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**NO HEARING REQUIRED**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

*In re:*

MuscleTech Research and Development Inc.;  
HC Formulations Ltd.;  
CELL Formulations Ltd.;  
NITRO Formulations Ltd.;  
MESO Formulations Ltd.;  
ACE Formulations Ltd.;  
MISC Formulations Ltd.;  
GENERAL Formulations Ltd.;  
ACE US Trademark Ltd.;  
MT Canadian Supplement Trademark Ltd.;  
MT Foreign Supplement Trademark Ltd.;  
HC Trademark Holdings Ltd.;  
HC US Trademark Ltd.;  
1619005 Ontario Ltd. (f/k/a NEW HC US  
Trademark Ltd.);  
HC Canadian Trademark Ltd.; and  
HC Foreign Trademark Ltd.,  
  
Foreign Applicants in Foreign Proceedings.

In Cases Under  
Chapter 15 of the  
Bankruptcy Code

Case No. 06-\_\_\_\_\_

**APPLICATION FOR ORDER SPECIFYING FORM AND MANNER  
OF SERVICE OF (I) NOTICE OF FILING OF PETITIONS AND CERTAIN  
PLEADINGS PURSUANT TO CHAPTER 15 OF BANKRUPTCY CODE SEEKING  
RECOGNITION OF FOREIGN PROCEEDINGS AND REQUESTING RELIEF IN AID  
OF FOREIGN PROCEEDINGS, AND (II) DOCUMENTS RELATING THERETO**

RSM Richter Inc., in its capacity as the court-appointed monitor (the "Monitor")  
and foreign representative of MuscleTech Research and Development Inc. ("MDI") and its

above-captioned subsidiaries (together with MDI, the "Foreign Applicants") in proceedings (the "Canadian Proceedings") under Canada's *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") pending before the Ontario Superior Court of Justice (Commercial List) (the "Canadian Court"), by its United States counsel, Allen & Overy LLP, in these ancillary cases pursuant to chapter 15 of title 11 of the United States Code (as amended, the "Bankruptcy Code"), respectfully represents as follows:

### **INTRODUCTION**

1. MDI is a privately-held Canadian company that was incorporated under the laws of the Province of Ontario, Canada on December 5, 1997, and is the parent company of the other Foreign Applicants. Although at one time an operating company, MDI today is a holding company. Paul Gardiner, a resident of Ontario, Canada, is the sole director of MDI and serves as its Secretary, Treasurer and President.

2. The other Foreign Applicants are single-purpose Canadian corporate entities that can be divided into two groups: (a) those that own or owned certain product formulations, patents, know-how and trade secrets, and (b) those that own or owned certain trademarks and copyrights. All of the Foreign Applicants are direct or indirect subsidiaries of Iovate Health Sciences Group Inc. a company incorporated pursuant to the laws of Ontario, Canada on November 30, 1998.

3. On January 18, 2006, the Foreign Applicants commenced their respective Canadian Proceedings. The Foreign Applicants, under the supervision of the Monitor and the Canadian Court, are pursuing a restructuring of their business and affairs under the CCAA through the Canadian Proceedings. The Monitor also filed petitions (collectively, the "Chapter 15 Petitions") commencing the above-captioned chapter 15 cases ancillary to the Canadian

Proceedings and seeking recognition of such foreign proceedings as "foreign main proceedings" and relief in aid of the Canadian Proceedings.

4. This application is made pursuant to sections 105, 1514 and 1515 of the Bankruptcy Code and Rules 9007 and 9008 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for an order (the "Proposed Order") in the form annexed hereto as Exhibit **A**, (i) approving the notice in the form annexed hereto as Exhibit **B** (the "Notice") of the joint summons issued in these cases (the "Joint Summons") and the Chapter 15 Petitions, and (ii) specifying the manner of service of the Notice, including by way of publication.

5. The Foreign Applicants intend to formulate, negotiate and propose a plan under the CCAA that embodies a global, equitable resolution of their liabilities, including those from product liability lawsuits pending throughout the United States based on allegations relating primarily to the use of products containing ephedra or prohormones (the "Product Liability Actions"), and all related claims which would be subject to creditor approval under the CCAA. If the Foreign Applicants succeed in achieving approval of such a plan, the Monitor may seek a permanent injunction from this Court giving effect to such plan in the United States. The Canadian Proceedings offer the only practicable means to achieve a global and equitable resolution of the liabilities of the Foreign Applicants, including liabilities arising from the Product Liability Actions.

### **RELIEF REQUESTED**

6. The Monitor respectfully requests that the Notice be approved by this Court pursuant to Bankruptcy Rules 9007 and 9008, and that the manner of service of the Notice, the Joint Summons and the Chapter 15 Petitions (collectively, the "Service Documents") (i) by United States mail, first-class postage prepaid or by overnight courier upon all known creditors

and all other parties against whom relief is sought (or their counsel), including any such parties (or counsel) that have addresses outside the United States, in accordance with Bankruptcy Rules 1010 and 7004(a) and (b) on or before January 20, 2006, and (ii) by publication of the Notice in *The Wall Street Journal* (U.S. Edition) on or before January 26, 2006, be approved as adequate and sufficient notice of the Service Documents and the relief sought thereby.

7. The Monitor respectfully requests that motions or answers, if any, in response to the Service Documents must be made in writing describing the basis therefor and shall be filed with the Court electronically in accordance with General Order M-182 by registered users of the Court's electronic case filing system, and by all other parties in interest, on a 3.5 inch disc, preferably in Portable Document Format (PDF), Word Perfect or any other Windows-based word processing format, with a hard copy to the Chambers of the Honorable [\_\_\_\_\_] United States Bankruptcy Judge, and served upon Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York, 10020 (Attention: Ken Coleman), counsel to the Monitor, so as to be received on or before [\_\_\_\_\_, 2006] at 5:00 p.m. New York time, and that a hearing to consider the Service Documents be set.

8. Section 1514(c) of the Bankruptcy Code states that when “a notification of commencement of a case is to be given to foreign creditors, such notification shall (1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim; [and] (2) indicate whether secured creditors need to file proofs of claim...” 11 U.S.C. §1514(c). The Monitor respectfully requests that such requirements be waived in the instant matter, because the claims process will be established in the Canadian Proceedings, and ample notice of all relevant bar dates and related requirements will be provided therein.

WHEREFORE, the Monitor respectfully requests (i) entry of an order in the form of the Proposed Order approving the form of Notice and the manner of service of the Notice and the Service Documents, and (ii) such other and further relief as is appropriate under the circumstances.

Dated: New York, New York  
January 18, 2006

ALLEN & OVERY LLP

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