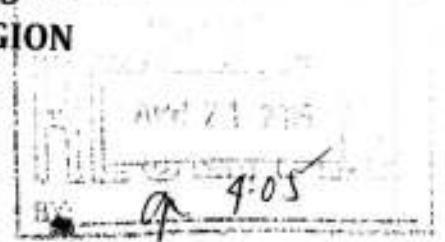


REPUBLIC OF THE PHILIPPINES  
NATIONAL CAPITAL JUDICIAL REGION  
REGIONAL TRIAL COURT  
BRANCH \_\_\_\_, TAGUIG CITY



IN THE MATTER OF:

PETITION FOR CORPORATE  
REHABILITATION OF BITMICRO  
NETWORKS INTERNATIONAL, INC.

Com'l Case 15-230

~~SP~~ Case No. \_\_\_\_\_

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**PETITION**

Petitioner BITMICRO NETWORKS INTERNATIONAL, INC. (the "Debtor"), by its undersigned counsel and unto this Honorable Court, respectfully states:

**I  
STATEMENT OF THE CASE**

1. This is a Petition for Corporate Rehabilitation filed by the Debtor pursuant to Republic Act (R.A.) No. 10142, otherwise known as the "Financial Rehabilitation and Insolvency Act of 2010,"<sup>1</sup> and the Financial Rehabilitation Rules of Procedure (the "FRIA Rules").<sup>2</sup> In this Petition, Debtor respectfully prays that it be placed under corporate rehabilitation and that all claims, actions, and proceedings against it be suspended.

**II  
THE DEBTOR**

2. The Debtor is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at the 19<sup>th</sup> Floor, Net Square Building, 28<sup>th</sup> Street corner 3<sup>rd</sup> Avenue, Bonifacio Global City, Taguig City, Metro Manila, Philippines.

<sup>1</sup> Otherwise known as the "FRIA of 2010" dated 18 July 2010.

<sup>2</sup> A.M. No. 12-12-1 SC dated 27 August 2013.

3. The Debtor may be served notices, orders, and other processes of this Honorable Court through undersigned counsel.

### III ALLEGATIONS IN SUPPORT OF THE PETITION

#### *Nature of Business of Debtor*

4. The Debtor was incorporated on 14 August 2003.

5. As stated in its Articles of Incorporation (AOI), the Debtor's primary purpose is:

"To engage in, conduct and carry on the business of merchants, distributors, brokers, traders, lessors, importers, exporters, consultants; licensors, developers, implementers, and dealers in and with business machines, office and other electronic equipment, information and communication systems and technology; computer programs, processes, goods, commodities, wares and merchandise of every kind and description; provide services in connection with the development, use, supply, installation, implementation, maintenance, management, upgrade, upkeep, and integration of such machines, equipment, systems, programs, processes, and technology; and conduct and carry on all activities that are part or related thereto."<sup>3</sup>

6. As shown in the Debtor's General Information Sheet (GIS) for 2014, the Debtor is a wholly-owned subsidiary of BitMICRO Networks, Inc. (the "Parent"), a corporation duly organized and existing under the laws of the State of California, United States of America, with address at 47929 Fremont Boulevard, Fremont CA 94538, USA.<sup>4</sup>

7. On 1 May 2005, the Parent and the Debtor entered into a Service Agreement (the "Service Agreement")<sup>5</sup> whereby the Debtor would provide the following services to the Parent:

- a. Research and development (R&D);
- b. General, administrative, and marketing; and
- c. Any other service that may be requested from time to time by the Parent.<sup>6</sup>

<sup>3</sup> A copy of the Debtor's AOI is attached as Annex "A" and made an integral part of this Petition.

<sup>4</sup> A copy of the Debtor's GIS for the year 2014 is attached as Annex "B" and made an integral part of this Petition.

<sup>5</sup> A copy of the Service Agreement is attached as Annex "C" and made an integral part of this Petition.

<sup>6</sup> Article II, Section 2.1, Service Agreement (*Annex "C"*); The Debtor and the Parent shall hereinafter be collectively referred to as the "Parties."

8. As compensation for the above-mentioned services, the Debtor shall receive a fee equal to the sum of the Debtor's direct and indirect costs plus five percent (5%) thereof as determined by market analyses and/or as mutually agreed upon by the Parties.<sup>7</sup>

9. Under the Service Agreement, while the Debtor was granted a limited, non-exclusive, non-transferable license to use, reproduce, or modify<sup>8</sup> all designs and specifications, process technology and logistic fulfillment, know-how, trade secrets, and the intellectual rights appurtenant to the foregoing for the purpose of performing its services to the Parent,<sup>9</sup> all rights, titles, and interests to the BiTMICRO Technology remained the sole property of the Parent.<sup>10</sup> In essence, the nature of the Debtor's business is merely to perform support services to the Parent, and in the course of performing such services, the Debtor does not acquire any ownership rights over the BiTMICRO Technology.

10. Since the execution of the Service Agreement between the Parties, the Debtor has rendered services in support of the Parent's operations, specifically in the areas of: (i) hardware design and development (enclosures, circuits, printed circuit boards); (ii) software and firmware design; (iii) marketing support; (iv) sales support; and (v) customer and technical support.

11. Until the year 2013, the Debtor's design and development services in favor of its Parent also included work on System on Chip (SoC) designs, which are high-end integrated circuits (IC) incorporating digital, analog and mix-signal designs. These SoC designs form the core of the Parent's storage products.

### ***History of the Debtor***

12. The Debtor was founded by the following individuals: Rey H. Bruce, Rodolfo H. Bruce, Ricardo H. Bruce, Wilbur Chan, Wilhelmina Chan, Roberto M. Bruce, Jr., and Giovanni Tan.<sup>11</sup> Since the time of the Debtor's incorporation until the year 2013, generally the same individuals comprised the members of the Debtor's Board of Directors, to wit:

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<sup>7</sup> Article II, Section 2.2, Service Agreement (*Annex "C"*).

<sup>8</sup> Article III, Section 3.1, Service Agreement (*Annex "C"*).

<sup>9</sup> Collectively, the designs and specifications, process technology and logistic fulfillment, know-how, trade secrets, and the intellectual rights owned by the Parent are hereinafter referred to as the "BiTMICRO Technology."

<sup>10</sup> Article III, Sections 3.2 and 3.3, Service Agreement (*Annex "C"*).

