

**Amendements demandés concernant le projet d'ordonnance visant
l'établissement d'un processus de réclamation**

Definitions

[...]

4.1.1 "Allowed Grievance Claim" means the amount, status and/or validity of the Grievance Claim filed by the USW finally determined in accordance with this Claims Procedure Order which shall be final and binding for voting and/or distribution purposes under the Plan or otherwise. Any Grievance Claim will be "finally determined" if and when:

- (a) the USW files a Grievance Proof of Claim by the Claims Bar Date or the Restructuring Claims Bar Date, as applicable, and the Monitor has not sent a Notice of Revision or Disallowance as set out in paragraph 45.4 (b) of this Claims Procedure Order;
- (b) the Monitor has sent the USW a Notice of Revision or Disallowance in accordance with the Claims Procedure, and the USW has not sent a Notice of Dispute in response thereto by the deadline set out in paragraph 45.4 (c) of this Claims Procedure Order;
- (c) the USW has sent a Notice of Dispute by the deadline set out in paragraph 45.4 (c) hereto, and the Monitor, in consultation with the CCAA Parties, and the USW have consensually resolved the disputed Grievance Claim;
- (d) a Grievance Claims Officer has been appointed with respect to the Grievance Claim, the Grievance Claims Officer has issued a Grievance Claims Officer's Determination with respect to the Grievance Claim as set out in paragraph 45.10 hereto, and the time within which any party may file an appeal of such Grievance Claims Officer's Determination has expired without any such appeal being filed, or such an appeal has been filed but subsequently withdrawn; or
- (e) the Court has made a determination with respect to the Grievance Claim and no appeal or application for leave to appeal therefrom has been brought or served on either party, or if any appeal(s) or application(s) for leave to appeal or further appeal therefrom have been made or

served on either party, any (and all) such appeal(s) or application(s) have been dismissed or withdrawn, or have led to a final non-appealable ruling;

and such Allowed Grievance Claim shall be treated as an Allowed Claim;

[...]

4.11 "Claim" means:

- (a) any right or claim of any Person that may be asserted or made in whole or in part against the CCAA Parties (or any of them), whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, in existence on, or which is based on, an event, fact, act or omission which occurred in whole or in part prior to the applicable Determination Date, at law or in equity, by reason of the commission of a tort (intentional or unintentional), any breach of contract, lease or other agreement (oral or written), any breach of duty (including, without limitation, any legal, statutory, equitable or fiduciary duty), any right of ownership of or title to property, employment, contract or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise) or for any reason whatsoever against any of the CCAA Parties or any of their property or assets, and whether or not any such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured (by guarantee, surety or otherwise), unsecured, present, future, known or unknown, and whether or not any such right or claim is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, together with any other rights or claims not referred to above that are or would be claims provable under the BIA had the CCAA Parties (or any one of them) become bankrupt on the applicable Determination Date, including, for greater certainty, any Tax Claim (...); or

(b) any Restructuring Claim;

provided, however, that "Claim" shall not include any Excluded Claim or any Grievance Claim. For greater certainty, no "Claim" shall exist for interest or penalties accrued after the applicable Determination Date unless validly secured by a Lien;

[...]

4.13 **"Claims Officer"** means the individual or individuals appointed by the Monitor pursuant to paragraph 46 hereof (...);

[...]

4.20 **"Creditors' Instructions"** means the document package which includes a copy of (i) the Instruction Letter; (ii) a blank Proof of Claim or Grievance Proof of Claim, as applicable; (iii) this Claims Procedure Order; and (iv) such other materials as the Monitor, in consultation with the CCAA Parties and D&O Counsel, considers necessary or appropriate;

[...]

4.33 **"Dispute Package"** means, with respect to any Claim or Grievance Claim, a copy of the related Proof of Claim or Grievance Proof of Claim, Notice of Revision or Disallowance, and Notice of Dispute;

[...]

