

THIS IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF THE PLAN. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT.

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670  
Chapter 11

**DISCLOSURE STATEMENT FOR THE  
TRUSTEE'S PLAN OF LIQUIDATION DATED MARCH 31, 2015**

**BERNSTEIN, SHUR, SAWYER & NELSON, P.A.**

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Dated: March 31, 2015

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT (THE “DISCLOSURE STATEMENT”) IS INCLUDED HEREIN FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE TRUSTEE’S PLAN OF LIQUIDATION, DATED MARCH 31, 2015, AS MAY BE AMENDED, MODIFIED, OR SUPPLEMENTED FROM TIME TO TIME (THE “PLAN”) AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. NO SOLICITATION OF VOTES TO ACCEPT THE PLAN MAY BE MADE EXCEPT PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE.<sup>1</sup>

ALL CREDITORS ARE ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN *IN THEIR ENTIRETY* BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. ALL HOLDERS OF CLAIMS SHOULD CAREFULLY READ AND CONSIDER FULLY THE RISK FACTORS SET FORTH IN SECTION X OF THIS DISCLOSURE STATEMENT BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. A COPY OF THE PLAN HAS BEEN FILED SEPARATELY ON THE BANKRUPTCY COURT’S DOCKET. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN AND THE EXHIBITS ANNEXED TO THE PLAN AND THIS DISCLOSURE STATEMENT. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF. IN THE EVENT OF ANY CONFLICT BETWEEN THE DESCRIPTION SET FORTH IN THIS DISCLOSURE STATEMENT AND THE TERMS OF THE PLAN, THE TERMS OF THE PLAN WILL GOVERN.

**HOLDERS OF DERAILMENT CLAIMS SHALL BE SUBJECT TO RELEASES AND INJUNCTIONS PRECLUDING PURSUIT OF ANY CLAIM AGAINST CERTAIN PARTIES INCLUDING NON-DEBTOR THIRD 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 SHOULD READ SUCH SECTIONS OF THE PLAN WITH GREAT CARE AND CONSULT WITH THEIR COUNSEL REGARDING SUCH RELEASES AND INJUNCTIONS.**

THE DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE UNITED STATES BANKRUPTCY CODE AND RULE 3016(b) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND NOT NECESSARILY IN ACCORDANCE WITH OTHER NON-BANKRUPTCY LAW.

CERTAIN STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING WITH RESPECT TO PROJECTED CREDITOR RECOVERIES AND OTHER FORWARD LOOKING STATEMENTS, ARE BASED ON ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL BE REFLECTIVE OF ACTUAL OUTCOMES.

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<sup>1</sup> Capitalized terms not defined herein will have the meaning ascribed to them in the Plan.

AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT WILL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT WILL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING INVOLVING THE TRUSTEE, THE DEBTOR, OR ANY OTHER PARTY, NOR WILL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST THE DEBTOR IN THIS CHAPTER 11 CASE.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN, AND THE DELIVERY OF THIS DISCLOSURE STATEMENT WILL NOT CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION STATED SINCE THE DATE HEREOF. HOLDERS OF CLAIMS SHOULD CAREFULLY READ THIS DISCLOSURE STATEMENT IN ITS ENTIRETY, INCLUDING THE PLAN, PRIOR TO VOTING ON THE PLAN.

SUMMARIES OF CERTAIN PROVISIONS OF AGREEMENTS REFERRED TO IN THIS DISCLOSURE STATEMENT DO NOT PURPORT TO BE COMPLETE AND ARE SUBJECT TO, AND ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO, THE FULL TEXT OF THE APPLICABLE AGREEMENT, INCLUDING THE DEFINITIONS OF TERMS CONTAINED IN SUCH AGREEMENT.

**THE TRUSTEE URGES THE DEBTOR'S CREDITORS TO VOTE TO ACCEPT THE PLAN. THE TRUSTEE BELIEVES THAT THE PLAN PROVIDES THE HIGHEST AND BEST RECOVERY FOR THE DEBTOR'S CREDITORS, INCLUDING TO THE HOLDERS OF DERAILEMENT CLAIMS.**

**IRS CIRCULAR 230 NOTICE: TO ENSURE COMPLIANCE WITH IRS CIRCULAR 230, HOLDERS OF CLAIMS AND INTERESTS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF FEDERAL TAX ISSUES CONTAINED OR REFERRED TO IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY HOLDERS OF CLAIMS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON THEM UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING BY THE TRUSTEE OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) HOLDERS OF CLAIMS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.**

I.

**INTRODUCTION**

On August 7, 2013 (the “Petition Date”), Montreal Maine & Atlantic Railway, Ltd. (the “Debtor”) filed for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Maine (the “Bankruptcy Court”). On August 21, 2013, Robert J. Keach, Esq. (the “Trustee”) was appointed by the United States Trustee (the “U.S. Trustee”) as chapter 11 trustee pursuant to section 1163 of the Bankruptcy Code. Pursuant to section 1125 of the Bankruptcy Code, the Trustee submits this Disclosure Statement to all holders of Claims against the Debtor to provide information in connection with the solicitation of acceptances of the Plan, a copy of which has been filed separately on the Bankruptcy Court docket and is attached hereto as Exhibit A. **Please note that to the extent any inconsistencies exist between this Disclosure Statement and the Plan, the Plan will govern.**

**A. OVERVIEW OF THE DISCLOSURE STATEMENT**

**1. Purpose of the Disclosure Statement**

The purpose of this Disclosure Statement is to provide holders of Claims entitled to vote to accept or reject the Plan with adequate information about (a) the Debtor’s history and businesses, (b) the Debtor’s Chapter 11 Case, (c) the Plan, (d) the rights of holders of Claims and Equity Interests under the Plan, and (e) other information necessary to enable holders of Claims to make an informed judgment as to whether to vote to accept the Plan.

**2. Organization of the Disclosure Statement**

The Disclosure Statement is organized in the following manner:

- |                    |   |
|--------------------|---|
| <b>SECTION I</b>   | Provides an overview of this Disclosure Statement and sets forth deadlines, dates, voting procedures and other important information. |
| <b>SECTION II</b>  | Provides a brief summary of the Plan and the Plan’s treatment of Claims.  |
| <b>SECTION III</b> | Describes the background of the Debtor and the key events leading to the commencement of the Chapter 11 Case.                         |
| <b>SECTION IV</b>  | Provides a summary of the Chapter 11 Case.  |
| <b>SECTION V</b>   | Provides a summary of the CCAA Case.  |
| <b>SECTION VI</b>  | Provides a summary of the Settlement Process.   |
| <b>SECTION VII</b> | Provides a summary of the Plan.   |

- SECTION VIII** Provides a summary of the CCAA Plan.
- SECTION IX** Provides a summary of distributions to holders of Derailment Claims under the Plan and CCAA Plan.
- SECTION X** Sets forth certain risk factors that should be considered prior to voting on the Plan.
- SECTION XI** Contains information regarding certain United States federal tax consequences of the Plan.
- SECTION XII** Contains additional detailed information regarding Solicitation and Voting.
- SECTION XIII** Provides additional detailed information regarding confirmation of the Plan.
- SECTION XIV** Sets forth the Trustee's recommendation to accept the Plan.

**3. Exhibits and Schedules to the Disclosure Statement**

- EXHIBIT A** Plan of Liquidation
- EXHIBIT B** CCAA Plan
- SCHEDULE A** List of Released Parties
- SCHEDULE B** Wrongful Death Claim Resolution Procedures
- SCHEDULE C** Derailment Moral Damages and Personal Injury Claims Matrix
- SCHEDULE D** Derailment Property Damage Claims Distribution Mechanism

**B. THE TRUSTEE'S ADVISORS**

The Trustee's advisors are as follows: Bernstein, Shur, Sawyer & Nelson, P.A. as legal counsel; Development Specialists, Inc. as financial advisor; Covington & Burling, LLP as special regulatory counsel, Kugler Kandestin, LLP as Canadian counsel; Verrill Dana, LLP as special counsel; Shaw Fishman Glantz & Townbin, LLC as special Illinois counsel; and Baker Newman & Noyes, LLC as accountant. They can be contacted at:

<p><b>Bernstein, Shur, Sawyer &amp; Nelson, P.A.</b></p> <p>D. Sam Anderson, Esq.          Will A. Hueske, Esq.          100 Middle Street          P.O. Box 9729          Portland, Maine 04104-5029          (207) 774-1200</p>	<p><b>Development Specialists, Inc.</b></p> <p>Fred C. Caruso          Three First National Plaza          70 West Madison Street          Suite 2300          Chicago, Illinois 60602-4250          (312) 263-4141</p>
<p><b>Covington &amp; Burling, LLP</b></p> <p>Michael St. Patrick Baxter, Esq.          1201 Pennsylvania Avenue, NW          Washington, DC 20004-2401          (202) 662-5164</p>	<p><b>Kugler Kandestin, LLP</b></p> <p>Gerald F. Kandestin, Esq.          1 Place Ville-Marie          Suite 2101          Montreal, Quebec          Canada H3B 2C6          (514) 878-2861</p>
<p><b>Verrill Dana, LLP</b></p> <p>Roger A. Clement, Jr., Esq.          Nathaniel R. Hull, Esq.          One Portland Square          P.O. Box 586          Portland, ME 04112-0586          (207) 774-4000</p>	<p><b>Shaw, Fishman, Glantz &amp; Townbin LLC</b></p> <p>Brian L. Shaw, Esq.          321 N, Clark Street          Suite 800          Chicago, IL 60654          (312) 666-2833</p>
<p><b>Baker Newman &amp; Noyes, LLC</b></p> <p>Gregory Sanborn          280 Fore Street          Portland, ME 04101-4177          (207) 879-2100</p>	

**C. IMPORTANT DATES**

Please take note of the following important dates:

1. The date on which the record holders of claims shall be determined is \_\_\_\_\_, **2015** (the "Voting Record Date").
2. The deadline to file an objection or response to the Plan is \_\_\_\_\_, **2015 at 5:00 p.m. (prevailing Eastern Time)** (the "Objection Deadline").

3. The deadline to vote on the Plan is \_\_\_\_\_, 2015 at 5:00 p.m. (prevailing Eastern Time) (the “Voting Deadline”). For a ballot to be counted, the Trustee’s Counsel (as defined hereinafter) must receive the ballot by the Voting Deadline.
4. The hearing to consider confirmation of the Plan (the “Confirmation Hearing”) will be \_\_\_\_\_, 2015 at 10:00 a.m. (prevailing Eastern Time).

**D. VOTING PROCEDURES**

As set forth in more detail in Section E and Section XII below, certain holders of Claims are entitled to vote to accept or reject the Plan. For each holder of a Claim entitled to vote, the Trustee has enclosed with the Disclosure Statement, among other things, a ballot and voting instructions as to how to properly complete the ballot and submit a vote on the Plan. Holders of more than one Claim will receive individual ballots for each Claim. The individual ballots must be used to vote each individual Claim. For detailed voting instructions, please refer to the voting instructions below and otherwise enclosed with this Disclosure Statement and the ballot.

Ballots should be returned to:

**BERNSTEIN SHUR SAWYER & NELSON, P.A.**  
**Attn: Angela Stewart**  
**100 Middle Street**  
**P.O. Box 9729**  
**Portland, ME 04104**

If you are a holder of a Claim entitled to vote on the Plan and you did not receive a ballot, received a damaged ballot, or lost your ballot or if you have any questions concerning the Disclosure Statement, the Plan, or the procedures for voting on the Plan, please contact the Trustee’s Counsel at: (207) 228-7374.

**TO BE COUNTED, YOUR BALLOT MUST BE RECEIVED BY THE VOTING DEADLINE OF \_\_\_\_\_, 2015 AT 5:00 P.M. (PREVAILING EASTERN TIME). PLEASE FOLLOW THE INSTRUCTIONS ON THE ENCLOSED BALLOT TO SUBMIT YOUR VOTE.**

**E. HOLDERS OF CLAIMS ENTITLED TO VOTE**

Pursuant to the provisions of the Bankruptcy Code, only holders of claims in classes of claims that are impaired and that are not deemed to have rejected a proposed plan are entitled to vote to accept or reject such proposed plan. Classes of claims in which the holders of claims are unimpaired under a proposed plan are deemed to have accepted such proposed plan and are not entitled to vote to accept or reject the plan. Classes of claims in which the holders of claims receive no distribution under a proposed plan are deemed to have rejected such proposed plan

and are not entitled to vote to accept or reject the plan. Classes containing claims and as to which no votes are cast are deemed to accept the Plan. For a detailed description of the treatment of Claims under the Plan, see **Section IX** of this Disclosure Statement.

**1. Classes of Unimpaired Claims – Deemed to Accept**

Claims in Classes 1, 2, 3, 4, 5, 6, and 7 of the Plan are not impaired. As a result, holders of Claims in Classes 1, 2, 3, 4, 5, 6, and 7 are deemed to accept the Plan and are not entitled to vote to accept or reject the Plan.

**2. Classes of Claims Entitled to Vote**

Claims in Classes 8, 9, 10, 11, 12, and 13 of the Plan are impaired. As a result, holders of Claims in Classes 8, 9, 10, 11, 12, and 13 are entitled to vote to accept or reject the Plan, subject to the terms of an order of the Bankruptcy Court approving the Disclosure Statement (the “Disclosure Statement Order”).

**The Trustee recommends that holders of Claims in Classes 8, 9, 10, 11, 12, and 13 vote to accept the Plan.**

**3. Class of Impaired Subordinated Claims and Equity Interests – Deemed to Reject**

Holders of Subordinated Claims in Class 14 and Equity Interests in Class 15 are not expected to receive any distribution under the Plan and, therefore, are deemed to have rejected the Plan and are not entitled to vote to accept or reject the Plan.

**4. Confirmation Under Section 1129(b)**

If a Class of Claims entitled to vote on the Plan rejects the Plan, the Trustee reserves the right to amend the Plan or request confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code, or both. In addition, with respect to the Classes that are deemed to have rejected the Plan, the Trustee intends to request confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. Section 1129(b) of the Bankruptcy Code permits the confirmation of a chapter 11 plan notwithstanding the rejection of such plan by one or more impaired classes of claims or equity interests. Under section 1129(b), a plan may be confirmed by a bankruptcy court if it does not “discriminate unfairly” and is “fair and equitable” with respect to each rejecting class. For a more detailed description of the requirements for confirmation of a nonconsensual plan, see **Section XIII** of this Disclosure Statement.

**F. CONFIRMATION HEARING**

Pursuant to section 1128 of the Bankruptcy Code, the Confirmation Hearing will be held on \_\_\_\_\_, **2015 at 10:00 a.m. (prevailing Eastern Time)** before the Honorable Peter G. Cary at the United States Bankruptcy Court for the District of Maine, United States Bankruptcy Court, 202 Harlow Street Bangor, Maine 04401.



The Objection Deadline to the Plan is \_\_\_\_\_, **2015 at 5:00 p.m. (prevailing Eastern Time)**. Objections and responses, if any, must be served and filed as to be received on or before the Objection Deadline in the manner described in the Disclosure Statement Order and below in **Section XIII.B** of this Disclosure Statement. The Confirmation Hearing may be adjourned from time to time without further notice except for the announcement of the adjournment date made at the Confirmation Hearing or at any subsequent adjourned Confirmation Hearing.

## **II.**

### **OVERVIEW OF THE PLAN**

This section of the Disclosure Statement summarizes the Plan, a copy of which has been filed separately on the Bankruptcy Court docket. This summary is qualified in its entirety by reference to the Plan. Statements as to the rationale underlying the treatment of Claims under the Plan are not intended to, and will not, waive, compromise or limit any rights, claims or causes of action in the event the Plan is not confirmed.

**YOU SHOULD READ THE PLAN IN ITS ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.**

**HOLDERS OF DERAILMENT CLAIMS SHALL BE SUBJECT TO RELEASES AND INJUNCTIONS PRECLUDING PURSUIT OF ANY CLAIM AGAINST CERTAIN PARTIES, INCLUDING NON-DEBTOR THIRD 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 SHOULD READ SUCH SECTIONS OF THE PLAN WITH GREAT CARE AND CONSULT WITH COUNSEL REGARDING SUCH RELEASES AND INJUNCTIONS. IN PARTICULAR CREDITORS AND PARTIES IN INTEREST SHOULD REVIEW SECTIONS 10.5 AND 10.6 OF THE PLAN, WHICH PROVIDE FOR THIRD-PARTY RELEASES AND INJUNCTIONS THAT MAY AFFECT THE RIGHT TO PURSUE CLAIMS AGAINST NON-DEBTOR PARTIES AFTER THE PLAN IS CONFIRMED. CREDITORS AND PARTIES IN INTEREST SHOULD ALSO NOTE THAT THE PLAN IS COORDINATED WITH, AND DESIGNED TO FUNCTION IN TANDEM WITH, THE CCAA PLAN FILED ON BEHALF OF THE DEBTOR'S CANADIAN SUBSIDIARY IN ITS CCAA CASE IN CANADA (AND WHICH IS ATTACHED AS EXHIBIT B HERETO); THE CCAA PLAN SHOULD ALSO BE CAREFULLY CONSIDERED.**

In general, a chapter 11 plan (a) divides claims into separate classes, (b) specifies the property that each class is to receive under the plan, and (c) contains other provisions necessary to implement the plan. Under the Bankruptcy Code, "claims," rather than "creditors," are classified because creditors may hold claims in more than one class. Under section 1124 of the Bankruptcy Code, a class of claims is "impaired" under a plan unless the plan (x) leaves unaltered the legal, equitable, and contractual rights of each holder of a claim in such class, or (y) to the extent defaults exist, provides for the cure of existing defaults, reinstatement of the

maturity of claims in such class, compensates each holder of a claim in such class for any damages incurred as a result of reasonable reliance, and does not otherwise alter the legal equitable or contractual rights of each holder of a claim in such class.

However, the fact that the original legal, equitable, or contractual rights of a claim holder are altered during the bankruptcy proceeding is not sufficient to render a claim impaired. Courts recognize a distinction between impairment by a *plan* versus impairment by operation of the Bankruptcy Code itself, by certain contractual agreements (such as postpetition settlement agreements), by court orders, or by non-bankruptcy law. Once a debtor files its bankruptcy petition, a creditor is only entitled to its rights under the Bankruptcy Code, and its rights may be altered by settlements and post-petition rulings of the Bankruptcy Court. As such, impairment for purposes of section 1124 has to result from what the *plan* does, not what the Bankruptcy Code, contract, orders, or non-bankruptcy law does.

#### A. SUMMARY OF THE PLAN

Capitalized terms in this Disclosure Statement shall have the meanings set forth in Article I of the Plan. The Plan is a plan of liquidation of the Debtor's Assets, as well as a plan which creates, implements and distributes a substantial Settlement Fund (known as the Indemnity Fund under the CCAA Plan) for the benefit of all victims of the Derailment. The primary objective of the Plan is, in conjunction with the CCAA Plan, to compensate the victims of the Derailment from settlement funds created for their exclusive benefit, and also to distribute other undedicated assets to other holders of claims. The Plan is funded in part by contributions and settlement agreements with various parties with potential liability arising out of the Derailment, and including, without limitation, such parties' insurance companies. In exchange for their contributions, claims against such parties shall be released, and future claims enjoined, pursuant to the Plan and in accordance with the Settlement Agreements entered into by the parties and the Trustee (described in **Section VI** of the Disclosure Statement).

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 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 Claims Resolution Procedures. Based on the current size of the Settlement Fund, the Trustee estimates that, in total, the WD Trust will have more than (CDN)\$[77] million available for distribution to the Derailment Wrongful Death Claimants 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 interest in the WD Trust, all Claims 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.***

#### **Basic Distributions to Holders of Derailment Claims**

- a. Creditors having Allowed Derailment Wrongful Death Claims shall, in the aggregate, receive 24.1% of the Funds for Distribution and 53.3% of the

Reallocated Dividends in full and final satisfaction of their Allowed Claims as against the Released Parties. The WD Trust dedicated to the distribution to the Creditors having Derailment Wrongful Death Claims will distribute to individual holders of claims in accordance with the procedures set forth in Schedule B hereto. Based on the current size of the Settlement Fund, the Trustee estimates that (without deduction for any attorneys' fees payable from such amount), over (CDN) \$77 million will be distributed to the benefit of Allowed Derailment Wrongful Death Claims.

- b. Creditors having Allowed Derailment Moral Damages and Personal Injury Claims shall, in the aggregate, receive 10.4% of the Funds for Distribution and 26.7% of the Reallocated Dividends in full and final satisfaction of their Allowed Claims as against the Released Parties. This amount will be distributed by the Monitor in accordance with the Matrix set forth in Schedule C hereto. Based upon the current size of the Settlement Fund, the Trustee estimates that (without deduction for any attorneys' fees payable from such amount, over (CDN) \$34 million will be distributed to the benefit of Allowed Derailment Moral Damages and Personal Injury Claims.
- c. Creditors having Allowed Derailment Property Damage Claims shall, in the aggregate, receive 9.0% of the Funds for Distribution and 20% of the Reallocated Dividends in full and final satisfaction of their Allowed Claims as against the Released Parties. This amount will be distributed by the Monitor in accordance with the mechanism set forth in Schedule D hereto. Based upon the current size of the Settlement Fund, the Trustee estimates that (without deduction for only attorneys fees payable from such amount, over (CDN) \$28 million will be distributed to the benefit of Allowed Derailment Property Damage Claims.
- d. Creditors having Allowed Derailment Subrogated Insurance Claims shall, in the aggregate, receive 4.1% of the Funds for Distribution in full and final satisfaction of their Allowed Claims as against the Released Parties. This amount will be distributed by the Monitor on a pro rata basis amongst the Creditors having Subrogated Insurer Claims. Based upon the current size of the Settlement Fund, the Trustee estimates that over (CDN) \$11 million will be distributed to the benefit of such claims.
- e. Creditors having Allowed Derailment Government Claims shall, in the aggregate, receive 52.4% of the Funds for Distribution in full and final satisfaction of their Allowed Claims as against the Released Parties. This amount will be distributed by the Monitor on a pro rata basis amongst the Province, the City of Lac-Mégantic, the Federal Government of Canada (Economic Development of Canada, Quebec Regions) and the Commission de la Santé et de la Sécurité at Travail (CSST). Based on the current size of the Settlement Fund, the Trustee estimates that over (CDN) \$123 million will be distributed to the benefit of such Claims.

- f. Notwithstanding the foregoing, following the review of the Derailment Property Damage Claims pursuant to the Claims Resolution Order, if the aggregate value of the Derailment Property Damage Claims is reduced below (CDN) \$75 million, any difference between (CDN) \$75 million and the revised aggregate value of these Claims will be allowed and added, on a pro-rated basis, to the value of the other Derailment Claims.

### **Claims Other Than Derailment Claims**

The Estate Representative will distribute the Debtor's Cash and convert to Cash all other remaining property of the Debtor, including Causes of Action. The Plan provides for Cash or other distributions to certain holders of Allowed Claims, including Administrative Expense Claims, Secured Claims, Priority Tax Claims, Priority Claims, Subordinated Claims and General Unsecured Claims against the Debtor's Estate. The Plan also provides for certain exculpations and injunctions, and the wind-down and dissolution of the Debtor.

Specifically, the Plan contemplates that the Settlement Payments, Cash, and Residual Assets will be sufficient to (a) pay all Administrative Expense Claims and Priority Tax Claims that are Allowed on the Effective Date or that may become allowed after the Effective Date, as the distributions on account of such Claims are provided for in the Plan; (b) pay all costs of (i) administering the Plan and expenses incidental to the liquidation of property of the Debtor's Estate, including fees payable to the U.S. Trustee, and (ii) making distributions under the Plan; and (c) pay all other amounts required to be paid on or after the Effective Date under the Plan.

The amount of each distribution to a holder of an Allowed Claim will depend on which Class the Allowed Claim is in and the treatment afforded to that Class under the Plan. Holders of Claims that are impaired under the Plan, but will receive distributions, are entitled to vote on the Plan, as discussed further in Section XII hereof.

The Trustee estimates that Claims in Class 13 (General Unsecured Claims) aggregate to approximately \$22 million (taking into account claims which will be released under Settlement Agreements). Depending on the amount of Residual Assets, which is dependent on the outcome of litigation or settlements, holders of Allowed General Unsecured Claims will receive distributions on a range of approximately 3% to 71% of the Allowed amount of their Claims.

