

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**CHAPTER 11 TRUSTEE'S MOTION FOR ORDER
APPROVING COMPROMISE AND SETTLEMENT WITH
GREAT AMERICAN INSURANCE COMPANY AND CERTAIN INSUREDS**

Robert J. Keach, the chapter 11 trustee (the "Trustee") in the chapter 11 case (the "Case") of the above-captioned debtor (the "Debtor"), moves this Court for an order, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, approving (a) a compromise and settlement with Great American Insurance Company ("GA") and certain officers and directors (collectively, the "Insureds") who are beneficiaries under that certain the Directors', Officers', Insured Entity and Employment Practices Liability Insurance Policy (No. DML9924836) ("the Policy") and (b) a letter agreement between the Trustee and certain Insureds (the "Letter Agreement") regarding funding of certain costs prior to the effective date of the Plan (as defined below), both on the terms set forth in this motion. The compromise and settlement resolves a dispute between the Trustee, GA and the Insureds regarding GA's liability, if any, to the Insureds and/or the Debtor's estate (via the assignment described below) under the Policy. The Trustee believes, in the exercise of his sound business judgment, that approval of the compromise and settlement is in the best interest of the Debtor's estate. In further support of this motion, the Trustee states as follows:

JURISDICTION, VENUE, AND STATUTORY BASIS

1. The District Court has original but not exclusive jurisdiction over this proceeding pursuant to 28 U.S.C. § 1334(b). Pursuant to 28 U.S.C. § 157 and Rule 83.6 of the District

Court's local rules, the District Court has authority to refer and has referred this chapter 11 case to the Bankruptcy Court.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and the Bankruptcy Court has constitutional authority to enter final judgment in this proceeding.

3. Venue over this chapter 11 case is proper in this district pursuant to 28 U.S.C. § 1408, and venue over this proceeding is proper in this district pursuant to 28 U.S.C. § 1409.

4. The relief sought in this motion is predicated upon Rule 9019 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") and Rules 9013-1 and 9019-1 of the Bankruptcy Court's local rules.

BACKGROUND

A. The Derailment

5. On July 6, 2013, an unmanned eastbound MMA train with 72 carloads of crude oil, a buffer car, and 5 locomotive units derailed in Lac-Mégantic, Québec (the "Derailment"). The transportation of the crude oil had begun in New Town, North Dakota by the Canadian Pacific Railway ("CP") and the Debtor's wholly owned subsidiary, Montreal Maine & Atlantic Canada Co. ("MMA Canada"), later accepted the rail cars from CP at Saint-Jean, Québec. The crude oil was to be transported via the Saint-Jean-Lac-Mégantic line through Maine to its ultimate destination in Saint John, New Brunswick.

6. The Derailment set off several massive explosions, destroyed part of downtown Lac-Mégantic, and is presumed to have killed 47 people. A large quantity of oil was released into the environment, necessitating an extensive cleanup effort. As a result of the Derailment and the related injuries, deaths, and property damage, lawsuits were filed against the Debtor in both the United States and Canada. After the Derailment, Canadian train activity was temporarily halted between Maine and Québec on the MMA Canada line, resulting in the Debtor losing much of its

freight business. These effects of the Derailment caused the Debtor's and MMA Canada's aggregate gross revenues to fall drastically to approximately \$1 million per month.

B. Commencement of the Chapter 11 and CCAA Cases

7. On August 7, 2013, the Debtor filed a voluntary petition for relief commencing a case (the "Case") under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Maine (the "Court"). Simultaneously, the Debtor's wholly owned subsidiary, Montreal Maine & Atlantic Canada Co. ("MMA Canada"), filed for protection under Canada's Companies' Creditors Arrangement Act (Court File No. 450-11-000167-134, the "Canadian Case"). On August 21, 2013, the Office of the United States Trustee (the "U.S. Trustee") appointed the Trustee to serve as trustee in the Debtor's Case pursuant to 11 U.S.C. § 1163 [D.E. No. 64].

C. The Policy and Events Following the Derailment

8. GA issued the Policy to MMA Corp. for claims made during the Policy period of April 1, 2013 to April 1, 2014. The Policy has a \$5 million maximum aggregate limit of liability (the "Policy Limit").

9. Certain Insureds were named as defendants in personal injury and wrongful death litigation arising out of the Derailment, and some of the Insureds would have been named in additional litigation by the Trustee, including, without limitation, claims for breach of fiduciary duty (all such claims, collectively, the "Derailment Claims").

10. Certain of the Insureds are subject to criminal proceedings arising out of the Derailment (the "Criminal Proceedings").

11. Certain of the Insureds sought coverage from GA under the Policy for the Derailment Claims and/or in connection with the Criminal Proceedings.

12. GA has raised a number of defenses to coverage under the Policy and applicable law with respect to the Derailment Claims and claims made in connection with the Criminal Proceedings, and otherwise reserved all rights, remedies and defenses.

13. The Insureds agreed to assign certain of their rights arising in, arising under, or related to the coverage afforded under the Policy (collectively, the “Assigned Rights”) to the Trustee and MMA Canada (together, the “Assignees”) upon the terms, conditions, and limitations set forth in that certain Plan Support and Settlement Agreement (the “D&O Settlement Agreement”), executed on March 30, 2015, by and among the Rail World Parties, D&O Parties, Hartford, the Trustee, and MMAC (as those terms are defined in the D&O Settlement Agreement). In addition, pursuant to the D&O Settlement Agreement, the Trustee agreed to set aside from the proceeds of any settlement with GA CAD\$1,000,000 (the “Defense Costs Trust Fund”) to cover any criminal defense costs arising from criminal proceedings instituted against certain Insureds under certain circumstances (the “Criminal Defense Costs”). A redacted version of the D&O Settlement Agreement is attached hereto as Exhibit A.

14. The extent of the Insureds’ claims under the Policy is not yet known, as any claims accruing in connection with the Criminal Procedures are not yet fully liquidated.

D. The GA Settlement

15. The Trustee, the Insureds and GA have reached a compromise and settlement to resolve any and all claims or liability relating to the Derailment Claims, the Criminal Proceedings and/or the Policy as set forth in the Settlement Agreement and Release attached hereto as Exhibit B (the “Settlement Agreement”). Pursuant to the Settlement Agreement, among other things¹:

¹ In the event of any inconsistency between the terms of this summary and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall govern.

- GA shall pay \$3,000,000 to the Trustee (the “GA Payment”), which payment shall be made within five (5) business days after execution of the Settlement Agreement. \$3,000,000 is 60% of the maximum policy limit of \$5,000,000;
- Upon payment of the GA Payment to the Trustee, the Policy shall be cancelled and deemed completely exhausted, GA shall have no further obligations whatsoever to the Insureds and the Assignees except as provided in the Settlement Agreement, and the releases contained in the Settlement Agreement shall be effective;
- GA and the Insureds shall release each other for, among other things, causes of action related to the Policy or the Derailment; and
- GA shall become a Released Party (as defined in and under the Plan).

16. In addition, the Trustee and certain Insureds have entered into the Letter Agreement attached hereto as Exhibit C, which documents the Trustee’s agreement to fund certain Criminal Defense Costs (not in excess of the amount of the Defense Costs Trust Fund) in advance of approval of the D&O Settlement Agreement.

E. The Plan Process

17. On July 15, 2015, the Trustee filed the *Trustee’s Revised First Amended Plan of Liquidation Dated July 15, 2015* [D.E. 1534] (as may be amended, the “Plan”) and the *Revised First Amended Disclosure Statement with Respect to Trustee’s Plan of Liquidation Dated July 15, 2015* [D.E. 1535]. On July 17, 2015, this Court entered the *Order (I) Approving Proposed Disclosure Statement; (II) Establishing Notice, Solicitation and Voting Procedures; (III) Scheduling Confirmation Hearing; and (IV) Establishing Notice and Objection Procedures for Confirmation of the Plan* [D.E. 1544]. A hearing to consider confirmation of the Plan was held on September 24, 2015, and was subsequently continued to October 9, 2015.

18. As set forth above, GA will become a Released Party under the Plan and will benefit from the Releases and Injunctions set forth therein.

19. Upon the Effective Date of the Plan, among other things, the Releases and Injunctions will become effective and the Trustee will wind down the Debtor’s estate in accordance with the Plan.

RELIEF REQUESTED

20. Pursuant to Rule 9019(a), the Trustee requests that the Court: (a) approve the Settlement Agreement among the Trustee, GA and the Insureds; (c) approve the Letter Agreement between the Trustee and certain Insureds; and (c) approve service of the motion in the manner set forth herein.

BASIS FOR RELIEF

21. Rule 9019(a) provides that “[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement.” Fed. R. Bankr. P. 9019(a). This Court has discretion to determine whether the proposed compromise is fair and equitable and in the best interest of the bankruptcy estate. *See Jeffrey v. Desmond*, 70 F.3d 183, 185 (1st Cir. 1995). In making this determination, the Court should consider: (i) the probability of success in the litigation of the claim being compromised; (ii) the difficulties, if any, to be encountered in the matter of collection; (iii) the complexity of the litigation involved, and the expense, inconvenience and delay attending it; and (iv) the paramount interest of creditors and a proper deference to their reasonable views. *See id.*, at 184; *In re High Voltage Eng’g Corp.*, 397 B.R. 579, 601 (Bankr. D. Mass. 2008). The *Jeffrey* factors are not, however, exclusive. *See In re Healthco, Int’l, Inc.*, 136 F.3d 45, 50 (1st Cir. 1998). Deference should be given to the trustee’s business judgment if the trustee can demonstrate that the settlement falls within a “range of reasonableness.” *In re Fibercore, Inc.*, 391 B.R. 647, 655 (Bankr D. Mass. 2008).

22. The Trustee believes that the terms of the Settlement Agreement and the Letter Agreement are fair and equitable, and that such compromise is in the best interests of the Debtor’s estate. In addition, the factors articulated in *Jeffrey* warrant approval of the Settlement Agreement and the Letter Agreement. As an initial matter, with respect to the first, second and third *Jeffrey* factors, the Insureds do not yet know the value of any claims they may assert under the Policy in

connection with the ongoing Criminal Procedures. Accordingly, it is not clear that an amount even close to the Policy Limit would be payable under the Policy. And even if the Insureds were to incur costs in connection with the Criminal Proceedings that approached the Policy Limit, it is not clear that such costs would necessarily be payable under the Policy. There are thus meaningful obstacles to the Trustee's recovery of the full Policy Limits via the Assigned Rights, and the GA Payment is a substantial settlement in light of that uncertainty. And as the Trustee has agreed to fund the Defense Cost Trust Fund under the D&O Settlement Agreement, an agreement to advance certain amounts thereof from the proceeds of the Settlement Agreement is not an unreasonable exercise of the Trustee's business judgment. With respect to the final Jeffrey factor, prompt resolution of the issues surrounding recovery under the Policy, distribution of the GA payment to the Debtor's creditors, and avoidance of time-consuming and expensive litigation that would be the alternative to the Settlement Agreement and the Letter Agreement are all in the best interests of creditors. And because the costs associated with continued litigation would necessarily reduce the recovery realized, the settlement amount falls squarely within the range of reasonableness.

