

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**NOTICE TO HOLDERS OF DERAILMENT CLAIMS OF 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**

Robert J. Keach, Esq. (the “Trustee”), chapter 11 trustee for the above-captioned case of Montréal Maine & Atlantic Railway, Ltd. (the “Debtor”), submits this notice (the “Notice”) of the approval of the *Revised First Amended Disclosure Statement for the Trustee’s Plan of Liquidation Dated July 15, 2015* [D.E. 1535] (as the same may be amended or modified, the “Disclosure Statement”) with respect to the *Trustee’s Revised First Amended Plan of Liquidation Dated July 15, 2015* [D.E. 1534] (as the same may be amended or modified, the “Plan”).<sup>1</sup>

**YOU SHOULD READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. THE FOLLOWING NOTICE SUMMARIZES CERTAIN KEY PROVISIONS OF PARTICULAR IMPORTANCE TO HOLDERS OF DERAILMENT CLAIMS BUT IS NOT A SUBSTITUTE FOR REVIEW OF THE FULL PLAN AND DISCLOSURE STATEMENT.**

**HOLDERS OF DERAILMENT CLAIMS AND THOSE WITH INTERESTS IN APPLICABLE INSURANCE ASSETS SHALL BE SUBJECT TO RELEASES AND INJUNCTIONS PRECLUDING PURSUIT OF ANY CLAIM AGAINST CERTAIN PARTIES IN ACCORDANCE WITH THE PLAN AND THE CCAA PLAN, AS WELL AS THE CONFIRMATION ORDER, THE CHAPTER 15 RECOGNITION AND ENFORCEMENT ORDER, AND THE CCAA APPROVAL ORDER. HOLDERS OF DERAILMENT CLAIMS AND THOSE WITH INTERESTS IN APPLICABLE INSURANCE ASSETS SHOULD READ SUCH SECTIONS OF THE PLAN WITH GREAT CARE AND CONSULT WITH COUNSEL REGARDING SUCH RELEASES AND INJUNCTIONS.**

<sup>1</sup> Capitalized terms not defined herein will have the meaning ascribed to them in the *Motion for an 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. 1432] or the Plan, as applicable. Certain significant defined terms from the Plan have been reproduced in Appendix A hereto.

**IMPORTANT DATES**

Please take note of the following important dates ordered by the Court in the Disclosure Statement Order (as defined hereinafter):

1. The deadline to file an objection or response to the Plan is **September 10, 2015 at 5:00 p.m. (prevailing Eastern Time)** (the “Objection Deadline”).
2. The deadline to vote on the Plan is **September 10, 2015 at 5:00 p.m. (prevailing Eastern Time)** (the “Voting Deadline”). **For a ballot to be counted, the Trustee’s Noticing and Solicitation Agent (as defined hereinafter) must receive the ballot by the Voting Deadline.**
3. The hearing to consider confirmation of the Plan (the “Confirmation Hearing”) will be **September 24, 2015 at 9:00 a.m. (prevailing Eastern Time)**.

**A. COURT APPROVAL OF THE DISCLOSURE STATEMENT AND SOLICITATION PROCEDURES**

On July 17, 2015, the United States Bankruptcy Court for the District of Maine (the “Court”) entered the *Order (I) Approving Proposed Disclosure Statement; (II) Approving Notice, Solicitation and Voting Procedures; (III) Scheduling Confirmation Hearing; and (IV) Establishing Notice and Objection Procedures for Confirmation of the Plan* [D.E. 1544] (the “Disclosure Statement Order”) that, among other things: (i) approved the adequacy of the Disclosure Statement filed in support of the Plan; and (ii) authorized the Trustee to solicit acceptances or rejections of the Plan from holders of Impaired Claims who are or may be entitled to receive distributions under the Plan.

**B. VOTING RECORD DATE**

**July 15, 2015** is the Voting Record Date for purposes of determining (i) which holders of Claims are entitled to vote on the Plan and (ii) whether Claims have been properly transferred to an assignee pursuant to Bankruptcy Rule 3001(e) such that the applicable assignee can vote as the holder of the Claim.

**C. VOTING DEADLINE**

If you held a Claim against the Debtor as of the Voting Record Date and are entitled to vote on the Plan, you have received a Ballot and voting instructions applicable to your Claim(s) with this Notice. For your vote to be counted in connection with the confirmation of the Plan, you must follow the voting instructions, complete all required information on the Ballot, and execute and return the completed Ballot so that it is **actually received** on or before the Voting Deadline. Any failure to follow the voting instructions included with the Ballot may disqualify your Ballot and your vote on the Plan.

**D. OBJECTIONS TO THE PLAN**

Any objections to the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules and the Local Bankruptcy Rules; (iii) state the name and address of the objecting party and the amount and nature of the Claim; (iv) state with particularity the basis and nature of any objection to the Plan; (v) propose a modification to the Plan that would resolve such objection (if applicable); and (vi) be filed, contemporaneously with a proof of service, with the Court and served so as to be actually received by each of the following notice parties by the Objection Deadline:

<i>Chapter 11 Trustee:</i>  Robert J. Keach, Esq. BERNSTEIN, SHUR, SAWYER & NELSON, P.A. 100 Middle Street P.O. Box 9729 Portland, ME 04104 Telephone: (207) 774-1200 Facsimile: (207) 774-1127	<i>U.S. Trustee:</i>  Stephen G. Morrell, Esq. OFFICE OF THE U.S. TRUSTEE 537 Congress Street Portland, ME 04101 Telephone: (207) 780-3564
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**E. CONFIRMATION HEARING**

The Confirmation Hearing will commence on **September 24, 2015 at 9:00 a.m. (prevailing Eastern Time)** before the Honorable Peter G. Cary, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Maine, 537 Congress Street, Second Floor, Portland, Maine 04101. Please be advised that the Confirmation Hearing may be continued from time to time by the Court or the Trustee without further notice other than by such adjournment being announced in open court or by a notice of adjournment being filed with the Court and served on parties entitled to notice under Bankruptcy Rule 2002 and the Local Bankruptcy Rules, or otherwise. In accordance with the Plan, the Plan may be modified, if necessary, prior to, during, or as a result of the Confirmation Hearing without further action by the Trustee and without further notice to or action, order, or approval of the Court or any other entity.

**F. SOLICITATION PACKAGES**

The Solicitation Package (other than the Ballots) may be obtained at no cost from the Trustee's noticing and solicitation agent (the "Noticing and Solicitation Agent") (i) at <https://cases.primeclerk.com/mma/>, (ii) by writing to Montréal Maine Ballot Processing, c/o Prime Clerk LLC, 830 Third Avenue, 9th Floor, New York, NY 10022, or (iii) by telephone at (855) 388-4576. The Noticing and Solicitation Agent will answer questions regarding the procedures and requirements for voting to accept or reject the Plan, provide additional copies of all materials, and oversee the voting tabulation.

**G. TEMPORARY ALLOWANCE OF CLAIMS AND INTERESTS FOR VOTING PURPOSES**

For the purpose of voting only, each claim within a Voting Class be temporarily allowed in an amount equal to the amount of such claim set forth in the Schedules or the Debtor's records, as applicable, subject to the following exceptions:

- (a) If a claim is deemed allowed under the Plan, such claim is allowed for voting purposes in the deemed allowed amount set forth in the Plan;
- (b) If a proof of claim was timely filed in an amount that is liquidated, noncontingent, and undisputed, such claim is temporarily allowed in the amount set forth on the proof of claim, unless such claim is disputed as set forth in subparagraph (g) below;
- (c) If a claim for which a proof of claim has been timely filed is contingent, unliquidated, or disputed, such claim is accorded one vote and valued at one dollar (\$1.00) for voting purposes only, and not for purposes of allowance or distribution, unless such claim is disputed as set forth in subparagraph (g) below;
- (d) If a claim has been estimated or otherwise allowed for voting purposes by order of the Bankruptcy Court, such claim is temporarily allowed in the amount so estimated or allowed by the Bankruptcy Court for voting purposes only, and not for purposes of allowance or distribution;
- (e) If a claim is listed in the Schedules as contingent, unliquidated, or disputed or in a zero or an unknown amount, and a proof of claim was not (i) filed by the Bar Date or Extended Bar Date, as applicable, or (ii) deemed timely filed by an order of the Bankruptcy Court prior to the Voting Deadline, the Trustee proposes that such claim be disallowed for voting purposes pursuant to Bankruptcy Rule 3003(c);
- (f) If a claim is listed in the Schedules or on a timely filed proof of claim as contingent, unliquidated, or disputed in part, such claim is temporarily allowed in the amount that is liquidated, non-contingent, and undisputed for voting purposes only, and not for purposes of allowance or distribution, unless such claim is disputed as set forth in subparagraph (g) below;
- (g) If, prior to the Voting Deadline, the Trustee has filed an objection to fully disallow or expunge any proof of Claim, the applicable claimant's vote will not be counted for any purpose with respect to the Plan or the Confirmation Hearing unless and until such claimant obtains an order from the Bankruptcy Court providing otherwise and if, prior to the Voting Deadline, the Trustee has filed an objection seeking to disallow or expunge partially any proof of Claim that has been filed, the applicable claimant's vote will be counted for all purposes with respect to the Plan or the Confirmation Hearing solely to the extent of the undisputed portion of such Claim, unless and until such

claimant obtains an order from the Bankruptcy Court providing otherwise; and

- (h) Ballots cast by alleged holders of Claims in a Voting Class who have not timely filed proofs of Claim and whose alleged Claims are not listed on the Debtor’s Schedules shall be disallowed for voting purposes.

If any creditor seeks to challenge the allowance or disallowance of its claim for voting purposes, such creditor must file with the Bankruptcy Court a motion for an order pursuant to Bankruptcy Rule 3018(a) temporarily allowing such claim for voting purposes in a different amount (the “Rule 3018(a) Motion”). Upon the filing of any such motion, the creditor’s Ballot shall not be counted unless temporarily allowed by an order of the Bankruptcy Court entered prior to or concurrent with entry of an order confirming the Plan. All Rule 3018(a) Motions must be filed no later than the **tenth (10th) calendar day** before the Voting Deadline.

Each creditor that votes to accept or reject the Plan is deemed to have voted the full amount of its claim therefor.

