors' assets to the extent it has not
17 been stayed under 11 U.S.C. § 1520;
- 18 c. Suspending the right to transfer, encumber or otherwise dispose of
19 any assets of the Debtors to the extent this right has not been
20 suspended under 11 U.S.C. § 1520;
- 21 d. Providing for the examination of witnesses, the taking of evidence
22 or the delivery of information concerning the Debtors' assets,
23 affairs, rights, obligations or liabilities;
- 24 e. Entrusting the administration or realization of all of the Debtors'
25 assets within the territorial jurisdiction of the United States to the
26 Receiver; and
- 27 f. Extending relief granted under 11 U.S.C. § 1519(a).

VII. LEGAL ANALYSIS

A. The Canadian Proceeding Should be Recognized as a Foreign Main Proceeding.

The Canadian Proceeding should be recognized as a foreign main proceeding because (i) the Canadian Proceeding is pending in the country where the Debtors' center of main interest is located; (ii) the Canadian Proceeding is a foreign proceeding within the meaning of 11 U.S.C. §

1 101(23); (iii) the Receiver is a foreign representative within the meaning of 11 U.S.C. § 101(24);
2 and (iv) all other requirements for Chapter 15 recognition are satisfied by the Petition.

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

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

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

1 i. *The Canadian Entities' COMI is Located in Canada..*

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

5 ii. *The American Entities' COMI is Located in Canada.*

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

22 2. The Canadian Proceeding is a Foreign Proceeding.

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

1 judicial or administrative proceeding in a foreign country, including an interim proceeding”
2 because it is a pending receivership proceeding.

3 The Canadian Proceeding was commenced under the BIA and LEA. The BIA is Canada’s
4 primary law relating to insolvency, where the Debtors’ assets and affairs may be liquidated subject
5 to judicial control or supervision. *See* Jacob S. Ziegel, *Corporate Groups and Crossborder*
6 *Insolvencies: A Canada - United States Perspective*, 7 *Fordham J. Corp. & Fin. L.* 367, 372 (2002)
7 (“Canada’s basic insolvency rules are found in the [BIA].”). Specifically, Section 243(1) of the
8 BIA authorizes courts, on application by a secured creditor, to appoint a receiver over an insolvent
9 debtor’s property. Other courts have recognized Canadian receivership proceedings as a foreign
10 main proceeding. *See, e.g., In re Innua Canada Ltd.*, 2009 WL 1025090, at *6 (Bankr. D.N.J.
11 Apr. 15, 2009); *In re Xchange Tech. Grp. LLC*, 2014 WL 7451973, at *1 (Bankr. D. Del. Dec. 30,
12 2014).

13 3. The Receiver is a Foreign Representative.

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

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

5 4. The Petition Satisfies All Requirements for Recognition.

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

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

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

26 The appropriate parties in interest will receive “at least 21 days’ notice by mail” of the
27 hearing on the Petition. Fed. R. Bankr. P. 2002(q)(1); LBR 2002-1(b)(6). Concurrently with

1 filing the Petition, by separate motion, the Receiver is requesting an expedited hearing to schedule
2 the recognition hearing, and to approve the Receiver’s proposed form of notice and manner of
3 service of the Petition and recognition hearing, for the Clerk of the Court to mail such notice to
4 the appropriate parties pursuant to Local Bankruptcy Rule 2002-1(b)(6).

5 **B. Related Relief Under 11 U.S.C. §§ 1520 and 1521.**

6 Upon recognition of the Canadian Proceeding as a foreign main proceeding, the relief listed
7 under 11 U.S.C. § 1520(a) will be granted automatically by function of statute. 11 U.S.C. §
8 1520(a). In addition to that automatic relief upon “foreign main proceeding” recognition, 11
9 U.S.C. § 1521 authorizes bankruptcy courts to grant “appropriate” discretionary relief “where
10 necessary to effectuate the purpose of [Chapter 15] and to protect the assets of the debtor or the
11 interests of the creditors,” including:

12 (a)(1) staying the commencement or continuation of an individual action or
13 proceeding concerning the debtor’s assets, rights, obligations or liabilities
14 to the extent they have not been stayed under section 1520(a);

15 (a)(2) staying execution against the debtor’s assets to the extent it has not been
16 stayed under section 1520(a);

17 (a)(3) suspending the right to transfer, encumber or otherwise dispose of any
18 assets of the debtor to the extent this right has not been suspended under
19 section 1520(a);

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

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

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

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

...