23. Accordingly, the Trustee believes the motion should be granted because the Settlement Agreement and the Letter Agreement are in the best interests of the Debtor's estate.

NOTICE

24. Notice of this Motion was served on the following parties on the date and in the manner set forth in the certificate of service: (a) the Debtor; (b) the Debtor's counsel; (c) the United States Trustee; (d) the Official Committee of Victims appointed in the Case; (e) applicable federal and state taxing authorities; (f) the holders of secured claims against the Debtor, or if applicable, the lawyers representing such holders; (g) counsel to CP; and (h) others who have, as of the date of the Motion, entered an appearance and requested service of papers in the Case.

WHEREFORE, the Trustee requests that the Court enter an Order: (a) granting this Motion; (b) approving the Settlement Agreement and the Letter Agreement pursuant to Bankruptcy Rule 9019; (c) finding that service to the parties and in the manner set forth herein is appropriate; and (d) granting such other and further relief as may be appropriate.

Dated: October 8, 2015

**ROBERT J. KEACH,
CHAPTER 11 TRUSTEE OF MONTREAL
MAINE & ATLANTIC RAILWAY, LTD.**

By his attorneys:

/s/ Lindsay K. Zahradka

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Execution Version

EXHIBIT**A****PLAN SUPPORT AND SETTLEMENT AGREEMENT**

This Plan Support and Settlement Agreement is made as of the Execution Date by the Rail World Parties, D&O Parties, Hartford, the Trustee, and MMAC, and shall be effective as of the Approval Date.¹

RECITALS

WHEREAS, on July 6, 2013, a train operated by MMAC derailed in the city of Lac-Mégantic, Québec, Canada, causing numerous fatalities, bodily injury, psychological and moral damages to thousands of people, and extensive property and environmental damage;

WHEREAS, the D&O Parties were directors and/or officers of MMA, MMAC, MMA Corporation and/or LMS on, before and/or after July 6, 2013;

WHEREAS, certain of the Rail World Parties had contractual relationships and/or conducted business with MMA and/or MMAC, on, before and/or after July 6, 2013;

WHEREAS, the XL Companies are the insurers under the respective XL Policies issued to MMA and MMAC;

WHEREAS, MMA, MMAC, the D&O Parties, Cathy Aldana (an officer of certain of the Rail World Parties), MMA Corporation, LMS, Rail World, Inc. and Rail World Locomotive Leasing LLC, among others, are each an "Insured" or "Additional Insured," as the case may be, under the XL Policies;

WHEREAS, Hartford is the insurer under the Hartford Policy issued to Rail World, Inc.;

WHEREAS, Rail World, Inc., Rail World Holdings LLC and Rail World Locomotive Leasing LLC are "Named Insureds" under the Hartford Policy, and each of their members,

¹ All capitalized terms used herein have the meanings contained in the definitions set forth in Section I of this Agreement.

directors and "executive officers" (as defined in the Hartford Policy), as the case may be, are each an "Insured" to the extent set forth in the Hartford Policy;

WHEREAS, Chubb is the insurer under the Chubb Policy issued to Rail World Inc. and Rail World Holdings LLC by its affiliate Federal Insurance Company.

WHEREAS, Rail World, Inc. and Rail World Holdings LLC are "Insureds" under the Chubb Policy and each of their employees and executives are "Insured Persons" under the Chubb Policy.

WHEREAS, on August 6, 2013, MMAC filed a petition for the issuance of an initial order with the CCAA Court;

WHEREAS, on August 7, 2013, MMA filed a voluntary petition in the Bankruptcy Court for relief under chapter 11 of the Bankruptcy Code;

WHEREAS, on August 8, 2013 the Initial Order was granted and Richter Advisory Group Inc. has been appointed as Monitor in connection with the CCAA Proceeding;

WHEREAS, on August 21, 2013, the United States Trustee appointed the Trustee, who now has full rights and power under the Bankruptcy Code to act for and on behalf of MMA;

WHEREAS, various Claims arising out of the Derailment have been made against MMA, MMAC, and other persons and entities, including certain of the Rail World Parties, D&O Parties, Hartford and Chubb;

WHEREAS, the Parties wish to resolve all Claims against the Rail World Parties, D&O Parties, Hartford (strictly as insurer under the Hartford Policy) and Chubb (strictly as insurer under the Chubb Policy) that have arisen, or could in the future arise, relating to the Derailment by agreeing to a global settlement on the terms contained herein;

WHEREAS, through this Agreement, the Parties seek to provide the Rail World Parties, D&O Parties, Hartford and Chubb with the broadest possible release with respect to the Derailment and any Claims of the Trustee or MMAC, except as provided herein, and to provide that the Rail World Parties, D&O Parties, Hartford and Chubb shall have no further obligations to any Person for any and all Claims that have been or could in the future be asserted against the Rail World Parties, D&O Parties, Hartford (strictly as insurer under the Hartford Policy) and Chubb (strictly as insurer under the Chubb Policy) in relation to the Derailment or relating in any way to MMA and MMAC, except as provided herein; and

WHEREAS, the Parties intend that this Agreement shall be approved in the Bankruptcy Case and CCAA Proceeding, and given effect by the Canadian Approval Order and the U.S. Approval Order.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and intending to be legally bound, the Parties agree as follows:

I. DEFINITIONS

As used in this Agreement, the following terms have the meanings set forth below.

- 1.1. "Agreement" means this Plan Support and Settlement Agreement.
- 1.2. "Approval Date" means the date on which the Approval Orders become Final Orders. If the U.S. Approval Order, the Class Action Order and the Canadian Approval Order become Final Orders on different dates, the Approval Date is the latest date on which any of the U.S. Approval Order, the Class Action Order or the Canadian Approval Order becomes a Final Order.
- 1.3. "Approval Orders" means the U.S. Approval Order, the Class Action Order and the Canadian Approval Order, collectively.

1.4. "Bankruptcy Case" means the case styled *In re Montreal, Maine & Atlantic Railway Ltd.*, Bankr. D. Me. No. 13-10670.

1.5. "Bankruptcy Code" means Title 11 of the United States Code.

1.6. "Bankruptcy Court" means the United States Bankruptcy Court for the District of Maine, as presiding over the Bankruptcy Case.

1.7. "Canadian Approval Order" means an order, entered in the CCAA Proceeding, which order shall, among other things, (i) approve, sanction and/or confirm the Canadian Plan; (ii) approve this Agreement and any other settlement agreement with Released Parties; (iii) authorize the Parties to undertake the settlement and the transactions contemplated by this Agreement and any other settlement agreements with Released Parties; and (iv) provide for the Injunction.

1.8. "Canadian Plan" means a plan of compromise and arrangement, to be filed by MMAC in the CCAA Proceeding, which shall provide, among other things, for approval of this Agreement and entry of the Canadian Approval Order.

1.9. "CCAA" means the *Companies' Creditors Arrangement Act*, R.S.C. c. C-36, as amended.

1.10. "CCAA Court" means the Superior Court of Québec (Commercial Division), sitting as a court designated pursuant to the CCAA.

1.11. "CCAA Proceeding" means the case styled *In the Matter of the Plan of Compromise or Arrangement of Montreal, Maine & Atlantic Canada Co.*, in CCAA Court, file 500-11-045094-139.

1.12. "Chubb" means Chubb & Son, a division of Federal Insurance Company, together with its parents, subsidiaries, affiliates, officers and directors.

1.13. "Chubb Policy" means that certain insurance policy bearing number 82102375 and issued by Federal Insurance Company to Rail World, Inc. and Rail World Holdings, LLC.

1.14. "Claim" or "Claims" means, as the context requires, past, present and future claims, causes of action, obligations, rights, liens, suits, judgments, orders, remedies, interests, actions, liabilities, demands, duties, injuries, compensation, damages, expenses, fees, and/or costs of whatever kind or nature (including attorney's fees and expenses), whether foreseen or unforeseen, known or unknown, asserted or unasserted, contingent or matured, liquidated or unliquidated, whether in tort, contract, extra-contractual responsibility or otherwise, whether statutory, at common law or in equity, including but not limited to claims for breach of contract, tort, breach of the implied covenant of good faith and fair dealing, loss of support, loss of consortium, statutory or regulatory violations, for indemnity or contribution, or punitive, exemplary or extra-contractual damages of any type, (a) arising out of, based upon, or relating in any way, in whole or in part, directly or indirectly, whether through a direct claim, cross-claim, third-party claim, subrogation claim, contribution claim, class action or otherwise, to (i) the Derailment, including any claims for wrongful death, personal injury, emotional distress, loss of support, loss of consortium, property damage, economic loss, or environmental damage, remediation or exposure; (ii) the Hartford Policy and the Chubb Policy; (iii) the issuance of the Hartford Policy and the Chubb Policy; (iv) insurance coverage under the Hartford Policy, the XL Policies and the Chubb Policy, including reimbursement or payment under the Hartford Policy and XL Policies; (v) any act or omission of an insurer of any type for which a Claimant might seek relief in connection with the Hartford Policy and the Chubb Policy; or (vi) the Existing Agreements; or (b) that would otherwise constitute a claim (i) within the definition of "claim" set forth in section 101(5) of the Bankruptcy Code; or (ii) provable in bankruptcy under the

Bankruptcy and Insolvency Act, R.S.C. 1985, c.B-3, had MMAC become bankrupt on August 6, 2013.

1.15. "Claimant" means any Person holding or potentially holding any Claim against (i) MMA; (ii) MMAC; (iii) to the extent applicable, the Estates; (iv) the Rail World Parties; (v) the D&O Parties; (vi) Hartford; (vii) Chubb; and/or (viii) any of the Released Parties.