<sup>11</sup> Please see the Debtor's AOI (*Annex "A"*).

- a. Rey H. Bruce;
- b. Rodolfo H. Bruce;
- c. Ricardo H. Bruce;
- d. Leonila H. Bruce; and
- e. Romeo H. Bruce.<sup>12</sup>

13. At the time of its incorporation, the Debtor's mandate was to develop a line of solid state storages (SSD) for the industrial and embedded computing markets by leveraging first-generation technology previously developed by the Parent. These SSDs were designated as e-Disk ALTIMA SSDs which were originally intended to be commercially launched by the Parent before mid-2006.

14. However, the commercial launch of the ALTIMA SSD product line took much longer than planned, and was costlier than estimated. In fact, the Debtor completed R&D work on the ALTIMA SSD product line only some time in 2008, which allowed the Parent to make its initial shipments to customers in the latter part of the same year. Due to these unexpected delays, the development of other product lines for the nascent but fast-growing enterprise storage market was likewise delayed.

15. To avoid falling behind its industry competitors, the Parent expanded the scope of work under the Service Agreement by requesting the Debtor to provide R&D services and support for developing a new line of SSD products named the MAXio PCIe SSD product line. Nonetheless, after almost seven (7) years, the MAXio SSD product line has yet to generate revenue due to significant delays in every stage of product development, including application specific integrated circuit (ASIC), firmware, software, and board design delays. As of the date of the filing of this Petition, the Debtor is still in the process of developing the MAXio SSD product line, which has yet to generate any revenue.

16. The range of engineering expertise required to develop a competitive SSD is immense. Thus, sometime in 2011, the Parent funded the opening of a microelectronics design center named the Bruce Institute of Technology. The Bruce Institute of Technology was founded to train and qualify candidates who would be eligible to be hired as the Debtor's IC design engineers.

17. The organization of the Bruce Institute of Technology required a significant amount of investment from the Parent, which included entering into an expensive licensing agreement of electronic design automation software to support the training program. To date, the Parent has incurred licensing expenses of over Php240,000,000 on

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<sup>12</sup> Collectively, hereinafter referred to as the "Bruce Management."

behalf of the Debtor, which amount the Parent has recognized as an expense in its books.

18. At its peak, the Debtor grew to well over 300 employees. Unfortunately, several factors, including the U.S. subprime mortgage crisis and the resultant bankruptcy of Lehman Brothers, Inc., as well as delays in product development, affected the business prospects of the Parent. This eventually led to the retrenchment of half of the Debtor's workforce, or about 150 employees, in 2009.

19. It also bears stressing that due to the serious delays in product development, the Parent has had limited success in generating positive cash flows and has had to rely, and continues to rely on, the uncertainty of investor funding. The declining financial situation of both the Parent and the Debtor, and the resignations of some of the original founders, led to a series of changes in the organization of the Parent and the Debtor, including a change in control of the Parent, and in the management of both the Parent and Debtor in the year 2013.

20. Thus, on 19 August 2013, the following individuals were elected as new directors and corporate officers of the Debtor:

- a. Stephan Uriarte;
- b. Zophar Sante;
- c. Ma. Theresa Granados;
- d. Jesus Frederick Dayo; and
- e. Ferdinand Ledesma.<sup>13</sup>

21. In an effort to maximize the use of its resources, the Parent was forced to concentrate its product development resources on the MAXio SSD product line, and to abandon funding of other promising product lines such as the development of its fourth generation ASIC. Further, the Debtor has decreased its workforce to 98 employees.

22. The Debtor's revenues (service income), income from operations (or gross income) as well as its gross margins for the last three (3) years are as follows:<sup>14</sup>

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<sup>13</sup> Collectively, the "Uriarte Management."

<sup>14</sup> Copies of the Debtor's Audited Financial Statements (AFS) for the years 2014, 2013 and 2012 are attached as Annexes "D," "E," and "F," respectively, and made integral parts of this Petition.

Year	Service Income (in Million Php)	Gross Income (in Million Php)	Gross Margin (%)
2014	211.4	8.837	4.2
2013	278.7	8.848	3.2
2012	230.4	8.234	3.6

23. Further, the profits or losses of the Debtor for the last three (3) years are shown below:<sup>15</sup>

Year	Profits/Losses (in Million Php)
2014	(50.648)
2013	4.216
2012	13.1452

### ***Fact and Cause of Debtor's Insolvency***

24. The change in control of the Parent, and in the management of both the Parent and Debtor in the year 2013, did not proceed smoothly due to the interference and objections interposed by the Bruce Management. This interference led to the filing of various cases where both sets of directors asserted the right to act as the officers of, and to exercise control over, the Debtor. This interference also created confusion among the Debtor's managers and staff and disrupted not only the Debtor's operations but also that of its Parent.

25. As a result of this conflict, on 10 September 2013, the Debtor's former Program Manager, who represented himself to the Debtor's employees as the Debtor's officer-in-charge, shut down Debtor's operations despite express instructions to the contrary coming from the Uriarte Management.

26. On 27 September 2013, the Uriarte Management was able to successfully restore the Debtor's operations following the issuance of a temporary restraining order (TRO) by the Regional Trial Court (RTC) of Pasig City which effectively restrained the Bruce Management from interfering with the affairs of the Debtor.

27. However, as a consequence of the temporary shutdown of the Debtor's operations, a group of about 78 employees (the "Employee-Complainants") caused the filing of a case for constructive dismissal against the Debtor, its President and Chief Operating Officer (COO)<sup>16</sup>

<sup>15</sup> *Ibid.*

<sup>16</sup> With reference to the NLRC Decision, the Debtor, its President and COO are collectively referred to as the "NLRC Respondents."

with the National Labor Relations Commission (NLRC) sometime in November 2013.

28. On 30 September 2014, the NLRC rendered judgment (the "NLRC Decision") declaring the Employee-Complainants to have been constructively and illegally dismissed, and ordering the NLRC Respondents to pay claims for back wages, separation pay, moral and exemplary damages, and attorney's fees in the total amount of Php47,099,356.94. The dispositive portion of the NLRC Decision states:

**"WHEREFORE**, premises considered, judgment is hereby rendered declaring complainants to have been constructively and illegally dismissed from employment. Respondent are hereby ordered to pay complainants, jointly and severally, their claim for backwages, separation pay, moral and exemplary damages, as well as attorney's fees or the total amount of **P47,099,356.94.**"<sup>17</sup>

29. On 30 March 2015, the Debtor received the Entry of Judgment dated 25 March 2015 from the NLRC stating that the NLRC Decision became final and executory on 11 February 2015.