There will be no recovery for holders of Subordinated Claims unless and until all Allowed General Unsecured Claims are paid in full. At this time, the Trustee does not expect that holders of Subordinated Claims will receive any distributions under the Plan.

There will be no recovery for holders of Equity Interests unless and until all Allowed Claims are paid in full. At this time, the Trustee does not expect that holders of Equity Interests will receive any distributions under the Plan.

**THE TRUSTEE BELIEVES THAT THE PLAN IS IN THE BEST INTERESTS OF HOLDERS OF CLAIMS AND RECOMMENDS THAT ALL SUCH HOLDERS WHOSE VOTES ARE BEING SOLICITED VOTE TO ACCEPT THE PLAN.**

**B. SUMMARY OF IMPAIRMENT AND VOTING RIGHTS UNDER THE PLAN**

The following table briefly summarizes the classification and impairment of Claims and Equity Interests under the Plan, and the voting rights of each Class of Claims or Interests:

<b>Class</b>	<b>Designation</b>	<b>Impairment</b>	<b>Entitled to Vote</b>
<b>Class 1</b>	<b>Wheeling Secured Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 2</b>	<b>FRA Secured Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 3</b>	<b>MDOT Secured Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 4</b>	<b>Bangor Savings Bank Secured Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 5</b>	<b>State Income Tax Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 6</b>	<b>Municipal Tax Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 7</b>	<b>Other Priority Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 8</b>	<b>Derailment Moral Damages and Personal Injury Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 9</b>	<b>Derailment Property Damage Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 10</b>	<b>Derailment Government Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 11</b>	<b>Derailment Property Subrogated Insurance Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 12</b>	<b>Derailment Wrongful Death Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 13</b>	<b>General Unsecured Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 14</b>	<b>Subordinated Claims</b>	<b>Impaired</b>	<b>No (Deemed to Reject)</b>
<b>Class 15</b>	<b>Equity Interests</b>	<b>Impaired</b>	<b>No (Deemed to Reject)</b>

**III.**

**OVERVIEW OF THE DEBTOR’S BUSINESS OPERATIONS AND KEY EVENTS LEADING TO THE CHAPTER 11 FILING**

**A. BACKGROUND**

The Debtor is a Delaware corporation that, from January 2003 until May 2014, operated an integrated, international shortline freight railroad system (the “System”) with its wholly-owned Canadian subsidiary, Montreal Maine & Atlantic Canada Co. (“MMA Canada”). The Debtor was formed in 2003 to acquire the Assets of the Bangor & Aroostook Railroad Company and affiliated railways (the “BAR”) from the trustee of the BAR bankruptcy estate and affiliated estates. The asset purchase agreement was approved by the United States Bankruptcy Court for the District of Maine on October 8, 2002, and, on January 9, 2003, the Debtor and the trustee closed the purchase.

The Debtor and MMA Canada had fully-integrated business operations and accounting, with the Debtor collecting most of the generated revenue, including accounts receivable generated by MMA Canada, and transferring to MMA Canada the funds required to pay its expenses. The System originally included 510 route miles of track in Maine, Vermont and Quebec and was operated from the Debtor’s principal office in Hermon, Maine. The System was

a substantial component of the transportation systems of Northern Maine, Northern New England, Quebec, and New Brunswick. The System provided:

- a. The shortest rail transportation route between Maine and Montreal and a critical rail artery between Saint John, New Brunswick and Montreal;
- b. Strategic links to the Canadian Pacific Railroad, the Canadian National Railroad, and the Guilford Rail System and beyond to the North American rail system;
- c. Outlets for major producers of paper, lumber, wood and agricultural products in eastern and northern Maine; and
- d. In-bound transportation for chemicals and other products used by paper producers and consumers in Maine.

Prior to the Petition Date, the Debtor employed approximately 179 people and operated about 15 trains daily with a fleet of 26 locomotives.

## **B. PREPETITION CAPITAL STRUCTURE**

### **1. 2002 Acquisition of Railroad Assets**

On July 24, 2002, the Debtor and MMA Canada acquired the assets of several bankrupt American and Canadian railroad companies<sup>2</sup> through an Asset Purchase Agreement (the “2002 Purchase”). In connection with the 2002 Purchase, the following corporate entities became the owners and operators of what is commonly known as the Montreal, Maine & Atlantic Railway:

- a. Montreal, Maine & Atlantic Corporation (“MMA Corp.”), the holding company;
- b. Montreal, Maine & Atlantic Railway, Ltd. (the Debtor);
- c. LMS Acquisition Corporation (“LMS”);
- d. MM&A Rolling Stock Corporation (“MMA Rolling”); and
- e. Montreal, Maine & Atlantic Canada, Co. (MMA Canada)

(collectively, the “MMA Companies” or the “Companies”).

The 2002 Purchase was amended or modified multiple times, such that it was part of the same transaction as a January 8, 2003 Note and Warrant Purchase Agreement (the “2003 NWP”), involving investors in the MMA Companies (the “Investors”). By its terms, all of the

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<sup>2</sup> Specifically: (1) Bangor & Aroostook Railroad Company; (2) Canadian American Railroad Company; (3) Northern Vermont Railroad Company; (4) Newport and Richford Railroad Company; (5) Van Buren Bridge Company; (6) Quebec Southern Railway Company, Ltd.; and (7) Logistics Management Systems, Inc.

proceeds of the 2003 NWP were to be used to consummate the 2002 Purchase, and to provide working capital and general corporate capital for the MMA Companies.

Under the 2003 NWP, the Investors apparently infused the MMA Companies with a total of \$15,000,000, in exchange for 12% Senior Subordinated Notes due December 30, 2010 (the “12% Subordinated Notes” or the “Notes”) and warrants to purchase a total of 251,429 shares of MMA Corp.’s common stock (the “Warrants”). The total “issue price” of the Notes was \$12,895,649, and the total purchase price of the Warrants was \$2,104,351. The Warrants, if fully exercised, represented 8% of the fully diluted common stock of MMA Corp.

The 2003 NWP did not provide what, if any, collateral secured the 12% Subordinated Notes. Similarly, the 2003 NWP did not provide where the Investors’ security interests, in any, were in the priority scheme of the MMA Companies’ assets. In connection with the 2003 NWP, the MMA Companies and the Investors entered into a Deed of Hypothec in favor of Computershare Trust Company of Canada (“Computershare”) dated April 1, 2005 (the “Deed of Hypothec”), more than two years after the 2003 NWP. The 2003 NWP anticipated or acknowledged numerous other sources of debt and equity financing. Additionally, the 2003 NWP set various requirements for the MMA Companies’ operations, finances, and capital structure. These covenants and requirements applied to the MMA Companies as a “Consolidated Group,” defined as all of the MMA Companies that were signatories of the 2003 NWP “and their consolidated Subsidiaries.”

## **2. 2005 FRA Loan and Other Secured Indebtedness**

In 2005, the Debtor entered into a \$34 million loan facility with the Federal Railroad Administration (the “FRA”), pursuant to that certain Loan and Security Agreement dated March 24, 2005, (as such agreement may have been amended, modified, renewed or extended from time to time, the “FRA Credit Facility”). The FRA Credit Facility was issued pursuant to Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. § 821 *et seq.* The outstanding balance on the FRA Credit Facility, as of the Petition Date, was approximately \$28 million.

The Debtor’s obligations to the FRA under the FRA Credit Facility were secured by the following:

- a. A first-priority mortgage on substantially all of the Debtor’s real property located in Maine and Vermont, including the U.S. rail corridor consisting of approximately 220.73 miles of track located in Maine and an estimated 23.47 miles of track located in Vermont, as well as various land and buildings owned by the Debtor in fee simple (the “U.S. Real Property”);
- b. A first-priority security interest in all rail lines and related tracks and improvements located within the United States, including all rail ties, bridges, and related Assets (the “U.S. Personal Property”);
- c. All of the Debtor’s real property located in Quebec, Canada;

- d. All of the Debtor's shares in MMA Canada;
- e. All of the real property owned by MMA Canada and located in Quebec, Canada; and
- f. All of MMA Canada's personal property (collectively, the "FRA Collateral").

All mortgages and security agreements securing the FRA Credit Facility were timely and properly perfected by recordings in the United States and Canada.

The Debtor also obtained financing under \$6 million line of credit with Wheeling & Lake Erie Railway Company ("Wheeling") pursuant to that certain Line of Credit and Security Agreement dated as of June 15, 2009, as such agreement may have been amended, modified, renewed or extended from time to time (the "Wheeling LOC"), which, as of the Petition Date, was fully drawn. To secure their obligations under the Wheeling LOC, the Debtor, MMA Canada, and other parties entered into a security agreement with Wheeling dated June 15, 2009, granting a security interest in certain collateral of the Debtor primarily accounts receivable and certain inventory. Wheeling filed a UCC-1 Financing Statement in Delaware to perfect a security interest in the Debtor's accounts receivable and inventory, along with the proceeds thereof. The collateral securing the Wheeling LOC has been the subject of dispute, as discussed below.

Additionally, the Maine Department of Transportation ("MDOT") had a security interest, subordinate to the FRA's lien, in all rail, related cross ties, and related track material incorporated or installed in, attached to, or located at or on certain rail corridors owned by the Debtor and located in Maine, the purchase of which was funded by funds advanced under certain Rail Funding Agreements entered into with the Debtor. The outstanding balance under the Rail Funding Agreements as of the Petition Date was approximately \$1,243,200.

Moreover, on or about April 21, 2009, the Debtor borrowed \$750,000 from MDOT for local freight assistance (the "LRFA Loan") to provide for infrastructure improvements to its branch lines.

Finally, prior to the Petition Date, LMS, an affiliate of the Debtor, entered into a promissory note with Bangor Savings Bank ("BSB") in the original principal amount of \$4,000,000.00 (the "LMS Loan"). In connection therewith, on or about November 20, 2009, the Debtor and BSB entered into an unconditional guaranty of payment and performance (the "LMS Guarantee") whereby the Debtor guaranteed certain obligations of LMS under the BSS note. The Debtor's obligations under the LMS Guarantee were secured by certain Assets of the Debtor, including twenty-five locomotives.

### **3. Amendments to NWP**

Between September 22, 2003, and July 24, 2009, the parties to the NWP amended it six times (the "NWP Amendments"). The NWP Amendments were precipitated by the Debtor's



financial distress and inability to service the Notes and comply with the NWP's covenants, despite the progressive relaxing of the covenants by each NWP Amendment. Each of the NWP Amendments eased the MMA Companies' covenants under the NWP regarding Minimum EBITDA, Minimum Interest Coverage, Minimum Fixed Charge Coverage Ratio, Senior Leverage Ratio, and Total Leverage Ratio.

At the time of each of the NWP Amendments, the Debtor had defaulted on the Notes, and was in default of multiple financial covenants in the NWP, including Minimum EBITDA, Minimum Interest Coverage, Minimum Fixed Charge Coverage Ratio, Senior Leverage Ratio, and Total Leverage Ratio. Additionally, the sixth NWP Amendment indicated that the Debtor was in Default under both the NWP and the FRA Loan at the same time, in spite of amendments to both loans.

#### **4. 2011 Transactions**

In late 2010 and early 2011, in light of the Debtor's financial and liquidity issues, the MMA Companies entered into a series of transactions (the "2011 Transactions"), wherein the Companies sold certain rail assets to the State of Maine ("Maine") and eventually used the proceeds of that sale, in large part, to pay off the promissory notes issued in conjunction with the 2003 NWP, but left the Warrants unaffected.

On December 29, 2010, the FRA and the Debtor entered into a "Loan Workout Agreement and Amendment No. 2 to Financing Agreement, Mortgage, and Security Agreement" (the "FRA Workout"). According to the terms of the FRA Workout, the FRA Loan had an overdue principal balance of \$906,579.38, as well as accrued and unpaid interest of \$1,466,355.58, as of December 29, 2010. The FRA Workout anticipated the MMA Companies' sale of rail assets to Maine, stating that "a condition precedent to a sale of the Lines [to] the State is the release of [FRA's] interest in the Lines pursuant to the Mortgage and Security Agreement . . . so that [the Debtor] is able to convey the Lines to the State free and clear of such liens and encumbrances." The FRA waived numerous payment and covenant defaults in the FRA Workout.

In exchange for releasing its interest in approximately 233 miles of the MMA Companies' rail lines, the FRA was to receive (and eventually did receive) \$2,372,934.96 from the sale of the rail lines to Maine. That amount represented the overdue principal and accrued interest on the FRA Loan. The FRA also received additional security for the FRA Loan, consisting of:

- a. Security interests in the Debtor's and MMA Canada's assets;
- b. A guarantee by the Debtor of MMA Canada's debts to the FRA;
- c. A stock pledge of MMA Canada stock;
- d. A guarantee by the Debtor of MMA Corp.'s debts to the FRA; and

- e. A guarantee by the Debtor of LMS's debts to the FRA

(the "Additional Security"). The FRA Workout provided for the following priority of payments from the proceeds of the sale of assets to Maine:

- a. First, \$2,372,934.96 to the FRA;
- b. Second, \$13,862,165.29 (plus a per diem of \$4,581.36) to the Investors;
- c. Third, \$1,082,685.79 to the Debtor; and
- d. Fourth, \$2,708,912.20, the balance of the proceeds, to Wheeling.

According to the FRA workout, the \$13,862,165.29 (plus a per diem of \$4,581.36) payment to the Investors represented full payment of all of the MMA Companies' obligations to the Investors, including principal and interest, on account of the 12% Subordinated Notes, as amended and reissued. The payment to the Debtor under the FRA Workout was for the Debtor's accounts payable due and owing. The payment to Wheeling under the FRA Workout was to reduce the outstanding balance of the Debtor's line of credit from Wheeling.

On January 4, 2011, the Debtor entered into a purchase and sale, or P&S, agreement with Maine (the "P&S"), under which the Debtor agreed to sell Maine the following rail lines (with limited exceptions):

- a. The Madawaska Subdivision;
- b. The Presque Isle Subdivision;
- c. The Fort Fairfield Subdivision;
- d. The Limestone Subdivision; and
- e. The Houlton Subdivision

(collectively the "Lines"). The purchase price of the lines in the P&S was \$21,100,000. The parties to the P&S applied \$1,000,000 of the purchase price as a credit to Maine's claim against the Debtor under certain Rail Funding Agreements the parties entered into between December 23, 2002 and June 8, 2009. The remaining \$20,100,000 of the purchase price in the P&S was due and payable at closing.

The P&S provided for the continued operation of rail service along the Lines by way of cooperation and agreements between the Debtor and Maine. The agreements between the Debtor and Maine were memorialized in an "Interim Service Agreement" dated January 4, 2011, in which the Debtor agreed to continue to provide freight rail service along the Lines.

On January 4, 2011, the MMA Companies, with the exception of MMA Rolling, entered

into a Termination and Release (the “2011 Termination”) with the Investors and Rail World, Inc. (“Rail World”), the global railroad holding company. Under the 2011 Termination, the Investors agreed that their rights under the Notes would terminate upon payment in full by the MMA Companies, and they agreed to terminate any security interests they held in connection with the Notes upon payment in full. The Investors’ release of their security interests was necessary before the Additional Security could be granted to the FRA and the sale of the Lines to Maine could be completed. Given these circumstances, and because they were left with no other choice, the MMA Companies paid the Notes in full.

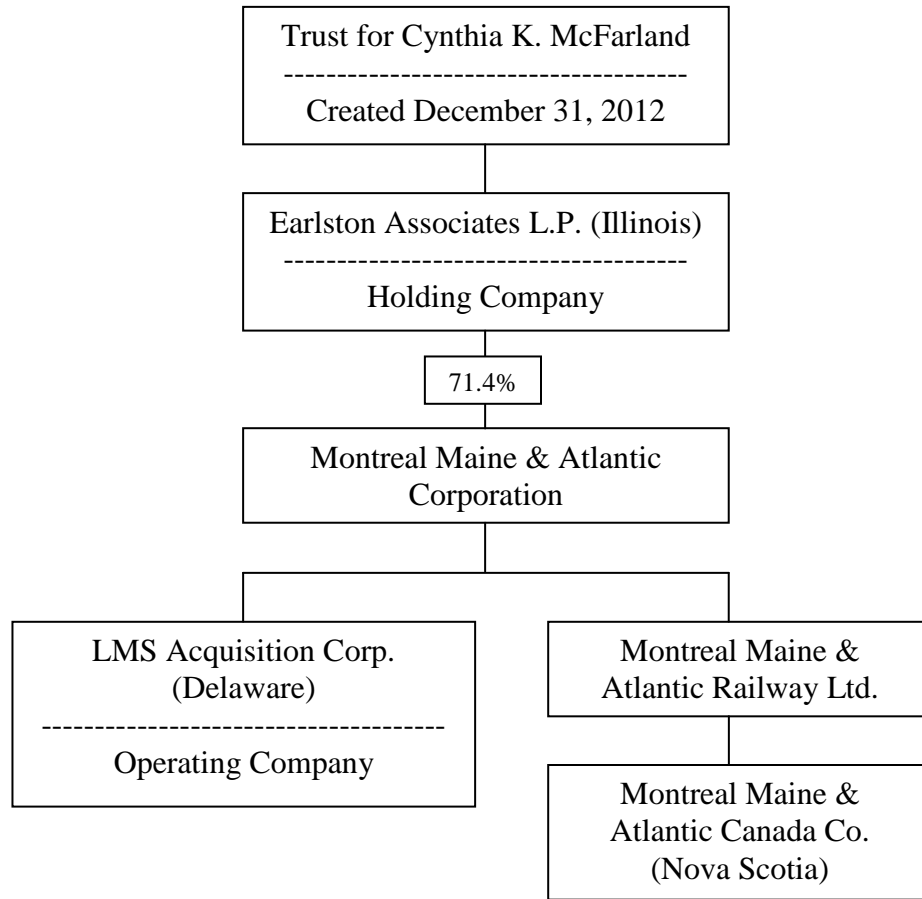
By its terms, the 2011 Termination did not affect the Investors’ rights with respect to the Warrants. The outstanding obligations in the 2011 Termination are, in all instances, higher than the original face amount of the Notes listed in the 2003 NWP. Schedule A to the 2011 Termination provides the following payoff amounts, which equal the amounts payable to, and eventually paid to, the Investors under the FRA Workout:

- a. Caisse de Depot: \$9,994,865.24;
- b. Eureka I, LP: \$1,589,090.80;
- c. Athena Family Partners: \$1,808,222.40;
- d. MP Global Enterprises & Associates, LLC: \$387,476.13;
- e. Jerry R. Davis: \$45,839.98; and
- f. Frank K. Turner: \$36,670.74.

The Trustee intends to file a complaint initiating an action, including, without limitation, avoidance action against certain parties in connection with the 2003 NWP and 2011 Transactions, seeking to recover payments made by the Debtor to holders of the Notes and Warrants. The Trustee continues to investigate these causes of action and preserves all rights with respect to the same.

**5. Corporate Organization**

As of December 31, 2012, the Debtor’s corporate structure was as follows:



**6. Unsecured Indebtedness**

As of the Petition Date, the Debtor’s estimated unsecured debt for ordinary course trade payables, excluding unliquidated, contingent, or disputed claims, and excluding all claims arising out of the Derailment totaled approximately \$3.5 million.

**C. KEY EVENTS LEADING UP TO THE CHAPTER 11 CASE**

**1. Increased Demand for Rail Transportation**

In the two years leading up to the commencement of the Chapter 11 Case, the Debtor had benefited from the dramatic increased use of trains to move oil from the central and western regions of the United States, specifically, the Bakken oil fields in North Dakota, to refineries in the east. United States and Canadian oil drillers were producing oil faster than new pipelines could be built, and trains were needed to transport crude oil to refiners. Prior to the Derailment,

the Debtor had been hauling about 500,000 barrels of oil monthly through Quebec and Maine. Due to this business, the Debtor enjoyed a significant increase in gross revenue, and, for a short time, positive net operating income, although needed capital expenditures remained deferred and unfunded.

## **2. The Derailment**

On July 6, 2013, an unmanned eastbound MMA train with 72 carloads of crude oil and 5 locomotive units, derailed in Lac-Mégantic, Quebec (the “Derailment”). The transportation of the crude oil had begun in New Town, North Dakota, by the Canadian Pacific Railway (“CP”) and MMA Canada later accepted the rail cars from CP at Saint-Jean, Quebec. The crude oil was to be transported via the Saint-Jean-Lac-Mégantic line through Maine to its ultimate destination at the Irving Oil refinery in Saint John, New Brunswick. The shipper was World Fuel Services, Inc. and/or its affiliates.

The Derailment set off several massive explosions, destroyed part of downtown Lac-Mégantic, and is presumed to have killed 47 people.<sup>3</sup> A large quantity of oil was released into the environment, necessitating an extensive cleanup effort. As a result of the Derailment and the related injuries, deaths, and property damage, lawsuits were filed against the Debtor both in the United States and Canada.

After the Derailment, Canadian train activity was temporarily halted between Maine and Quebec on the MMA Canada line, resulting in the Debtor losing much of its freight business. These effects of the Derailment, and others, caused the Debtor’s aggregate gross revenues to fall drastically to approximately \$1 million per month, or about one-third of the levels achieved in the preceding year.

## **3. Dispute over Insurance Coverage**

On or about April 19, 2013, Travelers Property Casualty Company of America (“Travelers”) issued a commercial property insurance policy under which the Debtor and MMA Canada are insured for a total coverage in the amount of \$7.5 million (the “Travelers Policy”). LMS Acquisition Corporation, MMA Corp. and Rail World, Inc. are also named as insureds under the Travelers Policy.

Although the Travelers Policy provides coverage for certain types of property damage, the Debtor contended that the Travelers Policy also provided coverage for loss of business income (the “Business Interruption Coverage”) and for “extra expense” arising out of a disruption to business (the “Extra Expense Coverage”).

After the Derailment, the Debtor filed a claim under the Travelers Policy for damages to locomotives, railcars, railroad track, and roadbed. Additionally, the Debtor asserted claims under the Business Interruption Coverage and the Extra Expense Coverage premised on the loss of revenue arising out of the Derailment and the extra expenses being incurred by the Debtor as a

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<sup>3</sup> A forty-eighth death resulted when a volunteer fireman who had worked in the post-Derailment recovery effort committed suicide. Accordingly, the total of 48 decedents’ estates may hold claims, *inter alia*, for wrongful death.

result of the accident. The Debtor claimed that Travelers should advance the entire Travelers Policy limit of \$7.5 million premised on asserted claims.

Travelers responded to the Debtor's claims for coverage by denying that coverage existed under the Travelers Policy for the type of claims asserted by the Debtor. First, in relation to Business Interruption Coverage and Extra Expense Coverage, Travelers argued that there is simply no coverage because the claimed loss of business income did not arise out of damage to "Covered Property," as such term is defined in the Travelers Policy. Second, in relation to the Business Interruption Coverage, Travelers argued that to the extent coverage exists, it was provided by mistake because the parties intended to include only Extra Expense Coverage and did not intend to include Business Interruption Coverage in the Travelers Policy, and the inclusion of such coverage in the Travelers Policy occurred in error. Travelers did agree to pay \$250,000 under the Travelers Policy for expenses incurred to repair or replace certain damaged railroad trackage and roadbed because, Travelers contended, these expenses were covered under an endorsement, and did not constitute "Covered Property" under the Travelers Policy.

#### **4. Other Claims**

Beginning on July 22, 2013 and continuing through August 14, 2013, the representatives and administrators of the estates of some of the Derailment victims commenced civil actions against the Debtor and other co-defendants in the Circuit Court of Cook County, Illinois (the "Circuit Court"). In total, twenty civil actions were commenced in the Circuit Court (the "PITWD Cases").

On July 15, 2013, certain parties seeking to represent Derailment victims in Quebec filed a *Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative* in the Quebec Superior Court for the Judicial District of Mégantic (the "Quebec Class Action"). The petitioners sought to represent a class consisting of all persons or entities, as well as their heirs and successors, suffering a loss of any kind related to the Derailment. The Debtor and MMAC were putative defendants, among others, in the Quebec Class Action.

In addition to the PITWD Cases and the Quebec Class Action, several other claims for environmental damage, property damage, and business interruption have been alleged, including claims by the Province of Quebec, the village of Lac-Mégantic, and the federal government of Canada. The total amount of all of these claims was estimated to be in the hundreds of millions of dollars.