4.36.1 **"Grievance Claim"** means any claim arising from a grievance in respect of events, actions or circumstances arising out of or under any Collective Agreement and which does not constitute an Excluded Claim;

4.36.2 **"Grievance Claims Officer"** means the individual(s) appointed as grievance claims officer(s) pursuant to paragraph 45.5 of this Claim Procedure Order;

4.36.3 **"Grievance Proof of Claim"** means any Proof of Claim filed by the USW in accordance with this Claim Procedure Order arising out of any Grievance Claim;

4.37 **"Instruction Letter"** means the letter regarding completion of a Proof of Claim or Grievance proof of claim, which letter shall be substantially in the form attached hereto as **Schedule "D"**;

[...]

- 4.45 **"Notice of Revision or Disallowance"** means a notice substantially in the form of **Schedule "G"** hereto advising a Creditor that the Monitor has revised or disallowed all or part of such Creditor's Claim or Grievance Claim set out in its Proof of Claim or Grievance Proof of Claim and setting out the reasons for such revision or disallowance;

[...]

Notification Procedure and Notices

[...]

14. **ORDERS** that forthwith after the date of this Claims Procedure Order, and in any event within ten (10) Business Days following the date of this Claims Procedure Order, the Monitor shall cause the Creditors' Instructions to be sent to: (a) each Known Creditor, except to those Employees represented by (...) the Representatives, to the address of such Known Creditor set out in the applicable CCAA Party's records; (b) the Representatives' Counsel, (c) the USW Counsel; and (d) all current unionized employees and retirees or beneficiaries from the Bargaining Unit Pension Plan.

[...]

Claims Bar Date

21. **ORDERS** that any Creditor who wishes to assert a Claim or a Grievance Claim (other than a Restructuring Claim) against any of the CCAA Parties shall file a Proof of Claim or a Grievance Proof of Claim with the Monitor in the manner set out in paragraph 59 hereof so that the Proof of Claim or Grievance Proof of Claim is received by the Monitor by no later than the Claims Bar Date.
22. **ORDERS** that any Person other than a Represented Employee that fails to file a Proof of Claim or a Grievance Proof of Claim as provided for in paragraph 21 hereof, such that no Proof of Claim or Grievance Proof of Claim is received from such Person by the Monitor on or before the Claims Bar Date, shall:
- (a) be and is hereby forever barred, estopped and enjoined from asserting or enforcing any Claim or Grievance Claim against any of the CCAA Parties and all such Claims or Grievance Claims shall be forever extinguished;

(b) not be permitted to vote on any Plan on account of such Claim(s) or Grievance Claim;

(c) not be permitted to participate in any distribution under any Plan, from the proceeds of any sale of the CCAA Parties' assets or otherwise, on account of such Claim(s) or Grievance Claim; and

(d) not be entitled to receive further notice in respect of the Claims Procedure or these CCAA Proceedings generally, in relation to such Claim(s) or Grievance Claim.

[...]

Pension Claims

[...]

32.1. ORDERS that the Plan Administrator will have the accuracy of the Pension Claim verified by an independent third party which will have the opportunity to contest its accuracy before the Court.

32.2 ORDERS that the independent third party shall be given access by the CCAA Parties to all the information pertaining to the Pension Plans that is needed to verify the accuracy of the Pension Claim.

Review and Determination of Grievance Claims

45.1 ORDERS that all Grievance Claims shall be determined pursuant to the procedure contained herein, and the resulting award shall determine the amount of the Grievance Claim, if applicable, for voting and distribution purposes under the Plan, in the event that such Grievance Claim is subject to compromise under the CCAA and the Plan.

45.2 ORDERS that, in the event that any Grievance Claim is subject to compromise under the CCAA and the Plan, the USW shall hereby be authorized to exercise any voting rights in respect of all such Grievance Claims as agent for their affected members for the purposes of the Plan.

45.3 ORDERS that the Monitor shall assist the CCAA Parties and the USW in connection with the administration of the Claims procedure provided for herein, as requested by the CCAA Parties or the USW from time to time, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this order.