30. Due to the finality of the NLRC Decision, the Debtor incurred unanticipated "labor claims payable" in the amount of Php47,099,356.94. Thus, as of 31 March 2015, the Debtor's total obligations amount to Php111,646,606, consisting mostly of "labor claims payable" and "advances" from its Parent, broken down as follows:

	<i>As of</i> <u>31 March 2015</u>
Labor claims payable	Php 47,099,357
Advances from/payables to the Parent	57,320,795
Trade and other payables	7,226,454
<b>TOTAL</b>	<b>Php111,646,606</b>

31. On the other hand, the book value of the Debtor's total assets as of 31 March 2015 is Php146,320,805, broken down as follows:

	<i>As of</i> <u>31 March 2015</u>
<b>CURRENT ASSETS</b>	
Cash	Php 3,670,104
Trade & other receivables	9,729,979
Materials & supplies	118,932,651
Prepayments of other current assets	4,914,797
<b>Total Current Assets</b>	<b>137,247,531</b>

<sup>17</sup> A copy of the NLRC Decision is attached as Annex "G" and made an integral part of this Petition; Please also see Decision dated 28 November 2014 which modified the NLRC Decision, which is attached as Annex "G-1" and made an integral part of this Petition.

<b>NONCURRENT ASSETS</b>	
Property & equipment	2,514,061
Security deposits	6,482,457
Deferred tax assets	76,756
<b>Total Noncurrent Assets</b>	<b>9,073,274</b>

**TOTAL ASSETS** **Php146,320,805**

32. While the above-figures show that Debtor's total assets are greater than its total indebtedness, it bears noting that Debtor's "Materials & Supplies" are of a specialized nature and therefore have limited potential for disposal. As such, it is reasonable to estimate that the recovery rate of said "Materials and Supplies" would be around 10% of book value. Further, the Debtor also foresees that its "Property & Equipment" will have a zero recovery rate given the rapid obsolescence of equipment in the industry, and their specialized application. For ease of reference, a comparative table showing the projected recovery values of the Debtor's assets *vis-à-vis* its total liabilities is shown below:

<i>Recovery Value of Assets (As of 31 March 2015)</i>		<i>Liabilities (As of 31 March 2015)</i>	
<b>CURRENT ASSETS</b>			
Cash	Php 3,670,104	Labor claims payable	Php 47,099,357
Trade & other receivables	9,729,979	Advances from/payables to the Parent	57,320,795
Materials & supplies	11,893,265	Trade and other payables	7,226,454
Prepayments of other current assets	0		
<b>Total Current Assets</b>	<b>25,293,348</b>		
<b>NONCURRENT ASSETS</b>			
Property & equipment	0		
Security deposits	0		
Deferred tax assets	0		
<b>Total Noncurrent Assets</b>	<b>0</b>		
<b>TOTAL ASSETS</b>	<b>Php25,293,348</b>	<b>TOTAL LIABILITIES</b>	<b>Php111,646,606</b>

33. Moreover, the recognition of the labor claims as an expense in the Debtor's financial statements for the fiscal year (FY) ended 30 April 2014 resulted in a (tentative) net loss of Php50,648,199 for the year.<sup>18</sup> As compared to its paid-up capital of Php140,000,000, the Debtor's net equity position as of the same FY became merely Php1,509,954. As of 31 March 2015, the Debtor had a net capital position of Php5,232,008.

<sup>18</sup> Please see attached the Debtor's AFS for the year 2014 (Annex "D").



34. As highlighted on pages 5 and 6 of this Petition, the Debtor's service income for the year 2014 in the total amount of Php211.4 Million substantially decreased from its service income for the previous year. Similarly, the Debtor's gross income for the year 2013 (*i.e.*, Php8.848 Million) also decreased in the year 2014 (*i.e.*, Php8.837 Million). Further, financial figures [also for the last three (3) years] of the Debtor would show a decreasing trend in the Debtor's profits. To reiterate, the Debtor incurred losses in the total amount of Php 50.648 Million in the year 2014.

35. Based on the foregoing, the Debtor foresees its inability to meet its obligations as they respectively fall due. The Debtor thus invokes the rights and benefits of corporate rehabilitation in accordance with the FRIA of 2010 and the FRIA Rules, including the issuance of a Stay or Suspension Order mandating the following:

- a. suspending all actions or proceedings, in court or otherwise, for the enforcement of all claims against the Debtor;
- b. suspending all actions to enforce any judgment, attachment, or other provisional remedies against the Debtor;
- c. prohibiting the Debtor from selling, encumbering, transferring, or disposing in any manner any of its properties, except in the ordinary course of business; and
- d. prohibiting the Debtor from making any payment of its liabilities outstanding as of the commencement date, except as may be otherwise provided by the FRIA of 2010 and the FRIA Rules.

### ***Grounds in support of the Petition***

36. Chapter II(A)(1), Section 12, FRIA of 2010 provides that voluntary proceedings for the rehabilitation of the Debtor may be filed by way of a verified petition which establishes the insolvency of the Debtor, and the viability of its rehabilitation, to wit:

"SEC. 12. *Petition to Initiate Voluntary Proceedings by Debtor.* - When approved by the owner in case of a sole proprietorship, or by a majority of the partners in case of a partnership, or, in case of a corporation, by a majority vote of the board of directors or trustees and authorized by the vote of the stockholders representing at least two-thirds (2/3) of the outstanding capital stock, or in case of nonstick corporation by the vote of at least two-thirds (2/3) of the members, in a stockholder's or member's meeting duly called for the purpose, an insolvent debtor may initiate voluntary proceedings under this Act by filing a petition for rehabilitation with the court and on the grounds hereinafter specifically provided. The petition shall be verified to establish the insolvency of the debtor and the viability of its

rehabilitation, and include, whether as an attachment or as part of the body of the petition, as a minimum, the following:

x x x                      x x x                      x x x"<sup>19</sup>

37. Based on the above-mentioned provision of the FRIA of 2010, it is clear that for a petition for corporate rehabilitation to succeed, the following facts must be established:

- a. The Debtor's insolvency; and
- b. The viability of the Debtor's rehabilitation.