Following the Derailment, the Debtor and MMA Canada were in default with their secured lenders and were incurring significant operating losses. Given the Debtor's reduced cash flow, continued operating losses, increased liabilities, litigation costs, and denial of insurance coverage, a bankruptcy filing was the only option to preserve the value of the System.

## IV.

### THE CHAPTER 11 CASE

#### A. COMMENCEMENT OF CASES IN THE UNITED STATES AND CANADA

On the Petition Date, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. On August 8, 2013, MMA Canada also commenced proceedings (the “CCAA Case”) in the Superior Court of Canada pursuant to the *Companies’ Creditors Arrangement Act* (“CCAA”). Richter Advisory Group Inc. (“Richter”) was appointed as the monitor in the CCAA Case.

After the Petition Date, the Debtor continued to manage and operate its business and property as a debtor-in-possession under §§ 1107 and 1008 of the Bankruptcy Code, and pursuant to the *Debtor's Chapter 11 First Day Motion for Order Authorizing Continued Business Operations Pending Appointment of a Chapter 11 Railroad Trustee* [D.E. 14] and the *Order Authorizing the Debtor's Continued Business Operations Pending Appointment of a Chapter 11 Railroad Trustee* [D.E. 34].

On August 21, 2013 (the “Appointment Date”), the U.S. Trustee for Region 1 appointed the Trustee, and the Trustee subsequently has operated the Debtor’s railroad, which included overseeing the restoration, and eventual operation, of MMA Canada as well.

#### B. FIRST DAY RELIEF

##### 1. Employee Wages and Benefits

On the Petition Date, the Debtor filed the *Debtor's Chapter 11 First Day Motion To Honor Employee Benefits and Payment of Prepetition Employee Obligations* [D.E. 6] seeking authority to pay certain pre-petition employee obligations, including pre-prepetition employee benefits and amounts advanced by employees on Debtor's behalf, and to continue to honor programs under which employee obligations arise in the ordinary course of the Debtor's business. On August 9, 2013, the Court entered the *Order Authorizing Payment of Prepetition Employee Obligations and Continuation of Prepetition Employee Benefits* [D.E. 41].

##### 2. Cash Management

On the Petition Date, the Debtor filed the *Debtor's Chapter 11 First Day Motion For Authority to Maintain Existing Bank Accounts and Business Forms* [D.E. 7] seeking authority to continue to use (a) the Debtor’s prepetition bank accounts with TD Bank, Bank of America, and Bangor Savings Bank; (b) MMA Canada’s prepetition bank accounts with Canadian Imperial Bank of Commerce; and (c) all correspondence and business forms, including, but not limited to, letterhead, purchase orders, and invoices.

On August 9, 2013, the Court entered the *Interim Order Authorizing the Continued Use of Pre-Petition Bank Accounts and Business Forms* [D.E. 42]. On August 26, 2013, the Court

entered the *Second Interim Order Authorizing the Continued Use of Pre-Petition Bank Accounts and Business Forms* [D.E. 97]. On September 4, 2013, the Court entered the *Order Authorizing the Continued Use of Pre-Petition Bank Accounts and Business Forms* [D.E. 161].

### **3. Utilities**

On the Petition Date, the Debtor filed the *Debtor's Chapter 11 First Day Motion For Utility Relief Under Section 355 motion to (I) Prohibit Utilities from Altering, Refusing or Discontinuing Services, and (II) Establish Procedures for Determining Requests for Additional Adequate Assurance* [D.E. 9] to prevent the termination of electric, telephone, sewer, water, cable, and oil utility services.

On August 26, 2013, the Court entered the *Order Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Services, and Establishing Procedures for Determining Requests for Additional Adequate Assurance* [D.E. 99]. On December 17, 2013, the Court entered the *Order (I) Prohibiting Utility Companies from Altering, Refusing or Discontinuing Services, (II) Establishing Procedures for Determining Requests for Additional Adequate Assurance, and (III) Authorizing, Nunc Pro Tunc, Payments Made to Utility Companies to Avoid Shut-off* [D.E. 512].

### **4. Post-Petition Financing and Cash Collateral**

On the Petition Date, the Debtor filed the *Debtor's Chapter 11 First Day Motion for Order Pursuant to 11 U.S.C. Sections 361, 362, and 363: (I) Authorizing Debtor to Use of Cash Collateral on Interim Basis; and (ii) Scheduling a Hearing to Consider the Use of Cash Collateral on a Final Basis* [D.E. 5] seeking (a) to use cash to operate in an orderly fashion in order to preserve going concern value, serve its customer, and maximize the Assets available to creditors; and (b) to grant Wheeling a replacement lien in cash collateral arising post-petition to the same extent and in the same priority as such liens existed on the Petition Date, limited in amount to the amount of cash collateral that existed on the Petition Date and actually utilized by the Debtor on or after the Petition Date. Upon appointment, the Trustee engaged in negotiations regarding the use of cash collateral, primarily working to provide adequate protection to Wheeling as a senior lienholder on the Debtor's cash collateral.

The Court entered interim orders extending the Debtor's authority to use cash collateral [D.E. 51; 98; 173; 255; 374]. On October 11, 2013, the Court entered the *Sixth Interim Order Authorizing Debtor to Use Cash Collateral and Granting Adequate Protection* [D.E. 376], extending the Trustee's authority to use cash collateral through the earlier of January 31, 2014, or the closing of the Camden Financing (as defined below). No further orders were entered thereafter.

As discussed below, a dispute arose between the Trustee and Wheeling, whereupon Wheeling filed a motion to enforce the cash collateral orders.



## **5. Retention of Professionals**

On August 21, 2013, the Trustee filed the *Application to Employ Bernstein, Shur, Sawyer & Nelson, P.A. as Attorneys for the Trustee* [D.E. 74]. On August 28, 2013, the Court entered the *Order Granting Application to Employ Bernstein, Shur, Sawyer & Nelson, P.A. as Attorneys for the Trustee* [D.E. 107].

On August 26, 2013, the Trustee filed the *Application to Employ Development Specialists, Inc. as Financial Advisor* [D.E. 100]. On August 29, 2013, the Court entered the *Order Granting Application to Employ Development Specialists, Inc. as Financial Advisor for the Trustee* [D.E. 119].

On August 27, 2013, the Trustee filed the *Application to Employ Covington & Burling, LLP as Special Regulatory Counsel* [D.E. 102]. On August 29, 2013, the Court entered the *Order Granting Application to Employ Covington & Burling, LLP as Special Counsel for the Trustee* [D.E. 121].

On August 27, 2013, the Trustee filed the *Application to Employ Kugler Kandestin, LLP as Special Counsel* [D.E. 103]. On August 29, 2013, the Court entered the *Order Granting Application to Employ Kugler Kandestin, LLP as Special Counsel for the Trustee* [D.E. 122].

On September 9, 2013, the Debtor filed the *Debtor's Application to Employ Verrill Dana, LLP as Counsel* [D.E. 194]. On September 10, 2013, the Court entered the *Order Granting Application to Employ Verrill Dana LLP as Counsel for Debtor* [D.E. 195].

On September 27, 2013, the Trustee filed the *Application to Employ Shaw Fishman Glantz & Towbin LLC as Special Counsel to the Trustee* [D.E. 282]. On November 13, 2013, the Court entered the *Order Granting Application to Employ Shaw Fishman Glantz & Towbin LLC as Attorney for the U.S. Trustee in the United States District Court for the District of Northern Illinois* [D.E. 443].

On October 4, 2013, the Trustee filed the *Application to Employ Gordian Group, LLC as Investment Banker* [D.E. 342]. On October 7, 2013, the Court entered the *Order Granting Application to Employ Gordian Group, LLC as Investment Banker* [D.E. 351].

On December 4, 2013, the Trustee filed the *Application to Employ Baker Newman & Noyes, LLC as Accountant for the Trustee Nunc Pro Tunc to August 7, 2013* [D.E. 466]. On January 9, 2014, the Court entered the *Order Granting Application to Employ Baker Newman & Noyes, LLC as Accountant for the Trustee* [D.E. 564].

## **C. KEY EVENTS DURING THE CHAPTER 11 CASE**

### **1. Operations**

From the Appointment Date through the closing of the Sale (as defined herein), the Trustee operated the Debtor's railroad, which included overseeing the restoration, and eventual

operation, of the Canadian subsidiary. In addition to the day-to-day operations, the Trustee was involved in sensitive negotiations with the city of Lac-Mégantic for the restoration of service to Tafisa and other businesses within the city. Those negotiations resulted in the restoration of service to those businesses, and also were a precursor for negotiations regarding the restoration of East-West service through the city by the purchasing the Debtor's and MMAC's assets.

## **2. Victims' and Creditors' Committees**

Early in the case, competing motions were filed to form an official committee of derailment victims. On August 22, 2013, the "Estates of Marie Alliance, et al.," (the "Unofficial Committee") filed the *Motion to Appoint Creditors' Committee for Wrongful Death Claimants* [D.E. 76]. On August 30, 2013, the "Informal Committee of Quebec Claimants" filed the *Motion to Appoint Creditors' Committee* [D.E. 127]. On September 11, 2013, a group of business owners filed responses to these motions seeking to be included in and represented by any victims committee ultimately formed [D.E. 208; 209].

In a typical Chapter 11 Case the appointment of a committee of creditors by the United States Trustee is uncontroversial and is governed by section 1102(a)(1) of the Bankruptcy Code; however, in a railroad reorganization, section 1102(a)(1) does not apply. *See* 11 U.S.C. §1165. The victims seeking the formation of a committee based their request on section 1102(a)(2), which allows the Court to order the appointment by the United States Trustee of "additional committees of creditors or of equity security holders . . . to assure adequate representation . . ." *See* 11 U.S.C. § 1102(a)(2).

The Trustee originally opposed the formation of such a committee, but subsequently worked with the United States Trustee and then-proposed counsel to the committee, Paul Hastings, regarding the terms and conditions under which such a committee could be formed. On October 18, 2013, the Court authorized the appointment of an official committee of derailment victims (the "Official Committee") with the Trustee's support and over the objection of the Unofficial Committee and entered the *Order Granting Motion to Appoint Victims' Committee* [D.E. 391]. On January 8, 2014, the Official Committee filed the *Application to Employ Paul Hastings LLP as Counsel to Official Committee of Victims* [D.E. 559]. On February 11, 2014, the Court entered the *Order Granting Application to Employ Paul Hastings LLP as Counsel to Official Committee of Victims* [D.E. 647]. Since that time the Trustee has worked with the Official Committee on a number of critical matters in the case.

## **3. Cross-Border Insolvency Proceedings**

Shortly after the Appointment Date, the Trustee negotiated a cross-border protocol to be implemented in both the Debtor's case and the CCAA Case. On August 29, 2013, the Trustee met with various interested parties to discuss coordinating efforts with respect to issues common to both the Debtor's case and the MMA Canada case, including issues regarding the operation and funding of the Debtor and MMA Canada, as well as a potential sale process and the development of a coordinated claims process. These talks led to the development of the cross-border protocol (the "Cross-Border Protocol"), which enhanced the coordination and harmonization of proceedings in the two cases.

On August 30, 2013, the Trustee filed the *Motion for Order Adopting Cross-Border Insolvency Protocol* [D.E. 126] and on September 4, 2013, the Court entered the *Order Adopting Cross-Border Insolvency Protocol* [D.E. 168]. The court in the CCAA Case also entered an order adopting the Cross-Border Protocol.

The Trustee also requested and participated in a cross-border settlement conference with various creditor constituencies, at a status and settlement conference presided over by both courts, a historic first in cross-border cases.

#### **4. Schedules and Bar Date**

On September 11, 2013, the Trustee filed the Debtor’s schedules and statement of financial affairs (the “Schedules”) [D.E. 216].

The Trustee engaged in extensive negotiations for the development of a cross-border bar date and claims procedure with MMA Canada, the Monitor, and other interested parties. This coordination was critical to avoid creditor confusion, and to streamline proceedings in the two cases aiding in the efficient and timely resolution and payment of claims to the benefit of all creditors. On December 13, 2013, the Trustee filed the *Motion of Chapter 11 Trustee for Entry of an Order Pursuant to 11 U.S.C. Sections 105(a) and 502(b)(9), Fed. R. Bankr. P. 3002 and 3003(c)(3), and D. Me. LBR 3003-1 Establishing Deadline for Filing Proofs of Claim and Procedures Relating Thereto and Approving Form and Manner of Notice Thereof* [D.E. 496].

On March 20, 2014, the Court entered the *Order Pursuant to 11 U.S.C. Sections 105(a) and 502(b)(9), Fed. R. Bankr. P. 3002 and 3003(c)(3), and D. Me. LBR 3003-1 Establishing Deadline for Filing Proofs of Claim and Procedures Relating Thereto and Approving Form and Manner of Notice Thereof* [D.E. 783], and a similar order was entered in the CCAA Case (see below).

On June 13, 2014, the Court entered the *Order Amending the Deadline for Filing Wrongful Death Proofs of Claim* [D.E. 974], extending the deadline to file proofs of claim for wrongful death until July 14, 2014.

#### **5. Trustee’s Monthly Operating and Other Reports**

The Trustee filed various status reports during the Chapter 11 Case, as follows:

<b>Report</b>	<b>Date</b>	<b>Docket Entry</b>
<i>Chapter 11 Trustee’s First Report Pursuant to Local Rule 3016-3</i>	September 20, 2013	D.E. 270
<i>Monthly Operating Report for Filing Period August 7-31, 2103</i>	September 26, 2013	D.E. 280
<i>Chapter 11 Trustee’s Report on CCAA Proceedings</i>	October 7, 2013	D.E. 352
<i>Chapter 11 Trustee’s Second Report on CCAA Proceedings</i>	October 10, 2013	D.E. 372

<b>Report</b>	<b>Date</b>	<b>Docket Entry</b>
<i>Monthly Operating Report for Filing Period September 1-30, 2013</i>	October 24, 2013	D.E. 399
<i>Monthly Operating Report for Filing Period 10/1/13 thru 10/31/13</i>	November 11, 2013	D.E. 457
<i>Chapter 11 Trustee's Status Report on Derailment Litigation</i>	November 8, 2013	D.E. 438
<i>Chapter 11 Trustee's Third Report on CCAA Proceedings</i>	December 17, 2013	D.E. 513
<i>Chapter 11 Trustee's Fourth Report on CCAA Proceedings</i>	December 23, 2013	D.E. 544
<i>Monthly Operating Report for Filing Period 11/1/13 Thru 11/30/13</i>	December 30, 2013	D.E. 552
<i>Monthly Operating Report for Filing Period December 1, 2013 through December 31, 2013</i>	February 6, 2014	D.E. 617
<i>Chapter 11 Trustee's Fifth Report on CCAA Proceedings</i>	February 21, 2014	D.E. 675
<i>Chapter 11 Trustee's Sixth Report on CCAA Proceedings</i>	February 21, 2014	D.E. 678
<i>Monthly Operating Report for Filing Period 01/01/14 through 01/31/14</i>	March 5, 2014	D.E. 703
<i>Monthly Operating Report for Filing Period 02/01/14 through 02/28/14</i>	March 24, 2014	D.E. 787
<i>Monthly Operating Report for Filing Period 03/01/2014 through 03/31/2014</i>	April 28, 2014	D.E. 839
<i>Monthly Operating Report for Filing Period 4/1/2014 through 4/30/2014</i>	May 30, 2014	D.E. 924
<i>Chapter 11 Trustee's Seventh Report on CCAA Proceedings</i>	June 6, 2014	D.E. 946
<i>Monthly Operating Report for Filing Period 5/1/2014 through 5/31/2014</i>	July 25, 2014	D.E. 1049
<i>Chapter 11 Trustee's Report on CCAA Proceedings</i>	July 25, 2014	D.E. 1050
<i>Chapter 11 Trustee's Report on CCAA Proceedings</i>	August 15, 2014	D.E. 1079
<i>Monthly Operating Report for Filing Period 6/1/2014 through 6/30/2014</i>	September 3, 2014	D.E. 1095
<i>Monthly Operating Report for Filing Period July 1, 2014 through July 31, 2014</i>	September 11, 2014	D.E. 1104
<i>Chapter 11 Trustee's Report Pursuant to the Bar Date Order on Claims Against the Debtor's Estate</i>	September 15, 2014	D.E. 1107
<i>Chapter 11 Trustee's Report on CCAA Proceedings</i>	September 25, 2014	D.E. 1114
<i>Chapter 11 Trustee's Report on CCAA Proceedings</i>	September 25, 2014	D.E. 1116
<i>Monthly Operating Report for Filing Period August 1 through August 31, 2014</i>	October 8, 2014	D.E. 1153
<i>Monthly Operating Report for Filing Period September 1, 2014 through September 30, 2014</i>	December 18, 2014	D.E. 1318

<b>Report</b>	<b>Date</b>	<b>Docket Entry</b>
<i>Monthly Operating Report for Filing Period October 1, 2014 through October 31, 2014</i>	December 18, 2014	D.E. 1319
<i>Chapter 11 Trustee's Report on CCAA Proceedings</i>	December 22, 2014	D.E. 1326
<i>Monthly Operating Report for Filing Period November 1, 2014 through November 30, 2014</i>	December 24, 2014	D.E. 1327
<i>Chapter 11 Trustee's Report on CCAA Proceedings</i>	January 12, 2015	D.E. 1339
<i>Chapter 11 Trustee's Report on CCAA Proceedings</i>	January 12, 2015	D.E. 1342
<i>Chapter 11 Trustee's Report on CCAA Proceedings</i>	February 23, 2015	D.E. 1365
<i>Chapter 11 Trustee's Report on CCAA Proceedings</i>	February 26, 2015	D.E. 1367
<i>Monthly Operating Report for Filing Period December 1, 2014 through December 31, 2014</i>	February 27, 2015	D.E. 1369
<i>Monthly Operating Report for Filing Period January 1, 2015 through January 31, 2014</i>	February 27, 2015	D.E. 1370

## **6. Wrongful Death Claim Litigation**

As discussed in **Section III.C.4** of the Disclosure Statement, between July 22 and August 14, 2013, twenty PITWD Cases were filed in Cook County Illinois. On September 11, 2013, the Trustee filed a motion [D.E. 202] (the "Section 157(b)(5) Motion"), seeking an order, pursuant to 28 U.S.C. § 157(b)(5), transferring the PITWD Cases to the United States District Court for the District of Maine (the "District Court"). The Unofficial Committee and the plaintiffs in those cases objected.

On January 31, 2014, the District Court held oral arguments regarding the Section 157(b)(5) Motion and the objection of the plaintiffs in the PITWD Cases, allegedly represented by the Unofficial Committee, to such transfer.

On March 21, 2014, the District Court entered an order (the "Transfer Order") granting the Section 157(b)(5) Motion. The Unofficial Committee and plaintiffs subsequently appealed the Transfer Order to the United States Court of Appeals for the First Circuit, Case No. 14-1485 (the "Transfer Appeal"). The Transfer Appeal is pending.

On June 17, 2014, the District Court entered a consent order staying the PITWD proceedings against all defendants, and enjoining any new cases related to the Derailment against the Released Parties pursuant to the Settlement Agreements. On March 23, 2015, the District Court entered an agreed Order Amending and Restating Consent Order Staying Proceedings Pending Appeal in 1:13-MC-00184-NT (the "Amended District Court Stay Order"). The Amended District Court Stay Order stays existing cases, and bars new cases, against settling parties (as detailed below) but allows cases to go forward against non-settling parties.

## **7. Trustee's § 542(b) Motion for Past Due Debt**

On August 30, 2013, the Trustee filed the *Motion for Order Pursuant to 11 U.S.C. Sec. 542(b)* [D.E. 124] seeking payment by Irving Paper Ltd., Irving Pulp & Paper, Ltd., and J. D. Irving, Ltd. (collectively, "Irving") and Great Northern Paper ("GNP") of past due debt owed to

the Debtor. Collectively, Irving and GNP owed the Debtor approximately \$1.3 million in past due debt.

Irving was one of the Debtor's largest customers and, as of August 28, 2013, owed the Debtor a past due, outstanding balance for the transportation of paper, pulp, wood products, and chemicals to or from Irving's manufacturing and processing facilities. In addition, GNP owed the Debtor for the transportation of finished product from GNP's facilities to its customers and the delivery of raw materials to GNP for use in its pulp and paper operations.

After the motion was filed, the Trustee, Irving, and GNP engaged in formal and informal discovery and discussed the relative strengths and weaknesses of each party's claims and defenses. Irving and GNP had sufficient resources to satisfy any judgment that might be entered against them; however, given their stated intent to appeal any adverse judgment, any actual recovery for the Debtor could have been months, if not years, after a judgment was entered. Such a delay would have unduly burdened the Debtor's estate with further expense, and the Trustee would have been forced to expend time that could otherwise be effectively utilized in managing the Debtor's operations. The Trustee ultimately reached settlement agreements with both Irving and GNP in full and final satisfaction of any and all claims and causes of action arising out of the payment dispute. The Bankruptcy Court approved the settlement agreements on September 5, 2013 [D.E. 174].

#### **8. Trustee's § 506(c) Surcharge Motion**

On May 7, 2014, the Trustee filed the *Motion for an Order Pursuant to 11 U.S.C. Sec. 506(c) Authorizing the Recovery of Expenses From Wheeling and Lake Erie Railway Co. or Its Collateral* [D.E. 854] seeking to surcharge Wheeling and its collateral for certain expenses directly related to the liquidation of Wheeling's collateral pursuant to 11 U.S.C. § 506(c) (the "506(c) Surcharge Motion").

On June 10, 2014, Wheeling filed the *Objection of Wheeling and Lake Erie Railway Company to Trustee's Motion for an Order Pursuant to 11 U.S.C. § 506(c) Authorizing Recovery of Expenses Filed by Wheeling & Lake Erie Railway Company* [D.E. 949], arguing that the filing of the 506(c) Surcharge Motion was procedurally improper and that the Trustee was not entitled to relief as a matter of law.

On July 25, 2014, the Court entered the Wheeling Compromise Order, as discussed below, whereby the parties agreed to a six (6) month stay of the 506(c) Surcharge Motion proceedings. On January 9, 2015, the parties entered a *Joint Pretrial Order* [D.E. 1334] (the "Wheeling Joint Order"), agreeing to consolidate the disposition of the 506(c) Surcharge Motion with the Wheeling Adversary Proceeding (defined below) and the Cash Collateral Motion (defined below) into a single, consolidated adversary proceeding, with a hearing on all issues originally scheduled for February 26, 2015. That hearing has now been continued, and is scheduled to go forward on April 13, 2015.

## **9. Section 1168 Cure Extension**

Prior to the Petition Date, the Debtor entered into certain leases and security agreements relating to rolling stock used in the Debtor's business, in the form of locomotives and railcars. Under section 1168 of the Bankruptcy Code, which applies only in railroad reorganizations, if the Debtor fails to cure all defaults on such agreements within 60 days of the Petition Date, the automatic stay of section 362 of the Bankruptcy Code is automatically lifted, absent an agreement among the parties to extend the deadline (the "1168 Deadline").

The Debtor was unable to cure the defaults on the agreements as required by section 1168 of the Bankruptcy Code within the deadline. After the Appointment Date, the Trustee began negotiation with all of the parties with rights arising under section 1168 of the Bankruptcy Code, and as a result of those negotiations, the parties reached an agreement to extend the deadline imposed under section 1168. In the absence of negotiation, the Trustee would have been required to surrender the rolling stock, and the ability to operate the railroad would have been severely prejudiced.

On September 27, 2013, the Trustee filed the *Trustee's Motion for an Order Approving Stipulations to Extend the Time to Comply With Section 1168 and Address Matters Arising Under Section 1168* [D.E. 289], and the Court entered the *Order Granting Motion to Approve Stipulation* [D.E. 332], extending the 1168 Deadline with respect to known parties with interests under section 1168, approving stipulations with such parties for the payment of amounts owed under section 1168, and providing procedures in the event that a previously-unknown party with interests under section 1168 is discovered after the 1168 Deadline.