45.4 ORDERS that, subject to the Claims Bar Date, the following procedure shall apply to Grievance Proofs of Claim filed against any of the CCAA Parties:

- (a) the Monitor, together with the CCAA Parties, shall review the Grievance Proofs of Claim and the terms set out therein;
- (b) where applicable, the Monitor shall send the USW a Notice of Revision or Disallowance in accordance with paragraph 35;
- (c) the USW local who receives a Notice of Revision or Disallowance and wishes to dispute it shall deliver a completed Notice of Dispute to the Monitor by no later than 5:00 p.m. on the day which is fourteen (14) days after the date of the applicable Notice of Revision or Disallowance or such other date as may be ordered by the Court.
- (d) unless otherwise authorized by this Court, if the USW does not provide a Notice of Dispute within the time period provided for above, the USW shall be deemed to have accepted on behalf of itself and of its members the determination of the Grievance Claim as set out in the Notice of Revision or Disallowance;
- (e) the Monitor, with the assistance of the CCAA Parties, shall attempt to consensually resolve the Grievance Claim following the receipt by the Monitor of the Notice of Dispute;
- (f) if, after the expiration of such period of time as the Monitor believes appropriate, the Grievance Claim has not been resolved the Monitor, after consultation with the CCAA Parties, shall refer the Grievance Claim to a Grievance Claims Officer and the Monitor shall deliver a Dispute Package to the Grievance Claims Officer; and

45.5 ORDERS that the USW, the CCAA Parties and the Monitor shall agree concerning the chosen Grievance Claims Officer(s) from the *Liste des arbitres de griefs et de différends selon l'article 77 du Code du travail incluant les tarifs de rémunération*, or any equivalent list, for the purposes of the present claims procedure.

provided that the approval of the Court can be requested in the absence of an agreement.

- 45.6 **ORDERS** that following the referral of a Grievance Claim to a Grievance Claims Officer, the latter shall schedule a hearing according to a timetable to be set in consultation with the CCAA Parties, the Monitor and the USW to hear, determine and adjudicate the Grievance Claim, including determining the Grievance Claim for voting and distribution purposes under the Plan. Failing agreement of the affected parties to the scheduling of the Grievance Claim, the Grievance Claims Officer shall set the hearing schedule.
- 45.7 **ORDERS** that each Grievance Claims Officer shall have the powers of an arbitrator appointed pursuant to the Quebec *Labour Code*, the Newfoundland and Labrador *Labour Relations Act* or the *Canada Labour Code* (as the case may be) and under the Collective Agreement under which the Grievance Claim arose, and further, **ORDERS** that each Grievance Claims Officer may, with the consent of the parties, act as a mediator in respect of Grievance Claim without thereby being disqualified from adjudicating upon such grievance.
- 45.8 **ORDERS** that subject to the terms of this order and directions of this Court, the Grievance Claims Officers shall determine the manner, if any, in which evidence may be brought before them by the parties as well as any other procedural matters which may arise in respect of the determination of any Grievance Claim under this order, provided that the USW may request that such mediation or adjudication be conducted in either English or French.
- 45.9 **ORDERS** that in the event the Grievance Claims Officer determines that written submissions should be made, the USW and any party to arbitration proceedings pursuant to this order shall be notified of the date scheduled for the arbitration hearing at least fifteen (15) Business Days prior to such hearing. No later than five (5) Business Days prior to any such arbitration hearing, the USW and the affected CCAA party to that arbitration shall serve on the party opposite and the Monitor, and file with the Grievance Claims Officer, written submissions not exceeding ten (10) pages in length in support of their position and request for relief, if any, together with all documents (and authorities) relevant to the arbitration which have not been filed by the other party to the arbitration and witness statements not exceeding five (5) pages in length summarizing the evidence to be tendered at the arbitration hearing by any individual from whom a party intends to elicit evidence.

45.10 ORDERS that the affected CCAA party or the USW may appeal a Grievance Claims Officer's determination to this Court within ten (10) Business Days of notification of the Grievance Claims Officer's determination of the disputed portion of such Grievance Claim by serving upon the affected CCAA party or the USW, as applicable, and the Monitor, and filing with this Court a notice of motion returnable on a date to be fixed by this Court. If an appeal is not filed within such period then the Grievance Claims Officer's determination shall, subject to a further order of the Court, be deemed to be final and binding and shall be an Allowed Claim. For the purposes of such an appeal, the Court shall apply the criteria applicable to judicial reviews.

45.11 ORDERS that any mediated settlement, award rendered or Grievance Claim determined shall not constitute a precedent and shall not be referred to or relied upon in any subsequent proceeding, including any arbitration.