1.16. "Class Action" means the putative class action commenced on or about July 15, 2013, before the Class Action Court, under court file 450-06-000001-132, including all subsequent amendments and all proceedings in this Court file, whether before or after the action is authorized to proceed as a class action.

1.17. "Class Action Court" means Superior Court, Province of Quebec, as presiding over the Class Action.

1.18. "Class Action Order" means the order issued in the Class Action (i) confirming that the Canadian Approval Order and the U.S. Approval Order shall be binding and given full effect against parties designated and part of the Class Action, whether as a class representative, class member, named defendant/respondent or mis-en-cause; (ii) removing the allegations and conclusions against the Released Parties; and (iii) terminating the Class Action against the Released Parties.

1.19. "Derailment" means the July 6, 2013 derailment in Lac-Mégantic, Québec.

1.20. "D&O Parties" means, Edward A. Burkhardt, Larry Parsons, Steven J. Lee, Stephen Archer, Robert C. Grindrod, Joseph R. McGonigle, Gaynor Ryan, M. Donald Gardner, Jr., Fred Yocum, Yves Bourdon and James Howard, each of whom is or was a director or officer of MMA, MMAC, MMA Corporation and/or LMS and who is, individually, a party to this Agreement.

1.21. "Estates" means the MMA bankruptcy estate and the MMAC estate.

1.22. "Execution Date" means the first day upon which all Parties have executed this Agreement.

1.23. "Existing Agreements" means the contracts between MMA and/or MMAC, on the one hand, and any of the Rail World Parties and /or, D&O Parties, on the other, listed on Schedule 1.23 attached hereto.

1.24. "Final Order" means an order of the Bankruptcy Court, the Class Action Court or the CCAA Court that is no longer subject to further appeals, either because the time to appeal has expired without an appeal being filed, or because it has been affirmed by any and all courts with jurisdiction to consider any appeals therefrom.

1.25. "Great American Policy" means that certain policy of insurance bearing number DML9924836 and issued by Great American Insurance Company to Montreal, Maine & Atlantic Corporation.

1.26. "Hartford" means the Hartford Casualty Insurance Company, together with its parents, subsidiaries, affiliates, officers and directors.

1.27. "Hartford Policy" means that certain policy of insurance bearing number 83 SBA PPO432 SA issued by Hartford Casualty Insurance Company to Rail World, Inc.

1.28. "Injunction" means an order by the CCAA Court and the Bankruptcy Court permanently releasing and enjoining the enforcement, prosecution, continuation or commencement of any Claim that any Person, including, without limitation, any Claimant, holds or asserts or may in the future hold or assert against the Rail World Parties, the D&O Parties, Hartford (strictly as insurer under the Hartford Policy), Chubb (strictly as insurer under the Chubb Policy) or any Released Party. The Injunction shall provide that all Persons, including,

without limitation, all Claimants, whether or not consensually, shall be deemed to have granted full, final and definitive releases of any and all Claims to the Released Parties and shall be permanently and forever barred, estopped, stayed and enjoined from (i) pursuing any Claim against the Released Parties; (ii) continuing or commencing any action or other proceeding with respect to any Claim against the Released Parties; (iii) seeking the enforcement, attachment, collection or recovery of any judgment, award, decree, or order against the Released Parties or the property of the Released Parties with respect to any Claim; (iv) creating, perfecting, or enforcing any encumbrance of any kind against the Released Parties or the property of the Released Parties with respect to any Claim; and (v) asserting any right of setoff, subrogation, contribution or recoupment of any kind against any obligations due to the Released Parties with respect to any Claim. Notwithstanding the foregoing, the "Injunction" is not required to extend to and shall not be construed as extending to, the Preserved Claims.

1.29. "LMS" means LMS Acquisition Corporation.

1.30. "MMA" means Montreal, Maine & Atlantic Railway Ltd.

1.31. "MMAC" means Montreal, Maine & Atlantic Canada Co.

1.32. "MMA Corporation" means Montreal, Maine & Atlantic Corporation.

1.33. "Monitor" means Richter Advisory Group Inc., in its capacity as Monitor in the CCAA Proceeding, or such other entity as may be approved by the CCAA Court in the future to serve in such capacity in the CCAA Proceeding.

1.34. "Parties" means the Trustee (for himself in his capacity as a trustee, for MMA, and for its estate), MMAC, the Rail World Parties, the D&O Parties and Hartford.

1.35. "Person" means and includes a natural person or persons, a group of natural persons acting as individuals, a group of natural individuals acting in collegial capacity (e.g., as a

committee, board of directors, etc.), a corporation, partnership, limited liability company or limited partnership, a proprietorship, joint venture, trust, legal representative, or any other unincorporated association, business organization or enterprise, any government entity and any successor in interest, heir, executor, administrator, trustee, trustee in bankruptcy (including the Trustee), or receiver of any such person or entity.

1.36. "Plan" means the U.S. Plan and/or the Canadian Plan.

1.37. "Preserved Claims" means (i) claims by the Trustee or MMAC (and only the Trustee, MMAC, their designee, or, to the extent applicable, the Estates) against the Rail World Parties and/or D&O Parties, but only to the extent that there is, or may be, insurance coverage for such claims under any policy of insurance issued by Great American Insurance Company or any affiliate, including, without limitation, the Great American Policy and only to the extent such coverage is actually provided, which coverage shall be assigned to the Trustee or MMAC pursuant to Section 2.1(d) by the Rail World Parties and D&O Parties, and subject to the provisions herein, including without limitation Section 2.1(e), and without any obligation on the part of the Rail World Parties or the D&O Parties to make any payment or contribution to supplement what is actually obtained by the Trustee or MMAC from such insurance policy; (ii) any claims by the Trustee and MMAC under applicable bankruptcy and non-bankruptcy law to avoid and/or recover transfers from MMA, MMAC or MMA Corporation to the holders of notes and warrants issued pursuant to that certain Note and Warrant Purchase Agreement dated as of January 8, 2003 between MMA and certain noteholders (as amended from time to time) to the extent any such transfers arise from the distribution of proceeds from the sale of certain assets of MMA to the State of Maine, including any claims by or on behalf of the Trustee or the Estates against any of the D&O Parties for any alleged breach of fiduciary duty or any similar claim

based upon the D&O Parties' authorization for payment of such notes, but any such breach of fiduciary duty or any similar claim shall be limited to recovery from the insurer as set forth in Section 1.37(i) above; (iii) any claim for subrogation by Hartford against any Person that is not a Released Party with respect to payments made by Hartford; and (iv) **claims by the Holders of Derailment Wrongful Death Claims (as defined in the U.S. Plan) against Rail World, Inc., but only to the extent that there is, or may be, insurance coverage for such claims under any policy of insurance issued by Great American Insurance Company or any affiliate, including, without limitation, the Great American Policy and only to the extent such coverage is actually provided, which coverage shall be assigned to the Trustee or MMAC pursuant to Section 2.1(d) by the Rail World Parties and D&O Parties, and subject to the provisions herein, including without limitation Section 2.1(e), and without any obligation on the part of the Rail World Parties or the D&O Parties to make any payment or contribution to supplement what is actually obtained from such insurance policy, and, provided further, that any right or recovery by such Holders of Derailment Wrongful Death Claims pursuant to the action authorized by this subparagraph shall be, in all respects, subordinate to the claims of the Trustee and MMAC, and their successors under the Plan, in such policy or policies.** For the avoidance of doubt, the preservation of claims to avoid/or recover transfers described in (ii) above shall, to the extent necessary to avoid and recover such transfers, include claims for declaratory or other relief regarding the distinction between debt and equity or for "recharacterization" of debt as equity. The definition of "Preserved Claims" shall not include any claim or action that may exist against Hartford.

1.38. "Proceedings" means the Bankruptcy Case and the CCAA Proceeding.

1.39. "Rail World Parties" means (i) Rail World Holdings LLC; (ii) Rail World, Inc.; (iii) Rail World Locomotive Leasing LLC; (iv) The San Luis Central R.R. Co.; (v) Pea Vine Corporation; (vi) LMS; (vii) MMA Corporation; (viii) Earlston Associates L.P.; and (ix) each of the shareholders, directors, officers or members or partners of the foregoing, to the extent they are not D&O Parties. For the avoidance of doubt, (i) Rail World Parties also includes Edward A. Burkhardt, solely in his capacity as director, officer and/or shareholder of certain of the Rail World Parties; and (ii) the inclusion of the above entities within the definition of "Rail World Parties", except for the purposes of this Agreement, shall not be construed to create or acknowledge an affiliation between or among any of the Rail World Parties. Notwithstanding the foregoing or anything else in this Agreement, and for the avoidance of any doubt, the terms "Rail World Parties" and "D&O Parties" do not include, and shall not be deemed to include, any of the following: (a) Canadian Pacific Railway Company, (b) World Fuel Services Corporation, (c) World Fuel Services, Inc., (d) World Fuel Services, Canada, Inc., (e) Petroleum Transport Solutions, LLC, (f) Western Petroleum Co., (g) Stobel Starostka Transfer LLC, (h) Dakota Plains Marketing LLC, (i) Dakota Plains Holdings, Inc., (j) DPTS Marketing Inc., (k) Dakota Plains Transloading LLC, (l) Dakota Petroleum Transport Solution LLC, (m) SMBC Rail Services, LLC; (n) Wheeling & Lake Erie Railway; (o) Caisse de Depot et Placement du Quebec; (p) Eureka I, LP; (q) MP Structured Finance Fund; (r) CAC, LLC; (s) DRD Family Partnership; (t) Athena Family Partners; (u) MP Global Enterprises & Associates, LLC; (v) Berkshire Investments (Netherlands) BV; and (w) any Affiliate of any of the foregoing Persons named in clauses (a) – (v) of this Section 1.39 (collectively the "Excluded Defendant Parties"). No release of any kind is extended to, or implied as to, the Excluded Defendant Parties by this Agreement.

1.40. "Released Parties" means any and all Persons with whom MMAC and the Trustee executed or hereafter executes a settlement agreement substantially in the form of this Agreement (the "Settling Defendants") whereby the Settling Defendants are provided with a release of any Claim, provided that Approval Orders are rendered approving such settlement agreements and providing the Injunction in favor of Settling Defendants.

1.41. "RWLL" means Rail World Locomotive Leasing LLC.

1.42. "Settlement Consideration" means the aggregate sum of the consideration to be delivered by the Rail World Parties, D&O Parties and Hartford pursuant to Section 2.1 of this Agreement.