## **10. Financing**

In September 2013, shortly after his appointment, the Trustee negotiated a carve-out stipulation (the "Carve-Out") with the FRA, which provided a means of administering the Debtor's case without diminishing the possible return to the victims of the Derailment. The Carve-Out was funded from the proceeds of the FRA's otherwise unassailable first-priority lien in the Debtor's Assets, resulting in a reduction of the lien and the underlying claim. Without the Carve-Out, the Chapter 11 Case could not have been administered at all, resulting in dismissal that would have been detrimental to the railroad, the state and regional economy, and, most of all, the victims of the Derailment.

On September 16, 2013, the Trustee filed the *Motion to Approve Stipulation Concerning Carve-Out from Collateral of the Federal Railroad Administration Pursuant to 11 U.S.C. Sections 105(a), 363(b), 506(c), 1163 and 1165* [D.E. 257], and on October 18, 2013, the Court entered the *Order Granting Motion to Approve Carve-Out* [D.E. 392] (the "Carve-Out Order").<sup>4</sup>

The Trustee also oversaw the negotiation of two separate financings with Camden

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<sup>4</sup> Subsequent to the entry of the Carve-Out Order, on November 1, 2013, the Estate of Marie Alliance filed a *Motion to Reconsider* [D.E. 424], challenging the Carve-Out Order on procedural and factual grounds. A hearing was held on January 23, 2014, and the Court denied the motion from the bench [D.E. 589]. An appeal was taken from such order which remains pending.

National Bank (the “Camden Loans”) to ensure that the Debtor possessed sufficient working capital to continue operations pending the sale of its assets and operations and resolution of the Chapter 11 Case, without continuing to rely on temporary orders allowing for the use of Wheeling’s cash collateral.

The first Camden Loan was provided pursuant to a revolving line of credit in the amount of \$3 million, secured by a priming lien on all real estate assets located in the United States that secure the debt administered by the FRA, and required subordination of the interests of the FRA and MDOT, to which both the FRA and MDOT consented. The maturity date for the first financing was August 30, 2014.

On October 4, 2013, the Trustee filed the *Chapter 11 Trustee’s Motion for Order: (A) Authorizing the Debtor to Obtain Post-Petition Financing; and (B) Granting to Camden National Bank Post-Petition Security Interests* [D.E. 337], and on October 9, 2013, the Court entered the *Order Granting Trustee’s Motion to Borrow* [D.E. 367].

The second Camden Loan was an increase of the first Camden Loan from \$3.0 million to \$4.8 million, which provided the Debtor sufficient working capital to continue operations pending a sale of the Debtor’s Assets and resolution of the case. In connection with the second Camden Loan, the Trustee agreed to reduce the Carve-Out and provide other adequate protection to the FRA.

On February 5, 2014, the Trustee filed the *Chapter 11 Trustee’s Motion for Interim and Final Orders (A) Authorizing Debtor to Obtain Post-Petition Financing and (B) Granting to Camden National Bank Post-Petition Priority Liens* [D.E. 611]. On February 11, 2014, the Court entered the *Interim Order Granting Chapter 11 Trustee’s Motion for Order Authorizing Debtor to Obtain Post-Petition Financing and Granting to Camden National Bank Post-Petition Priority Liens* [D.E. 649], and on March 12, 2014, the Court entered the *Order Granting Chapter 11 Trustee’s Motion for Order (A) Authorizing Debtor to Obtain Post-Petition Financing and (B) Granting to Camden National Bank Post-Petition Priority Liens* [D.E. 742].

## **11. 45G Tax Litigation**

On December 2, 2013, the Trustee sought authority to assign the right to claim certain tax credits created by 26 U.S.C. § 45G (the “45G Tax Credits”) for a portion of 2013. As a result of substantial net operating loss carry-forwards, the 45G Tax Credits had no value if they were retained by the Debtor, but the assignment of the Debtor’s interest in the 45G Tax Credits would provide additional liquidity to the estate. The Debtor had assigned its interest in the 45G Tax Credits for several years prior to the Chapter 11 Case, and in 2013 the Debtor entered into an agreement to assign its interest to KM Strategic Investments, LLC (“KMSI”).

The Trustee sought authority to continue operating under the agreement with KMSI through the end of October 2013, as the Debtor would be immediately entitled to 47.5% of the assignment amount of \$842,417.65. On December 2, 2013, the Trustee filed the *Motion for Order (i) Authorizing Assignment of Tax Credits and (ii) Granting Related Relief* [D.E. 463] (the “45G Motion”).



On December 9, 2013, Wheeling objected to the proceeds of the assignment being distributed by the Trustee without the consent of Wheeling, as Wheeling claimed a valid, perfected first-priority security interest in the Debtor's accounts and all rights to payments, as well as proceeds thereof, pursuant to a certain security agreement [D.E. 470]. On December 17, 2013, the Court entered the *Order Granting Motion for Order (i) Authorizing Assignment of Tax Credits and (ii) Granting Related Relief* [D.E. 511], approving the assignment of the Debtor's interest in the 45G Tax Credits, subject to a determination of Wheeling's rights, if any, to the proceeds of the assignment.

The Trustee and Wheeling were ordered to file simultaneous briefs regarding Wheeling's interest, if any, in and to the net proceeds received by the Debtor, and on January 23, 2014, the Court held a hearing on the issue. Following additional briefing by the parties, the Court entered an order determining that Wheeling was entitled to 69.74% of the 45G Tax Credit proceeds [D.E. 761] (the "45G Order"). On May 16, 2014, the Trustee filed the *Notice of Appeal* with respect to the 45G decision [D.E. 884], appealing the 45G Order to the Bankruptcy Appellate Panel for the First Circuit.

On July 25, 2014, the Court entered the Wheeling Compromise Order, as discussed further below, whereby the Trustee made a payment to Wheeling in full satisfaction of its 45G Tax Claims, followed by the dismissal of the 45G Appeal.

## **12. Red Shield Acquisition LLC Adversary Proceeding**

On April 16, 2014, the Trustee filed a *Complaint* commencing adversary proceeding number 14-01006 against Red Shield Acquisition LLC for breach of a rail services agreement and failure to pay an outstanding debt owed to the Debtor [D.E. 835].

On June 10, 2014, the Court entered an order staying the adversary proceeding pursuant to a settlement between the parties, whereby Red Shield Acquisition LLC agreed to make monthly payments in satisfaction of its debt.

## **13. Travelers Insurance Dispute**

Shortly after the Petition Date, Travelers Property Casualty Company of America ("Travelers") sought relief from the automatic stay to file a declaratory judgment action in the District Court (the "Travelers Action"). The Travelers Action concerned the Debtor's commercial property insurance policy and coverage thereunder for certain losses to railcars and railroad track and roadbed, and losses of business income or extra expense resulting therefrom, arising out of the Derailment. On August 27, 2013, Travelers filed the *Motion of Travelers Property Casualty Company of America for Relief from the Automatic Stay Pursuant to 11 U.S.C. Sec. 362(d)(1)* [D.E. 105].

Pursuant to the Cross-Border Protocol, joint hearings were held in the Debtor's case and the CCAA Case regarding the motion on October 1, 2013. On October 9, 2013, the Court entered the *Order Denying Motion for Relief from Stay filed by Travelers Property Casualty Company of*

*America* [D.E. 364], noting that Travelers could commence its declaratory action in the Quebec Superior Court. Ultimately, the Trustee and Travelers reached a settlement and the Trustee filed a motion for Order approving the settlement with Travelers which resulted in a \$3,800,000 payment to the Debtor and MMA Canada. On December 9, 2013, the Trustee filed the *Trustee's Motion for Order Approving Compromise and Settlement with Travelers Property Casualty Company of America* [D.E. 473], and on December 24, 2013, the Court entered the *Order Granting Trustee's Motion for Order Approving Compromise and Settlement with Travelers Property Casualty Company of America* [D.E. 550].

#### **14. Wheeling Adversary Proceeding re Travelers Proceeds**

On October 7, 2013, Wheeling filed an adversary complaint seeking a declaratory judgment of Wheeling's interests in certain property of the Debtor's estate, including a security interest in any rights of the Debtor and MMA Canada to payments under the Travelers Policy [D.E. 350]. On April 15, 2014, the Court entered the *Decision and Order Regarding the Proceeds of Travelers' Insurance Policy* [D.E. 832] (the "Travelers Order"), finding that the Debtor was entitled to the entirety of the proceeds of the Travelers settlement and that Wheeling did not have a lien on such proceeds.

On April 29, 2014, Wheeling filed the *Notice of Appeal from the Decision and Order Regarding the Proceeds of Travelers' Insurance Policy* [D.E. 840], which was heard by the Bankruptcy Appellate Panel (the "BAP") for the First Circuit. On December 9, 2014, the BAP affirmed the Travelers Order, and on December 19, 2014, Wheeling appealed the BAP decision to the First Circuit Court of Appeals. That appeal is pending.

#### **15. World Fuel Services Adversary Proceeding**

On January 30, 2014, the Trustee filed a *Complaint* commencing adversary proceeding number 14-01001 against World Fuel Services Corporation, World Fuel Services, Inc., Western Petroleum Company, World Fuel Services, Canada, Inc. and Petroleum Transport Solutions, LLC (the "World Fuel Defendants") for, *inter alia*, negligence in connection with the derailment in Lac-Mégantic [D.E. 605].

The action alleges that the World Fuel Defendants failed to comply with safe and prudent shipping practices, as well as governmental regulations in the United States and Canada, which mandate that parties who offer for shipment certain types of products that are deemed to be hazardous, including crude oil, must properly classify, identify, label, and package the product so as to enable safe transport of such cargo. The Trustee alleges that the failure to follow these practices resulted in the derailment and explosion at Lac-Mégantic. The Trustee has pursued this cause of action, including related settlement negotiations, as a successful outcome would significantly benefit the Debtor's estate and its creditors, and all victims of the Derailment.

On February 19, 2014, the Unofficial Committee filed the *Motion to Bar Trustee's Prosecution of Derailment Claims Against Non-Debtor Defendants* [D.E. 674], seeking to dismiss and bar the Trustee's action against the World Fuel Defendants, arguing that the Trustee may only pursue causes of action of the bankruptcy estate, not of creditors such as the members

of the Unofficial Committee. However, on April 11, 2014, the Court entered the *Order Denying Motion to Bar Trustees' Prosecution of Derailment Claims Against Non-Debtor Defendants* [D.E. 826].

On May 29, 2014, the World Fuel Defendants answered the complaint, denying liability for the damages arising from the Derailment. Following successful prosecution of a motion to amend the complaint to, *inter alia*, add new defendants, on January 9, 2015, the Trustee filed his *First Amended Complaint*, adding Canadian Pacific Railway Company (“CP”) and Irving Oil Limited as defendants to the adversary proceeding. On January 15, 2015, CP filed a *Motion to Withdraw the Reference*, seeking to remove the action from the adversary proceeding to the United States District Court for the District of Maine. CP’s motion is pending decision.

## **16. Wheeling Collateral Litigation**

In addition to Wheeling’s claims to a security interest in the Travelers Proceeds discussed above, Wheeling asserted a valid and perfected interest in all of the accounts receivable and inventory of the Debtor, and the proceeds thereof.

On January 30, 2014, Wheeling filed the *Motion to Enforce Cash Collateral Orders* [D.E. 603] (the “507(b) Motion”) arguing that the Trustee failed to escrow and turn over to Wheeling the proceeds of collection of all accounts receivable generated by the Debtor prior to the closing of the first Camden Loan. On March 5, 2014, the Trustee filed the *Trustee’s Objection to Wheeling & Lake Erie Railroad Company’s Motion to Enforce Cash Collateral Orders* [D.E. 707].

On July 10, 2014, the Trustee filed the *Trustee’s Application to Compromise a Controversy with Wheeling & Lake Erie Railway Company* [D.E. 1011], setting forth an agreement between the Trustee and Wheeling (the “Wheeling Compromise”). Pursuant to the Wheeling Compromise, the parties agreed to:

- (a) Payment by the Trustee to Wheeling in partial satisfaction of its Inventory Collateral Claim with respect to inventory sold in the Sale;
- (b) Payment by the Trustee to Wheeling in full satisfaction of its 45G Tax Claims, followed by the dismissal of the 45G Appeal;
- (c) a six (6) month stay of the Wheeling adversary proceeding no. 13-01033 (the “Wheeling Adversary Proceeding”), as well as all proceedings related to the 506(c) Surcharge Motion and the 507(b) Motion;
- (d) A lift of the automatic stay for Wheeling to enforce its rights in certain of the Debtor’s accounts receivable.

On July 25, 2014, the Court entered the *Order Approving Chapter 11 Trustee’s Motion for Order Approving Compromise and Settlement with Wheeling & Lake Erie Railway Company* [D.E. 1075].

On January 9, 2015, the parties entered the Wheeling Joint Order, agreeing to consolidate the disposition of the 506(c) Surcharge Motion with the Wheeling Adversary Proceeding and the 507(b) Motion into a single, consolidated adversary proceeding, with a hearing on all issues originally scheduled for February 26, 2015. That hearing has been continued, and is now scheduled for April 13, 2015.

### **17. Unofficial Committee's Plan of Reorganization and Rule 2019 Litigation**

On January 29, 2014, the Unofficial Committee filed a *Chapter 11 Plan of Reorganization* [D.E. 600] and a *Disclosure Statement* [D.E. 601] (the "UC Plan"). On February 18, 2014, the Trustee filed the *Trustee's Motion for an Order (I) Determining that the Unofficial Committee of Wrongful Death Claimants Failed to Comply with Fed. R. Bankr. P. 2019 and (II) Imposing Sanctions for Such Failure* [D.E. 667], seeking a declaratory judgment that counsel for the Unofficial Committee failed to comply with Rule 2019(e) of the Bankruptcy Rules and could not appear in the case, let alone propose the UC Plan. The Trustee argued that the Rule 2019 statement, as amended, filed jointly by Murtha Cullina LLP and Gross, Minsky & Mogul, P.A. (collectively, the "UC Firms") did not state that the UC Firms were representing actual creditors, but rather lawyers, and failed to include other information required by Rule 2019 if the UC Firms were indeed representing creditors.

Additionally, on February 25, 2014, the Trustee filed the *Trustee's Objection to Disclosure Statement for Chapter 11 Plan Dated January 29, 2014 Proposed by the Unofficial Committee of Wrongful Death Claimants* [D.E. 687], on the basis that it was facially non-confirmable for numerous reasons. Various other parties also filed similar objections.

At a hearing on March 12, 2014, the Court held that the UC Firms did fail to comply with Rule 2019 and would not be heard until such deficiency was corrected. On March 13, 2014, the Court entered the *Order Granting Trustee's Motion for an Order (I) Determining that the Unofficial Committee of Wrongful Death Claimants Failed to Comply with Fed. R. Bankr. P. 2019 and (II) Imposing Sanctions for Such Failure* [D.E. 753], and on April 11, the Court entered the *Order Disapproving Disclosure Statement for Amended Chapter 11 Plan Dated January 29, 2014, Proposed by the Unofficial Committee of Wrongful Death Claimants* [D.E. 827].

### **18. Plan Process and Moratorium**

On February 14, 2014, the Trustee filed the *Trustee's (A) Proposed Agenda for Status Conference and (B) In the Alternative, Motion Pursuant to 11 U.S.C. § 105(d) and the Cross-Border Insolvency Protocol to Establish (I) A Moratorium on Plan Proceedings; (II) A Settlement Process; and (III) A Plan Process in the Event of Multiple Plans* [D.E. 658] seeking an agenda for a joint status conference pursuant to the Cross-Border Protocols to establish the following:

- (a) certain procedures and deadlines with respect to a plan and confirmation process, including, but not limited to, a 120-day moratorium on the filing of or prosecution of

any plans or disclosure statements; and

- (b) a settlement process to negotiate, *inter alia*, resolution of claims to and distribution of the proceeds of the insurance policy issued by XL Insurance Company Limited, and the potential global resolution of all claims asserted against the Debtor and MMA Canada, as well as by or against third parties having potential indemnity, contribution, and/or subrogation claims against the Debtor and MMA Canada.

On April 11, 2014, the Court approved the motion and entered the *Order Regarding Trustee's Motion to Establish Moratorium on Plan Proceedings, a Settlement Process, and Plan Process in the Event of Multiple Plans* [D.E. 825]. On June 16, 2014, the Court entered the *Order Pursuant to 11 U.S.C. 105(d) Amending the Moratorium on Plan Proceedings* [D.E. 989], and on July 30, 2014, the Court entered the *Order Granting Trustee's Consented to Motion to Extend the Plan Moratorium Period* [D.E. 1063] extending the plan moratorium period (the "Moratorium") until September 30, 2014.

On September 25, 2014, the Trustee filed the *Consent Motion of the Trustee to Extend the Plan Moratorium Period* [D.E. 1124], and on September 29, 2014, the Court entered the *Order Granting Consent Motion to Extend Time to Extend the Plan Moratorium Period* [D.E. 1129], which extended the Moratorium until November 30, 2014. On November 26, 2014, the Trustee filed the *Consent Motion of the Trustee to Extend the Plan Moratorium Period* [D.E. 1277], and on December 1, 2014, the Court entered the *Order Granting Consent Motion of the Trustee to Extend the Plan Moratorium Period* [D.E. 1287], which extended the Moratorium until January 12, 2015.

On January 9, 2015, the Monitor filed a draft *Plan of Compromise and Arrangement* in the CCAA Proceeding, and obtained an extension of the stay period until May 15, 2015. In order to allow the Trustee and certain parties additional time to negotiate the terms of the Settlement Agreements (defined below), and to keep the Chapter 11 Case and the CCAA Proceeding on the same track, on January 12, 2015, the Trustee filed a *Consent Motion of the Trustee to Extend the Plan Moratorium Period* [D.E. 1340], seeking an extension of the Moratorium until May 15, 2015. On January 13, 2015, the Court entered the *Order Granting Motion to Extend the Plan Moratorium* [D.E. 1344].

## **19. Sale Process**

The Trustee, MMA Canada, and the Monitor, in consultation with the FRA, determined that a sale of the Assets of both the Debtor and MMA Canada, on a going concern basis, was in the best interests of creditors of both debtors. In order to preserve the going concern value of the Debtor's and MMA Canada's Assets, the sale had to occur on an expedited basis.

The Trustee, with MMA Canada and the Monitor, held discussions and negotiations with potential purchasers to sell substantially all of the Debtor's Assets in conjunction with a sale of substantially all of the Assets of MMA Canada (the "Sale"). These discussions and negotiations eventually led to the selection of Railroad Acquisition Holdings LLC ("RAH") as a stalking horse bidder in an auction for the Sale. The Trustee retained Gordian Group LLC to identify and

evaluate potential purchasers, establish auction and bidding procedures, coordinate the approval of similar procedures in the CCAA Case, execute the and ongoing work towards the expeditious closing of the Sale.

On December 12, 2013, the Trustee filed the *Motion for Order: (A) Approving Bid Procedures for the Sale of the Debtor's Assets; (B) Scheduling an Auction; (C) Approving Assumption and Assignment Procedures for Certain Executory Contracts and Unexpired Leases; (D) Approving a Break-Up Fee, Expense Reimbursement and Overbid Protections; and (E) Approving a Form of Notice of Sale* [D.E. 488], along with the *Motion for Authority to Sell Substantially All of the Debtor's Assets and to Assume and Assign Certain Executory Contracts and Unexpired Leases* [D.E. 490] and an asset purchase agreement between the Trustee, MMA Canada, and RAH.

On December 19, 2013, the Court entered the *Order (I) Approving Bid Procedures Relating to the Proposed Sale of the Debtor's Assets, Including Break-Up Fee and Expense Reimbursement, (II) Approving Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, Including Form of Notices of Assumption and Assignment, (III) Scheduling a Hearing to Consider the Sale and Approving the Form and Manner of Notice Thereof, and (IV) Granting Related Relief* [D.E. 535], approving the bidding procedures, and the auction was held on January 21, 2014, wherein the bid of RAH was declared the successful bid. On January 24, 2014, this Court entered an order approving the sale of substantially all of the Debtor's Assets to RAH [D.E. 594].

The Trustee, the Debtor, and RAH all worked diligently to reach a consummation of the Sale. On May 5, 2014, the Trustee filed the *Trustee's Motion for an Order Approving the Third Amendment to the Asset Purchase Agreement* [D.E. 847], seeking Court approval of, among other things, a bifurcation of the Sale closing process due to delayed regulatory approvals for the sale of the MMA Canada Assets, and the lease, instead of sale, of certain real property and facilities of the Debtor located in Derby, Maine. On May 8, 2014, the Court entered the *Order Approving the Third Amendment to the Asset Purchase Agreement* [D.E. 865].

The sale of the Debtor's Assets closed on May 15, 2014, and upon final regulatory approval, the sale of the MMA Canada Assets closed on June 30, 2014. In total, the Sale resulted in a \$14,250,000 net payment to the Debtor and MMA Canada. In conjunction with the closing of the Sale, some of the proceeds of the Sale were used, among other things, to: make cure payments to contracts assumed by the Debtor and assigned to RAH; pay outstanding real estate property taxes in Maine, Vermont, and Quebec; and pay employees of the Debtor on account of severance, vacation, and medical claims.

## **20. Assumption and Rejection of Executory Contracts and Unexpired Leases**

The Debtor and the Trustee have filed various motions to assume and assign or reject certain executory contracts and unexpired leases, as follows:

- (a) On August 21, 2013, the Debtor filed the *Debtor's Motion to Reject Lease or Executory Contract* [D.E. 66], and on November 1, 2013, the Court entered the *Order on Debtor's*

*Motion for Entry of an Order Approving the Debtor's Rejection of Certain Leases* [D.E. 421];

- (b) On September 18, 2013, the Trustee filed the *Trustee's Motion for Authority to Reject the Rail World, Inc. Management Agreement* [D.E. 261], and on November 1, 2013, the Court entered the *Order Granting Trustee's Motion for Authority to Reject the Rail World, Inc. Management Agreement* [D.E. 420];
- (c) On October 25, 2013, the Trustee filed the *Chapter 11 Trustee's Motion for Authority to Reject Employee Retention Agreements* [D.E. 401]; and on December 12, 2013, the Court entered the *Order Granting the Chapter 11 Trustee's Motion for Authority to Reject Employee Retention Agreements* [D.E. 487];
- (d) On January 22, 2014, the Trustee filed the *Supplemental Notice Pursuant to Assumption and Assignment Procedures of Removal of Contracts from the Contract and Cure Schedule* [D.E. 585];
- (e) On January 23, 2014, the Trustee filed the *Second Supplemental Notice Pursuant to Assumption and Assignment Procedures* [D.E. 592];
- (f) On May 6, 2014, the Trustee filed the *Third Supplemental Notice Pursuant to Assumption and Assignment Procedures* [D.E. 850];
- (g) On May 15, 2014, the Trustee filed the *Chapter 11 Trustee's First Omnibus Motion for an Order Pursuant to 11 U.S.C. Sec . 105(a) and 365 for Authorization to Reject Executory Contracts and Unexpired Leases as of the Closing of the Sale of the Debtor's Assets* [D.E. 881], and on May 27, 2014, the Court entered the *Order Granting Motion Authorizing Rejection of Contracts* [D.E. 908]; and
- (h) On June 25, 2014, the Trustee filed the *Fourth Supplemental Notice Pursuant to Assumption and Assignment Procedures* [D.E. 999].

## V.

### **THE CCAA CASE**

#### **A. Initial Order and Stay Period**

On August 8, 2013, MMA Canada filed the *Amended Petition for the Issuance of an Initial Order* and the Canadian Court entered the *Initial Order* (the "Initial Order") granting MMA Canada's petition and commencing the CCAA Case under the Companies' Creditors Arrangement Act, R.S.C. 1985 C-36 (the "CCAA"). Richter Advisory Group, Inc. was appointed and consented to act as monitor (the "Monitor") in the CCAA Case. An initial stay of proceedings against MMA Canada and its property (the "Stay Period") was granted to September 6, 2013.