**H. DISTRIBUTIONS TO HOLDERS OF ALLOWED DERAILMENT CLAIMS**

Holders of Derailment Wrongful Death Claims in Class 12 will receive shares of a beneficial interest in the WD Trust. All Claims in Class 12 against the Released Parties<sup>2</sup> shall be channeled into the WD Trust, where they will be satisfied from certain net proceeds of the Settlement Agreements in accordance with the Plan, the WD Trust Agreement, and the Wrongful Death Claim Resolution Procedures. Based on the current amount of Settlement Funds, the Trustee estimates that, in total, the WD Trust will have more than CAD\$111 million available for distribution to Holders of the Derailment Wrongful Death Claims who timely filed Proofs of Claim and the required supporting documentation, or were deemed to have done so. *In exchange for a share of the beneficial interests in the WD Trust, all Claims that the WD Trust Beneficiaries may hold against any and all of the Released Parties will be released, and WD Trust Beneficiaries will be forever barred, estopped, and enjoined from asserting those Claims against the Released Parties.*

Distributions under the Plan as to all other Derailment Claims are determined by their treatment under the CCAA (Canadian) Plan.<sup>3</sup> Under Article 4.2 of the CCAA Plan, creditors will be entitled to certain distributions on their claims as follows:

Category of Claims	Aggregate Distribution from Funds for Distribution
Wrongful Death Claims	24.1% (distributed to WD Trust)
Bodily Injury and Moral Damages Claims	10.4%
Property and Economic Damages Claims	9.0%
Subrogated Insurer Claims	4.1%

<sup>2</sup> The current list of Released Parties under the Settlement Agreements is set forth on Schedule A attached to this Notice.

<sup>3</sup> Capitalized terms used but not otherwise defined in this section shall have the meanings ascribed to such terms in the CCAA Plan.

<b>Category of Claims</b>	<b>Aggregate Distribution from Funds for Distribution</b>
Government Claims	52.4% <sup>4</sup>
Indemnity Claims	0%
Non-Derailment Claims	0%

Additionally, under Article 4.3 of the CCAA Plan, with the agreement of the Province of Québec and the Federal Government of Canada (Economic Development of Canada, Québec Region), any and all amounts payable pursuant to the CCAA Plan (a) to the Province of Québec out of the XL Indemnity Payment (as defined in the CCAA Plan) and (b) to the Federal Government of Canada (Economic Development of Canada, Québec Region) (collectively the “Reallocated Dividends”) will be distributed as follows:

<b>Category of Claims</b>	<b>Aggregate Distribution from Reallocated Dividends</b>
Wrongful Death Claims	53.3% (distributed to WD Trust)
Bodily Injury and Moral Damages Claims	26.7%
Property and Economic Damages Claims	20.0%

As set forth in Article 7.1 of the CCAA Plan, the Settlement Funds, to the exclusion of the XL Indemnity Payment, shall become the subject of an administrative charge in favor of the Canadian Professionals and shall constitute a carve-out in favor of the U.S. Professionals in order to secure the payment of the fees, disbursements, and entitlement owed or to be owed for services rendered in connection with the CCAA Case and the Chapter 11 Case, up to a maximum of CAD\$20 million based on the existing contributions to the Indemnity Fund.

Upon the approval of the CCAA Plan, the Settling Parties shall pay their respective portions of the Settlement Funds in accordance with their respective Settlement Agreements and in any event not later than thirty (30) days after the Settling Parties have received notice from the Monitor and the Trustee certifying that the CCAA Approval Order, the Class Action Order (as defined in the CCAA Plan) and the Confirmation Order have become Final Orders, and once all funds are contributed, the Monitor will make distributions to creditors within forty-five (45) days after the Plan Implementation Date (as defined in the CCAA Plan).

On June 9, 2015, creditors entitled to vote on the Amended CCAA Plan voted unanimously to accept the Amended CCAA Plan. On June 17, 2015, the CCAA Court held a hearing to consider sanctioning (confirmation) of the Amended CCAA Plan. On July 13, 2015, the CCAA Court entered an order sanctioning the Amended CCAA Plan. Implementation of the Amended CCAA Plan is conditioned upon, among other things, confirmation of the Plan.

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<sup>4</sup> A portion (approximately CAD\$18.3 million) of the distributions on Government Claims are subject to reallocation under Article 4.3 of the CCAA Plan in favor of holders of Wrongful Death Claims (53.3%), Bodily Injury and Moral Damages Claims (26.7%), and Property and Economic Damages Claims (20.0%).

**I. Recognition of the CCAA Plan Sanction Order Under Chapter 15 of the Bankruptcy Code**

Under the Settlement Agreements, the Monitor in the CCAA (Canadian) Case will also seek to obtain enforcement of the sanction order with respect to the CCAA Plan through filing a chapter 15 case for MMA Canada in the Bankruptcy Court and seeking an order in aid of enforcing the CCAA Plan sanction order pursuant to chapter 15. The Trustee understands that the filing of a petition for recognition under chapter 15 for MMA Canada by the Monitor, along with related pleadings, is imminent.

**J. DISTRIBUTION MATRICES FOR CERTAIN DERAILMENT CLAIMS**

**1. Distributions to Holders of Allowed Derailment Wrongful Death Claims**

Under the Plan and the CCAA Plan, individual holders of Allowed Derailment Wrongful Death Claims shall receive distributions in accordance with a matrix of factors shown on Schedule B to this Notice. The distributions to individual holders of Allowed Derailment Wrongful Death Claims shall depend on such factors and the final amount of the Indemnity Fund.

**2. Distributions to Holders of Allowed Derailment Moral Damages and Personal Injury Claims**

Under the Plan and the CCAA Plan, holders of Allowed Derailment Moral Damages and Personal Injury Claims shall receive distributions in accordance with a matrix of factors shown on Schedule C to this Notice. The distributions to holders of Allowed Derailment Moral Damages and Personal Injury Claims shall depend on such factors and the final amount of the Indemnity Fund.

**K. OTHER DERAILMENT CLAIMS**

**1. Property and Economic Damages Claims**

Under the Plan and the CCAA Plan, holders of Allowed Derailment Property Damages Claims shall receive distributions from, in the aggregate, 9% of the Funds for Distribution and 20% of the Reallocated Dividends, to be distributed in accordance with Schedule D to this Notice.

**2. Property Subrogated Insurance Claims**

Under the Plan and the CCAA Plan, holders of Allowed Derailment Property Subrogated Insurance Claims shall receive distributions from, in the aggregate, 4.1% of the Funds for Distribution on a pro rata basis amongst the other holders of Allowed Derailment Property Subrogated Insurance Claims.

**3. Government Claims**

Under the Plan and the CCAA Plan, holders of Allowed Derailment Government Claims shall receive distributions from, in the aggregate, 52.4% of the Funds for Distribution on a pro rata basis amongst the other holders of Allowed Derailment Government Claims as follows:

- (a) Province of Québec: 89.9% of the Government Claims;

- (b) The City of Lac-Mégantic: 4.4% of the Government Claims;
- (c) The Federal Government of Canada: 4.6% of the Government Claims; and
- (d) Commission de la Santé et de la Sécurité au Travail: 1.1% of the Government Claims.

**L. WD TRUST**

***Execution of WD Trust Agreement***

On or before the Effective Date, the Trustee or Estate Representative, on behalf of the Debtor, and the WD Trustee, on behalf of the WD Trust Beneficiaries and Holders of Allowed Class 12 Claims, shall execute the WD Trust Agreement, and shall perform all other necessary steps to establish the WD Trust.

***Purpose of WD Trust***

The WD Trust shall be established for the sole purpose of implementing the Plan on behalf of, and for the benefit of, WD Trust Beneficiaries and Holders of Allowed Class 12 Claims, and to serve as a mechanism for liquidating, converting to Cash and distributing the WD Trust Assets for the benefit of WD Trust Beneficiaries and Holders of Allowed Class 12 Claims, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purposes of the WD Trust. The WD Trust is organized and established as a trust pursuant to which the WD Trustee, subject to the terms and conditions contained in the WD Trust Agreement and in the Plan, is to hold the WD Trust Assets and dispose of the same in accordance with the WD Trust Agreement and the Plan in accordance with Treasury Regulation section 301.7701-4(d).

***Assets of the WD Trust***

As soon as practicable after the Effective Date, the Monitor shall pay to the Trustee (or the Estate Representative), or at the instruction of the Trustee (or the Estate Representative) shall pay directly to the WD Trust, the Initial WD Trust Assets and any Additional WD Trust Assets or other funds designated for distribution to Holders of Class 12 Claims and held by the Monitor. The WD Trust shall consist of (a) the Initial WD Trust Assets, which the Estate Representative shall deliver, transfer assign or cause to be delivered, transferred or assigned, as applicable, to the WD Trust, (b) the Additional WD Trust Assets, which, following the Confirmation Date and as soon after receipt as is reasonably practicable, the Estate Representative shall deliver or cause to be delivered to the WD Trust, and (c) any additional assets disbursed to the WD Trust in accordance with the Plan, including from the liquidation or monetization of Settlement Non-Cash Assets. All Assets held by the WD Trust shall constitute the proceeds of Claims for compensatory damages only, paid to the WD Trust Beneficiaries pursuant to the judgment and/or order of a court of competent jurisdiction.

***Governance of the WD Trust***

The WD Trust will be administered by the WD Trustee. The initial WD Trustee shall be selected by the Trustee, after consultation with U.S. counsel to the Holders of Derailment Wrongful



Death Claims. Subsequent appointments of WD Trustee(s) shall be made in accordance with the provisions of the WD Trust Agreement and the Plan. Decisions with respect to all matters relating to the WD Trust shall be made by the WD Trustee, subject to the terms of the WD Trust Agreement. The WD Trust Agreement shall govern the removal of any WD Trustee and appointment of any successor WD Trustee. The WD Trust Agreement specifies that the WD Trustee shall be a resident of the United States. The WD Trustee shall be bonded in such amount as the Trustee or the U.S. Trustee shall reasonably request or, in the event of a dispute, as set by the Bankruptcy Court.