1.43. "Trustee" means Robert J. Keach, solely in his capacity as Chapter 11 Trustee appointed in the Bankruptcy Case, or such other person as may be approved by the Bankruptcy Court in the future to serve in such capacity in the Bankruptcy Case.

1.44. "U.S. Approval Order" means (a) an order entered in the Bankruptcy Case sanctioning, approving and/or confirming the U.S. Plan or (b) an order entered in the Bankruptcy Case pursuant to the applicable sections of chapter 15 of the Bankruptcy Code, which order recognizes and enforces the terms of the Canadian Approval Order. In either case, a "U.S. Approval Order" must, among other things, (i) approve this Agreement; (ii) authorize the Parties to undertake the settlement and the transactions contemplated by this Agreement; and (iii) order the Injunction.

1.45. "U.S. Plan" means the plan of reorganization, to be filed by the Trustee in the Bankruptcy Case, which shall provide, among other things, for approval of this Agreement and entry of the U.S. Approval Order.

1.46. "XL Companies" means Indian Harbor Insurance Company and XL Insurance Company SE (formerly XL Insurance Company Limited).

1.47. "XL Policies" means (i) the insurance policy issued by XL Insurance Company SE (formerly XL Insurance Company Limited) bearing number RLC003808301 issued to MMAC and (ii) the insurance policy issued by Indian Harbor Insurance Company bearing number RRL003723801 issued to MMA.

II. PAYMENT AND ALLOCATION OF SETTLEMENT CONSIDERATION

2.1. Subject to all of the terms of this Agreement, the parties identified below shall, by no later than the 5th calendar day after the Approval Date, do the following:

(a) RWLL shall pay REDACTED
REDACTED

(b) RWLL shall pay REDACTED
REDACTED

(c) Rail World, Inc. and Rail World Holdings LLC represent and confirm that
Chubb has agreed to pay, REDACTED
REDACTED

REDACTED

(d) MMA Corporation (and any other necessary party under the Great American Policy, including, without limitation, the D&O Parties) shall execute and deliver an assignment to MMAC and the Trustee, in a form reasonably acceptable to MMAC and the Trustee, of all of its rights arising in, arising under, or related to the coverage afforded under the Great American Policy

REDACTED

REDACTED

REDACTED

(e)

(i) Any of the Rail World Parties and D&O

REDACTED

REDACTED

(ii)

REDACTED

(f) The Rail World Parties shall

REDACTED

REDACTED

REDACTED

(g) The Rail World Parties and D&O Parties that hold an interest in the XL Policies shall execute and deliver, in a form acceptable to MMAC, the Trustee and the Monitor, an assignment to MMAC and the Trustee of all of their rights arising in, arising under or related to the XL Policies.

(h) The D&O Parties shall pay REDACTED
REDACTED

(i) REDACTED
REDACTED

Upon payment of the Hartford Contribution, the Hartford Policy shall be exhausted and Hartford shall have no further obligation under the Hartford Policy to the Rail World Parties or any other Person.

2.2. The Trustee (to whom a portion of the Settlement Consideration will be remitted by the Monitor for distribution to some of the Claimants, the whole in accordance with the Plan), MMAC and the Monitor covenant and agree that the proceeds of the Settlement Consideration shall be used only for the purpose of paying liabilities of MMA and MMAC related to Claims arising out of the Derailment, the whole in accordance with the Plan and (i) allowed administrative expenses in the Bankruptcy Case as well as (ii) the professional fees and disbursements of the Monitor, the Monitor's counsel and MMAC's counsel in the CCAA Proceeding. The payment of any portion of the Settlement Consideration consisting of

immediately available funds shall be made by wire transfer of immediately available funds, pursuant to written instructions provided by the Monitor.

III. BANKRUPTCY AND CCAA RELATED OBLIGATIONS

3.1. By on or about March 31, 2015, MMAC shall file the Canadian Plan in the CCAA Proceeding, and shall use best efforts to obtain entry of the Canadian Approval Order as a Final Order. MMAC covenants and agrees that it will use its best efforts to obtain the Canadian Approval Order as a Final Order and that it will defend any objection to the Canadian Plan filed by any party or Person.

3.2. By on or about March 31, 2015, the Trustee shall file the U.S. Plan in the Bankruptcy Cases and shall use best efforts to obtain entry of the U.S. Approval Order as a Final Order. The Trustee covenants and agrees that he will use his best efforts to obtain the U.S. Approval Order as a Final Order and that he will defend any objection to the U.S. Plan filed by any party or Person.

3.3. Each of the Parties agrees that it will use its commercially reasonable efforts and shall negotiate in good faith the definitive agreements, orders and other documents that may be necessary to effectuate this Agreement and the consummation of the Plan. Each Party agrees that, subject to the terms of this Agreement, it shall take such steps as reasonably necessary to support and achieve approval of the confirmation of the Plan. For the avoidance of doubt, each of the Rail World Parties, D&O Parties and Hartford also agree that so long as the Plan (including any amendments thereto) is consistent with the terms of this Agreement (including but not limited to the requirement that the Injunction not be altered or modified), (i) they will not object to, delay, postpone or take any other action to interfere, directly or indirectly, in any material respect with the approval, acceptance or implementation of the Plan; (ii) directly or indirectly solicit, propose, or file any plan of compromise or arrangement or plan of liquidation for MMA

or MMAC other than the Plan; or (iii) take any other action, including but not limited to, initiating any legal proceeding, that is materially inconsistent with, or that would prevent or delay consummation of, the Plan.

3.4. If either or both of the Approval Orders (or any other orders of the Bankruptcy Court or CCAA Court relating to this Agreement) shall be appealed by any Person (or a petition for certiorari or motion for rehearing or reargument shall be filed with respect thereto), the Trustee and MMAC agree to take all reasonable steps to defend against such appeal, petition or motion; provided however, that nothing herein shall preclude the Parties from consummating the transactions contemplated herein if the Approval Orders shall have been entered and have not been stayed and the Rail World Parties, D&O Parties and Hartford, in their sole discretion, waive in writing the requirement that each of the Approval Orders be a Final Order. For the avoidance of doubt, the Parties expressly acknowledge and agree that, absent an express written waiver as described in this Section 3.4, the assignment of any rights of the Rail World Parties or D&O Parties in any insurance policy subject to this Agreement shall not be effective until the Approval Orders are Final Orders, and any such insurance policy shall remain in full force until the Approval Orders become final.

3.5. Each of the Parties further agrees not to take any appeal from, or to seek to reopen, reargue or obtain reconsideration of, or otherwise contest or challenge in any way, directly or indirectly, the Approval Orders or any other order provided for by, or executed or entered pursuant to, or in implementation of, this Agreement, except to the extent that any such order shall be inconsistent with the terms hereof.

3.6. The Trustee and MMAC agree to cooperate with the Rail World Parties, D&O Parties and Hartford and their representatives in connection with seeking approval of the Plans

and the Approval Orders. Such cooperation shall include consulting with the Rail World Parties, D&O Parties and Hartford at their request concerning the status of the Proceedings, including the status of the Plans and Approval Orders, and providing the Rail World Parties, D&O Parties and Hartford with draft copies of requested pleadings, notices, proposed orders and other documents relating to the Proceedings, the Plans, the Approval Orders and/or the service of the Plans and Approval Orders as soon as reasonably practicable. The Trustee and MMAC further covenant and agree that they will not submit for approval in the Proceedings any motion, adversary proceeding, filing or other request the approval of which could conflict with, supersede, abrogate, nullify, modify or restrict the terms of this Agreement and the rights of the Rail World Parties, D&O Parties, Hartford and/or Chubb hereunder, or in any way prevent or interfere with the consummation or performance of the transactions contemplated by this Agreement, including any transaction that is contemplated by or approved pursuant to the Plans or the Approval Orders.

3.7. In the event any Person asserts a Claim against any of the Rail World Parties, D&O Parties, Hartford and/or Chubb after the Approval Date, arising out of or related to any matter released or enjoined by this Agreement, the Rail World Parties, D&O Parties, Hartford and/or Chubb shall notify the Trustee and/or MMAC and the Trustee and/or MMAC shall immediately seek an order from the CCAA Court and/or the Bankruptcy Court enjoining such Claim, as the Rail World Parties, D&O Parties, Hartford and/or Chubb may elect and direct. If neither the Trustee nor MMAC has sought the foregoing relief in the CCAA Court or the bankruptcy Court within three business days of such notice by the Rail World Parties, D&O Parties, Hartford and/or Chubb, the Rail World Parties, D&O Parties, Hartford and/or Chubb may seek relief from the CCAA Court or the Bankruptcy Court enforcing the Injunction

against any Person asserting a Claim and the Trustee and MMAC will promptly join in the request for such relief.

3.8. On the same day that MMAC or the Trustee file a Plan, or as soon as practicable thereafter, MMAC (through the Monitor) and/or the Trustee, as applicable, shall serve copies of such Plan on (i) each Person known to the Trustee, MMAC or the Rail World Parties, D&O Parties, Hartford and/or Chubb to have a Claim against any of them or the Estates through participating in the Proceedings, the filing of a lawsuit, or the filing of a proof of claim or other assertion of a Claim, or otherwise (or to his, her, or its proxy, representative or counsel of record); (ii) all other Persons who or that have filed timely proofs of claim in the Proceedings; (iii) all Persons on the master service lists maintained in the Proceedings; and (iv) all other parties in interest, including any Person who filed a notice of appearance and demand for service of papers in the Proceedings. In addition, to ensure the broadest notice possible, the Trustee and MMAC shall publish notice of the applicable Plan and the hearings in the same publications used in connection with the Notice of Claims Bar Date in the Bankruptcy Case and the CCAA Proceeding and such additional publications as the Trustee and the Monitor may select in their sole discretion or as may be directed by the Bankruptcy Court or the CCAA Court. As soon as reasonably practical after filing a Plan, certificates of the service provided by mail and by publication shall be filed by the Monitor in the CCAA Proceeding and by the Trustee in the Bankruptcy Case, as applicable.