38. Under the FRIA of 2010, a corporate debtor is defined as a corporation duly organized and existing under Philippine laws who has become insolvent.<sup>20</sup> In this connection, Chapter I, Section 4(p), FRIA of 2010, defines the term "insolvent" as follows:

"(p) *Insolvent* shall refer to the financial condition of a debtor that is generally unable to pay its or his liabilities as they fall due in the ordinary course of business or has liabilities that are greater than its assets."

39. In the case of Philippine National Bank, et. al. v. Court of Appeals, et. al. (the "PNB" case),<sup>21</sup> the Supreme Court discussed that there are two (2) kinds of insolvency contemplated in rehabilitation proceedings. While admittedly the PNB case was decided prior to the effectivity of the FRIA of 2010, the same would still be instructive. Thus:

"A reading of Sec. 4-1 shows that there are two kinds of insolvency contemplated in it: (1) actual insolvency, *i.e.*, the corporation's assets are not enough to cover its liabilities; and (2) technical insolvency defined under Section. 3-12, *i.e.*, the corporation has enough assets but it foresees its inability to pay its obligation for more than one year."

40. In the case at bar, as discussed on page 8 of this Petition, while the book value of the Debtor's assets (*i.e.*, Php146,320,805) appear to be higher than its liabilities (*i.e.*, Php111,646,606), the actual recovery values of the Debtor's assets are much lower for the reasons already cited above. As such, the Debtor respectfully submits that it is actually insolvent because the real value of its assets would not be enough to cover its liabilities. As will be discussed below, the Debtor's creditors stand a much higher chance of recovering their credit through rehabilitation instead of selling the Debtor's assets.

<sup>19</sup> Underscoring supplied.

<sup>20</sup> FRIA of 2010, Chapter I, Section 4(k).

<sup>21</sup> G.R. No. 165571, 20 January 2009.

41. Assuming *arguendo* that the Debtor does not qualify under the first kind of insolvency, the Debtor respectfully submits that its projected net income for the years 2015 to 2016 would clearly show that it is unable to pay all of its obligations in a year's time. Thus, the Debtor may also be considered technically insolvent.

42. For the years 2015 to 2016, the Debtor foresees that it will only generate net income of Php4,126,295 and Php6,065,479, respectively.<sup>22</sup> Clearly, this amount is insufficient to pay off its entire debt in the total amount of Php111,646,606. Accordingly, it is clear that the Debtor would be incapable of paying off its obligations in 1 year.

43. Based on the foregoing, the Debtor respectfully submits that, considering the actual values of the Debtor's assets as compared to its liabilities, and its projected income for the succeeding year, the Debtor is insolvent as defined under the FRIA of 2010.

44. Apart from having established the fact of the Debtor's insolvency, Debtor respectfully submits that its rehabilitation is possible, feasible, and reasonably attainable. In this regard, the Debtor only needs time and the opportunity to re-organize, streamline, and systematize its business in order to minimize costs and maximize its profits so as to meet its stated goals.

45. In the case of Wonder Book Corporation v. Philippine Bank of Communications,<sup>23</sup> the Supreme Court laid down the parameters showing the viability of the proposed rehabilitation plan of a debtor under rehabilitation, viz:

"Under Section 23, Rule 4 of the Interim Rules, a rehabilitation plan may be approved if there is a showing that rehabilitation is feasible and the opposition entered by the creditors holding a majority of the total liabilities is unreasonable. In determining whether the objections to the approval of a rehabilitation plan are reasonable or otherwise, the court has the following to consider: (a) that the opposing creditors would receive greater compensation under the plan than if the corporate assets would be sold; (b) that the shareholders would lose their controlling interest as a result of the plan; and (c) that the receiver has recommended approval.

Rehabilitation is therefore available to a corporation who, while illiquid, has assets that can generate more cash if used in its daily operations than sold. Its liquidity issues can be addressed by a practicable business plan that will generate enough cash to sustain daily operations, has a definite source of financing for its proper and full implementation, and anchored on realistic assumptions and goals. This remedy should be denied to corporations whose insolvency

<sup>22</sup> Please see Annex J-1 of the Rehabilitation Plan (*Annex "H"*).

<sup>23</sup> G.R. No. 187316, 16 July 2012.

appears to be irreversible and whose sole purpose is to delay the enforcement of any of the rights of the creditors, which is rendered obvious by the following: (a) the absence of a sound and workable business plan; (b) baseless and unexplained assumptions, targets and goals; (c) speculative capital infusion or complete lack thereof for the execution of the business plan; (d) cash flow cannot sustain daily operations; and (e) negative net worth and the assets are near full depreciation or fully depreciated."<sup>24</sup>

46. Further, in the case of Bank of the Philippine Islands v. Sarabia Manor Hotel Corporation,<sup>25</sup> the Supreme Court explained that the feasibility of the rehabilitation of a corporation is shown if the financial analysis of such corporation depicts that there is a real opportunity to rehabilitate the corporation, to wit:

"In order to determine the feasibility of a proposed rehabilitation plan, it is imperative that a thorough examination and analysis of the distressed corporation's financial data must be conducted. If the results of such examination and analysis show that there is real opportunity to rehabilitate the corporation in view of the assumptions made and financial goals stated in the proposed rehabilitation plan, then it may be said that a rehabilitation is feasible. In this accord, the rehabilitation court should not hesitate to allow the corporation to operate as an on-going concern, albeit under the terms and conditions stated in the approved rehabilitation plan. x x x"

47. As explained above, the Debtor's current financial position shows that it is unable to meet its obligations when they respectively fall due. Nonetheless, with the aid of a workable rehabilitation plan and the supervision of this Honorable Court, the Debtor submits that its rehabilitation is feasible.

48. In support of the foregoing, the Debtor respectfully submits the attached Rehabilitation Plan, which is made an integral part of this Petition,<sup>26</sup> showing the viability of the Debtor's rehabilitation. Specifically, the Debtor submits that its proposed Rehabilitation Plan will allow the Debtor to settle its outstanding liabilities, restore its solvency, and result in the profitability of its business operations.

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<sup>24</sup> Underscoring supplied.

<sup>25</sup> G.R. No. 175844, 29 July 2013.

<sup>26</sup> A copy of the Debtor's proposed Rehabilitation Plan is attached as Annex "H" and made an integral part of this Petition.