### ***Role of the WD Trustee***

In furtherance of, and consistent with the purpose of, the WD Trust and the Plan, the WD Trustee shall, subject to the terms of the Plan and the WD Trust Agreement, (a) have the power and authority to hold, manage, sell and distribute the WD Trust Assets as set forth herein and in the WD Trust Agreement, (b) have the power and authority to hold, manage, sell and distribute Cash obtained through the exercise of its power and authority (c) have the exclusive power and authority to object to the allowance of, seek the disallowance of or compromise any Class 12 Claim, and (d) have the power and authority to perform such other functions as are provided in the WD Trust Agreement. The WD Trustee shall be responsible for all decisions and duties with respect to the WD Trust and the WD Trust Assets, subject to the terms of the Plan and the WD Trust Agreement. Subject to the provisions of the WD Trust Agreement, in all circumstances, the WD Trustee shall act in furtherance of the purpose of the WD Trust, and shall use commercially reasonable efforts to dispose of the WD Trust Assets and to make timely distributions and not unduly prolong the duration of the WD Trust. In this respect, the WD Trustee shall make distributions strictly in accordance with the Wrongful Death Claim Resolution Procedures unless permitted by a Final Order of the Bankruptcy Court or the District Court (in accordance with section 5.14 of the Plan), to deviate therefrom.

### ***Investments***

Investments of all assets, including monies, held in the WD Trust shall be administered, subject to the limitations and provisions set forth in Section 5.8 of the Plan, in view of the manner in which individuals of ordinary prudence, discretion and judgment would act in the management of their own affairs, and with the understanding that it is intended that distributions from the WD Trust to WD Trust Beneficiaries, which will have the effect of liquidating and terminating the WD Trust, will commence immediately upon or soon after the Effective Date of the Plan and will be completed soon thereafter. The WD Trustee shall invest and reinvest the principal and income of the WD Trust and keep the funds of the WD Trust invested in interest-bearing accounts at an approved depository institution to be selected from the U.S. Trustee's List of Authorized Depositories for Bankruptcy Cases filed in Region One, dated May 18, 2015. Each account shall be treated as a single fund without distinction between principal and income. For purposes of this paragraph, "interest-bearing account" may include a money fund whose objectives are current income consistent with liquidity and low risk, the maintenance of a portfolio of high quality, short-term money market instruments, and maintenance of a constant \$1.00 net asset value per share, to the extent the WD Trustee determines that such fund is consistent with provisions for investment set forth in Internal Revenue Service Revenue Procedure 94-45 or any successor guidance issued by the Internal Revenue Service. All investments shall be made so as to at all times provide sufficient liquidity to meet the anticipated cash needs of the WD Trust as set forth herein. In investing,

reinvesting, exchanging, selling and managing the WD Trust accounts, the WD Trustee shall discharge its duties with respect to said accounts solely in the interest of the accomplishment of the purposes and objectives of the WD Trust. Notwithstanding the foregoing, the WD Trustee shall make continuing efforts to make timely distributions and not unduly prolong the duration of the WD Trust, consistent with the limitations set forth in Internal Revenue Service Revenue Procedure 94-45 or any applicable successor authority.

***Fees, Costs and Expenses of the WD Trust***

(a) The WD Trust shall pay from the WD Trust Assets (i) all WD Trust Expenses; (ii) any tax liability imposed on the WD Trust; (iii) all obligations or other liabilities incurred or assumed by the WD Trust (including but not limited to any reserves established by the WD Trust); (iv) all expenses reasonably necessary to meet contingent liabilities and to maintain the value of the WD Trust Assets during liquidation; and (v) all expenses reasonably necessary to satisfy any other obligations of the WD Trust set forth in the Plan, the Confirmation Order or the WD Trust Agreement.

(b) The WD Trustee shall be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of proceedings, and shall be reimbursed from the WD Trust Assets for his or her reasonable expenses, including travel expenses, reasonably required and incurred in the performance of his or her duties, in each case subject to the terms and provisions of the Plan and the WD Trust Agreement.

(c) The WD Trustee may retain such law firms or attorneys, experts, advisors, consultants, investigators, appraisers, auctioneers, corporate management services, or other persons or professional firms as the WD Trustee determines, in his or her sole discretion, are necessary, desirable or appropriate to aid in the performance of his or her duties, without the need for further order or notice. The WD Trustee may pay or appropriate funds from the WD Trust Assets necessary to pay the professionals for services rendered and expenses incurred after the Effective Date without any need for filing fee applications under the Bankruptcy Code or approval of any court, subject to the provisions of section 5.10 of the Plan.

***Distribution of the WD Trust Assets***

The WD Trustee shall distribute the proceeds of the WD Trust Assets strictly in accordance with the Plan, the Confirmation Order, the WD Trust Agreement and the Wrongful Death Claim Resolution Procedures, unless the Bankruptcy Court or the District Court, by Final Order, allows a deviation therefrom. In connection with such distributions, and except as provided below in Section 5.10 of the Plan, the Trustee, the Post-Effective Date Estate and the Estate Representative shall have no responsibility or liability for (a) the creation, existence, operation or administration of the WD Trust; (b) any acts or omissions of the WD Trustee in administering the WD Trust; (c) any reimbursement and reporting obligations under applicable law or regulations; or (d) any payment or non-payment of Claims. The WD Trust shall indemnify and hold harmless the Trustee, the Post-Effective Date Estate and the Estate Representative (but with recourse in all circumstances limited solely to the assets of the WD Trust, and without recourse to the WD Trustee personally or to any WD Trust Beneficiaries) from any and all claims, losses, causes of action, demands, liabilities, expenses, fees, including, but not limited to, attorneys' fees, and costs of any kind arising from or relating to (a) the creation, existence, operation or administration of the WD Trust; (b) any acts or

omissions of the WD Trustee in administering the WD Trust; (c) any reimbursement or reporting obligations under applicable law or regulations; or (d) any payment or non-payment by the WD Trust to any WD Trust Beneficiary. Prior to making any distribution from the WD Trust, the WD Trust shall retain sufficient funds to meet the fees, costs and expenses of the WD Trust.

After having given the WD Trust Beneficiary fifteen (15) days' prior written notice of his intention to proceed with distribution, the WD Trustee in making any distribution to a Holder of a Derailment Wrongful Death Claim may pay to any lawyer or counsel for such Holder any fees due to such lawyer or counsel, including, without limitation, any contingent fees due and owing to such lawyer or counsel; distributions to any WD Trust Beneficiary who is represented by an attorney as established by documentary evidence satisfactory to the WD Trustee shall be made separately to the attorney (for fees) and to the WD Trust Beneficiary (for the net distribution) unless the WD Trust Beneficiary instructs the WD Trustee in writing to issue such payment jointly to the WD Trust Beneficiary and the attorney (or law firm) or to deliver such entire payment to such attorney (or law firm), for later distribution of the net amount to such WD Trust Beneficiary client by such attorney or firm. If a WD Trust Beneficiary is not represented by an attorney, all distributions shall be made directly to the WD Trust Beneficiary. Notwithstanding anything to the contrary in the foregoing it is further *provided, however*, that:

- (i) no payment or distribution of any kind shall be made to any lawyer or counsel allegedly representing the Holder of a Derailment Wrongful Death Claim unless such lawyer or counsel presents to the WD Trustee an executed engagement letter or other document that entitles such lawyer or counsel to such fees or distribution, including any contingent fee (a "Derailment Wrongful Death Client Engagement Letter"), *provided*, for the avoidance of doubt, that the Representation Order entered by the Quebec Superior Court on or about April 4, 2014 in the CCAA Case (the "Representation Order") together with any order assessing counsel fees pursuant thereto, shall also constitute a Derailment Wrongful Death Client Engagement Letter; and
- (ii) no such distribution or payment shall be made by the WD Trustee if:
  - (i) the Derailment Wrongful Death Client Engagement letter has been held to be invalid or inoperative by a final order or ruling entered in any proceeding (including an administrative proceeding) initiated by a party with standing (as defined below) disputing the rights of such lawyer or counsel to fees before any court, administrative tribunal or other forum with jurisdiction over such agreements, in the United States or Canada (collectively a "Proceeding"), in which there was a challenge to the validity or operation of the Derailment Wrongful Death Client Engagement Letter; or
  - (ii) any Proceeding is pending in which there is a challenge to the validity or operation of the Derailment Wrongful Death Client Engagement Letter, unless and until such Proceeding has been concluded by a final order or ruling in favor of the lawyer or counsel involved, and then the distribution to the lawyer or counsel shall be limited by the terms of any such final order or ruling issued in such Proceeding, to the extent such order or ruling contains any such limitations.

For the purposes of subparagraph (b)(ii) above, “party with standing” shall be limited to (x) the individual Holder of a Derailment Wrongful Death Claim in his or her capacity as a client or alleged client (or the parent or guardian of such client or alleged client, if a minor), or (y) any bar-affiliated or governmental entity that regulates the practice of law and is granted such standing as a matter of a governing statute or rule. Neither Class Counsel nor U.S. Counsel (each as defined below), shall be a “party with standing” for purposes of that section, whether or not such counsel holds a power of attorney or like document for such client, and, similarly, the Creditors Committee and its counsel shall not be a “party or parties with standing” under that provision. Holders of Derailment Wrongful Death Claims involved in a Proceeding shall receive the portion of their distributions on account of their Derailment Wrongful Death Claim not in dispute in such Proceeding at the same time and in the same manner as the Holders of other Derailment Wrongful Death Claims not involved in a Proceeding.

For the sole purpose of determining any contingent fee due, all Distributions to a WD Trust Beneficiary shall constitute and be deemed Distributions through and on account of the Derailment Wrongful Death Claims, if any, of the decedent’s estate representative pursuant to which such WD Trust Beneficiary is to receive payment under the Wrongful Death Claims Resolution Procedures, and subject to any contrary terms of any applicable engagement agreement or any other documentation that is acceptable to the WD Trustee, counsel to such decedent’s estate representative shall be entitled to payment based upon the aggregate payment to WD Trust Beneficiaries who take or are deemed by this paragraph to take through such estates; *provided, however*, that application of this paragraph shall be subject to sub-paragraphs (b)(i) and (b)(ii) above and shall not result in the payment by any WD Trust Beneficiary of a fee, contingent or otherwise, to more than one attorney or law firm; and the amount of any contingent fee payable on account of any estate (and the WD Trust Beneficiary’s taking through such estate) to U.S.-based counsel to the Holders of Derailment Wrongful Death Claims (“U.S. Counsel”) will be calculated by first excluding any distributions (including fees) payable to Holders of Derailment Wrongful Death Claims represented solely by counsel appointed pursuant to the Representation Order (the “Class Representatives”) and counsel appointed therein (“Class Counsel”) pending in the Québec Superior Court, and no other fees contingent or otherwise shall be payable on such distributions. For the purposes of this section, a Holder of a Derailment Wrongful Death Claim shall be deemed to be solely represented by the Class Representatives and Class Counsel only if such Holder has (i) not delivered a notice of opt-out from representation in accordance with the Representation Order; (ii) has not signed an engagement agreement, engagement letter, power of attorney or similar document specifying terms of representation with U.S. Counsel; and (iii) has not filed a proof of claim in the Chapter 11 Case, prior to the Claims Bar Date, which designates U.S. Counsel (including local counsel in Bangor, Maine) as such Holder’s counsel. For purposes of this section, such a proof of claim can constitute a Derailment Wrongful Death Client Engagement Letter, subject to any necessary terms of engagement being established by evidence satisfactory to the WD Trustee. Any dispute arising under section 5.10 of the Plan, including any objection of any person or party to a determination by the WD Trustee as to legal representation or payment of fees (collectively, “Representation Disputes”) shall be determined exclusively by *de novo* review before the Bankruptcy Court, subject, however to subparagraph (b)(ii) above in this section.