The Canadian Court extended the Stay Period as follows:

<b>Order</b>	<b>Order Date</b>	<b>Amended Stay Period Termination Date</b>
<i>Order</i>	September 4, 2013	October 9, 2013
<i>Order re Motion for a Second Order Extending the Stay Period</i>	October 9, 2013	January 28, 2014
<i>Order Regarding Motion for a Third Order Extending the Stay Period</i>	January 23, 2014	February 11, 2014
<i>Order Regarding Motion for a Fourth Order Extending the Stay Period</i>	February 11, 2014	February 26, 2014
<i>Order Regarding Motion for a Fifth Order Extending the Stay Period</i>	February 25, 2014	March 12, 2014
<i>Order Regarding Motion for a Sixth Order Extending the Stay Period</i>	March 12, 2014	April 30, 2014
<i>Order Regarding Motion for a Seventh Order Extending the Stay Period</i>	April 29, 2014	June 30, 2014
<i>Order Extending the Stay Period</i>	June 30, 2014	September 30, 2014
<i>Order for a Ninth Extension of the Stay Period Until November 24, 2014</i>	September 24, 2014	November 24, 2014
<i>Order for a Tenth Extension of the Stay Period Until January 12, 2015</i>	November 24, 2014	January 12, 2015
<i>Order for an Eleventh Extension of the Stay Period Until May 15, 2015</i>	January 12, 2015	May 15, 2015

**B. Monitor's Reports**

The Monitor in the CCAA Case regularly filed status reports on the state of MMA Canada's financial affairs as follows:

<b>Title of Report</b>	<b>Date of Filing</b>
<i>First Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	August 21, 2013
<i>Second Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	September 3, 2013
<i>Third Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	October 4, 2013
<i>Fourth Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	December 16, 2013
<i>Fifth Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	January 22, 2014
<i>Sixth Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	February 10, 2014
<i>Seventh Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	March 11, 2014



<i>Eighth Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	March 26, 2014
<i>Ninth Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	April 25, 2014
<i>Tenth Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	May 8, 2014
<i>Eleventh Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	June 27, 2014
<i>Twelfth Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	July 18, 2014
<i>Thirteenth Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	September 22, 2014
<i>Fourteenth Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	November 21, 2014
<i>Fifteenth Report of the Monitor on the State of the Petitioner's Financial Affairs</i>	January 9, 2015

**C. XL Insurance Policy**

On August 21, 2013, MMA Canada filed the *Motion to Amend the Initial Order and Seek a Charge and Security on the Property of the Petitioner to Secure Funds for Self-Insured Obligation*.

On August 23, 2013, the Canadian Court entered the *Order* amending the Initial Order to grant a \$250,000 charge and security interest in the property of MMA Canada under MMA Canada's self-insured retention portion of its insurance policy with XL Insurance Company Ltd.

**D. Cross-Border Protocol**

On September 3, 2013, MMA Canada filed the *Motion for an Order Extending the Stay Period and to Approve a Cross-Border Insolvency Protocol*.

On September 4, 2013, the Canadian Court entered the *Order* granting MMA Canada's *Motion for an Order Extending the Stay Period and to Approve a Cross-Border Insolvency Protocol*, approving the Cross-Border Insolvency Protocol and extending the Stay Period until October 9, 2013. The Stay Period was further extended as discussed above.

The Monitor and the Trustee, along with the Canadian Court and the Bankruptcy Court, made extensive and productive use of the Cross-Border Protocol as discussed herein.

**E. Travelers Insurance Litigation**

As discussed above in **Section V.C**, the Trustee engaged in significant litigation and negotiations concerning the Travelers Policy and the proceeds thereof. As noted below, the Canadian Court entered orders similar to those of the Bankruptcy Court concerning the Travelers Policy.

On August 27, 2013, Travelers Property Casualty Company of America filed the *Motion to Lift the Stay of Proceedings*. A joint hearing on the motion was held pursuant to the Cross-Border Protocols before the Canadian Court and the Bankruptcy Court on September 9, 2013. On October 9, 2013, the Canadian Court entered the *Judgment re Motion by Travelers Property Casualty Company of America to Lift the Stay of Proceedings* denying the motion.

On December 13, 2013, MMA Canada filed the *Motion for an Order Approving a Compromise and Settlement with Travelers Property Casualty of America*. On December 19, 2013, the Canadian Court entered the *Order Approving Compromise and Settlement with Travelers Property Casualty Company of America*, approving the compromise reached on the Travelers Insurance Proceeds as discussed above.

On May 7, 2014, MMA Canada filed the *Motion for an Order Approving the Distribution of the Proceeds of Settlement with Travelers Property Casualty Company of America* and on June 9, 2014, Wheeling & Lake Erie Railway Co. filed the *Contestation of Wheeling & Lake Erie Railway Co. re Amended Motion for an Order Approving the Distribution of the Proceeds of Settlement with Travelers Property Casualty Company of America*. On June 16, 2014, the Canadian Court entered the *Order Approving the Distribution of the Proceeds of Settlement with Travelers Property Casualty Company of America*.

#### **F. Certificate of Fitness**

On October 16, 2013, the Canadian Court entered the *Decision No. 393-R-2013* reporting the conclusion of the Canadian Transportation Agency (“CTA”) that MMA Canada held sufficient liability insurance to merit extension of its certificate of fitness from October 18, 2013, to February 1, 2014.

On January 30, 2014, the CTA extended MMA Canada’s certificate of fitness until April 1, 2014, and on March 28, 2014, the CTA extended MMA Canada’s certificate of fitness until June 1, 2014.

#### **G. Sale Process**

The sale of the MMA Canada Assets was included in the sale process of the Debtor’s Assets as discussed above.

On December 12, 2013, MMA Canada filed the *Motion for the Issuance of (i) an Order Authorizing the Sale of the Assets of the Petitioner and for (ii) a Vesting Order*. On December 16, 2013, MMA Canada filed the *Motion for an Order (A) Approving Bid Procedures for the Sale of the Debtor’s Assets, (B) Approving a Stalking Horse Bid, (C) Approving a Break-up Fee and Expense Reimbursement, (D) Scheduling an Auction, (E) Approving Procedures for the Assignment and Assumption of Certain Executory Contracts and Unexpired Leases, and (F) Approving a Form of Notice of Sale*.

On December 19, 2013, the Canadian Court entered the *Order Approving (A) Bid*

*Procedures for the Sale of the Debtor's Assets, (B) Approving a Stalking Horse Bid, (C) Approving a Break-up Fee and Expense Reimbursement, (D) Scheduling an Auction, (E) Approving Procedures for the Assignment and Assumption of Certain Executory Contracts and Unexpired Leases, and (F) Approving a Form of Notice of Sale.* On January 23, 2014, the Canadian Court entered the *Approval and Vesting Order* approving the sale of the MMA Canada Assets as part of the sale of the Debtor's Assets.

As discussed above, the Sale closing process was bifurcated due to delayed regulatory approvals for the sale of the MMA Canada Assets, and upon final regulatory approval, the sale of the MMA Canada Assets closed on June 30, 2014.

#### **H. Executory Contracts and Unexpired Leases**

On January 17, 2014, MMA Canada filed the *Motion for Issuance of (i) an Order Authorizing the Assignment of Contracts*, and on January 23, 2014, the Canadian Court entered the *Order Approving and Authorizing the Assignment of Contracts*.

#### **I. Claims Bar Date**

On December 13, 2013, MMA Canada filed the *Motion for an Order Approving a Process to Solicit Terms and for the Establishment of a Claims Bar Date*. On February 4, 2014, the Class Action Plaintiffs filed the *Cross-motion of the Class Action Plaintiffs for an Order Approving a Process to Solicit Claims and for the Establishment of a Claims Bar Date*.

On April 4, 2014, the Canadian Court entered the *Claims Procedure Order* setting the claims bar date as June 13, 2014. On June 13, 2014, the Canadian Court entered the *Amended Claims Procedure Order* extending the claims bar date for wrongful death victims to July 14, 2014.

#### **J. Plan Process**

On January 9, 2015, the Monitor filed a *Motion for an Eleventh Order Extending the Stay Period*, including a draft *Plan of Compromise and Arrangement* (the "Draft CCAA Plan"). The Monitor sought additional time to finalize the Settlement Agreements discussed below and potentially achieve Settlement Agreements with additional parties, as well as sufficient time under the stay to obtain approval of and execute the Draft CCAA Plan. The Draft CCAA Plan was crafted to work in conjunction with the Debtor's Plan in distributing funds from the Settlement Agreements to victims of the Derailment. On January 12, 2015, the Canadian Court approved the motion.

On March 31, 2015, the Monitor filed the *Plan of Compromise and Agreement* (the "CCAA Plan").

## VI.

### THE SETTLEMENT PROCESS

The Trustee, the Monitor, the Debtor, MMA Canada, and the Official Committee have worked collectively since the commencement of the cases to engage in settlement discussions with various parties identified as potentially liable for damages arising from the Derailment. As a result of these negotiations, approximately 22 entities or groups of affiliated entities have entered into Settlement Agreements, whereby the Released Party will contribute to the Settlement Fund in exchange, *inter alia*, for a full and final release of all Claims arising out of the Derailment, including any claims for contribution and/or indemnity (including contractual indemnity) asserted by third parties, as well as the protection of a global injunction barring assertion of any Derailment-related claims against the Released Parties. The Settlement Fund is, as of the date hereof, approximately (CDN) \$300 million. The Released Parties are listed on Schedule A attached hereto.

As of the filing of the Plan and this Disclosure Statement, the Released Parties do not include: (a) Canadian Pacific Railway Co.; (b) World Fuels Services Corp.; (c) World Fuels Services, Inc.; (d) World Fuel Services, Canada, Inc.; (e) Petroleum Transport Solutions, LLC; (f) Western Petroleum Co.; (g) Strobel Starostka Transfer LLC; (h) Dakota Plains Marketing LLC; (i) Dakota Plains Holdings, Inc.; (j) DPTS Marketing Inc.; (k) Dakota Plains Transloading LLC; (l) Dakota Petroleum Transport Solution LLC; and (m) SMBC Rail Services, LLC (collectively, the “Non-Released Parties”). However, these and other additional parties may become Released Parties by entering into Settlement Agreements on or before the Effective Date of the Plan. To the extent settlements are not reached with any of the Non-Released Parties, litigation will commence and/or continue against such parties to recover damages.

## VII.

### THE PLAN

#### A. INTRODUCTION

This section of the Disclosure Statement summarizes the Plan, a copy of which has been filed separately on the Bankruptcy Court docket and is attached hereto as Exhibit A. This summary is qualified in its entirety by reference to the provisions of the Plan.

Statements as to the rationale underlying the treatment of Claims under the Plan are not intended to, and will not, waive, compromise or limit any rights, claims or causes of action in the event the Plan is not confirmed.

**YOU SHOULD READ THE PLAN IN ITS ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.**

#### B. CLASSIFICATION AND TREATMENT OF CLAIMS UNDER THE PLAN

The Bankruptcy Code states that only claims that are “allowed” may receive distributions

under a chapter 11 plan. The term “allowed” is used throughout the Plan and the descriptions below. In general, an “allowed” claim simply means that the debtor agrees, or in the event of a dispute, that the Bankruptcy Court determines, that the claim, and the amount thereof, is in fact a valid obligation of the debtor. Section 502(a) of the Bankruptcy Code provides that a timely filed claim is automatically “allowed” unless the debtor or other party in interest objects. However, section 502(b) of the Bankruptcy Code specifies certain claims that may not be “allowed” in bankruptcy even if a proof of claim is filed. These include, but are not limited to, claims that are unenforceable under the governing agreement between a debtor and the claimant or applicable non-bankruptcy law, claims for unmatured interest, property tax claims in excess of the debtor’s equity in the property, claims for services that exceed their reasonable value, real property lease and employment contract rejection damage claims in excess of specified amounts, late-filed claims, and contingent claims for contribution and reimbursement. In addition, Bankruptcy Rule 3003(c)(2) prohibits the allowance of any claim that either is not listed on the debtor’s schedules or is listed as disputed, contingent or unliquidated, if the holder has not filed a proof of claim or equity interest before the established deadline.

The Bankruptcy Code requires that, for purposes of treatment and voting, a chapter 11 plan divide the different claims against the debtor into separate classes based upon their legal nature. However, certain types of claims – administrative claims and certain tax claims – are not classified. Claims of a substantially similar legal nature are not necessarily classified together. Because an entity may hold multiple claims which give rise to different legal rights, the “claims” themselves, rather than their holders, are classified.

Under a chapter 11 plan, the separate classes of claims must be designated either as “impaired” (affected by the plan) or “unimpaired” (unaffected by the plan). If a class is unimpaired, the holders of claims in such class do not vote on the plan. If a class of claims is impaired, the Bankruptcy Code affords certain rights to the holders of such claims, such as the right to vote on the plan, and the right to receive, under the chapter 11 plan, no less value than the holder would receive if the debtor were liquidated in a case under chapter 7 of the Bankruptcy Code.

Under section 1124 of the Bankruptcy Code, a class of claims is “impaired” unless the plan (i) does not alter the legal, equitable and contractual rights of the holders or (ii)irrespective of the holders’ acceleration rights, cures all defaults (other than those arising from the debtor’s insolvency, the commencement of the case or nonperformance of a nonmonetary obligation), reinstates the maturity of the claims or interests in the class, compensates the holders for actual damages incurred as a result of their reasonable reliance upon any acceleration rights, and does not otherwise alter their legal, equitable, and contractual rights.

Under certain circumstances, a class of claims may be deemed to reject a plan. For example, a class is deemed to reject a plan under section 1126(g) of the Bankruptcy Code if the holders of claims in such class do not receive or retain property under the plan on account of their claims.

**PROVISIONS FOR PAYMENT OF NON-CLASSIFIED CLAIMS**

***Administrative Expense Claims.***

(a) Allowance of Administrative Expense Claims. An Administrative Expense Claim, with respect to which a request for payment has been properly and timely filed shall become an Allowed Administrative Expense Claim if no objection to such request is filed by the Trustee with the Bankruptcy Court on or before the one-hundred-and-twentieth (120th) day after the Effective Date, or on such later date as may be fixed by the Bankruptcy Court, whether fixed before or after the one-hundred-and-twentieth (120th) day after the Effective Date. If an objection is timely filed, the Administrative Expense Claim shall become an Allowed Administrative Expense Claim only to the extent Allowed by Final Order or as such Claim is settled, compromised, or otherwise resolved by the Trustee or the Estate Representative pursuant to Section 7.20 of the Plan.

(b) Payment of Allowed Administrative Expense Claims. Except to the extent that a Holder of an Allowed Administrative Expense Claim (other than a Claim covered by Section 2.2 or 2.3 of the Plan) agrees to a less favorable treatment, each Allowed Administrative Expense Claim (including any Allowed Claim asserted under section 503(b)(9) of the Bankruptcy Code) shall be paid in full, in Cash, in an amount equal to the unpaid portion of such Allowed Administrative Expense Claim within thirty (30) days following the later to occur of (a) the Effective Date, or (b) the date on which such Administrative Expense Claim shall become an Allowed Claim; *provided, however*, that Allowed Administrative Expense Claims (other than a Claim covered by Section 2.2 or 2.3 of the Plan) against the Debtor representing liabilities incurred in the ordinary course of business by the Debtor shall be paid, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to, such transactions.

(c) Sections 1171(a) and 1171(b) Claims; Derailment Government Claims. All Derailment Wrongful Death Claims and Derailment Moral Damages and Personal Injury Claims, to the extent afforded administrative expense status under section 1171(a) of the Bankruptcy Code shall be treated as Class 12 and Class 8 Claims respectively, as provided in the Plan, and shall not be Allowed Administrative Expense Claims. Claims arising under section 1171(b) of the Bankruptcy Code, if any, shall be treated as Allowed Administrative Expense Claims to the extent Allowed by a Final Order of the Bankruptcy Court, but shall be treated as junior in priority to all other Allowed Administrative Expense Claims. To the extent that any Derailment Government Claim might be an Allowed Administrative Expense Claim under applicable law, such Derailment Government Claim will not be treated or paid as an Administrative Expense Claim but shall be treated solely as a Class 10 Claim.

***Professional Compensation and Reimbursement Claims.***

All Persons seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date under sections 326, 328, 330, and 331 of the Bankruptcy Code or filing applications for allowance of

Administrative Expense Claims arising under section 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) of the Bankruptcy Code shall (a) file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is sixty (60) days after the Effective Date, and (b) be paid in full, in Cash, by the Trustee or Disbursing Agent, as applicable, such amounts as are allowed by the Bankruptcy Court (i) within thirty (30) days after the date on which the order relating to any such Administrative Expense Claim is entered or (ii) upon such other terms as may be mutually agreed upon between the Holder of such Administrative Expense Claim and the Trustee or Disbursing Agent, as applicable.

***Priority Tax Claims.***

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, each Holder of an Allowed Priority Tax Claim that has not already been paid in full shall receive, in full satisfaction, settlement, and release of and in exchange for such Allowed Priority Tax Claim, on the later of the Effective Date and the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, or as soon as practicable thereafter, Cash in an amount equal to such Allowed Priority Tax Claim.

**CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS**

The following table designates the classes of Claims against, and Equity Interests in, the Debtor and specifies which of those Classes are impaired or Unimpaired by the Plan and entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code or deemed to accept or reject the Plan under that Section.

<b>Class</b>	<b>Designation</b>	<b>Impairment</b>	<b>Entitled to Vote</b>
<b>Class 1</b>	<b>Wheeling Secured Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 2</b>	<b>FRA Secured Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 3</b>	<b>MDOT Secured Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 4</b>	<b>Bangor Savings Bank Secured Claim</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 5</b>	<b>State Income Tax Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 6</b>	<b>Municipal Tax Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 7</b>	<b>Other Priority Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 8</b>	<b>Derailment Moral Damages and Personal Injury Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 9</b>	<b>Derailment Property Damage Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 10</b>	<b>Derailment Government Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 11</b>	<b>Derailment Property Subrogated Insurance Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 12</b>	<b>Derailment Wrongful Death Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 13</b>	<b>General Unsecured Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 14</b>	<b>Subordinated Claims</b>	<b>Impaired</b>	<b>No (Deemed to Reject)</b>
<b>Class 15</b>	<b>Equity Interests</b>	<b>Impaired</b>	<b>No (Deemed to Reject)</b>

*Class 1* shall consist of all Allowed Secured Claims of any kind or nature held by

Wheeling against the Debtor.

*Class 2* shall consist of all Allowed Secured Claims of any kind or nature held by the United States of America, Department of Transportation, acting by and through the FRA against the Debtor.

*Class 3* shall consist of all Allowed Secured Claims of any kind or nature held by Maine Department of Transportation (“MDOT”) against the Debtor.

*Class 4* shall consist of all Allowed Secured Claims of any kind or nature held by Bangor Savings Bank against the Debtor.

*Class 5* shall consist of all Allowed Income Tax Claims of any kind or nature held by any state government, including Maine and Vermont, against the Debtor.

*Class 6* shall consist of all Allowed Tax Claims of any kind or nature held by any municipality.

*Class 7* shall consist of all non-Tax Priority Claims of any kind or nature against the Debtor.

*Class 8* shall consist of all Allowed Derailment Moral Damage and Personal Injury Claims.

*Class 9* shall consist of all Allowed Derailment Property Damage Claims.

*Class 10* shall consist of all Allowed Derailment Government Claims.

*Class 11* shall consist of all Derailment Property Subrogated Insurance Claims.

*Class 12* shall consist of all Derailment Wrongful Death Claims.

*Class 13* shall consist of all Allowed General Unsecured Claims of any kind or nature against the Debtor, including Allowed General Unsecured Claims arising from a deficiency of Collateral securing any Allowed Secured Claims.

*Class 14* shall consist of all Subordinated Claims.

*Class 15* shall consist of all Equity Interests in the Debtor.

### **TREATMENT OF CLAIMS AND EQUITY INTERESTS**

#### ***Class 1: Wheeling Secured Claims.***

(a) Impairment and Voting. Class 1 is unimpaired by the Plan. The Holder of the Class 1 Claim is not entitled to vote to accept or reject the Plan.



(b) Distributions. Except to the extent that a Holder of an Allowed Wheeling Secured Claim (i) has been paid by the Trustee, in whole or in part, prior to the Effective Date; (ii) has been or will be paid from the liquidation of its Collateral on and after the Petition Date, (iii) has been or will be paid pursuant to the CCAA Plan; or (iv) agrees to a less favorable treatment, the Holder of the Class 1 Claim shall (A) receive Cash from the sale or monetization of the Collateral securing such Claim, if any, subject to the Trustee's right to recover certain costs and expenses pursuant to 506(c) of the Bankruptcy Code, and (B) retain all of its rights and obligations pursuant to the Wheeling Proceedings, as well as the right to assert that any future recoveries by the Trustee, including any Residual Assets or proceeds thereof, are Collateral securing the Class 1 Claim (and the Trustee shall reserve the right to contest such claims). To the extent of any deficiency in the value of Collateral securing the Class 1 Claim, the Holder shall hold a Class 13 Claim in the amount of such deficiency.

***Class 2: FRA Secured Claims.***

(c) Impairment and Voting. Class 2 is unimpaired by the Plan. The Holder of the Class 2 claim is not entitled to vote to accept or reject the Plan.

(d) Distributions. Except to the extent that the Holder of the Class 2 Claim (i) has been paid by the Trustee, in whole or in part, prior to the Effective Date; (ii) has been or will be paid pursuant to the CCAA Plan; or (iii) agrees to a less favorable treatment, the Holder of an Allowed Class 2 Claim shall (A) receive Cash from the sale or monetization of the Collateral securing such Claim, pursuant to the Sale Order and the APA, or otherwise; (B) retain its liens, if any, in Residual Assets, and (C) retain its rights pursuant to the FRA Adequate Protection Order, including any rights to some or all of the 45G Proceeds and the Travelers' Proceeds. To the extent of any deficiency in the value of Collateral securing the Class 2 Claim, the Holder of the Class 2 Claim shall hold a Class 13 Claim in the amount of such deficiency.

***Class 3: MDOT Secured Claims.***

(e) Impairment and Voting. Class 3 is unimpaired by the Plan. The Holder of the Class 3 Claim is not entitled to vote to accept or reject the Plan.

(f) Distributions. As a consequence of the Asset Sale, there is no value attributable to the Class 3 Claim. See 11 U.S.C. § 506(a). The Holder, of the Class 3 Claim shall receive a Class 13 Claim in the amount of such deficiency.

***Class 4: Bangor Savings Bank Secured Claims.***

(a) Impairment and Voting. Class 4 is unimpaired by the Plan. The Holder of the Class 4 Claim is not entitled to vote to accept or reject the Plan.

(b) Distributions. The Holder of the Class 4 Claim was granted relief from the automatic stay and allowed to liquidate its Collateral, to the extent such Collateral was property of the Estate. To the extent of any deficiency, see 11 U.S.C. § 506(a), the Holder of the

Class 4 Claim shall have a Class 13 Claim in the amount of such deficiency.

***Class 5: State Income Tax Claims.***

(g) Impairment and Voting. Class 5 is unimpaired by the Plan. The Holders of Allowed Class 5 Claims are not entitled to vote to accept or reject the Plan.

(h) Distributions. The Trustee believes that any Class 5 Claims are the sole responsibility of non-Debtor Affiliates. To the extent the Estate is obligated with respect to any Class 5 Claims, such Class 5 Claims will be paid in full, including any interest and penalties, on the later of the Effective Date, or thirty (30) days after the date such claims become Allowed Claims.

***Class 6: Municipal Tax Claims.***

(i) Impairment and Voting. Class 6 claims are not impaired by the Plan. The Holders of Allowed Class 6 Claims are not entitled to vote to accept or reject the Plan.

(j) Distributions. The Trustee believes that all Class 6 Claims were paid in full from the Asset Sale Consideration. To the extent unpaid, such Class 6 Claims will be paid in full, including any interest and penalties, on the later of the Effective Date, or thirty (30) days after the date such claims become Allowed Claims.

***Class 7: Other Priority Claims.***

(k) Impairment and Voting. Class 7 Claims are unimpaired by the Plan. Each Holder of an Allowed Other Priority Claim in Class 7 is not entitled to vote to accept or reject the Plan.

(l) Distributions. The Class 7 Claims were paid in full from the Asset Sale Consideration.

***Class 8: Derailment Moral Damages and Personal Injury Claims.***

(m) Impairment and Voting. Class 8 Claims are impaired by the Plan. Holders of Class 8 Claims are entitled to vote to accept or reject the Plan.

(n) Distributions. Class 8 Claims shall be satisfied solely in accordance with the terms of the CCAA Plan, and shall take nothing in addition thereto under the Plan. **HOLDERS OF CLASS 8 CLAIMS 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.**

*Class 9: Derailment Property Damage Claims.*

(a) Impairment and Voting. Class 9 Claims are impaired by the Plan. Holders of Class 9 Claims are entitled to vote to accept or reject the Plan.