**Rehabilitation Plan<sup>27</sup>**

**A. Objectives of the Rehabilitation Plan**

49. The objectives of the attached Rehabilitation Plan is to meet the obligations of the Debtor through a restructured payment scheme while preserving the Debtor's viability as a going concern, and avoiding undue disruptions to its operations. In this regard, the Debtor respectfully submits that its continued operations will benefit not only the Debtor's creditors, but also its stockholders and current and prospective employees as well.

50. The rehabilitation of the Debtor further aims to capitalize on the promising SSD market, which is expected to grow from USD3,300,000,000 in the year 2013 to USD10,900,000,000 in the year 2018. In this regard, the benefits of the Debtor's rehabilitation may extend not only to its immediate suppliers and service providers but may also significantly contribute to the Philippine economy at large.

**B. Material Financial Commitments**

51. Towards the end of achieving the full rehabilitation of the Debtor, the Parent commits to maintain and expand, when possible, the current volume of the service requested of, and provided by, the Debtor under the Service Agreement during the period of the Debtor's rehabilitation.

52. In addition, the Parent shall convert up to Php20,000,000 of its advances into additional equity in the Debtor, in order to improve the Debtor's capital position and to reduce the Debtor's obligations as follows:

	<b>As of Feb. 28, 2015</b>	
	<b><u>Before Conversion</u></b>	<b><u>After Conversion</u></b>
EQUITY	P 4,700,494	P 24,700,494
LIABILITIES		
Trade & Other Payables	8,308,965	8,308,965
Labor Claims Payable	47,099,357	47,099,357
Advances from BITMICRO	48,350,554	28,350,554
Total Liabilities	<u>103,758,876</u>	<u>83,758,876</u>
<b>TOTAL LIABILITIES &amp; EQUITY:</b>	<b>P 108,459,370</b>	<b>P 108,459,370</b>

<sup>27</sup> Please note that the cut-off date for the data in the attached Rehabilitation Plan (Annex "H") is as of 28 February 2015.

**C. Classes of Obligations and Proposed Repayment**

53. It bears noting that all of the Debtor's obligations are unsecured and there is no preference of credit, except in liquidation. However, for purposes of rehabilitation, the Debtor proposes that its obligations be classified as follows:

	<b>Amount As of Feb 28, 2015</b>
1) Trade Payables	<b>₱ 8,308,965</b>
2) Non-Trade Payables	
Labor Claim	₱ 47,099,357
Advances from BiTMICRO- Net	28,350,554 <sup>28</sup>
	<b>₱ 75,449,911</b>

54. In this regard, trade payables shall be paid as they fall due to ensure the continued supply of goods and services for the Debtor's operations. On the other hand, all non-trade payables shall be restructured over a 10-year period from the date of confirmation of the Rehabilitation Plan, to wit:

<b>Restructuring Period</b>	:	Ten (10) years
<b>Repayment</b>	:	Twenty (20) semi-annual amortizations of principal, as indicated below:
Years 1 - 2		2.5% of original principal per amortization
Years 3-10		5.625% of original principal per amortization

Equivalent to the following peso amounts:

- Labor Claims
 

2016-2017	₱1,177,483.93/amortization
2018-2025	₱ 2,649,338.83/amortization
- Advances from BiTMICRO<sup>29</sup>

<sup>28</sup> This amount pertains to the indebtedness due to the Parent of Php48,350,554 as of February 28, 2015 less the indebtedness of Php20,000,000 which the Parent shall convert to equity.

<sup>29</sup> This is again based on the indebtedness due to the Parent of Php48,350,554 as of February 28, 2015 less conversion into equity.

2016-2017	₱ 708,763.85/amortization
2018-2025	₱ 1,594,718.66/amortization

**Interest** : Not subject to interest.

55. The lower amortization payments for the first two (2) years of the Debtor's rehabilitation will allow the Debtor to adjust to the strictures of rehabilitation.

56. Based on the financial projections prepared by the Debtor, the Debtor expects a slight dip in revenues for the next two (2) years and a recovery in the year 2018 onwards at growth rates ranging from 1.5% to 4.0% per year. Further, the Debtor's average annual growth from the year 2016 to 2025 is a modest 1.45%.

57. In view of these projections, the Debtor proposes to scale down its operations in the year 2016 and tighten control over its expenses for the succeeding years. As a result, the Debtor foresees that its total costs and expenses will decrease by 17.1% in the year 2016 *vis-a-vis* the previous year. Thereafter, the Debtor expects that its total costs and expenses will grow moderately over the next 10 years. These proposed strategies will result in projected increases in the Debtor's net income of 47% in the year 2016 and an average of 1.8% per annum over the following nine (9) years.

58. Consistent with the tightening of operational controls, the Debtor's working capital is expected to decrease by an average of 1.0% over the next 10 years. In addition, the Debtor anticipates that there will be no major capital expenditures.

59. As a result of these proposed programs, the Debtor is expected to generate adequate cash from its operations to cover projected debt service amortizations for both labor claims payable and stockholder advances, as provided in the Rehabilitation Plan.

**D. Monitoring of Rehabilitation Implementation**

60. During the rehabilitation period, the Debtor proposes to submit monthly financial statements to the rehabilitation receiver, who shall, in turn, submit to this Honorable Court quarterly reports on the Debtor's operations.

**E. Liquidation Analysis**

61. As explained above, it is estimated that the Debtor's "Materials & Supplies" have a low recovery rate of 10% due to their specialized nature and limited potential for disposal. Further, the Debtor's "Property & Equipment" are assumed to have zero recovery rate given the obsolescence of equipment in the industry and their specialized application. As such, the Debtor projects that the liquidation value of its assets as of 28 February 2015 will only amount to Php25,014,766.

62. Following the rules on concurrence and preference of credits, it is the Labor Claims Payable that enjoys preference to the Debtor's "Materials & Supplies." Thus, the amount available for repayment for each class of creditor and their corresponding recovery rate, in case of liquidation, are as follows:

	<b>Balance As of 28 Feb. 2015</b>	<b>Amount Available For Payment</b>	<b>Recovery Rate</b>
Employees for Labor Claims	₱47,099,357	₱10,994,788	23.3%
BITMICRO	48,350,554	11,330,417	23.4%
Trade Creditors	8,308,965	-	0%
	<b>₱103,758,876</b>	<b>₱22,325,205</b>	<b>21.5%</b>

63. It bears stressing that the above recovery estimates were made without provision for administrative expenses of liquidation, asset disposal costs, and other incidental expenses attributable to corporate liquidation and dissolution. Thus, the actual amount that would be available for payment of the Debtor's obligations to its creditors may be even less than these projected values.