(b) entrust[ing] the distribution of all or part of the debtor’s assets located in

1 the United States to the foreign representative or another person, including
2 an examiner, authorized by the court, provided that the court is satisfied that
the interests of creditors in the United States are sufficiently protected.

3 11 U.S.C. § 1521(a)-(b). The relief under 11 U.S.C. § 1521(a) subsections (1), (2), (3), and (6)
4 requires the application of standards for injunctive relief. 11 U.S.C. § 1521(e).

5 The “injunction” standard includes four factors: (1) a likelihood of success on the merits,
6 (2) a likelihood of irreparable harm; (3) that the balance of equities tips in the movant’s favor, and
7 (4) that the relief is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20
8 (2008); *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010). All four factors weigh in
9 favor of entering the Recognition Order granting relief under 11 U.S.C. § 1521.

10 *First*, there is a substantial likelihood that with the relief granted in the Recognition Order,
11 the Receiver will be able to successfully administer the Debtors’ assets under the provisions of the
12 Bankruptcy Code in this Chapter 15 case, and under the BIA/LEA in the Canadian Proceeding,
13 which will benefit all creditors. Under the BIA/LEA, the general purpose of the Canadian
14 Proceeding and the Receiver’s appointment is to administer the Debtor’s assets for the benefit of
15 creditors. The relief available under 11 U.S.C. § 1521 will compliment that purpose and fully
16 empower the Receiver, as Chapter 15 intends.

17 *Second*, there is a substantial threat of irreparable harm to the Receiver, in its capacity as
18 the receiver appointed in the Canadian Proceeding, and the Debtors’ receivership estate and
19 creditors, if the relief under 11 U.S.C. § 1519 is not granted. *See In re Andrade Gutierrez*
20 *Engenharia S.A.*, 645 B.R. 175, 181 (Bankr. S.D.N.Y. 2022) (“irreparable harm exists when local
21 actions could hinder the orderly process of a foreign proceeding and the goal of fair distribution of
22 assets”). On the eve of the Canadian Proceeding, Vicinity Parent issued a press release indicating
23 that it would be ceasing operations, laying off employees, facing restrictions on stock trading, and
24 generally succumbing to creditor enforcement actions. Powell Decl. ¶ 11, Ex. B (Vicinity Parent
25 press release). The Receiver has begun investigating the status of the Ferndale Property, but
26 currently has limited access to the Ferndale Property to assess whether additional security
27

1 measures are necessary to preserve the value of the Ferndale Property or the fixtures and personal
2 property, located therein (e.g., lock changes, security systems, periodic site checks, etc.) Powell
3 Decl. ¶ 12. Likewise, the Receiver has begun investigating the status of the Electric Vehicles, but
4 currently has limited access to Electric Vehicles that may be located at the Ferndale Property or
5 elsewhere in the United States to assess whether additional security measures are necessary to
6 preserve the value of the Electric Vehicles (e.g., locate keys or otherwise take control of and secure
7 the Electric Vehicles, insurance, etc.). Powell Decl. ¶ 13. The Receiver is also investigating the
8 existence of other assets of the Debtors, including US-based assets, which investigation may be
9 hampered without all of the powers and protections afforded under Chapter 15. Powell Decl. ¶
10 14. Additionally, the Debtors have multiple creditors that assert interests in the Debtors' assets,
11 including the Ferndale Property and Electric Vehicles, which necessitate heightened Chapter 15
12 relief to ensure the status quo is maintained with respect to the Debtors' US-based assets while the
13 Receiver seeks formal recognition of the Canadian Proceeding in this Court and ultimately
14 administers the Debtors' estates under Canadian and United States law, as applicable. Powell
15 Decl. ¶ 15.

16 *Third*, any threatened injury to the Receiver, in its official capacity in the Canadian
17 Proceeding, and the Debtors' estates and creditors, outweighs any damage the relief set forth herein
18 might cause to third parties. The injunctive relief sought by the Receiver will benefit the Debtors'
19 creditors by maximizing the value of the Debtors' assets, ensuring an equitable and orderly
20 distribution of assets, and facilitating the Canadian Proceeding. The provisional and discretionary
21 relief sought by the Receiver will benefit the Debtors' creditors by maintaining and maximizing
22 the value of the Debtors' assets within the United States — particularly the Ferndale Property and
23 the Electric Vehicles — and will ensure an equitable and orderly distribution of assets as required
24 by the BIA/LEA and Chapter 15. The balance of the harms strongly favors granting the relief
25 under 11 U.S.C. § 1521 requested by the Receiver.