### ***Resolving Liens.***

Before disbursing any WD Trust Assets to a WD Trust Beneficiary, the WD Trustee shall ensure that any Liens that the WD Trustee has received notice of and which may attach to any such

distribution have been resolved or have been otherwise satisfied. To that end, the WD Trustee shall provide notice of the existence of any such Lien(s) to the WD Trust Beneficiary and, if applicable, his or her attorney, and it shall be the WD Trust Beneficiary's (or his or her attorney's) responsibility to resolve such Lien(s) against the WD Trust Beneficiary's anticipated distribution of WD Trust Assets within 120 days of notice from the WD Trustee. If the Lien has not been settled or otherwise resolved within this 120-day time period, with the WD Trust Beneficiary's consent, the WD Trustee may retain a firm with experience in resolving liens to satisfy the WD Trust's Beneficiary's obligations as represented by the Lien(s). Any payments made to resolve such Lien(s), together with the fees paid to the Lien resolution firm, shall be deducted from the WD Trust Beneficiary's distribution of WD Trust Assets prior to disbursement of the balance. Subject to the foregoing provisions Section 5.11 of the Plan, any and all distributions to or for the benefit of WD Trust Beneficiaries shall be free and clear of any and all liens, security interests and encumbrances.

***Time of WD Trust Distributions.***

Subject to the Wrongful Death Claim Resolution Procedures, the WD Trustee shall have the sole and absolute discretion to determine the timing of distributions of the proceeds of the WD Trust in the most efficient and cost-effective manner possible; *provided, however*, that the WD Trustee's discretion shall be exercised in a manner consistent with the express requirements of the Plan, the Wrongful Death Claim Resolution Procedures, and the requirements of taxation as a grantor trust under applicable Internal Revenue Service guidelines, rulings or other controlling authorities. Absent cause, the WD Trustee will use best efforts to make distributions as quickly and efficiently as feasible, subject only to any delays necessitated by Section 5.14 of the Plan and any orders issued by the District Court under Section 5.14 of the Plan.

***Tax Treatment of WD Trust***

(a) **WD Trust Assets Treated as Owned by Certain Creditors.** For all United States federal income tax purposes, all parties (including the Estate Representative, the WD Trustee, WD Trust Beneficiaries and Holders of Allowed Class 12 Claims) shall treat the transfer of the WD Trust Assets to the WD Trust as (i) a transfer of the WD Trust Assets (subject to any obligations related to those assets) directly to the WD Trust Beneficiaries and Holders of Allowed Class 12 Claims, followed by (ii) the transfer by such WD Trust Beneficiaries and Holders of Allowed Class 12 Claims of such WD Trust Assets to the WD Trust in exchange for beneficial interests in the WD Trust. Accordingly, the WD Trust Beneficiaries and Holders of Allowed Class 12 Claims shall be treated for federal income tax purposes (and, to the extent permitted, for state and local income tax purposes) as the grantors and owners of their respective shares of the WD Trust Assets, if any, or any Disputed Claims reserve as described in Section 7.20 of the Plan). All WD Trust Assets shall be treated solely as compensatory damages.

(b) **Exemption from Transfer Taxes.** Pursuant to section 1146(a) of the Bankruptcy Code, the making or assignment of any lease or sublease, or the making or delivery of any instrument of transfer from the Trustee, the Estate, the Post-Effective Date Estate or the Estate Representative to the WD Trust or any other Person or any government, governmental agency or any subdivision, department or other instrumentality thereof, pursuant to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax or other similar tax or governmental assessment and the Confirmation Order shall direct the appropriate state or local

governmental officials or agents to forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. Without limiting the foregoing, any issuance, transfer or exchange of a security or any making or delivery of an instrument of transfer pursuant to the Plan shall be exempt from the imposition and payment of any and all transfer taxes (including but not limited to any and all stamp taxes or similar taxes and any interest, penalties and addition to the tax that may be required to be paid in connection with the consummation of the Plan) pursuant to sections 1146(a), 505(a), 106 and 1141 of the Bankruptcy Code.

(c) **Tax Reporting.** The WD Trustee shall file returns for the WD Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) and in accordance with Section 5.13 of the Plan. The WD Trustee shall also annually send to each record holder of a beneficial interest a separate statement setting forth the holder's share of items of income, gain, loss, deduction or credit and shall instruct all such holders to report such items on their federal income tax returns or to forward the appropriate information to the beneficial holders with instructions to report such items on their federal income tax returns. The WD Trustee shall also file (or cause to be filed) any other statements, returns or disclosures relating to the WD Trust that are required by any Governmental Unit. WD Trust taxable income or loss shall be allocated pro rata based on the total of Allowed Claims of the WD Trust Beneficiaries at the end of the taxable year. As soon as possible after the Effective Date, the WD Trustee shall make a good faith valuation of the WD Trust Assets. Such valuation shall be made available from time to time, to the extent relevant, and used consistently by all parties (including the Estate Representative, the WD Trustee, the WD Trust Beneficiaries and holders of Allowed Class 12 Claims) for all state and federal income tax purposes. The WD Trustee also shall file (or cause to be filed) any other statements, returns or disclosures relating to the WD Trust that are required by any Governmental Unit. The WD Trustee may request an expedited determination of taxes of the WD Trust under section 505 of the Bankruptcy Code for all returns filed for, or on behalf of, the WD Trust for all taxable periods through the termination of the WD Trust.

(d) **Withholding of Taxes and Reporting Related to WD Trust Operations.** The WD Trust Assets, as compensatory damages for Derailment Wrongful Death Claims, are not subject to withholding and the WD Trustee shall not be required to withhold any taxes or other amounts from distributions to WD Trust Beneficiaries. The Confirmation Order shall absolve the WD Trustee of any such withholding duties or responsibilities. To the extent that the operation of the WD Trust or the liquidation of the WD Trust Assets creates a tax liability imposed on the WD Trust, the WD Trust shall timely pay such tax liability and any such payment shall be considered a cost and expense of the operation of the WD Trust payable without Bankruptcy Court order.

**Resolution of the Claims of Minors in Accordance with the WD Trust.**

In connection with any Allowed Class 12 Claims in which the Holder is a minor, the WD Trustee shall notify the parent, guardian, guardian ad litem, adult spouse, next friend, or other representative of the minor of the proposed distribution to such minor. Such parent, guardian, guardian ad litem, adult spouse, next friend, or other representative of the minor shall move for approval of the allocation within ninety (90) days of his or her notification by the WD Trustee of the proposed distribution.

In the event that the parent, guardian, guardian ad litem, adult spouse, next friend, or other representative of the minor does not so move for approval of the allocation within ninety (90) days of his or her notification by the WD Trustee of the proposed distribution, the WD Trustee shall submit the proposed distribution to the holder to the District Court for approval in accordance with 14 M.R.S.A. § 1605 and request that the District Court hold a hearing on the petition, and the petitioner and the Allowed Class 12 Claim Holder may attend any such hearing. The WD Trustee shall request that the District Court determine whether the proposed distribution is in the Allowed Class 12 Claim Holder's best interests and, if the proposed distribution is approved, that determination shall be embodied in an order which shall have the effect of a judgment. Upon approval of the proposed distribution to such Holder of an Allowed Class 12 Claim, the WD Trustee shall request that the District Court authorize payment to the counsel of the minor, if any, of fees and disbursements to be paid from the distribution and further shall order that the remainder of the distribution be distributed in a manner that will best protect the interest of the minor.

#### **Access to Claims Information**

Upon request made to the Estate Representative on or after the Effective Date by the WD Trustee, the Estate Representative shall deliver to the WD Trustee, on an un-redacted basis, the relevant lists of Class 12 Claims and all Proofs of Claim and supporting documentation for purposes of effectuating the WD Trust and distributions to Holders of Allowed Class 12 Claims. The Confirmation Order shall include all findings and orders necessary to permit or facilitate such delivery and access, including with respect to any necessary confidentiality of such lists and the proofs of claim, subject to any further orders of the Bankruptcy Court. The WD Trustee shall have access to the Books and Privileges to the extent reasonably required to discharge the duties of the WD Trustee; *provided, however*, that the WD Trustee shall have no control over and shall not have the capacity to waive any attorney-client privilege or work product immunity or privilege held by the Debtor or the Trustee.

#### **Distribution of Surplus**

The WD Trustee shall make all payments required to be paid to Holders of Allowed Class 12 Claims under the Plan in accordance with the terms and conditions of the WD Trust Agreement, the Wrongful Death Claim Resolution Procedures, and the Plan. If, and only if, the WD Trustee has made all distributions to WD Trust Beneficiaries permitted under the Wrongful Death Claim Resolution Procedures then the WD Trustee shall transfer any surplus WD Trust Assets to the Disbursing Agent who shall then distribute to the holders of Allowed Class 13 Claims their Pro Rata share of the remaining Cash, if any, of the WD Trust until such Class 13 Claims are paid in full. The Trustee does not anticipate surplus WD Trust Assets at this time.) For the avoidance of doubt, nothing in this Agreement, the Plan or the CCAA Plan shall limit or cap the recoveries available to victims of the Derailment outside the Plan and this Agreement as against parties other than Released Parties including, without limitation, under the laws of the State of Illinois or the State of Texas.

#### **A. SPECIAL VOTING PROCEDURES**

Because individual assessments of the value of certain Derailment Claims can vary, a fixed set of values is to be used solely in connection with determining the amount of such Claims for voting purposes, and based on prior agreements reached with respect to the aggregate allowed

amounts of Claims in particular classes for purposes of distributions under the Plan. These fixed values apply to all Derailment Wrongful Death and Derailment Moral Damages and Personal Injury Claims.