IV. RELEASE, INJUNCTION AND ASSIGNMENT OF CLAIMS

4.1. Effective upon the Approval Date and the payment of the Settlement Consideration, and without any further action of the Parties:

(a) MMAC and the Trustee, on behalf of themselves and, to the extent applicable, the Estates, hereby fully, finally, and completely remise, release, acquit and

forever discharge the Rail World Parties, D&O Parties, Hartford (strictly as insurer under the Hartford Policy) and Chubb (strictly as insurer under the Chubb Policy) from any and all Claims, except the Preserved Claims. Notwithstanding the foregoing, but subject to the limitations herein, the Preserved Claims are expressly preserved in favor of MMAC, the Trustee, the Estates and Hartford, as applicable. As to the Preserved Claims, MMAC and the Trustee, on behalf of themselves and, to the extent applicable, the Estates, hereby covenant and agree to limit their recovery on account of such Preserved Claims to the amounts that actually are paid by Great American Insurance Company, or any affiliate, based on or arising under (i) the Great American Policy or (ii) any applicable law relating to the Great American Policy. Nothing in this Paragraph 4.1(a) shall be construed to (i) limit the Injunction in favor of the Rail World Parties, D&O Parties, Hartford or Chubb, as that term is defined and applied in this Agreement or (ii) alter the rights and obligations of the Parties under Paragraph 2.1(e) or (iii) limit any claim for subrogation made by Hartford against a Person that is not a Released Party. The Parties agree that Hartford shall not be subject to, or liable for, any of the Preserved Claims, shall have no obligation to provide a defense to any person or entity in regard to the Preserved Claims and shall not be liable for any costs or indemnification in regard to a Preserved Claim. Without limiting the foregoing and for avoidance of doubt notwithstanding the definition of "Claim" above, except to the extent such claim is a Preserved Claim, this release encompasses: (i) claims for breach of contract, breach of fiduciary duty or duty of care, tort, breach of implied covenant of good faith and fair dealing, statutory or regulatory violations, for indemnity or contribution, or punitive, exemplary or extra-contractual damages of any type, as may be limited herein, and (ii) claims by or on behalf of the

Trustee, the Estates, MMAC or the Monitor under the Bankruptcy Code or other law whether in Canada or the United States to avoid or recover transfers from MMA or MMAC to any of the Rail World Parties or D&O Parties, including without limitation, preferential transfers or other avoidable transfers under the Bankruptcy Code or other law whether in Canada or the United States.

(b) The Rail World Parties, D&O Parties and Hartford hereby fully, finally, and completely remise, release, acquit and forever discharge MMA, MMAC, the Trustee, the Estates (to the extent applicable), and the Released Parties, from any and all Claims, except as provided herein and only to the extent such Released Parties are releasing the Rail World Parties, D&O Parties, and Hartford. However, this release and discharge shall not limit any rights of any of the Rail World Parties and/or the D&O Parties to seek recovery from their insurers, including Hartford and XL, for any attorneys' fees, expenses or costs incurred prior to the Approval Date. Chubb is deemed to fully, finally and completely remise, release, acquit and forever discharge MMA, MMAC, the Trustee, the Estates (to the extent applicable), the Rail World Parties, D&O Parties and Hartford, from any and all Claims. Nothing in this release in Section 4.1(b), shall limit any rights any of the Rail World Parties and the D&O Parties may have to seek recovery from any of their insurers for any attorneys' fees, expenses and costs they have incurred prior to the Approval Date.

(c) In consideration of the release set forth in paragraph 4.1(a) of this Agreement and of the Injunction, the Rail World Parties, D&O Parties and Hartford hereby assign and transfer to MMAC and the Trustee any and all Claims that they have, or may have, against any and all Persons (other than MMA, MMAC, the Trustee, the

Estates (to the extent applicable), Hartford, Chubb and the Released Parties) in connection with, arising out of, or related to: (i) the Derailment; (ii) the Existing Agreements; and (iii) the payment of Settlement Consideration. For the avoidance of doubt, the Trustee and MMAC release any Claims against Hartford that may have been assigned to them by the Rail World Parties and D&O Parties. Notwithstanding the preceding paragraph, Hartford does not assign or transfer any subrogation or contribution rights it has or may have against a Person that is not a Released Party.

4.2. Releases Do Not Extend To Obligations Under The Agreement. The releases set forth in Section 4.1 of this Agreement are not intended to, and shall not, extend to or otherwise release or discharge any rights, privileges, benefits, duties, or obligations of any of the Parties by reason of, or otherwise arising under, this Agreement.

4.3. Changes In Fact Or Law. The Parties acknowledge that there may be changes in the law, including with respect to interpretation of coverage under the Hartford Policy, the Chubb Policy or the Great American Policy (collectively the "Policies") and/or that the Parties may hereafter discover facts different from, or in addition to, those which they now believe to be true with respect to any and all of the claims herein released. Nevertheless, the Parties hereby agree that the releases set forth above shall be and remain effective in all respects, notwithstanding any changes in the law and/or the discovery of such additional or different facts. Moreover, the Trustee and MMAC understand that Claims that have been or may be asserted may increase or decrease in amount or in severity over time, that Claims that have been or may be asserted may include progressive, cumulative, unknown, and/or unforeseen elements, and that there may be hidden, unknown, and unknowable damages, defense expenses, or other costs related to such Claims. Nevertheless, the Parties irrevocably and knowingly agree that the

releases contained in Section 4.1 of this Agreement include a full and complete and irrevocable release and discharge from all Claims, except as limited by this Agreement.

4.4. General Release. In furtherance of their express intent to fully, finally, and irrevocably release and discharge each other for all Claims, known and unknown, as set forth in this Article 4 of the Agreement, each of the Parties expressly waives any and all rights it may have under any contract, statute, code, regulation, ordinance, or the common law, which may limit or restrict the effect of a general release as set forth in Article 4.1(a) hereof.

4.5. Beneficiaries of Release. Subject to the other provisions of this Agreement, to the extent that the releases set forth in this Section 4 of the Agreement run to the favor of any Persons who are not signatories hereto, this Agreement is hereby declared to be made in and for their respective benefits and uses.

4.6. No Assignment of Claims. The Trustee on behalf of himself, MMA and the MMA estate, and MMAC, on behalf of itself and, to the extent applicable, the MMAC estate, warrant and represent that they have not sold, assigned, transferred, conveyed, or otherwise disposed of any Claims that they are releasing in this Agreement. Moreover, Trustee on behalf of himself, MMA and the MMA estate, and MMAC, on behalf of itself and, to the extent applicable, the MMAC estate, represent, warrant, and agree that they will not in any way assist any Person in the (a) establishment of any Claim against the Rail World Parties, D&O Parties, Hartford or Chubb, other than the Preserved Claims or (b) pursuit of any legal action against the Rail World Parties, D&O Parties, Hartford or Chubb that arises out of, results from, or in any way relates to the Rail World Parties, D&O Parties', Hartford's or Chubb's investigation, handling, defense, or settlement by the Rail World Parties, D&O Parties, Hartford or Chubb of Claims released under this Agreement.

4.7.

REDACTED

REDACTED

V. REPRESENTATIONS AND WARRANTIES OF THE PARTIES.

Each of the Parties separately represents and warrants as follows:

(a) Subject to the entry of the Approval Orders, it has the requisite power and authority to enter into this Agreement and to perform the obligations imposed on it or him by this Agreement;

(b) Subject to the Approval Date, the execution and delivery of, and the performance of the obligations contemplated by this Agreement have been approved by

duly authorized representatives of the Party, and by all other necessary actions of the Party;

(c) Each Party has expressly authorized its or his undersigned representative to execute this Agreement on the Party's behalf as its or his duly authorized agent;

(d) This Agreement has been thoroughly negotiated and analyzed by its or his counsel and has been executed and delivered in good faith, pursuant to arm's length negotiations, and for value and valuable consideration; and

(e) Each Party will use its or his best efforts to seek entry of the Confirmation Orders.

VI. MISCELLANEOUS PROVISIONS

6.1. Conditions Precedent. This Agreement is conditioned on the Approval Orders becoming Final Orders after all parties known by the Trustee or MMAC to be creditors in the Bankruptcy Case and the CCAA Proceeding receive notice of the Plans and Approval Orders and have an opportunity to be heard thereon. This Agreement is also conditioned upon the Injunction being in full force and effect and not subject to stay or appeal of any kind and the Order affecting the Injunction being acceptable to the Rail World Parties, D&O Parties and Hartford as provided in the definition thereof.

6.2. Termination Rights. If the Bankruptcy Court or CCAA Court declines to enter the Approval Orders, or if the Approval Orders are vacated or modified in a way that is not acceptable to the Rail World Parties, D&O Parties or Hartford or are reversed on appeal such that they do not become Final Orders, the Rail World Parties, D&O Parties or Hartford may terminate this Agreement by delivering written notice of such termination to the Trustee and MMAC. In the event that this Agreement is terminated, (1) the Agreement shall be deemed null and void; (2) the Rail World Parties, D&O Parties and Hartford shall not be obligated to deliver

and pay the Settlement Consideration pursuant to this Agreement; (3) the Rail World Parties, D&O Parties, Hartford, MMAC and the Trustee shall have all of the rights, defenses and obligations, including under or with respect to any and all insurance policies, that they would have had absent this Agreement; and (4) any and all otherwise applicable statutes of limitations or repose, or other time-related limitations, shall be deemed to have been tolled for the period from the Execution Date through the date that the Agreement becomes null and void pursuant to the terms of this Agreement.

6.3. Amendments. Neither this Agreement nor any term set forth herein may be changed, waived, discharged, or terminated except by a writing signed by the Parties (or their successors or assigns).

6.4. Agreement Voluntarily Entered Into By Each Of The Parties. This Agreement is executed voluntarily by each of the Parties without any duress or undue influence on the part, or on behalf, of any of them. The Parties represent and warrant to each other that they have read and fully understand each of the provisions of this Agreement and have relied on the advice and representations of competent legal counsel of their own choosing.

6.5. Interpretation. This Agreement has been negotiated at arm's length and between and among Persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, this Agreement was drafted by experienced and knowledgeable legal counsel for each of the Parties. Accordingly, neither Party shall be presumptively entitled to have any provisions of the Agreement construed against the other Party in accordance with any rule of law, legal decision or doctrine.

6.6. No Admission of Liability. The Parties agree that this Agreement is the result of a compromise of disputed issues and that the execution and delivery of this Agreement by any of

the Parties shall not constitute or be construed as an admission of any liability, a course of performance, or wrongdoing on the part of any of them. By entering into this Agreement, the Trustee, MMAC, Rail World Parties, D&O Parties and Hartford have not waived nor will be deemed to have waived any right, obligation, privilege, defense or position it may have asserted or might assert in connection with any claim, matter, Person, or insurance policy outside the scope of this Agreement. No Person other than the Parties hereto shall have any legally enforceable rights or benefits under this Agreement except as specifically set forth in Section 4.5 of this Agreement.