26 *Fourth*, the injunctive relief is in the public interest. It sets to facilitate a cross-border
27 reorganization that will provide a benefit to the Debtors' estates and all creditors. The injunctive

1 relief is supported by notions of comity and will allow the Receiver to preserve the Debtors' assets
2 and maximize value for the Debtors' receivership estate. *See* 11 U.S.C. 1501(a) (purpose of
3 Chapter 15 includes "fair and efficient administration of cross-border insolvencies" and
4 "protection and maximization of the value of the debtor's assets"); *see also Cunard S.S. Co. Ltd.*
5 *v. Salen Reefer Servs. AB*, 773 F.2d 452, 458 (2d Cir. 1985) ("The granting of comity to a foreign
6 bankruptcy proceeding enables the assets of a debtor to be dispersed in an equitable, orderly, and
7 systematic manner, rather than in a haphazard, erratic or piecemeal fashion.").

8 **VIII. NOTICE**

9 Notice of the Petition is being provided to all parties listed on the provisional relief service
10 list attached to the Petition pursuant to Federal Rule of Bankruptcy Procedure 1007(a)(4)(B),
11 which includes all the parties entitled to notice under Federal Rule of Bankruptcy Procedure
12 2002(q)(1), and the Receiver will provide additional notice as directed by the Court. To that end,
13 the Receiver is seeking expedited approval of the form of notice and manner of service by separate
14 motion filed concurrently with this Petition, as well as a date, time, and location for the hearing on
15 the Petition.

16 **IX. CONCLUSION**

17 For these reasons, the Receiver respectfully requests that the Court enter the Receiver's
18 proposed recognition order attached hereto as Exhibit A.

19 DATED: October 24, 2024

20 LANE POWELL PC

21
22
23 By: /s/ James B. Zack

Gregory R. Fox, WSBA No. 30559

James B. Zack, WSBA No. 48122

Attorneys for FTI Consulting Canada Inc.,

Foreign Representative

1 VERIFICATION

2 I, Tom Powell, pursuant to 28 U.S.C. § 1746 and Federal Rule of Bankruptcy Procedure
3 1008, hereby declare as follows:

4 1. I am Senior Managing Director of Consulting Canada Inc., the receiver (the
5 “Receiver”) appointed in the Canadian insolvency proceeding of Vicinity Motor Corp., Vicinity
6 Motor (Bus) Corp., Vicinity Motor (Bus) USA Corp., and Vicinity Motor Property, LLC
7 (collectively, the “Debtors”), *In the Matter of the Receivership of Vicinity Motor (Bus) Corp., et*
8 *al.*, Supreme Court of British Columbia, Vancouver Registry No. S-247082 (the “Canadian
9 Proceeding”).

10 2. I have full authority to verify the Official Form 401 *Chapter 15 Petition for*
11 *Recognition of a Foreign Proceeding* filed in this Court for each Debtor (ECF No. 1), including
12 the Receiver Order, Section 1515(c) Statement, Corporate Ownership Statement, and Chapter 15
13 List attached thereto, respectively; and this *Verified Petition for Recognition of Foreign Main*
14 *Proceed and Related Relief* applicable to all of the Debtors (collectively, the “Petition”).

15 3. I reviewed the Petition and believe the statements therein to be true and correct.

16 4. To my knowledge, the foreign proceedings with respect to the Debtors include (i)
17 the Canadian Proceeding, and (ii) this Chapter 15 case seeking recognition of the Canadian
18 Proceeding as a foreign main proceeding.

19 I declare under penalty of perjury under the law of the United States of America that the
20 foregoing is true and correct.