To the extent necessary to determine the outcome of the vote, each individual Holder of a Derailment Wrongful Death Claim or Derailment Moral Damages and Personal Injury Claim is entitled to a vote in a specified dollar amount based upon the matrix points (the “Matrix Points”) assigned to such Derailment Wrongful Death Claim or Derailment Moral Damages and Personal Injury Claims in accordance with Schedules B and C to the Plan (and attached hereto as Schedules A and B), and based on the assumed total value of the Claims in each category. For voting purposes, the aggregate value of Derailment Wrongful Death Claims is deemed to be \$200 million, and the aggregate value of Derailment Moral Damages and Personal Injury Claims is deemed to be \$100 million. The dollar value of an individual Holder’s vote will equal the percentage of that Holder’s Matrix Points to total Matrix Points in each Class times the deemed aggregate value of the Claims in such Class (\$200 million or \$100 million) as the case may be. By way of example, if the Holder of a Derailment Wrongful Death Claim would be awarded 5% of the total Matrix Points, the dollar value of his or her vote would be ten million dollars (\$10,000,000.00).

This approach, which will not be binding on a claimant, the Trustee, the WD Trust, or any other party for any purpose other than voting, will eliminate the need to make any individual valuation (whether by estimation or otherwise) regarding Derailment Wrongful Death Claims and Derailment Moral Damages and Personal Injury Claims. In addition, to the extent counsel to the Holder of any Derailment Wrongful Death Claims or Derailment Moral Damages and Personal Injury Claims has been authorized, in writing, to vote such Claim, and counsel submits a Ballot for such Claim in accordance with these procedures, such vote shall be a valid and binding vote as to such Claim.

Other Holders of Derailment Claims will vote based on the amount of their Proof of Claim, if allowed for voting purposes.

## **B. RELEASES AND INJUNCTIONS.**

Please be advised that Article X of the Plan contains the following release, exculpation, and injunction provisions:

### ***1. Exculpations and Limitation of Liability.***

As of the Effective Date, none of (a) the Trustee, (b) the Monitor, (c) MMA Canada, or (d) the members, representatives, accountants, financial advisors, consultants and attorneys of the entities described in (a) through (d) of this paragraph shall have or incur any liability to any person for any act taken or omission in connection with or related to the Chapter 11 Case, including but not limited to (i) formulating, preparing, disseminating, implementing, confirming, consummating or administrating the Plan (including soliciting acceptances or rejections thereof), (ii) the Disclosure Statement or any contract, release or other agreement or document entered into or any action taken or omitted to be taken in connection with the Plan or the Disclosure Statement, or (iii) any distributions made pursuant to the Plan, except for any acts determined by Final Order to have constituted willful misconduct, bad faith or gross negligence.



**2. *Preservation and Non-Waiver of Estate Defenses and Objections and Related Rights Reserved for the Debtor, its Successors in Interest, Creditors and Parties in Interest.***

(a) **No Limitation on Defenses, Set-Off or Right to Subordination as to Claims Against the Estate.** Nothing in the Plan (other than the provisions of Sections 10.5 and 10.6 hereof), the Confirmation Order (other than the provisions therein corresponding to Sections 10.5 and 10.6 hereof), or the Settlement Agreements shall alter, enhance, waive, release or otherwise impair or preclude any of the Estate's defenses, rights to set-off and/or rights to compel subordination as to any Claim or Administrative Expense Claim of any type asserted against the Estate, as otherwise allowed by law, including the right to assert as a defense, set-off or subordination, any claim that would ordinarily or otherwise have to be asserted in or brought by a cross-claim, cross-complaint or separate action.

(b) **No Limitation on Right to Object to Claims or Administrative Expense Claims.** Nothing in the Plan (other than the provisions of Sections 10.5 and 10.6 hereof), the Confirmation Order (other than the provisions therein corresponding to Sections 10.5 and 10.6 hereof), or the Settlement Agreements shall alter, enhance, waive, release or otherwise impair or preclude the right and ability of (i) the Estate Representative and all his or her successors in interest to object to any Claim or Administrative Expense Claim or (ii) the WD Trustee and all his or her successors in interest to object to any Class 12 Claim (collectively, the "Permitted Objections"). The Permitted Objections may include, as part of any objection to any Claim or Administrative Expense Claim, a prayer for denial or disallowance of Claim or Administrative Expense Claim, reduction in amount by off-set, disgorgement of amounts previously paid and/or equitable subordination, as otherwise allowed by law, on any ground that could have been brought by way of lawsuit, adversary proceeding or contested matter but for (i) the releases contained in the Settlement Agreements; (ii) the exculpation contained in section 10.3 of the Plan; (iii) the Releases and Injunctions contained in the Plan; and (iv) the Confirmation Order. In addition, the makers of the Permitted Objections may utilize whatever remedies and procedural vehicles are otherwise available under the law, including, if necessary, an adversary proceeding. Objections to Claims shall be heard and determined by the Bankruptcy Court.

Nothing in the Plan (other than the provisions of sections 10.5 and 10.6 hereof), the Confirmation Order (other than the provisions therein corresponding to Sections 10.5 and 10.6 hereof), or the Settlement Agreements shall alter, enhance, waive, release or otherwise impair or preclude the right and ability of the Trustee or the Estate Representative, and all his successors in interest, to object to any Claim either for the purpose of determining the holder of such Claim's eligibility to vote on the Plan or the amount of such Claim.

**3. *Releases.***

(a) **Settlement Agreement Releases Supplemented; No Impact on Rights to Object.** Except as expressly provided in sections 10.5, 10.8 or 10.9 of the Plan, nothing in Section 10.5 of the Plan or otherwise in the Plan or the Confirmation Order, shall affect, release or otherwise limit the rights and duties of the parties to the Settlement Agreements to enforce or comply with the provisions of the Settlement Agreements. The rights and duties of the parties under the Settlement Agreements are set forth in and shall be governed by the Settlement Agreements. The following releases shall be in addition to and are intended to supplement any releases included in the Settlement Agreements as between the parties to such Settlement

Agreements. In the event of any inconsistency between the Plan or the Confirmation Order and the Settlement Agreement(s), the terms of the Settlement Agreement(s) will apply with respect to the particular parties thereto; *provided, however*, that all Settlement Agreements are subject to Sections 10.5, 10.8 and 10.9 of the Plan. Except as expressly set forth in the Settlement Agreements, nothing in this particular Plan or the Releases set forth herein shall affect any rights of the Trustee or the Estate Representative to object to the allowance, amount, priority or secured status of the Claims of any party receiving a release under the Plan as provided in sections 502, 503, 506, 507, 509 or 510 of the Bankruptcy Code, including with respect to any right of setoff or recoupment, to the extent such Claims are not released, discharged or satisfied under any Settlement Agreement, under the Plan, or pursuant to the Confirmation Order. Nothing herein shall affect any limitation contained in any Settlement Agreement with respect to the release granted to any Released Party. Notwithstanding the definition of “Claim” in section 1.36 of the Plan, for the purposes of Article 10 of the Plan, including, without limitation, the Releases and Injunctions, “Claim” or “Claims” means, as the context requires, past, present and future claims, causes of action, obligations, rights, liens, suits, judgments, orders, application of any kind including for judicial review, 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, civil law, public law or in equity, regardless of the legal theory, 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, for any damages either moral, material, bodily injury, punitive, exemplary or extra-contractual damages of any type, in any jurisdiction (i) in any way 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, warranty claim, recursory claim, subrogation claim, forced intervention, contribution claim, indemnity claim, reimbursement claim, class action or otherwise, (A) to the Derailment, including any claims held or asserted by any Person for wrongful death, personal injury, emotional distress, loss of support, loss of consortium, property damage, economic loss, moral damage, material damage and bodily injury or environmental damage, remediation or exposure or (B) to the XL Policies, including the issuance thereof, coverage, reimbursement, or payment thereunder, and any act or omission of an insurer of any type for which a Holder of a Claim might seek relief in connection therewith, and/or (ii) that would otherwise constitute a claim as against MMA, MMA Canada or their Estates (A) provable in bankruptcy under the Bankruptcy and Insolvency Act, R.S.C. 1985, c.B-3, had MMA Canada become bankrupt on August 6, 2013 and/or (B) within the definition of “claim” set forth in section 101(5) of the Bankruptcy Code. Without limiting the foregoing, “Claim” or “Claims” for purposes of Article 10 of the Plan includes all Claims in Classes 8, 9, 10, 11 and 12.

(b) **Releases.**

(i) **Releases by the Debtor and Estate Representative(s).** *Subject in all respects to the provisions of Sections 9.1 and 9.3 of the Plan and full performance under the applicable Settlement Agreement(s) applicable to the particular Released Parties, on the Effective Date, the Debtor, the Trustee, the Estate Representative(s) and the Estate shall unconditionally release, and hereby are deemed to forever unconditionally release, the Released Parties, including, without limitation, the Released Parties’ respective attorneys and advisors (solely in their respective capacities as such), from any and all Derailment Claims, Causes of*

*Action, and all other Claims (including any Claims assigned by the Other Released Parties to the Trustee, MMA Canada or their designee pursuant to a Settlement Agreement and (including any Claims or Causes of Action for contribution, indemnity, reimbursement or seeking the enforcement, attachment, collection, contribution or recovery of or from any judgment, award, decree, or order against any one or more of the Other Released Parties or property of any one or more of the Other Released Parties, or otherwise), debts, obligations, demands, liabilities, suits, judgments, damages, rights, remedies and Post-Confirmation Causes of Action, whatsoever (other than the right to enforce the obligations under the Plan, the Settlement Agreements and the contracts, instruments, releases and other agreements and documents delivered thereunder), whether direct or indirect, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, whenever arising, in law, equity or otherwise, that are based upon, arise from and/or are related to events and/or circumstances that occurred or existed on or prior to the Effective Date relating in any way to the Debtor, the Derailment, the Chapter 11 Case, the Plan, the Disclosure Statement, the Estate, the XL Policies, and the Settlement Agreements; provided, however, and without limiting any provision of the Affiliated Parties Settlement Agreement, including any provision that limits, conditions or affects any release or injunction in favor of the Affiliated Released Parties, this release shall not extend, and shall not be construed as extending to, any Claim brought or that could be brought in the future by the Trustee, the Estate Representative or MMA Canada against any of the Affiliated Released Parties to the extent there is, or may be, coverage for such claims under the Great American Policy, and the assignment of rights under such policies to the Estate, the Trustee or the Estate Representative shall not affect, reduce, discharge or diminish such coverage, or provide a defense to any such insurer, or trigger any exclusion under any such policy, including, without limitation, any insured vs. insured exclusion.*