64. On the other hand, barring other extraneous factors, the Debtor respectfully submits that its rehabilitation, while spread over a 10-year period, may lead to 100% recovery of its total liabilities. This translates to a recovery in present value terms of 80.08% at a 4% per annum discount factor, for both labor claims and the Parent's advances. Furthermore, trade creditors will achieve full recovery as they are to be paid on a current basis under the terms of the proposed rehabilitation.



**F. Benefits of Rehabilitation**

65. The Debtor respectfully submits that the Rehabilitation Plan also allows for the following benefits:

- a. The business of the Debtor is preserved as a going concern;
- b. The chances of Debtor to continue to provide employment, including training and development, for its current pool of engineering, technical and administrative staff in the highly specialized fields of IC and related software designs will be maximized;
- c. The local business community will also benefit in the form of continued business opportunities for the Debtor's local suppliers and service providers;
- d. The Debtor will maintain its integrity and commercial viability, and secure reasonable returns on the investments of its stockholder; and
- e. Both the national and local government will benefit from the taxes the Debtor will be able to pay regularly.

66. In view of all the foregoing, the Debtor respectfully submits that its rehabilitation is clearly more beneficial to all interested parties rather than pursuing its outright liquidation.

***Pending Actions or Proceedings by or Against the Debtor***

67. The following actions or proceedings are currently pending by or against the Debtor:

<b>Case Name</b>	<b>Nature of the case</b>	<b>Status</b>
<i>Erick S. Sarte et al. v. BNII, et. al.</i> (NLRC NCR Case No. 12-15596-13)	This case involves the complaint for constructive dismissal with prayer for full back wages, separation pay, moral and exemplary damages, and attorney's fees filed by the Employee-Complainants against the Debtor, its	In the Decision, the Employee-Complainants were declared to have been constructively and illegally dismissed from employment. Thus, the respondents were ordered to pay claims for back wages, separation pay, moral

Case Name	Nature of the case	Status
	President, Stephen R. Uriarte, and its Chief Operating Officer, Zophar Sante.	and exemplary damages, as well as attorney's fees in the total amount of Php47,099,356.94. The Decision has become final. The Debtor is merely awaiting issuance of the certificate of finality by the Labor Arbiter.
<i>Gilberto Baltazar Cunanan v. BNII, et. al.</i> (NLRC-NCR Case No. 11-15122-13)	This case involves the constructive dismissal complaint with monetary claims filed by Gilberto B. Cunanan against the Debtor, its President, Stephen R. Uriarte, and its Chief Operating Officer, Zophar Sante.	In a Decision dated 7 November 2014, the illegal dismissal complaint was dismissed. Nonetheless, the Debtor was ordered to pay the complainant his salary corresponding to 40 days of his illegal suspension. The complainant has appealed the decision of the Labor Arbiter and the case is pending appeal before the NLRC.
<i>BNII et. al. v. Rey H. Bruce, et. al.</i> (Civil Case No. 74080)	This case involves the complaint for injunction filed by the Debtor with a prayer for a TRO and/or preliminary injunction against Rey H. Bruce. <i>et. al.</i>	The Defendants filed their Answers (with Compulsory Counterclaim). In its Order dated November 27, 2014, Branch 70, RTC of Pasig City, referred the case for Mediation. Thus, the case is currently undergoing mediation proceedings.
<i>BNII v. Stephen R. Uriarte, et. al.</i> (Commercial Case No. 13-198-TG)	This is an intra-corporate case seeking to nullify the Joint Shareholders and Board of Directors' Meeting dated 19 August 2013.	The case was archived by Branch 271, RTC of Taguig City in its Order dated 23 June 2014.
<i>Gilberto Cunanan and Jermyn Ong v. The</i>	This is a special civil action for certiorari	This case is currently pending with the Court

Case Name	Nature of the case	Status
<i>Presiding Judge of Branch 70 of the RTC of Pasig City, et. al.</i> (CA G.R. SP No. 138521)	which was filed by the petitioners questioning the Orders dated 18 June 2014 and 2 October 2014 which denied the petitioners' Motion to Dismiss the injunction case against herein petitioners in Civil Case No. 74080.	of Appeals.

68. The possible claims against the Debtor include the following:

Case Name	Nature of the case	Status
<i>Gilberto Baltazar Cunanan v. BNII, et. al.</i> (NLRC-NCR Case No. 11-15122-13)	This case involves the constructive dismissal complaint with monetary claims filed by Gilberto B. Cunanan against the Debtor, its President, Stephen R. Uriarte, and its Chief Operating Officer, Zophar Sante.	<p>In the Decision dated 7 November 2014, the illegal dismissal complaint was dismissed. Nonetheless, the Debtor was ordered to pay the complainant his salary corresponding to 40 days of his illegal suspension. The complainant in this case has appealed the decision of the Labor Arbiter and the case is pending appeal before the NLRC.</p> <p>In case the Decision dated 7 November 2014 is reversed, the Debtor shall be liable in the probable amount of Php 6,641,933 based on the following claims: 1) Moral damages in the total amount of Php2,500,000; (2) Exemplary damages in the total amount of Php2,500,000; and (3) Backwages in the total amount of</p>

Case Name	Nature of the case	Status
		Php1,641,933 (Php82,096*20 months).
<i>BNII et. al. v. Rey H. Bruce, et. al.</i> (Civil Case No. 74080)	This case involves the complaint for injunction filed by the Debtor with a prayer for a TRO and/or preliminary injunction against Rey H. Bruce. et. al.	Counterclaims were filed by the defendants Armadillo Security, Jermyn Ong and Gilbert Cunanan. As stated above, the case is currently pending mediation.  If the counterclaim of Defendants in this case is granted, the Debtor shall be liable in the probable amount of Php53,117,807 based on the following compulsory counterclaims: (1) Gilbert Cunanan in the total amount Php25,000,000; (2) Jermyn Ong Php25,000,000 and Armadillo Professional Security Agency Inc. in the total amount of Php3,117,807.