6.7. Attorneys' Fees, Costs, And Expenses. Each of the Parties shall bear its own costs, attorneys' fees, and expenses in connection with the negotiation and preparation of this Agreement, except to the extent any Party may be entitled to payment by its insurers, pursuant to the terms of their policies. Additionally, the attorneys' fees, expenses, and costs incurred by the Rail World Parties and D&O Parties for the investigation and defense of any Claims prior to the Approval Date shall be the sole responsibility of the Rail World Parties and D&O Parties and/or their insurers, as applicable. Nothing in this Agreement, including without limitation the release in Section 4.1(b), shall limit any rights any of the Rail World Parties and the D&O Parties may have to seek recovery from any of their insurers for any attorneys' fees, expenses and costs they have incurred prior to the Approval Date. Notwithstanding the foregoing, the Rail World Parties, D&O Parties and Hartford acknowledge that the Trustee, MMAC and the Monitor may seek authorization to use any portion of the Settlement Consideration that may be necessary for the payment of (i) allowed administrative expenses in the Bankruptcy Case and (ii) the fees and disbursements of the Monitor, the Monitor's counsel and MMAC's

counsel, in the CCAA Proceeding. Nothing in this paragraph should be read to enlarge, supersede or create new rights under the terms of any insurance policy.

6.8. Entire And Integrated Agreement. This Agreement is intended by the Parties as a final expression of their agreement and is intended to be a complete and exclusive statement of the agreement and understanding of the Parties with respect to the subject matters contained herein. This Agreement supersedes any and all prior promises, representations, warranties, agreements, understandings, and undertakings between or among the Parties with respect to such subject matters, and there are no promises, representations, warranties, agreements, understandings, or undertakings with respect to such subject matters other than those set forth or referred to herein.

6.9. No Third Party Beneficiaries. Except as set forth in Section 4.5 of this Agreement, nothing in this Agreement is intended or shall be construed to give any Person, other than the Rail World Parties, D&O Parties, Hartford, Chubb, MMAC, and the Trustee (on behalf of himself in his capacity as a trustee, MMA, and the MMA estate) and their respective successors and permitted assigns, any legal or equitable right, remedy, or claim under or in respect to this Agreement or any provisions contained herein; this Agreement and any conditions and provisions hereof being and intended to be for the sole and exclusive benefit of the Rail World Parties, D&O Parties, Hartford, Chubb, MMAC and the Trustee (on behalf of himself in his capacity as a trustee, MMA, and the MMA estate) as well as each of their successors and permitted assigns, and for the benefit of no other Person. Notwithstanding the foregoing, neither this Agreement nor the rights and obligations set forth herein shall be assigned without the prior written consent of the other Parties, except that this Section shall not prohibit any assignment by the Rail World Parties, D&O Parties, Hartford and/or Chubb (a) made by merger, consolidation,

or operation of law or (b) to a Person who succeeds to all or substantially all of such Party's assets.

6.10. Severability. If any provisions of this Agreement, or the application thereof, shall for any reason or to any extent be construed by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, and application of such provisions to other circumstances, shall remain in effect and be interpreted so as best to reasonably effect the intent of the Parties. Notwithstanding the foregoing, all of the conditions precedent in this Agreement will remain in full force and effect following any determination that any other provisions of this Agreement are invalid or unenforceable.

6.11. Notice. Any notice or request required or desired to be given pursuant to this Agreement shall be sufficient if made in writing and sent by first class mail, postage prepaid, or email to the Parties at the addresses set forth below or to such other Persons as any of them may designate in writing from time to time:

- (a) As to the Rail World/D&O Parties (other than James Howard, Fred Yocum and Yves Bourdon):

Alan S. Gilbert and Patrick C. Maxcy
Dentons US LLP
233 South Wacker Drive
Suite 7800
Chicago, IL 60606

-and-

Laurent Nahmiash and Roger Simard
Dentons Canada s.e.n.c.r.l.
1 Place Ville Marie
Suite 3900
Montreal, Quebec H3B 4M7

(b) As to Hartford

Hartford Casualty Insurance Company
Attention: Aaron D. Singer, Esq.
Hartford Plaza T-8
Hartford, CT 06155

With a copy to:

William D. Goddard, Esq. and Benjamin H. Nissim, Esq.
Day Pitney LLP
242 Trumbull Street
Hartford, CT 06103

Mark E. Meland/Jason Dolman
Fishman Flanz Meland Paquin LLP
1250 René-Lévesque Blvd West
Suite 4100
Montreal, Quebec H3B 4W8

(c) As to James Howard and Fred Yocum

Fred Yocum:
127 Oak Grove Drive
Brewer, Maine
04412-1200

James E. Howard:
70 Rancho Road
Carmel Valley, CA 93924

With a copy to:

Mr. William Brock, Ad. E
Davies Ward Phillips & Vineberg
1501 McGill College Avenue, Suite 2600
Montreal, Quebec
H3A 3N9

(d) As to Yves Bourdon

Christian Azzam
625 President-Kennedy Avenue, Suite 1111
Montreal, Quebec H3A 1K2

(e) As to the Trustee:

Robert J. Keach, Esq.
Bernstein Shur Sawyer & Nelson
100 Middle Street
P.O. Box 9729
Portland, ME 04104-5029
rkeach@bernsteinshur.com

(f) As to MMAC:

Patrice Benoit
patrice.benoit@gowlings.com
-and-
Pierre Legault
pierre.legault@gowlings.com
Gowlings Lafleur Henderson LLP
1 Place Ville Marie, suite 3700
Montreal, Quebec H3B 3P4

With a simultaneous copy to the Monitor:

Andrew Adessky
AAdessky@richter.ca
-and-
Gilles Robillard
grobillard@richter.ca
Richter Advisory Group Inc.
1981 McGill College, 11e étage
Montréal (QC) H3A 0G6

6.12. Headings. The section titles, captions, and headings contained in this Agreement are inserted as a matter of convenience and for reference, and shall in no way be construed to define, limit, or extend the scope of this Agreement or the effect of any of its provisions.

6.13. Recitals. The recitals set forth at the beginning of this Agreement shall not be admissible to prove the truth of the matters asserted in any action or proceeding involving any of the Parties (other than an action or proceeding brought to enforce the terms of this Agreement), nor do any of the Parties intend such recitals to constitute admissions of fact by any of them.

6.14. Agreement Inadmissible. Any evidence of the terms or negotiations or discussions associated with this Agreement shall be inadmissible in any action or proceeding for purposes of establishing any rights, duties or obligations of the Parties, except in (a) an action or proceeding to enforce the terms or effect of this Agreement or the Injunction, (b) proceedings before the Bankruptcy Court or CCAA Court to secure the Approval Orders, or (c) any possible action or proceeding between the Rail World Parties, D&O Parties, Hartford or Chubb and any of their reinsurers bearing responsibility for any of the Rail World Parties, D&O Parties, Hartford's or Chubb's obligations under this Agreement. Except as set forth herein, this Agreement shall not be used as evidence or in any other manner, in any court or dispute resolution proceeding, to create, prove, or interpret the Parties' rights or obligations to each other or to any other Person.

6.15. Additional Necessary Documents. The Parties, and each of them, agree to execute such additional documents as may be reasonably required in order to carry out the purpose and intent of this Agreement, or to evidence anything contained herein.

6.16. Execution in Counterparts. This Agreement may be signed in multiple counterparts and the separate signature pages executed by the Parties may be combined to create a document binding on all of the Parties and together shall constitute one and the same instrument.

6.17. Waiver of Trial by Jury. Each Party hereto irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated herein.

6.18. Cross-Border Insolvency Protocol. Each of the Parties hereby acknowledges and agrees that the Cross-Border Insolvency Protocol adopted by the Bankruptcy Court and the

CCAA Court in the Bankruptcy Case and the CCAA Proceeding, respectively, shall apply for purposes of any action, suit or proceeding arising out of or relating to this Agreement or any of the transactions contemplated hereby.

6.19. This Agreement is not a policy of insurance, and the Parties do not intend that it will be interpreted as such.

6.20. Rules of Construction. As used in this Agreement, the singular and masculine gender shall mean also the plural and feminine or neuter, as may be appropriate, "it" shall include "he" and "she"; and "each" and "all" includes "each" and "every." Unless the context of this Agreement otherwise requires, (1) words using the singular or plural number also include the plural or singular number, respectively; (2) the terms "hereof," "herein," "hereby" and derivative or similar words refer to this entire Agreement; (3) the words "include," "includes" or "including" shall be deemed to be followed by the words "without limitation," and (4) the word "or" shall be disjunctive but not exclusive. References to this Agreement and other documents shall be deemed to include all subsequent amendments and other modification thereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth opposite the respective signatures below.

[Remainder of page intentionally blank]

Execution Pages to Plan Support and Settlement Agreement by the Rail World Parties, D&O Parties, Hartford, the Trustees, and MMAC

Page 1: the Rail World Parties

(i) Rail World Holdings LLC; (ii) Rail World, Inc.; (iii) Rail World Locomotive Leasing LLC; (iv) The San Luis Central R.R. Co.; (v) Pea Vine Corporation; (vi) LMS Acquisition Corporation; (vii) Montreal, Maine & Atlantic Corporation; (viii) Earlston Associates L.P., and (ix) Edward A. Burkhardt, solely in his capacity as director, officer and/or shareholder of certain of the Rail World Parties.

Signed on 30 March, 2015

RAIL WORLD HOLDINGS LLC

Per: Edward A. Burkhardt
Edward A. Burkhardt

Signed on 30 March, 2015

RAIL WORLD, INC.

Per: Edward A. Burkhardt
Edward A. Burkhardt

Signed on 30 March, 2015

RAIL WORLD LOCOMOTIVE LEASING LLC

Per: Edward A. Burkhardt
Edward A. Burkhardt

Signed on 30 March, 2015

THE SAN LUIS CENTRAL R.R. CO.

Per: Edward A. Burkhardt
Edward A. Burkhardt

Signed on 30 March, 2015

PEA VINE CORPORATION

Per: Edward A. Burkhardt
Edward A. Burkhardt

Signed on 30 March, 2015

LMS ACQUISITION CORPORATION

Per: Edward A. Burkhardt
Edward A. Burkhardt

Signed on 30 March, 2015

MONTREAL, MAINE & ATLANTIC CORPORATION

Per: Edward A. Burkhardt
Edward A. Burkhardt

Signed on ___ March, 2015

EARLSTON ASSOCIATES L.P.