(ii) Releases in Favor of the Estate and Estate Representative(s). *Subject in all respects to the provisions of Sections 9.1, 9.3, 10.8 and 10.9 of the Plan, and full performance under the applicable Settlement Agreement(s), and subject to any express limitations and/or obligations contained in each Released Party's respective Settlement Agreement, on the Effective Date, each of the Trustee, the Estate Representative(s), and the Estate shall be forever and unconditionally released from any and all Claims, debts, obligations, demands, liabilities, suits, judgments, damages, rights and causes of action, whatsoever by the Released Parties and by all Persons or entities receiving consideration under the Plan (other than the right to enforce the obligations under the Plan, the Settlement Agreements and the contracts, instruments, releases and other agreements and documents delivered thereunder), whether direct or indirect, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, whenever arising, in law, equity or otherwise, that are based upon, arise from and/or are related to events and/or circumstances that occurred or existed on or prior to the Effective Date, relating in any way to the Debtor, including, without limitation, arising from the Derailment, the Chapter 11 Case, the Plan, the Disclosure Statement, any prepetition act or omission of the Debtor, the Estate, the XL Policies and the Settlement Agreements; provided, however, that this release shall not apply to any Claims arising in the ordinary course of business that are unrelated to the Derailment and that are held by Affiliates of any Contributing Party (unless such Claims are expressly released pursuant to any Settlement Agreement). For the avoidance of doubt, the releases in Section 10.5(b)(ii) of the Plan do not extend to any breaches of the Settlement Agreement(s).*

(iii) **Releases by Affiliated Released Parties.** *Subject in all respects to the provisions of Sections 9.1 and 9.3 of the Plan and the Affiliated Parties Settlement Agreement, on the Effective Date, each of the Affiliated Released Parties shall unconditionally release, and hereby are deemed to forever unconditionally release, each of the Debtor, the Estate, the Trustee, the Estate Representative(s), the Creditors' Committee, the Creditors' Committee members, and the Other Released Parties, including, without limitation, and the foregoing persons' and entities' respective attorneys and advisors (solely in their respective capacities as such) from any and all Claims (including any Claims or Causes of Action for contribution, indemnity, reimbursement or seeking the enforcement, attachment, collection, contribution or recovery of or from any judgment, award, decree, or order against any one or more of the Other Released Parties or property of any one or more of the Other Released Parties, or otherwise), debts, obligations, demands, liabilities, suits, judgments, damages, rights, and causes of action, whatsoever, whether direct or indirect, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part upon any act or omission, transaction, transfer, event, or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtor, the Derailment, the Chapter 11 Case, the Plan, the Disclosure Statement, the Estate, the negotiation or funding of the Settlement Agreements; provided, however, that this release shall not apply to (A) any Claims or rights, under the Great American Policy, assigned by the Affiliated Released Parties to the Debtor or to the Chapter 11 Trustee pursuant to the Affiliated Parties Settlement Agreement, (B) any right to enforce the obligations under the Plan, the Settlement Agreements, and the contracts, instruments, releases and other agreements and documents delivered thereunder, provided, however, that such assigned Claims or rights will not be asserted against Other Released Parties, or (C) any Claims or rights of any of the Rail World Parties and/or the D&O Parties (as defined in the CCAA Plan) to seek recovery from their insurers, including Hartford and the XL Companies, for any attorneys' fees, expenses or costs incurred prior to the Effective Date.*

(iv) **Releases in Favor of Affiliated Released Parties.** *Subject in all respects to the provisions of Sections 9.1, 9.3, 10.8 and 10.9 of the Plan and full performance under the Affiliated Parties Settlement Agreement, on the Effective Date, all persons and entities shall unconditionally release, and are hereby deemed to forever unconditionally release the Affiliated Released Parties, including, without limitation, the foregoing persons' and entities' respective attorneys and advisors (solely in their respective capacities as such), from any and all Derailment Claims, Causes of Action, and all other Claims, debts, obligations, demands, liabilities, suits, judgments, damages, rights, remedies and causes of action, whatsoever, whether direct or indirect, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, whenever arising, in law, equity or otherwise, that are based upon, arise from and/or are related to events and/or circumstances that occurred or existed on or prior to the Effective Date relating in any way to the Derailment, the Debtor, the Chapter 11 Case, the Plan, the Disclosure Statement, the Estate, and the negotiation or funding of the Settlement Agreements; provided, however, and without limiting any provision of the Affiliated Parties Settlement Agreement, including any provision that limits, conditions or affects any release or injunction in favor of the Affiliated Released Parties, this release shall not extend, and shall not be construed as extending to, any Claim brought or that could be brought in the future by the Trustee, the Estate Representative, MMA Canada or the Holders of Derailment Wrongful Death Claims (as applicable pursuant to the Affiliated Parties Settlement Agreement) against any of the Affiliated Released Parties (or certain of them, as applicable) to the extent*

*there is, or may be, coverage for such claims under the Great American Policy, and the assignment of rights under such policy to the Estate, the Trustee or the Estate Representative shall not affect, reduce, discharge or diminish such coverage, or provide a defense to any such insurer, or trigger any exclusion under any such policy, including, without limitation, any insured vs. insured exclusion.*

**(v) Releases by Other Released Parties.** *Subject in all respects to the provisions of Sections 9.1, 9.3, 10.5(b)(ii), 10.8 and 10.9 of the Plan and full performance under the Settlement Agreement(s) applicable to the particular Released Parties, on the Effective Date, each Other Released Party and all other Released Parties shall unconditionally release, and hereby are deemed to forever unconditionally release, each of the Debtor, the Estate, the Trustee, the Estate Representative(s), the Creditors' Committee, the Creditors' Committee members, the Affiliated Released Parties, each other Other Released Party, and the foregoing Persons' and entities' respective attorneys and advisors (solely in their respective capacities as such) from any and all Derailment Claims and all other Claims (including any Claims or Causes of Action for contribution, indemnity, warranty, forced intervention, or seeking the enforcement, attachment, collection, contribution, indemnity, reimbursement or recovery of or from any judgment, award, decree, or order against any one or more of the Other Released Parties or property of any one or more of the Other Released Parties, or otherwise), debts, obligations, demands, liabilities, suits, judgments, damages, rights, remedies and causes of action, whatsoever, whether direct or indirect, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, whenever arising, in law, equity or otherwise, that are based upon, arise from and/or are related to events and/or circumstances that occurred or existed on or prior to the Effective Date, relating in any way to the Derailment, the Debtor, the Chapter 11 Case, the Plan, the Disclosure Statement, the Estate, and the Settlement Agreements, including, without limitation, the Trustee's or the Trustee's counsel's negotiation of the Settlement Agreements or the funding of the Settlement Agreements; provided, however, that this release shall not apply to any Claims of Canada against MMA Canada, nor shall it apply to any Claims assigned by the Other Released Parties to the Trustee, MMA Canada or their designee pursuant to a Settlement Agreement (other than any Claims against any Other Released Parties), nor shall it apply to the right to enforce the rights and obligations under the Plan, the Settlement Agreements, and the contracts, instruments, releases and other agreements and documents delivered thereunder in their favor nor shall it apply or be construed as applying to any Claims or claims or other rights to the extent preserved by any of the Other Released Parties in their respective Settlement Agreement(s) (other than any Claims against any Other Released Parties), provided further, however, that notwithstanding anything to the contrary in the Plan, this release shall not apply to any claims or Claims that the Irving Parties (as defined in their Settlement Agreement) have or may have against one or more of their insurers; provided, further, however, that this release shall not apply to any Claims arising in the ordinary course of business that are unrelated to the Derailment and that are held by Affiliates of any of the Contributing Parties. For the avoidance of doubt, the releases in Section 10.5(b)(v) of the Plan do not extend to any breaches of the Settlement Agreement(s).*

**(vi) Releases in Favor of Other Released Parties.** *Subject in all respects to the provisions of Sections 9.1, 9.3, 10.8 and 10.9 of the Plan and full performance under the Settlement Agreement(s) applicable to the particular Other Released Parties, on the Effective Date, all Persons and entities shall unconditionally release, and hereby are deemed to forever*

*unconditionally release each of the Other Released Parties including without limitation, the Other Released Parties' respective attorneys and advisors (solely in their respective capacities as such), from any and all Derailment Claims, Causes of Action, and all other Claims (including any claims or Causes of Action for contribution, indemnity, warranty, forced intervention, or seeking the enforcement, attachment, collection, contribution, reimbursement or recovery of or from any judgment, award, decree, or order against any one or more of the Other Released Parties or property of any one or more of the Other Released Parties, or otherwise), debts, obligations, demands, liabilities, suits, judgments, damages, rights (including any right of setoff, subrogation, contribution, indemnity, reimbursement or recoupment of any kind), remedies and causes of action, whatsoever, whether direct or indirect, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, whenever arising, in law, equity or otherwise that are based upon, arise from and /or are related to events and/or circumstances that occurred or existed on or prior to the Effective Date, relating in any way to the Derailment, the Debtor, the Chapter 11 Case, the Plan, the Disclosure Statement, the Estate, and the Settlement Agreements, including, without limitation, the Released Parties and the Released Parties' counsel's negotiation of the Settlement Agreements or the funding of the Settlement Agreements; provided, however, that this release shall not in any way limit the right of the Estate Representative to enforce the rights and obligations under the Plan, the Settlement Agreements, and the contracts, instruments, releases and other agreements and documents delivered thereunder in the Estate's favor nor shall it apply or be construed as applying to any Claims or other rights to the extent preserved by any of the Other Released Parties in their respective Settlement Agreement(s) (other than any Claims against any Other Released Parties, including, without limitation, Canada), provided further, however, that notwithstanding anything to the contrary in the Plan, this release shall not apply to any claims or Claims that the Irving Parties (as defined in their Settlement Agreement) have or may have against any one or more of their insurers. For the avoidance of doubt, and notwithstanding anything in the Plan to the contrary, the releases in this Section 10.5(b)(vi) do not extend to any breaches of the Settlement Agreement(s).*

**4. Injunctions.**

(a) **No Impact on the Rights of the Parties to the Settlement Agreements.** Nothing in Section 10.6 of the Plan or otherwise in the Plan or the Confirmation Order, shall affect, release or otherwise limit the rights and duties of the parties to the Settlement Agreements to enforce or comply with the provisions of their respective Settlement Agreements. The rights and duties of the parties under the Settlement Agreements are set forth in and shall be governed by the Settlement Agreements; *provided, however*, that no Settlement Agreement may restrain or limit the effect or scope of the releases set forth in Section 10.5 of the Plan as to any Released Party without the express written consent of such Released Party.