***Documents in support of the Petition***

69. The Debtor respectfully submits the following additional documents, which are made integral parts of this Petition, in support of the Debtor's prayer for its rehabilitation, pursuant to Chapter II(A)(1), Section 12, FRIA Act of 2010 in relation to Rule 2(A)(1), Section 2(B), FRIA Rules:

- a. Income tax returns (ITR) stamped-received by the Bureau of Internal Revenue (BIR) for the years 2014 and 2013;<sup>30</sup>
- b. Interim financial statements as of 31 March 2015;<sup>31</sup>

<sup>30</sup> Copies of the Debtor's ITRs stamped-received by the BIR for the years 2014 and 2013 are attached as Annexes "I" and "J," respectively, and made integral parts of this Petition.

- c. Schedule of Debts and Liabilities;<sup>32</sup>
- d. Inventory of Assets;<sup>33</sup>
- e. Schedule of Payments and Disposition of Assets;<sup>34</sup>
- f. Schedule of Cash Flow;<sup>35</sup>
- g. Statement of Possible Claims;<sup>36</sup>
- h. Affidavit of General Financial Condition;<sup>37</sup>
- i. List of Nominees as Rehabilitation Receiver;<sup>38</sup> and
- j. The Debtor's application for Tax Clearance filed with the BIR-Revenue District Office No. 44 with attached Request for Certification on the Status of Cases Pending Legal or Judicial Resolution dated March 23, 2015 and Delinquency Verification Report for Tax Clearance.<sup>39</sup> The Debtor undertakes to submit to this Honorable Court a copy of the Debtor's BIR Tax Clearance once it has obtained the same from the BIR.

70. All documents regarding the Debtor, including these proceedings, may be reviewed and copied at its principal office.

### PRAYER

**WHEREFORE**, Petitioner respectfully prays that this Honorable Court:

1. Upon the filing of this Petition - issue a Commencement Order, including a Stay or Suspension Order, in accordance

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<sup>31</sup> A copy of the Debtor's interim financial statements as of 31 March 2015 is attached as Annex "K" and made an integral part of this Petition.

<sup>32</sup> A copy of the Debtor's Schedule of Debts and Liabilities is attached as Annex "L" and made an integral part of this Petition.

<sup>33</sup> A copy of the Debtor's Inventory of Assets is attached as Annex "M" and made an integral part of this Petition.

<sup>34</sup> A copy of the Debtor's Schedule of Payments and Disposition of Assets is attached as Annex "N" and made an integral part of this Petition.

<sup>35</sup> A copy of the Debtor's Schedule of Cash Flow is attached as Annex "O" and made an integral part of this Petition.

<sup>36</sup> A copy of the Debtor's Statement of Possible Claims is attached as Annex "P" and made an integral part of this Petition.

<sup>37</sup> A copy of the Affidavit of General Financial Condition executed by the Debtor's authorized officer is attached as Annex "Q" and made an integral part of this Petition.

<sup>38</sup> A copy of the Debtor's List of Nominees as Rehabilitation Receiver is attached as Annex "R" and made an integral part of this Petition.

<sup>39</sup> A copy of the Debtor's Application for Tax Clearance filed with the BIR-Revenue District Office No. 44 with attached Request for Certification on the Status of Cases Pending Legal or Judicial Resolution dated March 23, 2015 and Delinquency Verification Report for Tax Clearance is attached as Annex "S" and made an integral part of this Petition.

with Chapter II(A)(1), Section 16, FRIA of 2010 in relation with Rule 2(B), Section 8, FRIA Rules:

2. After due proceedings - confirm the Debtor's Rehabilitation Plan in accordance with Chapter II(I), Section 68 in relation with Rule 2(H), Section 66, FRIA Rules: and
3. Upon successful implementation of the Rehabilitation Plan and upon motion duly made - terminate these proceedings and declare the full rehabilitation of the Debtor in accordance with Chapter II(J), Section 74, FRIA of 2010 in relation with Rule 2(I), Section 73, FRIA Rules.

Other just and equitable reliefs in the premises are likewise prayed for.

Makati City for Taguig City, 21 April 2015.

**SALVADOR LLANILLO & BERNARDO**  
[Formerly, SALVADOR & ASSOCIATES]

*Counsel for Petitioner*

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By:



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REPUBLIC OF THE PHILIPPINES)  
 ) S.S.

**VERIFICATION AND CERTIFICATION  
OF NON-FORUM SHOPPING**

I, **Atty. Ma. Theresa Granados, General Counsel of BITMICRO NETWORKS INTERNATIONAL, INC.** (the "Corporation"), of legal age, Filipino, with office address at 18<sup>th</sup> Floor, Net Square Building, 28<sup>th</sup> Street corner 3<sup>rd</sup> Avenue, Bonifacio Global City, Taguig City, having been sworn in accordance with law, do hereby depose and state that:

1. I am the duly-authorized representative of the Corporation, Petitioner in the above-entitled case;
2. As shown in the Secretary's Certificate attached hereto, I am authorized by the Board of Directors of the Corporation to cause the preparation and filing of the foregoing Petition and to verify the same and to sign the Certification of Non-Forum Shopping;
3. I have caused the preparation and filing of the foregoing Petition;
4. I have read the same and aver that the contents thereof and the facts stated therein are true and correct based on my personal knowledge and on authentic records;
5. Petitioner has not commenced any other action or proceeding involving the same issues in the Supreme Court, or in any other tribunal or agency, and to the best of my knowledge, no such action or proceeding is pending in the Supreme Court, or different divisions thereof, or any other tribunal or agency, particularly there is no petition for insolvency filed with any other body, court or tribunal affecting the Corporation;
6. If I should thereafter learn that any such similar action or proceeding has been filed or is pending in the Supreme Court or the different divisions thereof, or in any other tribunal or agency, I shall report such fact to this Honorable Court within five (5) days from notice thereof;
7. The Corporation has been duly authorized to file the Petition and that the stockholders and Board of Directors have approved or consented to, in accordance



with law, all actions or matters necessary or desirable to rehabilitate the Corporation, including the conversion of the rehabilitation proceedings to liquidation proceedings, if so ordered by this Honorable Court;