21 EXECUTED: October 23, 2024

22 

23 Tom Powell, Senior Managing Director
24 FTI Consulting Canada Inc.
25 701 West Georgia Street
26 Suite 1450, PO Box 10089
27 Vancouver, British Columbia V7Y 1B6
Canada

EXHIBIT A

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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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

Lead Case No. 24-12675

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

**[PROPOSED]
ORDER RECOGNIZING FOREIGN
MAIN PROCEEDING AND
GRANTING RELATED RELIEF**

This matter came before the Court on the Official Form 401 *Chapter 15 Petition for Recognition of a Foreign Proceeding* (ECF No. 1) and *Verified Petition for Recognition of Foreign Main Proceeding and Related Relief* (ECF No. 3) (together, the "Petition")² filed by FTI Consulting Canada Inc., in its capacity as the receiver (the "Receiver") appointed in the Canadian insolvency proceeding of Vicinity Motor Corp., Vicinity Motor (Bus) Corp., Vicinity Motor (Bus)

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

² Capitalized terms used but not defined in this Order have the meaning set forth in the Petition.

1 USA Corp., and Vicinity Motor Property, LLC (collectively, the “Debtors”), *In the Matter of the*
2 *Receivership of Vicinity Motor (Bus) Corp., et al.*, Supreme Court of British Columbia, Vancouver
3 Registry No. S-247082 (the “Canadian Proceeding”). Upon consideration of the Petition, the
4 Declaration of Tom Powell and exhibits thereto, the Receiver Order commencing the Canadian
5 Proceeding, the evidence presented and the arguments of counsel; the Court hereby FINDS,
6 CONCLUDES, and ORDERS:

7 1. Notice was proper and no party in interest made any response in opposition to the
8 Petition, or if so, the relief requested in any such response was denied for the reasons stated on the
9 record; and, therefore, the relief requested in the Petition is GRANTED.

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

13 3. On October 21, 2024, in the Canadian Proceeding, the Debtors were placed into a
14 receivership proceeding under Section 243(1) of Canada’s *Bankruptcy and Insolvency Act*, R.S.C.
15 1985, c. B-3, as amended (the “BIA”) and Section 39 of Canada’s *Law and Equity Act*, R.S.B.C.
16 1996 c. 253, as amended (the “LEA”), and the Receiver was appointed by the Supreme Court of
17 British Columbia to administer the Debtors’ estates pursuant to the BIA and LEA.

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

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

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

26 7. The Debtors are eligible to be debtors under Chapter 15 pursuant to 11 U.S.C. §§
27 109(a) and 1501(b) because they own real and personal property in the United States, and the

1 Receiver is a foreign representative for the Debtors seeking assistance in the United States in
2 connection with a foreign proceeding.

3 8. These Chapter 15 cases were properly commenced pursuant to 11 U.S.C. §§ 1504
4 and 1509(a) by the Receiver filing the Petition, applying to this Court pursuant to 11 U.S.C. § 1515
5 for recognition of the Canadian Proceeding as a foreign main proceeding pursuant to 11 U.S.C.
6 § 1517(b)(1).

7 9. The Receiver has satisfied the requirements of 11 U.S.C. § 1515 and Federal Rule
8 of Bankruptcy Procedure 2002(q), and notice of the Petition was sufficient given the circumstances
9 of these cases and the potential for irreparable harm to the Debtors and their estates.

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

12 11. The Canadian Proceeding is a foreign proceeding within the meaning of 11 U.S.C.
13 § 101(23).

14 12. The Canadian Proceeding is entitled to recognition by this Court pursuant to
15 11 U.S.C. § 1517.

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

19 14. The relief granted is necessary and appropriate, in the interest of the public and
20 international comity, consistent with United States public policy, warranted under 11 U.S.C. §§
21 1517, 1520, and 1521, and will not cause any hardship to any party in interest that is not
22 outweighed by the benefits of granting the requested relief.

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

1 16. There is a substantial threat of irreparable harm to the Receiver, in its capacity as
2 the receiver appointed in the Canadian Proceeding, and to the Debtors' estates and creditors, if
3 discretionary relief is not granted pursuant to 11 U.S.C. § 1521.

4 17. Any threatened injury to the Receiver, in its capacity as the receiver appointed in
5 the Canadian Proceeding, and the Debtors' estates and creditors, outweighs any damage the relief
6 set forth herein might cause to third parties. The injunctive relief will benefit the Debtors' creditors
7 by maximizing the value of the Debtors' assets, ensuring an equitable and orderly distribution of
8 assets, and facilitating the Canadian Proceeding.

9 18. The injunctive relief is in the public interest. It sets to facilitate a cross-border
10 reorganization that will provide a benefit to the Debtors' receivership estate. The injunctive relief
11 is supported by notions of comity and will allow the Receiver to preserve the Debtors' assets and
12 maximize value for the Debtors' estates and creditors.