(b) Distributions. Class 9 Claims shall be satisfied solely in accordance with the terms of the CCAA Plan, and shall take nothing in addition thereto under the Plan. **HOLDERS OF CLASS 9 CLAIMS 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.**

*Class 10: Derailment Government Claims.*

(a) Impairment and Voting. Class 10 Claims are impaired by the Plan. Holders of Class 10 Claims are entitled to vote to accept or reject the Plan.

(b) Distributions. Class 10 Claims shall be satisfied solely in accordance with the terms of the CCAA Plan, and shall take nothing in addition thereto under the Plan. **HOLDERS OF CLASS 10 CLAIMS 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.**

*Class 11: Derailment Property Subrogated Insurance Claims.*

(a) Impairment and Voting. Class 11 Claims are impaired by the Plan. Holders of Class 11 Claims are entitled to vote to accept or reject the Plan.

(b) Distributions. Class 11 Claims shall be satisfied solely in accordance with the terms of the CCAA Plan, and shall take nothing in addition thereto under the Plan. **HOLDERS OF CLASS 11 CLAIMS 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.**

*Class 12: Derailment Wrongful Death Claims.*

(a) Impairment and Voting. Class 12 Claims are impaired by the Plan. Each Holder of an Allowed Derailment Wrongful Death Claim in Class 12 is entitled to vote to accept or reject the Plan.

(b) Distributions. Except to the extent provided in the Affiliated Parties

Settlement Agreement, each Holder of a Class 12 Claim shall be enjoined from pursuing any Claim against the Released Parties as set forth in Article X of the Plan, and Allowed Derailment Wrongful Death Claims shall be channeled to the WD Trust, and each Derailment Wrongful Death Claimant shall receive, in complete settlement, satisfaction and discharge of his or her Allowed Derailment Wrongful Death Claim against the Released Parties, a share of the beneficial interests in the WD Trust, subject, however, to the preservation of Claims against parties other than Released Parties, as set forth below. Except as otherwise provided herein, each Class 12 Claimant remains entitled to any recovery from third parties or liability insurance proceeds that may be liable on or otherwise available to satisfy such Derailment Wrongful Death Claims in whole or in part, but only to the extent any such third parties or insurers are not Released Parties, *provided, however*, that notwithstanding anything herein or in the WD Trust Agreement to the contrary, to the extent that (i) a Derailment Wrongful Death Claimant realizes a recovery from any third party, other than in accordance with the Plan and pursuant to the WD Trust Agreement, on account of the Claimant's Derailment Wrongful Death Claim, and (ii) such third party has filed a timely Proof of Claim against the Estate for contribution or indemnity based in whole or in part on its actual or potential liability obligations to such Claimant, (A) such third party's payment to such Claimant shall be presumed to be solely on account of that third party's own liability to such Claimant, and shall not be deemed to be a payment of the Derailment Wrongful Death Claim in full within the meaning of section 509(c) of the Bankruptcy Code until so agreed by the WD Trustee or otherwise so determined by the Bankruptcy Court, and (B) any distribution from the WD Trust to which such Holder of a Derailment Wrongful Death Claim would otherwise be entitled shall be reserved until such time as the third party's claim is resolved. An entity that is liable with the Debtor on, or that has secured, an Allowed Derailment Wrongful Death Claim, and that pays such Allowed Derailment Wrongful Death Claim in full, shall, to the extent provided by Section 509 of the Bankruptcy Code, be subrogated to the rights of the Holder of such Allowed Derailment Wrongful Death Claim under and for purposes of the Plan, and such subrogated Claim shall be treated as a Class 12 Claim in accordance with the Plan, and to the extent that the entity's payment of the Allowed Derailment Wrongful Death Claim is not a payment in full, such entity shall be treated in accordance with Section 509 of the Bankruptcy Code, including, but not limited to, subordination of such entity's Claim(s) in accordance therewith.

***HOLDERS OF CLASS 12 CLAIMS MAY BE REQUIRED TO SUBMIT ADDITIONAL DOCUMENTATION REGARDING THEIR CLAIM AS PROVIDED BY THE WRONGFUL DEATH CLAIMS RESOLUTION PROCEDURES. HOLDERS OF CLASS 12 CLAIMS 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.***

***Class 13: General Unsecured Claims.***

a. Impairment and Voting. Class 13 Claims are impaired by the Plan. Each Holder of an Allowed General Unsecured Claim in Class 13 is entitled to vote to accept or reject the Plan.

b. Distributions. Each Holder of Allowed Class 13 Claims shall receive such Holder's Pro Rata share of the Class 13 Cash.

***Class 14: Subordinated Claims.***

(a) Impairment and Voting. Class 14 Claims are impaired. Each Holder of a Class 14 Claim is deemed to reject the Plan and is not entitled to vote to accept or reject the Plan.

(b) Distributions. Each Holder of a Class 14 Claim shall not be entitled to, and shall not receive or retain, any property or interest on account of such Equity Interests under the Plan.

**HOLDERS OF CLASS 14 CLAIMS 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.**

***Class 15: Equity Interests.***

a. Impairment and Voting. Class 15 is impaired by the Plan. Each Holder of an Equity Interest in the Debtor is deemed to reject the Plan and is not entitled to vote to accept or reject the Plan.

b. Distributions. On the Effective Date, all existing Equity Interests in the Debtor shall be cancelled and extinguished and the Holders of Equity Interests in the Debtor shall not be entitled to, and shall not receive or retain, any property or interest on account of such Equity Interests under the Plan.

**SETTLEMENT AGREEMENTS; THE WD TRUST**

***Settlement Agreements***

To the extent any Settlement Agreements have not been previously approved by the Bankruptcy Court, the entry of the Confirmation Order shall constitute approval of such Settlement Agreements by the Bankruptcy Court and the Bankruptcy Court's finding that, to the extent required under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules, the Settlement Agreements are in the best interests of the Debtor, the Estate and all Holders of Claims in the Chapter 11 Case, are fair, equitable and reasonable, and have been entered into in good faith by all parties thereto. Upon the occurrence of the conditions to effectiveness set forth in each of the Settlement Agreements, the Settlement Agreements shall be binding and enforceable against the parties to the Settlement Agreements in accordance with their terms. However, nothing in the Plan or the Confirmation Order shall preclude a Released Party from

exercising its rights to terminate a Settlement Agreement as provided for under such Settlement Agreement. To the extent not previously approved by the Bankruptcy Court, copies of the Settlement Agreements will be included in the Plan Supplement, although filed under seal (except for the XL Settlement Agreement attached hereto), and the provisions thereof are incorporated into the Plan, as if the same were fully set forth herein. In accordance with the terms of any applicable Settlement Agreement(s), any and all otherwise applicable statutes of limitations or repose or other time-related limitations relating to the Released Parties' and the Released Parties' Claims (as defined therein) shall be deemed to have been tolled for statute of limitations purposes during the period from the Execution Date (as defined therein) to the Plan Implementation Date (as defined therein) or the date that such Settlement Agreement becomes null and void pursuant to the Settlement Agreement.

### ***Exhaustion of Insurance Policies***

(a) On the Effective Date, and upon full payment and performance under the XL Settlement Agreement, the XL Policies shall be deemed completely exhausted and any and all of the XL Companies' obligations under the XL Policies shall be, and are deemed to be, extinguished.

(b) On the Effective Date, and upon full performance under the relevant Settlement Agreements (and subject to any exceptions contained in such Settlement Agreements), the policy of any Insurance Company that is a Contributing Party shall be deemed completely exhausted and any and all of the Insurance Company's obligations under such policy shall be, and are deemed to be, extinguished.

### ***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 Implementation 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 and the CCAA 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. 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 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.

### ***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 July 26, 2013. 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 all (i) WD Trust Expenses; (ii) any tax liability imposed on the WD Trust rather than on any Disputed Claims reserve, if any; (iii) obligations or other liabilities incurred or assumed by the WD Trust (including but not limited to any reserves established by the WD Trust); (iv) expenses reasonably necessary to meet contingent liabilities and to maintain the value of the WD Trust Assets during liquidation; and (v) 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.



***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.

***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 no later than distributions are made to other Holders of Derailment Claims under the CCAA Plan, 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 (other than the WD Trust Assets allocable to a Disputed Claims reserve as provided in Section 7.20 of the Plan) 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 (other than the WD Trust Assets allocable to an Expense Fund (as defined in the WD Trust Agreement), 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 and Disputed Claims of the WD Trust Beneficiaries at the end of the taxable year. WD Trust taxable income or loss allocated to Disputed Claims shall be allocated to the Disputed Claims reserve (as described in Section 7.20 of the Plan) (whichever applies), and reported to taxing authorities appropriately, as described further herein. 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, including the Disputed Claims reserve described in Section 7.20 of the Plan, 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.

(e) **Reporting Related to Contested Claims Reserve.** Notwithstanding any other provision of the WD Trust Agreement to the contrary, subject to definitive guidance from the Internal Revenue Service or a court of competent jurisdiction to the contrary, the WD Trustee may treat any WD Trust Asset allocable to, or retained on account of, a “Disputed Claims Reserve” as held by one or more discrete entities for federal, and state and local, income tax purposes, subject to an allocable share of all expenses and obligations of the WD Trust, on account of such Disputed Claims. The WD Trustee may, in his or her sole discretion, file a tax election to treat any Disputed Claims Reserve as a “Disputed Ownership Fund” within the meaning of Treasury Regulation Section 1.468B-9 for United States federal income tax purposes rather than to tax such reserve as a part of the WD Trust. All WD Trust Beneficiaries, all Holders of Allowed Class 12 Claims, and all holders of Disputed Claims, shall be bound by such income tax treatment.

**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 the District Court to 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 the District Court to 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.

#### **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.

### **ARTICLE VI**

#### ***Management of the Post-Effective Date Estate.***

(a) Estate Representative. On the Effective Date, (i) the authority, power and incumbency of the persons then acting as directors and officers of the Debtor, and that of the Trustee, shall be terminated, (ii) such directors, officers and the Trustee shall be deemed to have

been discharged pursuant to Bankruptcy Code section 350(a), and (iii) the Estate shall nonetheless be preserved pursuant to sections 1123(b)(3), 1123(b)(6) and 1172 of the Bankruptcy Code and Robert J. Keach shall be appointed as the sole representative of the Post-Effective Date Estate, and the sole officer and director of the Debtor in such capacity, to serve in accordance with the certificate of incorporation and the bylaws of the Debtor, as such may be amended, and to carry out the provisions of the Plan.

(b) Compensation. The Estate Representative shall be entitled to the same compensation and reimbursement of expenses as would be payable to a chapter 11 trustee under sections 326 and 330 of the Bankruptcy Code and shall file fee applications under the Bankruptcy Code for approval by the Bankruptcy Court of such fees and expenses.

(c) Indemnification. The Estate Representative shall have quasi-judicial immunity to the fullest extent allowed by law (and the same as would be afforded a chapter 11 trustee) and shall have no liability to the Debtor or its creditors, except for willful misconduct. The Estate shall indemnify and hold harmless the Estate Representative for any losses incurred in his or her capacity as such, except to the extent such losses were the result of the Estate Representative's willful misconduct.

(d) Successor. In the event the Estate Representative dies, is terminated or resigns for any reason, the Bankruptcy Court shall designate a successor on motion of any party in interest.

#### ***Duties and Powers of the Estate Representative.***

The Estate Representative shall have the power of a chapter 11 trustee (and of the sole officer of the Debtor), and, without limitation, shall have the power and authority to implement and administer the Plan, and to prosecute any action or cause of action necessary to implement the Plan, including, without limitation, to enforce the Releases and Injunctions and also including, without limitation, the following power and authority:

(a) Claims. The Estate Representative may object to, compromise or settle any or all Claims against the Debtor or the Estate, other than Class 12 Claims.

(b) Selling, Monetizing or Liquidating Residual Assets. The Estate Representative may, but is not required to, sell, monetize or liquidate the Settlement Non-Cash Assets and the Residual Assets, including, without limitation, through the prosecution of Post-Confirmation Causes of Action.

(c) Abandoning Assets. The Estate Representative may abandon or donate any Assets, if he concludes in his sole discretion that they are of no benefit or inconsequential value without the need for further order or notice.

(d) Retention of Professionals. After the Effective Date, the Estate Representative may retain such law firms or attorneys, experts, advisors, consultants, investigators, appraisers, auctioneers, corporate management services, or other persons or

professional firms as the Estate Representative 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 Estate Representative may pay or appropriate funds necessary to pay the professionals for services rendered and expenses incurred after the Effective Date; such professionals shall file fee applications under the Bankruptcy Code for approval by the Bankruptcy Court of such fees and expenses. The Estate Representative may retain any firm previously retained by the Trustee.

(e) Books and Records. The Estate Representative shall maintain the Debtor's books and records, maintain accounts, make distributions and take other actions consistent with the Plan and the implementation of the Plan. The Estate Representative shall have the responsibility of storing and maintaining the Debtor's books and records only until such time as he or she deems, in his or her sole discretion, such books and records may be abandoned or destroyed, and the Estate Representative shall have no liability to any party on account of such abandonment or destruction. In addition to the materials to be provided to the WD Trustee pursuant to Section 5.15 of the Plan, at the time such materials are provided to the WD Trustee pursuant to Section 5.15 of the Plan, the Estate Representative shall provide the WD Trustee with such of the Debtor's books and records as the WD Trustee may reasonably request in connection with the administration of the Wrongful Death Claim Resolution Procedures, and the Estate Representative shall have no liability to any party on account of such provision. The Estate Representative shall retain the right to access and copy any records provided to the WD Trustee. For purposes of this Section, books and records include computer generated or computer maintained books and records and computer data, as well as electronically generated or maintained books and records or data, together with books and records of the Debtor maintained by or in possession of third parties and all of the claims and rights of the Debtor in and to their books and records, wherever located.

(f) Agreements. The Estate Representative may enter into any agreement or execute any document which he deems to be required by or consistent with the Plan or necessary or appropriate to its implementation and perform all of obligations of the Post-Effective Date Estate.

(g) Investment Power. Management of all Residual Assets and investments of the Post-Effective Date Estate's Cash shall be administered, subject to the limitations and provisions set forth herein, in view of the manner in which individuals of ordinary prudence, discretion and judgment would act in the management of their own affairs. The Estate Representative shall invest and reinvest the Post-Effective Date Estates' Cash and keep the Post-Effective Date Estates' Cash 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 July 26, 2013. Each account shall be treated as a single fund without distinction between principal and income. For purposes of this paragraph, "interest-bearing account" includes 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. All investments shall be made so as to at all times provide sufficient liquidity to meet the anticipated cash needs of the Post-Effective Date Estate as set forth herein.

(h) Tax Obligations. The Estate Representative shall (i) endeavor to complete and file the Debtor's or the Post-Effective Date Estates', as applicable, federal and state tax returns, (ii) request, if necessary, an expedited determination of any unpaid tax liability of the Debtor under Bankruptcy Code section 505 for all taxable periods of the Debtor ending after the Petition Date as determined under applicable tax laws and (iii) represent the interest and account of the Debtor, its Estate or the Post-Effective Date Estate, as applicable, before any taxing authority in all matters.

(i) Reporting Duties. The Estate Representative shall be responsible for filing informational returns on behalf of the Debtor or the Post-Effective Date Estate, as applicable, and any other statements, returns or disclosures relating to the Debtor or the Post-Effective Date Estate, as applicable, that are required by any governmental unit or applicable law.

(j) Reasonable Fees and Expenses. The Estate Representative may incur and pay and satisfy any reasonable and necessary fees and expenses in connection with the performance of his or her duties under the Plan without the need for further order or notice.

***Other Actions.***

The Estate Representative may take all other actions not inconsistent with the provisions of the Plan which the Estate Representative deems reasonably necessary or desirable with respect to administering the Plan, including without limitation, to fully effectuate and enforce the Releases and Injunctions.

***Closing of the Chapter 11 Case.***

When all Disputed Claims have become Allowed Claims or have been disallowed by Final Order, and the Plan has been substantially consummated, the WD Trustee and/or the Estate Representative may, if he or she so elects in his or her sole discretion, seek authority from the Bankruptcy Court to close the Chapter 11 Case in accordance with the Bankruptcy Code and the Bankruptcy Rules.

***Cancellation of Existing Agreements.***

Except for purposes of evidencing a right to distributions under the Plan or otherwise provided hereunder, on the Effective Date all of the agreements and other documents, except for and other than the WD Trust Agreement, the Settlement Agreements and insurance policies issued to, or insurance agreements entered into by the Debtor prior to the Petition Date (including, without limitation, any D&O Insurance Policies), evidencing the Claims or rights of any Holder of a Claim against the Debtor, including any notes evidencing such Claims, shall be deemed cancelled.

***Continued Corporate Existence.***

The Debtor shall continue to exist after the Effective Date, with all powers of a

corporation under the laws of the State of Maine except for shareholder management (the “Post-Effective Date Debtor”). The Post-Effective Date Debtor’s certificate of incorporation and bylaws shall be deemed amended to include a provision prohibiting the issuance of non-voting equity securities, thereby satisfying the requirements of Bankruptcy Code section 1123(a)(6). The Estate Representative, as the sole officer and director of the Post-Effective Date Debtor, shall perform each of the actions provided for under the Plan without any requirement of further action by or consent or vote of the shareholders. At the discretion of the Estate Representative, the Post-Effective Date Debtor shall be authorized, only following the completion of all disbursements to Holders of Allowed Claims, other than Allowed Class 12 Claims, other transfers and other actions required under the Plan, including without limitation, the sale, monetization or liquidation of the Residual Assets, or to file certificates of cancellation or dissolution. The filing of such certificates of cancellation or dissolution shall be deemed authorized and approved in all respects without further action under applicable law, regulation, order or rule, including, without express or implied limitation, any action by the shareholders. After the Effective Date, the shareholders shall have no power or authority with respect to the management, operation or other functions of the Post-Effective Date Debtor.

#### ***Effectuating Documents and Further Transactions***

Upon the Effective Date, the Estate Representative is authorized and directed to execute, deliver, file or record such contracts, releases and other agreements or documents and take such actions as he or she may deem to be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

### **PROVISIONS GOVERNING VOTING AND DISTRIBUTIONS**

#### ***Disallowance of Multi-Claimant or Class Proofs of Claim.***

In accordance with the Bar Date Order, Claims evidenced by (a) Proofs of Claim joining or on behalf of two (2) or more claimants submitted without the prior approval of the Bankruptcy Court, or (b) by Proofs of Claim purporting to be on behalf of a class of claimants shall be and are hereby disallowed to the extent not previously disallowed.

#### ***Voting of Claims.***

Each Holder of an Allowed Claim in an impaired Class of Claims that is entitled to vote on the Plan pursuant to Article II and Article IV of the Plan shall be entitled to vote separately to accept or reject the Plan, as provided in such order as is entered by the Bankruptcy Court establishing procedures with respect to the solicitation and tabulation of votes to accept or reject the Plan, or any other order or orders of the Bankruptcy Court.

#### ***Acceptance by Impaired Classes of Claims.***

Pursuant to section 1126(c) of the Bankruptcy Code, an impaired Class of Claims shall have accepted the Plan if, after excluding any Claims held by any Holder designated pursuant to section 1126(e) of the Bankruptcy Code, (a) the Holders of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan, and (b) more than



one-half in number of such Allowed Claims actually voting in such Class have voted to accept the Plan. If a Class contains Claims and none of such Claims votes, the Class is deemed to accept the Plan.

***Nonconsensual Confirmation.***

If any impaired Class of Claims entitled to vote does not accept the Plan by the requisite statutory majority provided in section 1126 of the Bankruptcy Code, or as otherwise required by the Plan, or is not deemed to accept the Plan, the Debtor reserves the right to amend the Plan in accordance with Section 12.8 of the Plan or to undertake to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code, or both. With respect to impaired Classes of Claims that are deemed to reject the Plan, the Debtor intends to request that the Bankruptcy Court confirm the Plan pursuant to section 1129(b) of the Bankruptcy Code.

***Date of Distributions.***

Distributions to Holders of Claims shall be made on the Initial Distribution Date, and on any subsequent Distribution Dates, as provided in Article II and Article IV of the Plan. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

***Disbursing Agent.***

All distributions under the Plan shall be made by the Disbursing Agent, except distributions to Class 12 Claims and WD Trust Beneficiaries (which distributions shall be made in accordance with the WD Trust Agreement and Article V of the Plan). The Disbursing Agent shall be deemed to hold all property to be distributed under the Plan in trust for the entities entitled to receive the same. The Disbursing Agent shall not hold an economic or beneficial interest in the property to be distributed under the Plan.

***Appointment of Disbursing Agent.***

The Estate Representative is hereby appointed as Disbursing Agent for all purposes under the Plan.

***Rights and Powers of Disbursing Agent.***

The Disbursing Agent shall be empowered to (a) effect all actions and execute all agreements, instruments and other documents necessary to perform the Disbursing Agent's duties under the Plan, (b) make all distributions contemplated by the Plan, (c) employ professionals to represent the Disbursement Agent with respect to its responsibilities and, (d) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions of the Plan.

The Disbursing Agent shall only be required to act and make distributions in accordance with the terms of the Plan and shall have no (a) liability for actions taken in accordance with the Plan or in reliance upon information provided to it in accordance with the Plan or (b) obligation or liability for distributions under the Plan to any party who does not hold an Allowed Claim at the time of distribution or who does not otherwise comply with the terms of the Plan; *provided, however*, that the foregoing shall not affect the liability that otherwise would result from any such act or omission to the extent such act or omission is determined by a Final Order to have constituted willful misconduct, gross negligence, intentional fraud, or criminal conduct of any such Person.

***Expenses of Disbursing Agent.***

Except as otherwise ordered by the Bankruptcy Court, any reasonable fees and expenses incurred by the Disbursing Agent (including, without limitation, Taxes and reasonable attorneys' fees and expenses) on or after the Effective Date shall be paid in Cash by the Estate in the ordinary course of business, following approval of the Bankruptcy Court. Disbursements by the Disbursing Agent shall be treated as disbursements by the Estate Representative for the purpose of Section 6.1 of the Plan.

***Delivery of Distributions.***

Subject to Bankruptcy Rule 9010, and except as provided in Section 5.14, all distributions to any Holder of an Allowed Claim shall be made at the address of such Holder (a) as set forth on the Schedules filed with the Bankruptcy Court, (b) on the books and records of the Debtor, as applicable, unless the Debtor has been notified in writing of a change of address, including, without limitation, by the filing of a Proof of Claim by such Holder that contains an address for such Holder different than the address of such Holder as set forth on the Schedules, or (c) as otherwise allowed under Section 4.5 of the CCAA Plan with respect to distributions to Representative Counsel (as defined in the CCAA Plan)

***Undeliverable and Unclaimed Distributions.***

In the event that any distribution to any Holder of an Allowed Claim is returned as undeliverable, the Disbursing Agent shall use commercially reasonable efforts to determine the current address of each Holder, but no distribution to such Holder shall be made unless and until the Disbursing Agent has determined the then current address of such Holder; *provided, however*, that all distributions under the Plan that are unclaimed for a period of six (6) months after distribution thereof shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and any entitlement of any Holder of any Claims to such distributions shall be extinguished and forever barred. The Trustee and Disbursing Agent shall have no further obligation to make any distribution to the Holder of such Claim on account of such Claim, and any entitlement of any Holder of such Claim to any such distributions shall be extinguished and forever barred; *provided, however*, that the Holder of such Claim may receive future distributions on account of such Claim by contacting the Disbursing Agent at some point prior to

the final Distribution Date. For the avoidance of doubt, the Disbursing Agent shall not be required to retain an outside investigator to determine the current address of any Holders of an Allowed Claim whose distribution is returned as undeliverable.

***Distribution Record Date.***

As of the close of business on the Distribution Record Date, the claims register shall be closed. The Disbursing Agent shall have no obligation to recognize any transfer of any such Claims occurring after the close of business on the Distribution Record Date, and shall instead be entitled to recognize and deal for all purposes under the Plan with only those Holders of record as of the close of business on the Distribution Record Date.

***Manner of Payment.***

At the option of the Disbursing Agent, any Cash payment to be made pursuant to the Plan may be made by a check or wire transfer.