Per: _____

Signed on 30 March, 2015

Edward A. Burkhardt
Edward A. Burkhardt, solely in his capacity as director, officer and/or shareholder of certain of the Rail World Parties

Execution Pages to Plan Support and Settlement Agreement by the Rail World Parties, D&O Parties, Hartford, the Trustee, and MMAC

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Signed on ___ March, 2015

Signed on ___ March, 2015

RAIL WORLD HOLDINGS LLC

RAIL WORLD, INC.

Per: _____
Edward A. Burkhardt

Per: _____
Edward A. Burkhardt

Signed on ___ March, 2015

Signed on ___ March, 2015

RAIL WORLD LOCOMOTIVE LEASING LLC

THE SAN LUIS CENTRAL R.R. CO.

Per: _____
Edward A. Burkhardt

Per: _____
Edward A. Burkhardt

Signed on ___ March, 2015

Signed on ___ March, 2015

PEA VINE CORPORATION

LMS ACQUISITION CORPORATION

Per: _____
Edward A. Burkhardt

Per: _____
Edward A. Burkhardt

Signed on ___ March, 2015

Signed on 30 March, 2015

MONTREAL, MAINE & ATLANTIC CORPORATION

EARLSTON ASSOCIATES L.P.

Per: _____
Edward A. Burkhardt

Per: Cynthia K McFarland
Cynthia K. McFarland

Signed on ___ March, 2015

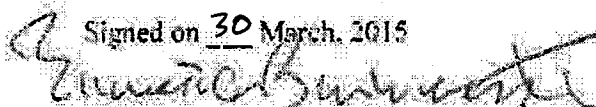
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Page 2: The D&O Parties

Edward A. Burkhardt, Larry Parsons, Steven J. Lee, Stephen Archer, Robert C. Grindrod, Joseph R. McGonigle, Gaynor Ryan, M. Donald Gardner, Jr., Fred Yocum, Yves Bourdon and James Howard

Signed on 30 March, 2015



Edward A. Burkhardt

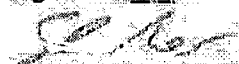
Signed on ___ March, 2015

Larry Parsons

Signed on ___ March, 2015

Steven J. Lee

Signed on 30 March, 2015



Stephen Archer

Signed on ___ March, 2015

Robert C. Grindrod

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Yves Bourdon

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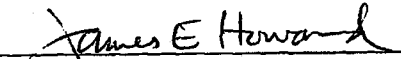
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Yves Bourdon

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Execution Pages to Plan Support and Settlement Agreement by the Rail World Parties, D&O Parties, Hartford, the Trustee, and MMAC

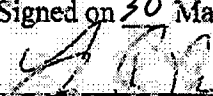
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Execution Pages to Plan Support and Settlement Agreement by the Rail World Parties, D&O
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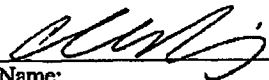
James Howard

Execution Pages to Plan Support and Settlement Agreement by the Rail World Parties, D&O
Parties, Hartford, the Trustee, and MMAC

Page 3: Hartford Casualty Insurance Company

Signed on 30 March, 2015

HARTFORD CASUALTY INSURANCE COMPANY

Per: 
Name:

Vice President
Title:

-and-

Per: _____
Name:

Title:

REDACTED

REDACTED

REDACTED

Schedule 2.1 (h) Pt

--- REDACTED

REDACTED

Schedule 2.1 (h)

REDACTED



SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE ("Agreement") is made by and among, on the one hand, Great American Insurance Company ("GA") and, on the other hand, Montreal, Maine & Atlantic Corporation ("MMA Corp."), and its Subsidiaries, affiliates, directors, officers and employees (collectively, the "Insureds"), Robert J. Keach, as the Chapter 11 Trustee (the "Trustee") of Montreal, Maine & Atlantic Railway, Ltd. ("MMA"), and its affiliates, directors, officers and employees, Montreal, Maine & Atlantic Canada Co. ("MMAC"), and its affiliates, directors, officers and employees. GA, the Insureds, MMA, MMAC, and the Trustee are referred to collectively as the "Parties," and each, individually, is referred to as a "Party." MMA Corp. and the undersigned individual officers and/or directors shall be referred to herein as the "Non-Debtor Parties."

WHEREAS, GA issued the Directors', Officers', Insured Entity and Employment Practices Liability Insurance Policy (No. DML9924836) to MMA Corp. for the claims-made Policy Period from April 1, 2013 to April 1, 2014 (the "Policy");

WHEREAS, the Policy has a \$5 million maximum aggregate Limit of Liability;

WHEREAS, some of the Non-Debtor Parties were named as defendants in personal injury and wrongful death litigation arising out of the July 6, 2013 train derailment in Lac-Mégantic, Quebec, Canada, and some of the Non-Debtor Parties would have been named in additional litigation by the Trustee, including, without limitation, claims for breach of fiduciary duty (all such claims, collectively, the "Derailment Claims");

WHEREAS, one or more of the Non-Debtor Parties is/are subject to criminal proceedings arising out of the July 6, 2013 derailment in Lac Mégantic, Quebec, Canada (the "Criminal Proceedings");

WHEREAS, certain of the Non-Debtor Parties sought coverage from GA under the Policy for the Derailment Claims and/or the Criminal Proceedings;

WHEREAS, GA has raised a number of defenses to coverage under the Policy and applicable law with respect to the Derailment Claims and Criminal Proceedings, and otherwise reserved all rights, remedies and defenses;

WHEREAS, the Non-Debtor Parties have agreed to assign all of their rights arising in, arising under, or related to the coverage afforded under the Policy to the Trustee in *In re Montreal, Maine & Atlantic Railway, Ltd.*, No. 13-10670 (Bankr. D. Me.) and MMAC (together, the "Assignees") upon the terms, conditions, and limitations set forth in that certain Plan Support and Settlement Agreement (the "D&O Settlement Agreement"), executed on March 30, 2015, by and among the Rail World Parties, D&O Parties, Hartford, the Trustee, and MMAC (as those terms are defined in the D&O Settlement Agreement); and

WHEREAS, the Parties desire to fully settle, resolve and provide the releases provided herein with respect to all disputes and issues in any way involving the Policy and the matters set out below, subject, as to the Trustee and MMAC, to court approval.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises, covenants and agreements set forth in this Agreement, the Parties agree as follows:

1. SETTLEMENT

- 1.1. The Execution Date of this Agreement shall be the date on which this Agreement has been executed by all Parties.
- 1.2. As a pre-condition to the execution of the Agreement by the Non-Debtor Parties the Trustee shall fulfill the obligation to pay the "Criminal Defense Retainers" as defined and set forth in the letter agreement executed by the Trustee as of September 30, 2015 (the "Letter Agreement");
- 1.3. Subject to the terms set forth in this Agreement and in consideration of the releases set forth herein, within five (5) business days after the Execution Date GA shall pay the sum of Three Million Dollars (\$3,000,000.00) (the "Settlement Payment") by wire transfer to the Trustee or in other same-day funds payable to the Trustee (such as by certified check payable to the Trustee).
- 1.4. The Settlement Payment shall be held in escrow by the Trustee (the "Escrow") until final approval of the proposed plans of arrangement and/or liquidation filed by the Trustee and MMAC in the Canadian and United States courts (the "Plans"). Upon approval of the Plans, and thereby the D&O Settlement Agreement and this Agreement, by the applicable courts, distribution of the Settlement Payment shall be made upon the terms and conditions set forth in the D&O Settlement Agreement or as otherwise directed by the Assignees in a manner consistent with this Agreement. If the Plans are not approved or are reversed on appeal such that the orders approving the Plans do not become final orders, the Trustee shall pay the Settlement Payment to the Non-Debtor Parties.
- 1.5. GA shall be treated as one of the "Released Parties," as that term is defined in the Plans, and, upon final approval of the Plans, GA, in addition to those releases set forth herein, shall be a beneficiary of the injunctions and releases entered and approved by the United States and Canadian courts as set forth in the Plans.
- 1.6. Upon payment of the Settlement Payment to the Trustee, the Policy shall be cancelled and deemed completely exhausted, GA shall have no further obligations whatsoever to the Insureds and the Assignees except as provided in this Agreement, and the releases contained in this Agreement shall be effective.

2. RELEASES

2.1. Release of GA and GA-Related Parties

The Non-Debtor Parties, and each Non-Debtor Party, and their past, present and future subsidiaries, affiliates, directors, officers, employees, attorneys, representatives, estates, trustees, agents, administrators, heirs or assigns, and all

other persons or entities acting or purporting to act on their behalf, and anyone whose claim is derived from or through their claim, including without limitation the Assignees (the “Non-Debtor Related Parties”), absolutely and forever release and discharge GA and all of its past, present and future corporate entities, parents, subsidiaries, affiliates, assigns, representatives, directors, officers, employees, shareholders, partners, principals, agents, attorneys, reinsurers and insurers, and all other persons acting or purporting to act on their behalf, and anyone whose claim is derived from or through their claim (the “GA Related Parties”) from any and all claims, potential claims, rights, remedies, demands, duties, compensation, losses, damages, debts, liabilities, accounts, attorneys’ fees, other fees, reckonings, obligations, costs, expenses, interest, liens, proceedings, lawsuits, actions and causes of action of every kind and nature whatsoever, whether now known or unknown, past, present or future, arising out of, related to, based upon, by reason of, or in any way involving:

- (i) the Policy;
- (ii) any claim for coverage under the Policy;
- (iii) any notice of Claim or notice of potential claim under the Policy;
- (iv) any claims for coverage under the Policy arising from or related to the Derailment Claims including for any civil or criminal investigations, charges, proceedings, lawsuits or actions arising out of, related to, based upon, by reason of, or in any way involving the July 6, 2013 derailment in Lac-Mégantic, Canada; and
- (v) any claims for misrepresentations, fraud, indemnity, contribution, breach of contract, breach of the covenant of good faith and fair dealing, breach of duty, negligence, “bad faith,” violation of any statute or regulation, unfair claims handling, or damages of any kind whatsoever arising out of, related to, based upon, by reason of, or in any way involving (i) through (iv) above.