13 19. Relief is necessary to protect the Debtors' assets or the interests of the creditors
14 pursuant to 11 U.S.C. § 1521. Therefore, the Receiver is entitled to the full relief afforded under
15 11 U.S.C. § 1520 and the additional relief afforded under 11 U.S.C. § 1521.

16 20. 11 U.S.C. §§ 361 and 362 apply with respect to the Debtors and the Debtors'
17 property within the territorial jurisdiction of the United States.

18 21. 11 U.S.C. §§ 363, 549, and 552 apply to a transfer of an interest of the Debtors in
19 property that is within the territorial jurisdiction of the United States to the same extent that the
20 sections would apply to property of an estate.

21 22. Unless the Court orders otherwise, the Receiver may operate the Debtors' business
22 and may exercise the rights and powers of a trustee under and to the extent provided by 11 U.S.C.
23 §§ 363 and 552.

24 23. 11 U.S.C. § 552 applies to the Debtors' property within the territorial jurisdiction
25 of the United States.

26 24. The commencement or continuation of any action or proceeding concerning the
27 Debtors' assets, rights, obligations or liabilities is hereby stayed.

1 25. Execution against the Debtors' assets is hereby stayed.

2 26. The right of any person or entity, other than the Receiver, to transfer or otherwise
3 dispose of any assets of the Debtors' is hereby suspended unless authorized in writing by the
4 Receiver or by order of this Court or the Canadian Proceeding, as applicable.

5 27. The Receiver may undertake the examination of witnesses, the taking of evidence,
6 the production of documents, or the delivery of information concerning the assets, affairs, rights,
7 obligations or liabilities of the Debtors.

8 28. The Receiver is hereby entrusted with the administration or realization of all of the
9 Debtors' assets within the territorial jurisdiction of the United States.

10 29. All relief granted under 11 U.S.C. § 1519(a) in these Chapter 15 cases is hereby
11 extended and incorporated herein, for the duration of these Chapter 15 cases.

12 30. The Receiver is hereby entrusted with the distribution of all of the Debtors' assets
13 located in the United States.

14 31. The right of any person or entity, other than the Receiver, to discontinue, fail to
15 honor, repudiate, terminate or cease to perform any right, renewal right, contract, agreement,
16 license or permit in favor of or held by the Debtors is hereby suspended unless authorized in
17 writing by the Receiver or by Order of this Court or the Canadian Proceeding, as applicable.

18 32. Subject to 11 U.S.C. §§ 1520 and 1521, the Canadian Proceeding and the Receiver
19 Order, and the transactions consummated or to be consummated thereunder, shall be granted
20 comity and given full force and effect in the United States to the same extent that they are given
21 effect in Canada, and each is binding on all creditors of the Debtors and any of their successors
22 and assigns.

23 33. Notwithstanding anything to the contrary contained herein, this Order shall not be
24 construed as enjoining the police or regulatory act of a governmental unit, including a criminal
25 action or proceeding, to the extent not stayed under 11 U.S.C. § 362.

26 34. Notwithstanding any applicability of any applicable Federal Rules of Bankruptcy
27 Procedure, the terms and conditions of this Order shall be immediately effective and enforceable

1 upon its entry and, upon its entry, shall become final and appealable. The Receiver is not subject
2 to any stay in the implementation, enforcement, or realization of the relief granted in the Order,
3 and the Receiver is authorized and empowered and may, in its discretion and without further delay,
4 take any action and perform any act necessary to implement and effectuate the terms of the Order.

5 35. The Receiver shall be subject to the protections contained in 11 U.S.C. §§ 306 and
6 1510.

7 36. The Receiver shall not be required to post a bond under 11 U.S.C. § 1522(b).

8 37. This Court shall retain jurisdiction with respect to the enforcement, amendment or
9 modification of this Order, any request for additional relief, or any adversary proceeding brought
10 in and through these Chapter 15 cases, and any request by an entity for relief from the provisions
11 of this Order, for cause shown, that is properly commenced and within the jurisdiction of this
12 Court.

13 /// END OF ORDER ///

14 Presented by:

15 LANE POWELL PC

16 By: /s/ James B. Zack

17 Gregory R. Fox, WSBA No. 30559

18 James B. Zack, WSBA No. 48122

19 Attorneys for FTI Consulting Canada Inc.,
20 Foreign Representative
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