***Currency.***

Where a Claim has been denominated in foreign currency on a Proof of Claim, the Allowed amount of such Claim shall be calculated in currency of the United States of America based upon the conversion rate in place as of the Petition Date and in accordance with section 502(b) of the Bankruptcy Code.

***Minimum Cash Distributions.***

The Disbursing Agent shall not be required to make any Initial Distribution or semi-annual distribution of Cash less than \$100 to any Holder of an Allowed General Unsecured Claim; *provided, however*, that if any distribution is not made pursuant to this Section 7.15, such distribution shall be added to any subsequent distribution to be made on behalf of the Holder's Allowed General Unsecured Claim. The Disbursing Agent shall not be required to make any final distribution of Cash less than \$50 to any Holder of an Allowed General Unsecured Claim. If either (a) all Allowed Claims (other than those whose distributions are deemed undeliverable hereunder) have been paid in full or (b) the amount of any final distribution to any Holder of Allowed General Unsecured Claims would be \$50 or less, then no further distribution shall be made by the Disbursing Agent and any surplus Cash remaining in the Estate shall be donated and distributed to a charitable organization exempt from U.S. federal income tax under Section 501(c)(3) of the Internal Revenue Code selected by the Disbursing Agent.

***Setoffs and Recoupment.***

The Disbursing Agent may, but shall not be required to, setoff against or recoup from any Claim and from any payments to be made pursuant to the Plan in respect of such Claim any claims of any nature whatsoever that the Trustee may have against the Claimant, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Trustee or the Disbursing Agent of any such claim it may have against such claimant.

***Interest and Penalty on Claims.***

Unless otherwise provided in the Plan or the Confirmation Order, no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date or penalties on any Claim. Any such interest or penalty component of any such Claims, if Allowed, shall be paid only in accordance with section 726(b) of the Bankruptcy Code.

***No Distribution in Excess of Allowed Amounts.***

Notwithstanding anything to the contrary in the Plan, no Holder of an Allowed Claim shall receive in respect of such Claim any distribution of a value as of the Effective Date in excess of the Allowed Amount of such Claim, provided, however, that, notwithstanding any limit created by Section 7.18 of the Plan, distributions to Class 12 Claims shall be made in accordance with the Wrongful Death Claim Resolution Procedures, and provided, further, that nothing in Section 7.18 of the Plan shall limit, discharge or modify any rights of any holder of a claim against any person or entity that is not a Released Party.

***Allocation of Plan Distributions Between Principal and Interest.***

To the extent that any Allowed Claim entitled to a distribution under the Plan consists of indebtedness and other amounts (such as accrued but unpaid interest thereon), such distribution shall be allocated first to the principal amount of the Claim (as determined for United States federal income tax purposes) and then, to the extent the distribution exceeds the principal amount of the Claim, to such other amounts.

***Procedures for Treating Disputed Claims Other Than Class 12 Claims.***

(a) Estimation of Claims. The Estate Representative may at any time request that the Bankruptcy Court estimate any Claim, other than a Class 12 Claim, pursuant to section 502(c) of the Bankruptcy Code. In the event that the Bankruptcy Court estimates any Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Estate Representative may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently disallowed, reduced, compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

(b) Resolution of Disputed Claims. To the extent that a Disputed Claim is not Allowed or becomes an Allowed Claim in an amount less than the amount of the Disputed Claim set forth in the Proof of Claim, or as previously estimated by the Bankruptcy Court, the excess of the amount of Cash that would have been distributed to the Holder of the Disputed Claim if the Claim had been Allowed in full over the amount of Cash actually distributed on account of such Disputed Claim shall be available Cash.  *Holders of Disputed Claims shall not be entitled to interest if such Disputed Claim becomes an Allowed Claim.*

## **EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

### ***Rejection of Executory Contracts and Unexpired Leases.***

(a) Pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, all executory contracts and unexpired leases that exist between the Debtor and any Person, ***except for and other than the WD Trust Agreement, the Settlement Agreements (including the insurance policy rights assigned to the Debtor pursuant thereto) and insurance policies related to, or insurance agreements entered into by the Debtor prior to the Petition Date (including, without limitation, any D&O Insurance Policies)*** shall be deemed rejected by the Debtor as of immediately prior to the Effective Date, except for any executory contract or unexpired lease (i) that has been assumed and assigned or rejected pursuant to an order of the Bankruptcy Court entered prior to the Effective Date, (ii) as to which a motion for approval of the assumption or assignment of such executory contract or unexpired lease has been filed and served prior to the Confirmation Date, or (iii) is otherwise provided for under Sections 8.2 or 8.3 of the Plan.

### ***(b) Insurance Policies and Agreements.***

Except as set forth in the Settlement Agreements, Section 5.2 of the Plan, or the Confirmation Order, insurance policies issued to, or insurance agreements entered into by, the Debtor prior to the Petition Date (including, without limitation, any D&O Insurance Policies covering directors' or officers' conduct) shall continue in effect after the Effective Date. To the extent that such insurance policies or agreements (including, without limitation, any policies covering directors' or officers' conduct) are considered to be executory contracts, then, notwithstanding anything to the contrary herein, the Plan shall constitute a motion to assume or ratify such insurance policies and agreements, and, subject to the occurrence of the Effective Date, the entry of the Confirmation Order shall constitute approval of such assumption pursuant to section 365(a) of the Bankruptcy Code and a finding that each such assumption is in the best interests of the Debtor and its Estate. Unless otherwise determined by the Bankruptcy Court pursuant to a Final Order or agreed to by the parties thereto prior to the Effective Date, no payments shall be required to cure any defaults of the Debtor existing as of the Confirmation Date with respect to each such insurance policy or agreement. To the extent that the Bankruptcy Court determines otherwise as to any such insurance policy or agreement, the Trustee reserves the right to seek the rejection of such insurance policy or agreement or other available relief.

### ***Approval of Rejection of Executory Contracts and Unexpired Leases.***

Entry of the Confirmation Order shall, subject to and upon the occurrence of the Effective Date, constitute the approval, pursuant to sections 365(a), 1123(b)(2), and 1123(b)(6) of the Bankruptcy Code, of the assumption, assignment, and/or rejection of the executory contracts and unexpired leases treated pursuant to Section 8.1 of the Plan.

### ***Bar Date for Filing Proofs of Claim Relating to Executory Contracts and Unexpired Leases Rejected Pursuant to the Plan.***

Proofs of Claim for damages arising out of the rejection of an executory contract or

unexpired lease pursuant to Section 8.1 of the Plan must be filed with the Bankruptcy Court and served upon the Trustee or the Estate Representative, as the case may be, no later than thirty (30) days after notice of the Effective Date. All such Proofs of Claim not filed within the time set forth in Section shall be forever barred from assertion against the Debtor and its Estate or its Assets.

***Rejection Claims of Officers and Directors of the Debtor.***

Notwithstanding section 8.1(a) of the Plan, in consideration for the releases and injunctions provided in the Plan and the Settlement Agreements, (a) all contracts or agreements between the Debtor and the former and current officers or directors of the Debtor, with the exception of the Settlement Agreements and any agreements entered into in connection with the Settlement Agreements, including the Affiliated Parties Settlement Agreement, are deemed rejected as of the Effective Date, without the need for any further action by the Estate Representative and (b) the Claims of such former and current officers or directors of the Debtor, if any, resulting from such rejection are hereby deemed waived.

***Benefit Plans.***

All employment and severance policies, workers' compensation programs, and all compensation, bonus and benefit plans, policies, programs, and arrangements of the Debtor applicable to its present and former employees, officers and directors, including, without express or implied limitation, all savings plans, cash and equity or equity-based incentive plans, retirement plans, health care plans, disability plans, and life, accidental death, and dismemberment insurance plans shall be deemed terminated immediately prior to the Effective Date without any further action by the Bankruptcy Court or the Debtor.

***Reservation of Rights.***

Nothing contained in the Plan or the Plan Supplement shall constitute an admission by the Debtor that any contract or lease subject to Article VIII of the Plan is in fact an executory contract or unexpired lease or that the Debtor has any liability thereunder.

**CONDITIONS TO CONFIRMATION AND EFFECTIVENESS**

***Conditions to Confirmation***

The Plan shall not be confirmed unless the Confirmation Order (a) is in a form and substance satisfactory to the Trustee and is otherwise consistent and in accord with the Settlement Agreements, and (b) approves and implements, among other things, (i) the Settlement Agreements, to the extent any of the Settlement Agreements have not otherwise or previously been approved by the Bankruptcy Court, and (ii) the Releases and Injunctions set forth in the Plan. In addition, Confirmation of the Plan is conditioned upon the entry of the CCAA Approval Order and the Chapter 15 Recognition and Enforcement Order, and both such orders becoming Final Orders. The foregoing conditions to confirmation of the Plan are material and non-waivable.

***Date of Effective Date***

The Effective Date shall occur on the later of: (a) the first Business Day following thirty (30) days after the Confirmation Date, provided that a court of competent jurisdiction has not entered a stay of the Confirmation Order as of such date (in which instance, the Effective Date will not occur until such stay is dissolved); and (b) the first Business Day on which all other conditions to the Effective Date have been satisfied or waived.

***Conditions to Effective Date***

The Effective Date shall not occur until (a) all of the conditions set forth in Section 9.1 have occurred; (b) the Confirmation Order has become a Final Order; (c) the conditions to implementation of the CCAA Plan have been met; and (d) the Plan Implementation Date shall have occurred. The foregoing conditions to the occurrence of the Effective Date are material and non-waivable.

***Satisfaction of Conditions***

Any actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously, and no such action shall be deemed to have occurred prior to the taking of any other such action.

***Occurrence of Effective Date***

The Trustee shall cause the Effective Date to occur as soon as is practicable.

***Substantial Consummation Upon Effective Date***

On the Effective Date, the Plan will be deemed to be substantially consummated under the applicable sections of the Bankruptcy Code.

**EFFECT OF CONFIRMATION**

***Vesting of Assets***

As of the Effective Date, the property of the Estate shall vest in the Post-Effective Date Estate or such other entity as provided in the Plan.

(a) From and after the Effective Date, the Estate Representative or WD Trustee, as the case may be, may dispose of, or cause to be disposed of, the assets of the Post-Effective Date Estate and the WD Trust, respectively, free of any restrictions of the Bankruptcy Code, but in accordance with the provisions, as the case may be, of the Plan and the WD Trust Documents.

(b) As of the Effective Date, all assets of the Post-Effective Date Estate and the WD Trust shall be free and clear of all Claims, except as otherwise provided in the Plan or the Confirmation Order.

### ***Binding Effect***

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, on and after the Effective Date, the provisions of the Plan shall bind any Holder of a Claim against, or Equity Interest in, the Debtor and its respective successors and assigns, and all Holders of Derailment Claims, whether or not the Claim or Equity Interest of such Holder is impaired under the Plan, whether or not such Claim or Equity Interest has been filed or asserted against the Debtor and whether or not such Holder has accepted the Plan.

### ***Exculpations and Limitation of Liability***

As of the Effective Date, none of (a) the Trustee, (b) the Creditors Committee, (c) the Monitor, (d) MMA Canada, or (e) the members, representatives, accountants, financial advisors, consultants and attorneys of the entities described in (a) through (e) 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.

### ***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 of the Plan), the Confirmation Order (other than the provisions therein corresponding to Sections 10.5 and 10.6 of the Plan), 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 of the Plan), the Confirmation Order (other than the provisions therein corresponding to Sections 10.5 and 10.6 of the Plan), 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; (iv) the exculpation contained in section 10.3 of the Plan; (iii) the Releases and Injunctions contained in the Plan; and (d) 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 of the Plan) 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.

*Releases.*

(a) **Settlement Agreement Releases Supplemented; No Impact on Rights to Object.** 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. 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 1.35 of the Plan, for the purposes of Article X 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, remedies, interests, actions, liabilities, demands, duties, injuries, compensation, damages, expenses, fees, and/or costs of whatever kind or nature (including attorney's fees and expenses), whether foreseen or unforeseen, known or unknown, asserted or unasserted, contingent or matured, liquidated or unliquidated, whether in tort, contract, extra-contractual responsibility or otherwise, whether statutory, at common law or in equity, including but not limited to claims for breach of contract, tort, breach of the implied covenant of good faith and fair dealing, loss of support, loss of consortium, statutory or regulatory violations, for indemnity or contribution, or punitive, exemplary or extra-contractual damages of any type, (i) arising out of, based upon, or relating in

any way, in whole or in part, directly or indirectly, whether through a direct claim, cross-claim, third-party claim, subrogation claim, contribution claim, class action or otherwise, to 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, or environmental damage, remediation or exposure 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 X 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 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 (including any Claims assigned by the Other Released Parties to the Trustee, MMA Canada or their designee pursuant to a Settlement Agreement), debts, obligations, demands, (including any Claims or Causes of Action for contribution, indemnity 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, 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 including, without limitation, arising from, the Derailment, the Chapter 11 Case, the Plan, the Disclosure Statement, the Estate, the XL Policies, 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 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 and 9.3 of the Plan, and full performance under the applicable Settlement Agreement(s), 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 negotiation or funding of the Settlement Agreements.*

(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, 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, debts, obligations, demands, (including any Claims or Causes of Action for contribution, indemnity 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, 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 including, without limitation, arising out of 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 Retained Parties, or (C) any Claims or rights of any of the Rail World Parties and/or the D&O Parties 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 and 9.3 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) 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 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 Section 9.1 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 additional 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, debts, obligations, demands, (including any Claims or Causes of Action for contribution, indemnity, 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, 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 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*

*assigned by the Other Released Parties to the Trustee, MMA Canada or their designee pursuant to a Settlement Agreement, 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 other rights to the extent preserved by any of the Other Released Parties in their respective Settlement Agreement(s), including any rights preserved against Insurance Companies by the Other Released Parties; 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.*

(vi) **Releases in Favor of Released Parties.** *Subject in all respects to the provisions of Section 9.1 of the Plan, on the Effective Date, and full performance under the applicable Settlement Agreement(s) applicable to the particular Released Parties, all Persons and entities shall unconditionally release, and hereby are deemed to forever unconditionally release the Other 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, (including any Claims or Causes of Action for contribution, indemnity, 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, suits, judgments, damages, rights, (including any right of setoff, subrogation, contribution, 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 Trustee's 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), including any rights preserved against Insurance Companies by the Other Released Parties; 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.*

*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 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.

(b) **Injunctions.**

(i) **Injunction in Favor of the Debtor and Estate Representative(s).**

Except as to the rights and claims created or expressly preserved by the 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 above.

(ii) **Injunction in Favor of Affiliated Released Parties.** Except as to the rights and 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 and non-settling parties, 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, 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, and the Confirmation Order, upon the Effective Date, all Persons and entities, including, without limitation, all Holders of Derailment Claims 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, 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 punitive damages), demands (including any Claims or Causes of Action for contribution, indemnity, 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, 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.

#### *Terms of Pre-Plan Injunction and Stays*

Unless otherwise provided in the Plan, the Confirmation Order or a separate order of the Bankruptcy Court, all injunctions or stays arising under or entered during the Chapter 11 Case under section 105 or 362 of the Bankruptcy Code, entered in the Transferred WD Cases, or otherwise arising under applicable law and in existence on the Confirmation Date, shall remain

in full force and effect until the later of the Effective Date and the date indicated in such applicable order, provided, however, that to the extent against any remaining defendant that is not a Released Party as of the Effective Date, the Trustee will cooperate with the plaintiffs in the Transferred WD Cases in seeking a transfer of such cases to the forum selected by such plaintiffs, and will cooperate in seeking from the District Court, in the order transferring such cases, a finding that the Settlement Agreements and transactions with Released Parties approved and implemented pursuant to the Plan were entered into in good faith pursuant to and in accordance with 740 ILCS 100/2(c).

### ***Criminal Charges***

Notwithstanding anything to the contrary in Article X of the Plan, nothing herein shall release or enjoin any Claim by Canada (as defined in the CCAA Plan) against any Person for fraud or criminal conduct, and quasi-criminal conduct and, for greater certainty, for any fine or penalty arising from any regulatory investigation and prosecution arising from such conduct.

## **RETENTION OF JURISDICTION**

### **Jurisdiction of Bankruptcy Court.**

Except as otherwise explicitly set forth in the Plan or the WD Trust Agreement as to those matters which are to be considered and determined by the District Court pursuant to an order withdrawing the reference as to those matters, the Bankruptcy Court shall retain original and exclusive jurisdiction of matters arising under, and subject to any limitations contained in any Settlement Agreements, arising out of or related to the Chapter 11 Case and the Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for all matters, to the maximum extent permitted by law, including for, among other things, the following purposes:

(a) To determine any motion, adversary proceeding, application, contested matter and other litigated matter pending on or commenced after the Confirmation Date, including, without limitation, any proceeding relating to any Post-Confirmation Cause of Action, and any proceeding to implement and enforce the Releases and Injunctions;

(b) To consider Disputed Claims, including objections, allowance, classification, priority, compromise, estimation or payment of any Claim, including Class 12 Claims at the request of the WD Trustee;

(c) To hear and determine all applications under sections 330, 331 and 503(b) of the Bankruptcy Code for allowance and payment of Administrative Expense Claims, including awards of compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date;

(d) To enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified or vacated;

(e) To issue injunctions, enter and implement other orders and take such other



actions as may be necessary or appropriate to restrain interference by any person with the consummation, implementation, or enforcement of the Plan, the Releases, the Injunctions, the Settlement Agreements, the Confirmation Order or any other order of the Bankruptcy Court;

(f) To hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(g) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Confirmation Order, any transactions or payments contemplated by any of the foregoing, or any agreement or other document governing or relating to any of the foregoing;

(h) To take any action and issue such orders as may be necessary to construe, enforce, implement, execute and consummate the Plan or to maintain the integrity of the Plan following consummation;

(i) To recover all assets of the Debtor and property of the Estate, wherever located;

(j) To determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(k) To hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including, without limitation, matters with respect to any taxes payable by a trust established in furtherance of the Plan, including the WD Trust);

(l) To hear and determine any other matters related to the Plan, the Disclosure Statement, the Confirmation Order, the Post-Confirmation Causes of Action, the WD Trust Agreement and related documents and not inconsistent with the Bankruptcy Code and title 28 of the United States Code; and

(m) To enter a final decree closing the Chapter 11 Case.

### **MISCELLANEOUS PROVISIONS**

#### ***Withdrawal of the Reference***

The rights of the Trustee, the Estate Representative, or the WD Trustee to move, pursuant to 28 U.S.C § 157(d) and Bankruptcy Rule 5011 for a withdrawal of the reference to the Bankruptcy Court of those matters under the Plan or the WD Trust Agreement which are to be considered and determined by the District Court, or which the Trustee determines, in his sole discretion, require consideration by the District Court, shall be and hereby are expressly preserved, and such motion may be made at any time subsequent to the filing of the Plan.

***Dissolution of the Creditors' Committee.***

The Creditors' Committee shall dissolve on the Effective Date; *provided, however*, that (a) the Creditors' Committee shall continue to exist after the Effective Date for the purposes of opposing any pending appeals of the Confirmation Order and taking any actions related thereto, and the Creditors' Committee's professionals may seek compensation for and reimbursement of expenses related to such opposition and actions, if any, from the Post-Effective Date Estate, and (b) after dissolution of the Creditors' Committee, the Creditors' Committee's professionals shall retain their rights to pursue, review and object to any applications for compensation and reimbursement of expenses filed in accordance with Section 2.1 and 2.2 of the Plan.

***Quasi-Judicial Immunity***

The Confirmation Order shall provide that the Estate Representative and the WD Trustee, are entitled to quasi-judicial immunity to the fullest extent allowed by law in connection with their implementation of the Confirmation Order, the Plan, the WD Trust Agreement and, the Wrongful Death Claim Resolution Procedures.

***Payment of Statutory Fees***

On the Effective Date, and thereafter as may be required, the Estate Representative shall pay all fees payable pursuant to 28 U.S.C. § 1930, including all quarterly fees pursuant to 28 U.S.C. § 1930 that become due after the Effective Date.

***Effectuating Documents and Further Transactions***

The Trustee, up to the Effective Date, and the Estate Representative, subsequent to the Effective Date, are authorized to execute, deliver, file or record such contracts, releases and other agreements or documents and take such actions as the Trustee or the Estate Representative, as the case may be, deem to be reasonably necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

***Exemption from Transfer Taxes***

Pursuant to section 1146(c) of the Bankruptcy Code, the assignment or surrender of any lease or sublease, or the delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including any bills of sale, or assignments executed in connection with any disposition of assets contemplated by the Plan (including transfers of assets to and by the WD Trust) shall not be subject to any stamp, real estate transfer, mortgage recording, sales, use or other similar tax.

***Elimination of Vacant Classes; Deemed Acceptance.***

Any Class that is not occupied as of the commencement of the Confirmation Hearing by an Allowed Claim or a Claim temporarily allowed under Bankruptcy Rule 3018 shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code. Any Class that is occupied as of such

date by an Allowed Claim or such a temporary allowed claim and as to which no vote is cast shall be deemed to vote to accept the plan for purposes of Sections 1129(a)(8) and 1129(a)(10) of the Bankruptcy Code.

### ***Modification of Plan***

The Plan may be amended, modified or supplemented by the Trustee in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as the Bankruptcy Court may otherwise direct. Prior to the Effective Date, the Trustee may make appropriate technical adjustments and modifications to the Plan without further order or approval of the Bankruptcy Court, provided that such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Equity Interests. In addition, after the Effective Date, so long as such action does not materially adversely affect the treatment of Holders of Claims or Equity Interests under the Plan, the Estate Representative may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order. Notwithstanding the foregoing, without the prior express consent of the relevant Contributing Parties, the Plan may not be amended pursuant to this paragraph if such amendment, would materially adversely affect the Releases and Injunctions in favor of the Released Parties or the rights of any of the Released Parties under their respective Settlement Agreements as set forth herein. Any such amendment, modification or supplement must be contained in a written document that is filed with the Bankruptcy Court, and must be discussed in advance with, and not objected to by, the Released Parties.

### ***Revocation or Withdrawal of Plan***

The Trustee reserves the right to revoke or withdraw the Plan at any time prior to the Confirmation Date. If the Trustee takes such action, the Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any Claim by or against the Debtor or any other Person or to prejudice in any manner the rights of the Debtor or any other Person in any further proceedings involving the Debtor. However, notwithstanding the foregoing, the Trustee shall use his best efforts to obtain confirmation of the Plan as it is presently proposed.

### ***Severability***

Subject to Section 9.1, relative to conditions to Confirmation, if, prior to the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the plan proponents, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation, except to the extent that such holding, alteration or interpretation, invalidates a condition to effectiveness of the Plan, any of the Releases in Section 10.5, any of the Injunctions in Section 10.6, or any other provision herein that would materially adversely affect the rights of any of the Settling Parties under their

respective Settlement Agreements, or requires any Released Party to pay more than the sum set forth in their respective Settlement Agreement(s). The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms, and upon the Effective Date all such provisions are accordingly non-severable. For the avoidance of doubt, to the extent that any alteration, or modification of the Plan or Confirmation Order materially and adversely affects the releases contained in the Released Parties' Settlement Agreements, the Released Parties may terminate their respective Settlement Agreement(s) if and as provided for in their Settlement Agreement(s).

#### ***Schedules and Exhibits***

The schedules and exhibits to the Plan are incorporated into and are a part of the Plan as if set forth in full herein.

#### ***Successors and Assigns***

All the rights, benefits and obligations of any person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors and/or assigns of such person.

#### ***Governing Law.***

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit to the Plan or Plan Supplement provides otherwise (in which case the governing law specified therein shall be applicable to such exhibit), the rights, duties, and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Maine without giving effect to its principles of conflict of laws.

#### ***Notices.***

All notices, requests and demands to or upon the Trustee, the Creditors' Committee, the U. S. Trustee, or the WD Trustee shall be in writing (including by facsimile transmission) to be effective and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Trustee:

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

If to the Official Committee of Derailment Victims:

Luc A. Despins, Esq.  
PAUL HASTINGS, LLP  
75 East 55th Street  
New York, NY 10022  
Telephone: (212) 318-6001  
Facsimile: (212) 230-7771

If to the WD Trustee:

[TO BE INCLUDED IN THE PLAN SUPPLEMENT]

If to the U.S. Trustee:

Stephen G. Morrell, Esq.  
OFFICE OF THE UNITED STATES TRUSTEE  
537 Congress Street  
Portland, ME 04101  
Telephone: (207) 780-3564

***Time.***

In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

***Section Headings.***

The section headings contained in the Plan are for reference purposes only and shall not affect in any way the meaning or interpretation of the Plan.