(b) **Injunctions.**

(i) **Injunction in Favor of the Debtor and Estate Representative(s).** Except as to the rights, claims or Claims created or expressly preserved by the Plan, the CCAA Plan, the Settlement Agreements, and the Confirmation Order, upon the Effective Date, the Debtor, the Trustee, and the Estate Representative(s) shall have and be entitled to an injunction forever barring and enjoining all Persons and/or entities from asserting against the Debtor

any past, present and future rights, interests, obligations, claims, causes of action, damages (including punitive damages), demands (including demands for contribution, indemnity or otherwise), liabilities, expenses, fees (including, but not limited to, attorneys' fees, expert fees, consulting fees and other professional fees) and costs of any kind or any type whatsoever, whether known or unknown, whether foreseen or unforeseen, whether direct or indirect, contingent or actual, whether liquidated or unliquidated, whether statutory or common law, whether asserted or unasserted and whether based on contract, negligence, bad faith, willful, wanton or malicious conduct, or any other theory in law or equity concerning, arising from or relating to any actual or alleged past, present or future act, omission, defect, incident, event or circumstance from the beginning of the world to the Effective Date, in any way relating to or in connection with (A) the Debtor, (B) the Derailment or (C) the Estate, the Chapter 11 Case, the Plan, the Disclosure Statement, the Settlement Agreements and/or the XL Policies, except with regard to any claims and rights expressly reserved pursuant to Sections 10.3 and 10.5 of the Plan.

(ii) **Injunction in Favor of Affiliated Released Parties.** Except as to the rights, claims or Claims created or expressly preserved by the Plan, the CCAA Plan, the Affiliated Parties Settlement Agreement, and the Confirmation Order, upon the Effective Date, all Persons and entities, including, without limitation, all Holders of Derailment Claims, Non-Settling Defendants, and other Persons shall be, and are hereby deemed to be, permanently barred, enjoined, and restrained from commencing, prosecuting, continuing or asserting against the Affiliated Released Parties any and all Derailment Claims, Causes of Action and all other Claims, including, without limitation, any and all past, present and future rights, interests, obligations, damages (including punitive damages), demands (including demands for contribution, indemnity, reimbursement or otherwise), liabilities, expenses, fees (including, but not limited to, attorneys' fees, expert fees, consulting fees and other professional fees) and costs of any kind or any type whatsoever, whether known or unknown, whether foreseen or unforeseen, whether contingent or actual, whether direct or indirect, liquidated or unliquidated, whether statutory or common law, whether asserted or unasserted and whether based on tort, contract, negligence, bad faith, willful, wanton or malicious conduct, or any other theory in law or equity concerning, arising from or relating to any actual or alleged past, present or future act, omission, defect, incident, event or circumstance from the beginning of the world to the Effective Date, in any way relating to or in connection with (A) the Debtor; (B) the Derailment, or (C) the Estate, (D) the Chapter 11 Case, (E) the Plan, (F) the Disclosure Statement, (G) the Settlement Agreements and/or (H) the XL Policies, provided, however, and without limiting any provision of the Affiliated Parties Settlement Agreement, including any provision that limits, conditions or affects any release or injunction in favor of the Affiliated Released Parties, this injunction shall not extend, and shall not be construed as extending to, any Claim brought or that could be brought in the future by the Trustee, the Estate Representative, MMA Canada or the Holders of Derailment Wrongful Death Claims (as applicable pursuant to the Affiliated Parties Settlement Agreement) against the Affiliated Released Parties (or certain of them, as applicable) to the extent there is, or may be, coverage for such claims under the Great American Policy, and the assignment of rights under such policy to the Estate, the Trustee or the Estate Representative shall not affect, reduce, discharge or diminish such coverage or provide a defense to any such insurer, or trigger any exclusion under any such policy, including, without limitation, any insured vs. insured exclusion.

(iii) **Injunction in Favor of the Other Released Parties.** Except as to the rights and claims created or expressly preserved by the Plan, the CCAA Plan, the Settlement Agreements (provided that there are no preserved claims (or Claims) against Other Released Parties except as provided for in Exhibit 2), and the Confirmation Order, upon the Effective Date, all Persons and entities, including, without limitation, all Holders of Derailment Claims, Released Parties and Persons other than Released Parties shall be, and are hereby deemed to be, permanently barred, enjoined, and restrained from commencing, pursuing, prosecuting, continuing or asserting against the Other Released Parties, any and all Derailment Claims, Causes of Action and all other Claims, including, without limitation, Claims or Causes of Action for any and all past, present and future rights (including any right of setoff, subrogation, contribution, indemnity, reimbursement or recoupment of any kind), interests (including creating, perfecting or enforcing any encumbrance of any kind against any one or more of the Other Released Parties), obligations, damages (including actual and/or punitive damages), demands (including any Claims or Causes of Action for contribution, indemnity, reimbursement, warranty, forced intervention, or seeking the enforcement, attachment, collection, contribution or recovery of or from any judgment, award, decree, or order against any one or more of the Other Released Parties or property of any one or more of the Other Released Parties, or otherwise), liabilities, expenses, fees (including, but not limited to, attorneys' fees, expert fees, consulting fees and other professional fees), and costs of any kind or any type whatsoever, whether known or unknown, whether foreseen or unforeseen, whether contingent or actual, whether direct or indirect, liquidated or unliquidated, whether statutory or common law, whether asserted or unasserted and whether based on tort, contract, negligence, warranty, bad faith, willful, wanton or malicious conduct, or any other theory in law or equity concerning, arising from or relating to any actual or alleged past, present or future act, omission, defect, incident, event or circumstance, including, without limitation, all Claims released pursuant to Section 10.5 of the Plan, whenever arising, that are based upon, arise from and/or are related to events and/or circumstances that occurred or existed on or prior to the Effective Date in any way relating to or in connection with (A) the Debtor; (B) the Derailment, (C) the Estate, (D) the Chapter 11 Case, (E) the Plan, (F) the Disclosure Statement, (G) the Settlement Agreements and/or (H) the XL Policies (as to which, in the event of an inconsistency with the Plan, the XL Settlement Agreement will govern).

*[remainder of page intentionally left blank]*



**CONCLUSION**

The Trustee believes that confirmation and implementation of the Plan is in the best interests of all creditors, and urges holders of Claims to vote to accept the Plan and to evidence such acceptance by returning their Ballots so that they will be received no later than **5:00 p.m. (prevailing Eastern Time) on the Voting Deadline.**

Dated: July 22, 2015

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

By his attorneys:

*/s/ Lindsay K. Zahradka* \_\_\_\_\_

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## Appendix A

### Selected Defined Terms from Plan, Disclosure Statement

**1.1** Additional WD Trust Assets means any Cash or Cash equivalent realized by the Estate Representative, solely in his capacity as such, after the Confirmation Date from or as a result of Settlement Agreements entered into prior to the Effective Date, and the proceeds of the sale, monetization, or liquidation of Settlement Non-Cash Assets that the Estate Representative is entitled to sell, monetize or liquidate, in whole or in part, for the benefit of the WD Trust in accordance with the Settlement Agreements, together with all earnings thereon.

**1.2** Affiliated Parties Settlement Agreement means the Settlement Agreement between and among the Trustee, MMA Canada and the Affiliated Released Parties.

**1.3** Affiliated Released Parties means the Rail World Parties, the Officers and Directors, Chubb and Hartford.

**1.4** Bankruptcy Rules means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as amended from time to time, and any applicable local rules of the Bankruptcy Court.

**1.5** CCAA Case means the proceeding under the Canadian Companies' Creditors Arrangement Act of MMA Canada pending before the Québec Superior Court (Commercial Division) and designated by Court File No. 450-11-000167-134.

**1.6** CCAA Plan means the Plan of Compromise and Arrangement filed by MMA Canada in the CCAA Case and which CCAA Plan, *inter alia*, shall contain Releases and Injunctions for the benefit of Released Parties, a copy of the CCAA Plan is attached to the Plan as Exhibit 1.28.

**1.7** Contributing Parties means the parties that have executed Settlement Agreements prior to the Effective Date.

**1.8** Derailment means the July 6, 2013 derailment of an unmanned train owned by the Debtor in Lac-Mégantic, Québec, including any and all events leading up to and related to such derailment and/or any and all consequences of such derailment, including, without limitation, the explosion, crude oil spill, fire and/or other consequences related to such derailment.

**1.9** Derailment Claims means all Claims by any Persons or entities against the Debtor, MMA Canada or any other third-party, Person or entity arising out of or relating to the Derailment, including but not limited to those Claims set forth in Sections 1.52, 1.53, 1.55, 1.57 and 1.58.

**1.10** Derailment Government Claims means any Derailment Claims held or asserted by any governmental, provincial or municipal entity, against the Debtor, MMA Canada, or any

other person or entity including, without limitation, the province of Québec, Canada, and/or the Village of Lac Mégantic, Québec, or any agency, division, or instrumentality of such entities.

**1.11** Derailment Moral Damages and Personal Injury Claims means a liquidated or unliquidated Claim against the Debtor, MMA Canada or any other person or entity whether in the nature of or sounding in tort, contract, warranty, employer liability or any other theory of law, equity or admiralty, whatsoever, for, attributable to or arising under the laws of any jurisdiction, by reason of, directly or indirectly, physical, emotional or other personal injuries caused by, or allegedly caused by, or arising from, in whole or in part, directly or indirectly, the Derailment including, but not limited to, all claims, debts, obligations or liabilities for compensatory damages (such as, without limitation, medical monitoring, personal or bodily injury, proximate, consequential, general and special damages) and punitive damages. Derailment Moral Damages and Personal Injury Claims shall include, without limitation, any Claim for contribution, reimbursement, subrogation, or indemnity, whether contractual or implied by law, (as those terms are defined by the applicable non-bankruptcy law of the relevant jurisdiction), and any other derivative or indirect Derailment Moral Damages and Personal Injury Claims of any kind whatsoever, whether in the nature of or sounding in tort, contract, warranty, or any other theory of law, equity, or admiralty, whatsoever. Notwithstanding the foregoing, Derailment Moral Damages and Personal Injury Claims shall not include (a) Derailment Property Damage Claims, (b) Derailment Government Claims; (c) Derailment Wrongful Death Claims; (d) Derailment Property Subrogated Insurance Claims; and (e) any workers' compensation claim brought directly against the Debtor or a non-Debtor Affiliate by a past or present employee of the Debtor under an applicable workers' compensation statute and which would be covered by workers' compensation insurance or an applicable and fully funded self-insurance program.