8. The Petition is being filed to protect the interests of the Corporation, the stockholders, the investors, and the creditors of the Corporation, which warrants the appointment of a rehabilitation receiver;
9. The Inventory of Assets and the Schedule of Debts and Liabilities contain the full, correct and true description of all debts and liabilities and of all goods, effects, estate and property of whatever kind or class belonging to the Corporation;
10. The Inventory of Assets also contains a full, correct and true statement of all debts owing or due to the Corporation, or to any person or persons in trust for the Corporation and of all securities and contracts whereby any money may hereafter become due or payable to the Corporation or by or through which any benefit or advantage may accrue to the Corporation;
11. The Petition contains a concise statement of the facts giving rise, or which might give rise, to any cause of action in favor of the Corporation;
12. The Corporation has no land, money, stock, expectancy, or property of any kind, except those set forth in the Inventory of Assets;
13. The Corporation has, in no instance, created or acknowledged a debt for a greater sum than the true and correct amount;
14. The Corporation, its officers, directors and stockholders have not, directly or indirectly concealed, fraudulently sold or otherwise fraudulently disposed of any part of the Corporation's real or personal property, estate, effects or rights of action, and the Corporation, its officers, directors and stockholders have not in any way compounded with any of its creditors in order to give preference to such creditors, or to receive or to accept any profit or advantage therefrom, or to defraud or deceive in any manner any creditor to whom the Corporation is indebted; and

15. The Corporation, its officers, directors, and stockholders have been acting in good faith and with due diligence.

  
Atty. Ma. Theresa Granados

**SUBSCRIBED AND SWORN** to before me this \_\_\_ day of APR 21 2015, by the affiant who exhibited to me her Passport Number EB 8557072, issued on July 4, 2013 by the PG office in San Francisco California and valid until July 3, bearing her photograph and signature, as competent evidence of her identity in accordance with Rule II, Section 12 and Rule IV, Section 2(b) of the 2004 Rules on Notarial Practice.

  
Notary Public

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Page No. 20 ;  
Book No. 1 ;  
Series of 2015.



**JOANNESS S. BATIMANA**  
Notary Public for Makati  
Roll of Attorneys No. 63257  
Appointment No. M-76 until December 31, 2016  
PTR No. 457-89/Makati City No. 21-14  
IBP Lifetime No. 967810/Chapter 03-26-14  
Salvador Llanillo & Partners, Attorneys-at-Law,  
815-816 Tower One & Branch Plaza Ayala Triangle,  
Ayala Avenue Makati City, Metro Manila, Philippines

REPUBLIC OF THE PHILIPPINES)  
 ) S.S.

**SECRETARY'S CERTIFICATE**

I, **Ma. Theresa Granados**, of legal age, Filipino, being the duly elected and qualified Corporate Secretary of **BITMICRO NETWORKS INTERNATIONAL, INC.** (the "Corporation"), a corporation organized and existing under the laws of Philippines, with principal office at 18<sup>th</sup> Floor, Net Square Building, 28<sup>th</sup> Street corner 3<sup>rd</sup> Avenue, Bonifacio Global City, Taguig City, after having been duly sworn in accordance with law, hereby depose and state that at a meeting of the Board of Directors of the Corporation held on February 6, 2015, the following resolutions were approved:

**RESOLVED**, That, as approved by 2/3 of the stockholders, the Board of Directors of **BITMICRO NETWORKS INTERNATIONAL, INC.** (the "Corporation") authorize, as it hereby authorizes, the Corporation to institute the appropriate judicial action, including the filing of a Petition for Rehabilitation with the Regional Trial Court (RTC), the Court of Appeals (CA), and/or the Supreme Court, and to take all such other actions as may be necessary or desirable to rehabilitate the Corporation, including the conversion of the rehabilitation proceedings to liquidation proceedings, if so ordered by the court.

**RESOLVED, FURTHER**, That Mr. Stephen Uriarte or Ma. Theresa Granados, acting singly or jointly, the Corporation's President and General Counsel respectively, be authorized, as he/she is hereby authorized and empowered to cause, for and on behalf of the Corporation, the preparation and filing of the afore-mentioned Petition with the RTC, CA, and/or the Supreme Court, and to sign the Verification and Certification of Non-Forum Shopping therefor, for and on behalf of the Corporation, which shall be attached to the Petition, and such other documents, instruments and certifications as may be necessary in connection with the foregoing.

**RESOLVED, FURTHER**, That Stephen R. Uriarte or Ma. Theresa Granados, be authorized, as he/she is hereby authorized and empowered to negotiate for and engage, for and on behalf of the Corporation, the services of, and designate and appoint as representatives, agents, or

attorneys-in-fact of the Corporation, any individual, party, entity, law firm or lawyers for and in connection with the subject case as provided in the preceding paragraph.


**RESOLVED, FINALLY,** That the Board of Directors hereby names, constitutes and appoints, as it hereby names, constitutes and appoints, Salvador, LLanillo, & Bernardo, Attorneys-at-Law, or any member of the firm, to be the true and lawful attorney-in-fact for the Corporation and in its name, place and stead, to do and perform the following acts and things in connection with the subject case:

- (1) To appear for and represent the Corporation whether at the original or appellate stage and whether as appellant or appellee, petitioner or respondent;
- (2) To sign, under oath or otherwise, all necessary and appropriate pleadings, motions, verifications, certifications, papers and documents;
- (3) To appear in the pre-trial conference and, with full power and authority, consider the following:
  - (a) The possibility of an amicable settlement or of submission to alternative modes of dispute resolution;
  - (b) The simplification of the issues;
  - (c) The necessity or desirability of amendments to the pleadings;
  - (d) The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof;
  - (e) The limitation of the number of witnesses;
  - (f) The advisability of a preliminary reference of issues to a commissioner;
  - (g) The propriety of rendering judgment on the pleadings, or of summary judgment, or of dismissing the action should a valid ground therefor be found to exist;
  - (h) The advisability or necessity of suspending the proceedings; and
  - (i) Such other matters as may aid in the prompt disposition of the action.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_ day of  
APR 2 2015 2015 at MAKATI CITY.

  
**Ma. Theresa Granados**  
Corporate Secretary

APR 2 2015  
**SUBSCRIBED AND SWORN** to before me this \_\_\_ day of \_\_\_\_\_ 2015,  
by the affiant who exhibited to me her Passport Number EB 8557072,  
issued on July 4, 2013 by the PG office in San Francisco California and  
valid until July 3, bearing her photograph and signature, as competent  
evidence of her identity in accordance with Rule II, Section 12 and Rule  
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Notary Public

**JOANNESS S. BATIMANA**  
Notary Public for Makati  
Roll of Attorneys No. 63257

Appointment No. M-75 until December 31, 2016  
PTR No. 438-286/Makati City/05-21-14  
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