2.2. Release of the Non-Debtor Related Parties

GA and the GA Related Parties, absolutely and forever release and discharge the Non-Debtor Parties, and each Non-Debtor Party, and the Non-Debtor Related Parties, from any and all claims, potential claims, rights, remedies, demands, duties, compensation, losses, damages, debts, liabilities, accounts, attorneys’ fees, other fees, reckonings, obligations, costs, expenses, interest, liens, proceedings, lawsuits, actions and causes of action of every kind and nature whatsoever, whether now known or unknown, past, present or future, arising out of, related to, based upon, by reason of, or in any way involving:

- (i) the Policy;

- (ii) any claim for coverage under the Policy;
- (iii) any notice of Claim or notice of potential claim under the Policy;
- (iv) any claims for coverage under the Policy arising from or related to the Derailment Claims including for any civil or criminal investigations, charges, proceedings, lawsuits or actions arising out of, related to, based upon, by reason of, or in any way involving the July 6, 2013 derailment in Lac-Mégantic, Canada; and
- (v) any claims for misrepresentations, fraud, indemnity, contribution, breach of contract, breach of the covenant of good faith and fair dealing, breach of duty, negligence, "bad faith," violation of any statute or regulation, or damages of any kind whatsoever arising out of, related to, based upon, by reason of, or in any way involving (i) through (iv) above.

OTHER PROVISIONS

3. The foregoing releases shall not apply to any claims for breach of this Agreement. Each Party retains the right only to bring suit to enforce this Agreement or to seek damages or other relief arising from any breach of this Agreement. Otherwise, this Agreement shall not constitute evidence of or an admission of liability or fault by any of the Parties.
4. The Parties shall be deemed knowingly and voluntarily to have waived, to the fullest extent permitted by law, the provisions, rights, and benefits of any law that would in any way limit the releases in this Agreement. The Parties acknowledge and agree that, without such waiver, GA would not have entered into this Agreement.
5. Each Party represents and warrants that he, she or it has not sold, assigned, pledged, transferred or otherwise conveyed any interest in the matters that are the subject of the releases in this Agreement, except as otherwise stated herein. Each signatory to this Agreement warrants that he or she has the authority to agree to its terms on behalf of and to bind the Party for whom he or she is signing.
6. This Agreement contains the entire agreement between the Parties with respect to the subject matter contained in this Agreement and there are no agreements, understandings, representations or warranties between the Parties other than those set forth or referred to in this Agreement; *provided, however*, that this Agreement shall not affect the obligations of the Trustee under the D&O Settlement Agreement and the Letter Agreement.
7. This Agreement is governed by, and will be construed and enforced in accordance with Illinois law.

8. In the event any of the provisions of this Agreement are deemed to be invalid and unenforceable, those provisions shall be severed from the remainder of this Agreement only if and to the extent agreed upon by the Parties in writing.
9. This Agreement shall be binding upon and inure to the benefit of the Parties to this Agreement and their respective heirs, successors and assigns.
10. The Parties and their counsel each have reviewed and contributed to this Agreement. No provision of this Agreement shall be construed against any Party. No Party has been influenced, coerced, or induced to enter into this Agreement by any improper action by any other Party. Each Party enters this Agreement voluntarily.
11. This Agreement may be executed in one or more counterparts, and in both original form and one or more copies, each of which shall be deemed an original, but all of which together shall be deemed to constitute one and the same instrument.
12. **As it relates to the Trustee, MMA, and MMAC, this Agreement is, in all respects, subject to court approval of the Plans, as set forth above.**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date(s) indicated below:

**GREAT AMERICAN INSURANCE
COMPANY**

By: _____
Date: _____

**MONTREAL, MAINE & ATLANTIC
CORPORATION**

By: _____
Date: _____

EDWARD A BURKHARDT

By: _____
Date: _____

LARRY PARSONS

By: _____
Date: _____

STEVEN J. LEE

By: _____
Date: _____

STEPHEN ARCHER

By: _____
Date: _____

ROBERT C. GRINDROD

By: _____
Date: _____

JOSEPH R. MCGONIGLE

By: _____
Date: _____

GAYNOR RYAN

By: _____
Date: _____

M. DONALD GARDNER, JR.

By: _____
Date: _____

FRED YOCUM

By: _____
Date: _____

YVES BOURDON

By: _____
Date: _____

JAMES E. HOWARD

By: _____

Date: _____

**ROBERT J. KEACH, solely in his capacity as
Chapter 11 Trustee of Montreal, Maine &
Atlantic Railway, Ltd., as assignee of the Policy**

By: _____

Date: _____

**MONTREAL, MAINE & ATLANTIC
CANADA CO., as assignee of the Policy**

By: _____

Date: _____

Alan S. Gilbert
Partner

alan.gilbert@dentons.com
D +1 312 876 7410

Dentons US LLP
233 South Wacker Drive
Suite 5900
Chicago, IL 60606-6361 USA

T +1 312 876 8000
F +1 312 876 7934



As of September 30, 2015

Robert J. Keach
Chapter 11 Trustee
Bernstein, Shur, Sawyer & Nelson P.A.
100 Middle Street
PO Box 9729
Portland, ME 04104

Re: Letter Agreement Regarding Payment of Defense Costs

Dear Bob:

This letter shall confirm the agreement under which you, in your capacity as Chapter 11 Trustee of Montreal, Maine & Atlantic Railway, Ltd. ("MMA"), agree to advance funds to pay criminal defense costs and/or retainers of certain "Insureds"¹ as identified in the proposed Settlement Agreement and Release (the "Agreement") attached hereto as Exhibit A, pending final approval of the Agreement.

Pursuant to that certain Plan Support and Settlement Agreement (the "Plan Support Agreement") executed as of March 30, 2015, MMA Corp. and other parties to the Plan Support Agreement with an interest in the Policy agreed to assign their rights in the Policy to the Trustee, but such assignment only becomes effective upon the "Approval Date," i.e., the date following plan confirmation when the relevant orders become final orders. Furthermore, the Plan Support Agreement requires that the Trustee set aside "Defense Costs Trust Funds" in the amount of \$1,000,000 to "cover any criminal defense costs arising from criminal proceedings instituted prior to one (1) year following the Approval Date against any insured under the Great American Policy, other than Edward A. Burkhardt[,], and[] to the extent such coverage for such claims would have otherwise existed under the Great American Policy but for the assignment herein." Because the assignment of rights under the Policy does not become effective until the Approval Date, the Policy remains effective as to the Insureds, and the Insureds retain all of their rights in the Policy, at all times prior to the Approval Date.

Notwithstanding the Plan Support Agreement, the Agreement provides that GA will pay to the Trustee the Settlement Payment (\$3,000,000) within 10 business days of execution of the Agreement, with such Settlement Payment to be held in escrow pending the Approval Date. Under the terms of the Agreement, upon payment of the Settlement Payment, and regardless of whether the Approval Date actually occurs, the Policy will be deemed cancelled and exhausted, and GA shall have no further obligations to any Insured under the Policy.

Certain of the Insureds that are the subject of criminal proceedings (the "Criminal Proceedings") arising out of the July 6, 2013 derailment in Lac Megantic, Quebec, Canada have filed claims or made demands

¹ Unless otherwise indicated, capitalized terms have the meaning set forth in the Agreement (as defined below).

Robert J. Keach
September 30, 2015
Page 2

under the Policy . The Insureds that have filed claims or made demands under the Policy have incurred and continue to incur criminal defense costs and have immediate need for payment of such costs. Neither GA nor you have paid any criminal defense costs on behalf of the Insureds to date.

In order to induce those Insureds who have made or may make claims or demands under the Policy to consent to the Agreement and to release their claims to the Policy prior to entry of the Approval Orders, you have agreed to advance funds to pay the criminal defense retainers for such Insureds, capped at the amount of the Defense Costs Trust Funds (the "Criminal Defense Retainers"). Each of the following Insureds has been named in the Criminal Proceedings and has sought payment or reimbursement of criminal defense costs/retainers in connection with the Criminal Proceeding: Robert C. Grindrod, Lynne Ellen Labonte, Kenneth Strout, Mike Horan and Jean Demaitre (each a "Defendant Insured" and, collectively, the "Defendant Insureds"). You agree to advance immediately the Criminal Defense Retainers requested by each Defendant Insured, up to \$50,000 CAD per each of the above-mentioned Defendant Insureds, but in any event capped at the amount of the Defense Costs Trust Funds. Upon payment of the Criminal Defense Retainers, the Defendant Insureds shall execute the Agreement.

In the event that Defendant Insureds or any other Insured seeks payment of additional criminal defense costs prior to the Approval Date, you agree to advance criminal defense costs capped at the amount of the Defense Costs Trust Funds, provided that (a) any such criminal defense costs advanced by you shall be credited against and deducted from the Defense Costs Trust Funds and (b) in no event shall the Trustee be obligated to fund any criminal defense costs in excess of the Defense Costs Trust Funds. Upon final approval of the Agreement and the Approval Date, any further payment of criminal defense costs shall be in accordance with the Plan Support Agreement and subject to the limitations therein upon the Defense Costs Trust Funds.

By signing in the space provided below, subject to Bankruptcy Court approval (on an expedited basis, if approved by the Bankruptcy Court), you agree to the terms and conditions set forth herein. It is further agreed that this letter agreement and its terms shall be enforceable by the United States Bankruptcy Court for the District of Maine.

Sincerely,

Alan S. Gilbert

Acknowledged and agreed:

Robert J. Keach, solely in his capacity as
Chapter 11 Trustee to MMA

cc: Patrick C. Maxcy

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

**ORDER APPROVING COMPROMISE AND SETTLEMENT WITH GREAT
AMERICAN INSURANCE COMPANY AND CERTAIN INSUREDS**

This matter came before this Court on the *Chapter 11 Trustee's Motion for Order Approving Compromise and Settlement with Great American Insurance Company and Certain Insureds* (the "Motion")¹ after such notice and opportunity for hearing as is consistent with the Bankruptcy Code and the Bankruptcy Rules; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and it appearing that no other notice need be given; and a hearing having been held on the Motion; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtor, its estate and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation, and sufficient cause appearing therefore, it is hereby **ORDERED**, **ADJUDGED**, and **DECREED** that:

1. The Motion is granted upon the terms and conditions set forth herein.

¹ Capitalized terms used, but not defined in this Order, have the meanings ascribed to such terms in the Motion.

2. The terms of the Settlement Agreement are fair and reasonable and are hereby approved. Pursuant to Fed. R. Bankr. P. 9019, the Trustee is authorized to enter into the Settlement Agreement.

3. GA shall pay the Trustee \$3,000,000 within five (5) days of the Execution Date of the Settlement Agreement.

4. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: _____, 2015

The Honorable Peter G. Cary
Chief Judge, United States Bankruptcy Court
District of Maine