**1.12** Derailment Moral Damages and Personal Injury Claims Matrix means the matrix attached to the Plan as Schedule B.

**1.13** Derailment Property Damage Claims means a liquidated or unliquidated Claim against, or any debt, obligation or liability of the Debtor, MMA Canada or any other person or entity arising under the laws of any jurisdiction, whether in the nature of or sounding in tort, contract, warranty or any other theory of law, equity or admiralty, for, attributable to or arising by reason of, directly or indirectly, (a) property damages (whenever suffered), including, but not limited to, diminution in the value thereof, or environmental damage or economic loss to property; or (b) business interruption or loss of profits or earnings, in all cases caused by or allegedly caused by, directly or indirectly, the Derailment including, but not limited to, all claims, debts, obligations or liabilities for compensatory and punitive damages, and also including, without limitation, any claim for contribution, reimbursement, subrogation, or indemnity, whether contractual or implied by law, attributable to Derailment Property Damage Claims. Derailment Property Damage Claims shall not include (a) Derailment Moral Damages and Personal Injury Claims, (b) Derailment Government Claims; (c) Derailment Wrongful Death Claims; (d) Derailment Property Subrogated Insurance Claims; and (e) any workers' compensation claim brought directly against the Debtor or a non-Debtor Affiliate by a past or present employee of the Debtor under an applicable workers' compensation statute, and which would be covered by workers' compensation insurance or an applicable and fully funded self-insurance program.

**1.14 Derailment Property Damage Claims Distribution Mechanism** shall mean Schedule C attached to the Plan.

**1.15 Derailment Wrongful Death Claims** means a liquidated or unliquidated Claim against the Debtor, MMA Canada, or any other person or entity arising under the laws of any jurisdiction, including, without limitation, held by an executor, administrator, decedent's estate or estate representative, or beneficiary of a decedent's estate, whether in the nature of or sounding in tort, contract, warranty, employer liability or any other theory of law, equity or admiralty, whatsoever, for, attributable to or arising under the laws of any jurisdiction, by reason of, the death of an individual person caused, or allegedly caused, in whole or in part, directly or indirectly, by the Derailment including, but not limited to, all claims, debts, obligations or liabilities for compensatory damages (such as, without limitation, loss of consortium, wrongful death, survivorship, proximate, consequential, general and special damages) and punitive damages. Derailment Wrongful Death Claims shall include, without limitation, any Claim for contribution, reimbursement, subrogation, or indemnity, whether contractual or implied by law, (as those terms are defined by the applicable non-bankruptcy law of the relevant jurisdiction), and any other derivative or indirect Derailment Wrongful Death Claims of any kind whatsoever, whether in the nature of or sounding in tort, contract, warranty, or any other theory of law, equity, or admiralty, whatsoever, except to the extent that such claims have been released or assigned to the Estate pursuant to a Settlement Agreement. Notwithstanding the foregoing, Derailment Wrongful Death Claims shall not include (a) Derailment Government Claims; (b) Derailment Moral Damages and Personal Injury Claims; (c) Derailment Property Damage Claims; (d) Derailment Property Subrogated Insurance Claims; or (e) any workers' compensation claim brought directly against the Debtor or a non-Debtor Affiliate by a past or present employee of the Debtor under an applicable workers' compensation statute, and which would be covered by workers' compensation insurance or an applicable and fully funded self-insurance program.

**1.16 Derailment Property Subrogated Insurance Claim** means a liquidated or unliquidated Claim against, or any debt, obligation or liability of the Debtor, MMA Canada, or any other person or entity, arising under the laws of any jurisdiction, whether in the nature of or sounding in tort, contract, warranty or any other theory of law, equity or admiralty, for, attributable to or arising by reason of, directly or indirectly, (a) property damages (whenever suffered), including, but not limited to, diminution in the value thereof, or environmental damage or economic loss to property; or (b) business interruption or loss of profits or earnings caused or allegedly caused, directly or indirectly, by the Derailment and arising or allegedly arising, directly or indirectly, from acts or omissions of the Debtor, or its predecessors and which is held by an Insurance Company that (i) with respect to its obligations, has paid in full all amounts due to an insured who would, but for such payment, hold a Derailment Property Damage Claim; (ii) is subrogated to such insured's claim as a matter of law; and (iii) has timely filed a Proof of Claim in the Chapter 11 Case or the CCAA Case with respect to such Claim (and in the case of a Proof of Claim filed in the CCAA Case, is deemed, under the Bar Date Order, to have been timely filed in the Chapter 11 Case).

**1.17 Initial WD Trust Assets** means the share of the Settlement Payments allocable to Derailment Wrongful Death Claims, i.e. 24.1% of the Funds for Distribution and 53.3% of the Reallocated Dividends, which payments shall represent compensatory damages paid upon such

Claims only and shall also be deemed to have been made pursuant to the Plan and pursuant to a “court order” necessary to satisfy the requirements of Internal Revenue Code section 468B.

**1.18** Local Bankruptcy Rules means the Local Bankruptcy Rules of the United States Bankruptcy Court for the District of Maine, as amended from time to time.

**1.19** MMA Canada means Montréal Maine and Atlantic Canada Co., the debtor in the CCAA Case.

**1.20** Monitor means Richter Advisory Group, Inc. the monitor appointed in the CCAA Case.

**1.21** Non-Settling Defendants means any and all Persons who are, could be or may be defendants in any cause of action brought or which could be brought in any court or other forum of competent jurisdiction (including, without limitation, administrative proceedings) asserting a Derailment Claim, including, without limitation, a claim for indemnity, contribution, reimbursement, or by way of subrogation, but who are not Released Parties. Without limiting the foregoing, Non-Settling Defendants shall include Canadian Pacific Railway Company and any affiliates thereof.

**1.22** Other Released Parties means the Released Parties other than the Affiliated Released Parties.

**1.23** Rail World Parties means (a) Rail World Holdings, LLC; (b) Rail World, Inc.; (c) Rail World Locomotive Leasing LLC; (d) The San Luis Central R.R. Co.; (e) Pea Vine Corporation; (f) Montréal Maine & Atlantic Corp.; (g) LMS Acquisition Corp; (h) Earlston Associates, L.P.; and (i) each of the shareholders, directors, officers, members or partners of the foregoing (in such capacity only). For the avoidance of doubt, Rail World Parties also include Edward Burkhardt, solely in his capacity as director, officer and shareholder of the Rail World Parties.

**1.24** Released Parties means (a) the Debtor; (b) the Trustee and his agents, attorneys, accountants, financial advisors, restructuring consultants, and investment bankers; (c) MMA Canada’s attorneys; (d) the Monitor and its employees and attorneys; (e) the WD Trustee and its respective agents, attorneys, accountants and financial advisors; (f) the Estate Representative and the Disbursing Agent and their respective agents, attorneys, accountants and financial advisors; (g) Contributing Parties; and (h) any Persons or entities designated as receiving a release in any Settlement Agreements (and only to the extent of the release set forth in that Settlement Agreement) executed by any Contributing Party or Parties, the Trustee and MMA Canada. Released Parties shall include the persons or entities listed on Exhibit 2 to the Plan.

**1.25** Releases means all of the releases set forth in Section 10.5 of the Plan.

**1.26** Schedules means, collectively, the schedules of Assets and liabilities, schedules of executory contracts and unexpired leases, schedules of current income and expenditures and statements of financial affairs filed by the Debtor under section 521 of the Bankruptcy Code,

Bankruptcy Rule 1007 and the Official Bankruptcy Forms in the Chapter 11 Case, as may have been amended or supplemented from time to time in accordance with Bankruptcy Rule 1009 or orders of the Bankruptcy Court.

**1.27** Settlement Agreements means any settlement agreement entered into, among the Trustee, MMA Canada and one or more of the Contributing Parties on or before the Effective Date of the Plan.

**1.28** WD Trust means the trust organized under Delaware law and established under Article V of the Plan for the sole purpose of liquidating and distributing the WD Trust Assets to Holders of Allowed Derailment Wrongful Death Claims.

**1.29** WD Trust Agreement means the agreement between the Debtor, the Trustee, and the WD Trustee governing the WD Trust, dated as of the Effective Date, to be filed with the Plan Supplement, as same may be amended from time to time.

**1.30** WD Trust Assets means (a) the Initial WD Trust Assets, which the Estate Representative shall deliver, transfer or cause to be delivered or transferred, as applicable, to the WD Trust, (b) the Additional WD Trust Assets, which, following the Confirmation Date and as soon after receipt as is reasonably practicable, the Estate Representative shall deliver or cause to be delivered to the WD Trust, (c) any additional assets to be disbursed to the WD Trust from the Settlement Agreements in accordance with the Plan and the CCAA Plan, all of which shall constitute compensatory damages payable to the WD Trust Beneficiaries by order or judgment of a court of competent jurisdiction.

**1.31** WD Trust Beneficiaries means Holders of Allowed Derailment Wrongful Death Claims.

**1.32** WD Trust Distribution Procedures means the WD Trust Distribution Procedures as used and defined in the WD Trust Agreement, or as subsequently modified or amended and including, without limitation, Schedule A to the Plan.

**1.33** WD Trust Expenses means all costs, taxes, and expenses of, or imposed on, the WD Trust, including, but not limited to, WD Trustee compensation, employee compensation, insurance premiums, legal, accounting, and other professional fees and expenses, overhead, disbursements, and expenses relating to the implementation of the WD Trust Distribution Procedures, but excluding payments to Holders of Allowed Derailment Wrongful Death Claims or reimbursements of such payments.

**1.34** WD Trustee means the Person designated on or before the Confirmation Date in accordance with the Plan to govern and administer the WD Trust on and after the Effective Date.

**1.35** Wrongful Death Claim Resolution Procedures means the Wrongful Death Claim Resolution Procedures (including the points-based matrix) attached to the Plan as Schedule A.