***No Admissions.***

As to contested matters, adversary proceedings and other Causes of Action or threatened Causes of Action, the Plan shall not constitute or be construed as an admission of any fact or liability, stipulation, or waiver, but rather as a statement made in settlement negotiations. The Plan shall not be admissible in any non-bankruptcy proceeding nor shall it be construed to be conclusive advice on the tax, securities, and other legal effects of the Plan as to Holders of Claims against, and Equity Interests in, the Debtor.

**VIII.**

**SUMMARY OF THE CCAA PLAN**

**A. STRUCTURE OF THE CCAA PLAN**

The CCAA Plan (a copy of which is attached hereto as Exhibit B) is structured around the distribution of approximately [CAD\$200 million] (as of the Implementation Date, as defined in the CCAA Plan) in proceeds from the Settlement Agreements (the “Canadian Settlement Fund”) to the holders of Derailment Claims, other than Wrongful Death Derailment Claims (who will be paid through the WD Trust) and granting a full, final, and irrevocable discharge and release of Derailment Claims against the Settling Parties.

**B. RELEASES UNDER THE CCAA PLAN**

Pursuant to the Settlement Agreements, the Settling Parties whose contributions constitute the Settlement Fund shall be released in full from all liability arising from the Derailment. Certain non-settling parties which are considered to be primary defendants in the ongoing litigation arising from the Derailment—the Non-Released Parties—shall not receive a release of liability under the CCAA Plan. However, the Monitor and the Trustee continue to negotiate with these parties, and the CCAA Plan may be amended to provide releases to such parties, as well as additional contributions to and distributions from the Canadian Settlement Fund, if additional Settlement Agreements are reached.

**C. VOTING AND DISTRIBUTIONS UNDER THE CCAA PLAN**

Under Articles 3.2 and 3.4 of the CCAA Plan, upon proving a Claim, the holder of such Claim shall receive a distribution based on procedures specific to that category of Claim, as set forth in the CCAA Plan. The distributions to the individual holders of Wrongful Death Claims (under the U.S. Plan), Bodily Injury and Moral Damages Claims, and Property and Economic Damages Claims are set out in Schedules F, G, and H to the CCAA Plan.

Under Article 3.5 of the CCAA Plan, creditors with Proven Claims shall have a right to vote on the CCAA Plan, subject to the following limits placed on the aggregate value of the votes cast by certain groups of creditors:

<b>Category of Claims</b>	<b>Limit on Aggregate Voting Share</b>
Wrongful Death Claims	22.2%
Bodily Injury and Moral Damages Claims	11.1%
Property and Economic Damages Claims	8.3%
Subrogated Insurer Claims	3.8%
Government Claims	48.5%
Indemnity Claims	0% <sup>5</sup>

<sup>5</sup> The Indemnity Claims were filed by the Third Party Defendants and are contingent and unliquidated. They are not admitted by MMAC and, in any event, are not Derailment Claims.

Non-Derailment Claims	6.1%
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Under Article 4.2 of the CCAA Plan, creditors will be entitled to certain distributions on their claims as follows:

<b>Category of Claims</b>	<b>Aggregate Distribution from Funds for Distribution</b>
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%
Government Claims	52.4% <sup>6</sup>
Indemnity Claims	0%
Non-Derailment Claims	0%

Additionally, under Article 4.3 of the CCAA Plan, with the agreement of the Province of Quebec and the Federal Government of Canada (Economic Development of Canada, Quebec Region), any and all amounts payable pursuant to the CCAA Plan (a) to the Province of Quebec out of the XL Indemnity Payment (as defined in the CCAA Plan) and (b) to the Federal Government of Canada (Economic Development of Canada, Quebec 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%
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 Settlement Fund.

Upon the approval of the CCAA Plan, the Settling Parties shall pay their respective portions of the Settlement Funds within thirty (30) days, and once all funds are contributed, the Monitor will make distributions to creditors within forty-five (45) days.

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<sup>6</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 (53.5%), Bodily Injury and Moral Damages Claims (20.0%), and Property and Economic Damages Claims (26.7%).

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

Under the Settlement Agreements, the Monitor 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.

**IX.**

**DISTRIBUTIONS TO DERAILMENT CREDITORS UNDER THE PLAN AND CCAA PLAN**

**A. DISTRIBUTION MATRICIES FOR CERTAIN DERAILMENT CLAIMS**

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

Under the Plan and the CCAA Plan, holders of Allowed Derailment Wrongful Death Claims shall receive distributions in accordance with a matrix of factors shown on Schedule B hereto. The distributions to individual holders of Allowed Derailment Wrongful Death Claims shall depend on such factors and the final amount of the Settlement 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 hereto. The distributions to holders of Allowed Bodily Injury and Moral Damages Claims shall depend on such factors and the final amount of the Settlement Fund.

**B. 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 hereto.

**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% 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 Quebec: 94% of the Government Claims;
- (b) The City of Lac-Mégantic: 1.1% of the Government Claims;
- (c) The Federal Government of Canada: 4.8% of the Government Claims; and
- (d) Commission de la Santé et de la Sécurité au Travail: 0.1% of the Government Claims.

**X.**

**CERTAIN RISK FACTORS TO BE CONSIDERED**

**1. Risk of Failure to Confirm the Plan**

Although the Trustee believes that the Plan will satisfy all requirements necessary for confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will reach the same conclusion or that modifications of the Plan will not be required for confirmation or that such modifications would not necessitate resolicitation of votes.

**2. Non-Consensual Confirmation**

In the event any impaired class of claims does not accept the Plan, the Bankruptcy Court may nevertheless confirm such Plan at the proponent's request if at least one impaired class has accepted the Plan (with such acceptance being determined without including the vote of any "insider" in such class), and as to each impaired class that has not accepted the Plan, the Bankruptcy Court determines that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to the dissenting impaired Classes. *See Section XIII.C.2* below, entitled Requirements of Section 1129(b) of the Bankruptcy Code. Because Classes 14 and 15 are deemed to reject the Plan, these requirements must be satisfied with respect to these Classes. Should any other class vote to reject the Plan, then these requirements must be satisfied with respect to these Classes as well. The Trustee believes that the Plan will satisfy these requirements.

**3. Risk of Non-Occurrence of the Effective Date**

Although the Trustee believes that the Effective Date will occur soon after the Confirmation Date, there can be no assurance as to such timing.

**4. Trustee Could Withdraw the Plan**

The Trustee reserves the right to revoke or withdraw the Plan prior to the Confirmation Date. If the Trustee revokes or withdraws the Plan prior to the Confirmation Date, then the Plan will be deemed null and void. In such event, nothing contained in the Plan will constitute or be deemed a waiver or release of any Claims by or against the Debtor or any other person or to prejudice in any manner the rights of the Debtor or any person in any further proceedings involving the Debtor.

**5. The CCAA Plan May Not Be Approved**

The CCAA Case is independent of the Chapter 11 Case, and the Canadian Court may not approve the CCAA Plan. In such event, a condition to confirmation of the Plan could not be met.

**6. The Bankruptcy Court May Decline to Recognize and Enforce the CCAA Plan Sanction Order Under Chapter 15 of the Bankruptcy Code**

The Bankruptcy Court might decline to recognize and enforce the CCAA Plan Sanction Order. In such event, a condition to confirmation of the Plan could not be met.

**XI.**

**CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

**THE FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN ARE COMPLEX. ALL HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS IN MMA OR MMA CANADA SHOULD CONSULT WITH THEIR TAX ADVISORS AS TO THE PARTICULAR TAX CONSEQUENCES TO THEM OF THE PLAN AND THE OWNERSHIP AND DISPOSITION OF PROCEEDS FROM CLAIMS INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL OR FOREIGN (NON-US) TAX LAWS AND OF ANY CHANGE IN APPLICABLE TAX LAWS.**

The following discussion addresses certain United States Federal income tax consequences of the consummation of the Plan. This discussion is based upon the United States Tax Code, as amended, existing and proposed regulations thereunder, current administrative rulings, and judicial decisions as in effect on the date hereof, all of which are subject to change, possibly retroactively. No rulings or determinations by the Internal Revenue Service have been obtained or sought by the Trustee with respect to the Plan. An opinion of counsel has not been obtained with respect to the tax aspects of the Plan. This discussion does not purport to address the federal income tax consequences of the Plan to particular classes of taxpayers (such as foreign persons, S corporations, mutual funds, small business investment companies, regulated investment companies, broker-dealers, insurance companies, tax-exempt organizations and financial institutions) or the state, local or foreign income and other tax consequences of the Plan.

**IRS CIRCULAR 230 NOTICE:** TO ENSURE COMPLIANCE WITH IRS CIRCULAR 230, HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS IN THE DEBTOR ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF FEDERAL TAX ISSUES CONTAINED OR REFERRED TO IN THIS DISCLOSURE STATEMENT IS NOT INTENDED TO OR WRITTEN TO BE USED, AND CANNOT BE USED, BY SUCH HOLDERS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON THEM UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING OF THE PLAN; AND (C) SUCH HOLDERS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

**1.  Holders of Claims (Other than Claims for Personal Injury or Wrongful Death) and Equity Interests**

Subject to the discussion below for Claims for personal injury or wrongful death, a holder of an allowed Claim or Equity Interest will generally recognize ordinary income to the extent that the amount of cash or property received (or to be received) under the Plan is attributable to interest that accrued on a claim but was not previously paid by the Debtor or included in income by the holder of the Allowed Claim or Equity Interest. A holder of an Allowed Claim will generally recognize gain or loss equal to the difference between the holder's adjusted basis in its claim and the amount realized by the holder upon consummation of the Plan that is not attributable to accrued but unpaid interest. The amount realized will equal the sum of cash and the fair market value of other consideration received (or to be received).

Subject to the discussion below for Claims for personal injury or wrongful death, the character of any gain or loss that is recognized will depend upon a number of factors, including the status of the holder, the nature of the Claim in its hands, whether the Claim was purchased at a discount, whether and to what extent the holder has previously claimed a bad debt deduction with respect to the Claim, and the holder's holding period of the Claim. If the Claim or Equity Interest in the holder's hands is a capital asset, interests will constitute long-term capital gain or loss if the holder held such Claim for longer than one year or short-term capital gain or loss if the holder held such Claim for one year or less. If the holder realizes a capital loss, the holder's deduction of the loss may be subject to limitation.

A holder of an Allowed Claim, other than an Allowed Claim for personal injury or wrongful death, who receives, in respect of its claim, an amount that is less than its tax basis in such claim may be entitled to a bad debt deduction under section 166(a) of the Tax Code or a worthless securities deduction under section 165(g) of the Tax Code. The rules governing the character, timing, and amount of these deductions depend upon the facts and circumstances of the holder, the obligor, and the instrument with respect to which a deduction is claimed. Accordingly, such holders are urged to consult their tax advisors with respect to their ability to take such a deduction if either: (1) the holder is a corporation; or (2) the Claim constituted (a) a debt created or acquired (as the case may be) in connection with a trade or business of the holder or (b) a debt the loss from the worthlessness of which is incurred in the holder's trade or business. A holder that has previously recognized a loss or deduction in respect of its claim or equity interest may be required to include in its gross income (as ordinary income) any amounts

received under the Plan to the extent such amounts exceed the holder's adjusted basis in such Claim.

Holders of Claims, other than Claims for personal injury or wrongful death who were not previously required to include any accrued but unpaid interest in their gross income on a Claim may be treated as receiving taxable interest income to the extent any consideration they receive under the Plan is allocable to such interest. Holders previously required to include in their gross income any accrued but unpaid interest on a claim may be entitled to recognize a deductible loss to the extent such interest is not satisfied under the Plan. Under the Plan, to the extent that any allowed Claim entitled to a distribution is comprised of indebtedness and accrued but unpaid interest thereon, such distribution shall, for federal income tax purposes, be allocated to the principal amount of the Claim first and then, to the extent the distribution exceeds the principal amount of the Claim, to the portion of such Claim representing accrued but unpaid interest.

A holder of a Claim constituting any installment obligation for tax purposes may be required to currently recognize any gain remaining with respect to such obligation if, pursuant to the Plan, the obligation is considered to be satisfied at other than its face value, distributed, transmitted, sold or otherwise disposed of within the meaning of section 453(b) of the Tax Code. Whether the holder of a Claim, other than a Claim for personal injury or wrongful death, will recognize a loss, a deduction for worthless securities or any other tax treatment will be depend upon facts and circumstances that are specific to the nature of the holder and its Claim. Accordingly, holders of such Claims should consult their own tax advisors. Holders of Equity Interests will not receive any cash or property under the Plan.

Whether the holder of Equity Interests will recognize a loss, a deduction for worthless securities or any other tax treatment will depend upon facts and circumstances that are specific to the nature of the holder and its Equity Interests. Accordingly, holders of Equity Interests should consult their own tax advisors.

## **2. Holders of Claims for Personal Injury or Wrongful Death**

Subject to the terms of the Plan, certain holders of Claims for personal injury or wrongful death will receive their share of beneficial interests in the WD Trust.

### **(a) Classification of the WD Trust**

The WD Trust is intended to qualify as, and the discussion below assumes that the WD Trust will be respected as, a liquidating trust for U.S. federal income tax purposes. In general, a liquidating trust is not a separate taxable entity for U.S. federal income tax purposes, but is instead treated as a grantor trust, *i.e.*, a pass-through entity. However, merely establishing a trust as a liquidating trust does not ensure that it will be treated as such for U.S. federal income tax purposes. In Revenue Procedure 94-45, the IRS set forth the general criteria for obtaining an IRS ruling as to the grantor trust status of a liquidating trust under a Title 11 plan. In general, the WD Trust has been structured with the intention of complying with the criteria of Revenue Procedure 94-45. Pursuant to the Plan, and in conformity with Revenue Procedure 94-45, all parties (including the Debtor, the Estate Representative, the WD Trustee and the WD Trust

Beneficiaries), are required to treat, for U.S. federal income tax purposes, the WD Trust as a grantor trust of which the WD Trust Beneficiaries are the owners and grantors.

No ruling has been requested from the IRS, and no opinion of counsel has been requested concerning the tax status of the WD Trust as a grantor trust. There can be no assurance that the IRS will treat the WD Trust as a grantor trust. If the IRS were to challenge successfully such classification, the federal income tax consequences to the WD Trust, and the WD Trust Beneficiaries could be materially different than is discussed herein (including the potential for an entity level tax on the income of the WD Trust).

For all United States federal income tax purposes, all parties (including the Debtor, the Estate Representative, the WD Trustee, the 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 (other than the WD Trust Assets allocable to Contested Claims or a Disputed Ownership Fund) 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 U.S. 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 (other than the WD Trust Assets allocable to Contested Claims or a Disputed Ownership Fund).

The WD Trustee shall file returns for the WD Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) in accordance with 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.

Allocations of WD Trust taxable income, if any, shall be determined by reference to the manner in which an amount of Cash equal to such taxable income would be distributed (without regard to any restrictions on distributions described herein) if, immediately prior to such deemed distribution, the WD Trust had distributed all of its other assets (valued for this purpose at their tax book value) to the holders of the WD Trust interests, taking into account all prior and concurrent distributions from the WD Trust. Similarly, taxable loss of the WD Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a liquidating distribution of the remaining WD Trust Assets. The tax book value of the WD Trust Assets for this purpose shall equal their fair market value on the Effective Date, adjusted in accordance with tax accounting principles prescribed by the Internal Revenue Code, the Treasury Regulations and other applicable administrative and judicial authorities and pronouncements.

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 Debtor, the Estate Representative, the Official Committee, the WD Trustee, the WD Trust Beneficiaries and holders of Allowed Class 12 Claims) for all federal income tax purposes.

The income tax consequences of amounts received by holders of certain personal injury Claims or wrongful death Claims will depend on the individual nature of each such Claim and the particular circumstances and facts applicable to such holder. To the extent that holders of personal injury Claims or wrongful death Claims receive amounts as damages on account of physical injuries or physical sickness, including wrongful death, such payments should not constitute gross income to such recipients under section 104 of the Internal Revenue Code, except to the extent that such payments are attributable to medical expense deductions allowed to such holders under section 213 of the Internal Revenue Code for a prior taxable year. To the extent that any payments from the WD Trust to holders of personal injury claims or wrongful death Claims constitute payments the nature of which are not excludable from income under section 104 of the Internal Revenue Code (or any other provision of the Internal Revenue Code, such as interest income), such payments will be includible as gross income to such holders.

**WD TRUST BENEFICIARIES ARE URGED TO CONSULT THEIR OWN TAX ADVISORS REGARDING THEIR INCOME TAX REPORTING, IF ANY, AS A RESULT OF RECEIVING AND HOLDING BENEFICIAL INTERESTS IN THE WD TRUST.**

**THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. NO STATEMENT IS MADE REGARDING THE TAX LAW OF QUEBEC OR OF CANADA OR ANY OTHER GOVERNMENTAL ENTITY OR SUBDIVISION. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S INDIVIDUAL CIRCUMSTANCES. ACCORDINGLY, HOLDERS ARE URGED TO CONSULT WITH THEIR TAX ADVISORS ABOUT THE FEDERAL, STATE, LOCAL AND FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.**

## **XII.**

### **SOLICITATION AND VOTING**

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

##### **1. Ballots and Voting Deadline**

All votes to accept or reject the Plan must be cast by using the ballot enclosed with this Disclosure Statement. No other votes will be counted.

Ballots must be received by the Trustee's Counsel no later than \_\_\_\_\_, **2015 at 5:00 p.m. (prevailing Eastern Time)** (the "Voting Deadline") unless the solicitation is terminated early or extended by the Trustee prior to this Voting Deadline. Except to the extent requested by the Trustee or as permitted by the Bankruptcy Court pursuant to Bankruptcy Rule 3018, ballots received after the Voting Deadline will not be counted or otherwise used in connection with the Trustee's request for confirmation of the Plan (or any permitted modification thereof).

In accordance with Bankruptcy Rule 3018(c), the ballots are based on Official Form No. 14, which has been modified as necessary to meet the particular needs of this Chapter 11 Case.

**IF YOU ARE ENTITLED TO VOTE ON THE PLAN, A BALLOT IS ENCLOSED WITH THIS DISCLOSURE STATEMENT. IF YOU ARE NOT ENTITLED TO VOTE ON THE PLAN, YOU WILL RECEIVE A NOTICE OF NON-VOTING STATUS.**

If you hold multiple Claims, you will receive separate ballots that must be used for each of your Claims in a voting Class. Please sign and complete a separate ballot with respect to each Claim, and return your ballot(s) directly to the office of Bernstein, Shur, Sawyer & Nelson, P.A. (the "Trustee's Counsel") at the following address:

**BERNSTEIN SHUR SAWYER & NELSON, P.A.**  
**Attn: Angela Stewart**  
**100 Middle Street**  
**P.O. Box 9729**  
**Portland, ME 04104**

To be counted, your ballot(s) must be actually received by the Trustee's Counsel no later than \_\_\_\_\_, **2015 at 5:00 p.m. (prevailing Eastern Time)**. Only ballots with original signatures will be counted. Ballots with copied signatures will NOT be accepted or counted. You may not submit a ballot electronically, including via email or facsimile.

If delivery of a ballot is by mail, it is recommended that voters use an air courier with guaranteed next day delivery or registered mail, properly insured, with return receipt requested. In all cases, sufficient time should be allowed to ensure timely delivery. The method of such delivery is at the election and risk of the voter.

Pursuant to the Disclosure Statement Order, the Bankruptcy Court: (a) approved the Disclosure Statement as containing adequate information; (b) approved, among other things, the dates, procedures and forms applicable to the process of soliciting votes on and providing notice of the Plan and certain vote tabulation procedures; (c) established the deadline for filing objections to the Plan; and (d) scheduled the Confirmation Hearing. The Bankruptcy Court set \_\_\_\_\_, 2015, as the Voting Record Date. Accordingly, only holders of Claims in the voting Classes as of the Voting Record Date will receive a ballot and be allowed to vote on the Plan.

If you: (a) did not receive a ballot and believe you are entitled to one; (b) received a damaged ballot; (c) lost your ballot; (d) have any questions concerning this Disclosure Statement, the Plan, or the procedures for voting on the Plan, or the solicitation packet of materials you received; or (e) if you wish to obtain a paper copy of the Plan, this Disclosure Statement or any exhibits to such documents, please contact the Trustee's Counsel at: **(207) 228-7374**.

## **2. Voting**

Ballots cast by alleged holders of Claims in a voting Class (other than any holder of a non-voting Claim) whose Claims (i) are not Allowed, (ii) are not listed on the Debtor's Schedules, or (iii) are listed as disputed, contingent and/or unliquidated on the Debtor's Schedules, and who have timely filed proofs of Claim in unliquidated or unknown amounts that are not the subject of an objection will have their ballots counted towards satisfying the numerosity requirement of section 1126(c) of the Bankruptcy Code, but will NOT have their ballots counted toward satisfying the aggregate Claim amount requirement.

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. As set forth in the Disclosure Statement Order, motions for Claims to be temporarily allowed for voting purposes must be served on the Trustee and filed with the Bankruptcy Court, on or before \_\_\_\_\_, 2015.

The Trustee has established special voting and tabulation procedures for holders of certain Derailment Claims. Because individual assessments of the value of Derailment Claims can vary, the Trustee has established, with the approval of the Bankruptcy Court, a fixed set of values to be used solely in connection with determining the amount of such Claims for voting purposes. These fixed values apply to all Derailment 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 Schedule B and C to the Plan, 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).

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.

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

The transferee of a transferred Claim is entitled to cast a ballot on account of such transferred Claim only if: (a) all actions necessary to effect the transfer of the Claim pursuant to Bankruptcy Rule 3001(e) have been completed by **5:00 p.m. (prevailing Eastern Time)** on the day prior to the Voting Record Date; or (b) the transferee files by the Voting Record Date: (i) documentation required by Bankruptcy Rule 3001(e) to evidence the transfer; and (ii) a sworn statement of the transferor supporting the validity of the transfer. If a portion of a single Claim has been transferred to a transferee, all holders of any portion of such single Claim will be: (a) treated as a single creditor for purposes of the numerosity requirements in section 1126(c) of the Bankruptcy Code (and for the other voting and solicitation procedures set forth in the Disclosure Statement Order); and (b) required to vote every portion of such Claim collectively to either accept or reject the Plan. In the event that a group of ballots received from the holders of multiple portions of a single Claim partially rejects and partially accepts the Plan, such ballots will NOT be counted or included in the tabulation of votes. Section 1126(c) of the Bankruptcy Code defines "acceptance" of a plan by a class of claims as acceptance by creditors in that class that hold at least two-thirds in dollar amount and represent more than one-half in number of the claims that cast ballots for acceptance or rejection of the plan.

The Trustee reserves the right to amend or modify the Plan at any time prior to confirmation. Amendments or modifications to the Plan that do not materially and adversely affect the treatment of Claims may be approved by the Bankruptcy Court at the Confirmation Hearing without the necessity of re-soliciting votes. In the event re-solicitation is required, the Trustee will furnish new solicitation packets which shall include new ballots to be used to vote to accept or reject the Plan, as amended.

**ALL HOLDERS OF CLAIMS OR EQUITY INTERESTS ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT CAREFULLY AND IN THEIR ENTIRETY. ALL HOLDERS OF CLAIMS ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT CAREFULLY AND IN THEIR ENTIRETY BEFORE VOTING ON THE PLAN.**

### **3. Fiduciaries and Other Representatives**

If a ballot is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation, or acting in a fiduciary or representative capacity, such person should

indicate such capacity when signing and, unless otherwise determined by the Trustee, must submit proper evidence satisfactory to the Trustee of authority to so act. Authorized signatories should submit the separate ballot of each beneficial owner for whom they are voting.

#### **4. Agreements Upon Furnishing Ballots**

The delivery of an accepting ballot to the Trustee's Counsel by a holder of eligible Claims pursuant to one of the procedures set forth above will constitute the agreement of such holder to accept (a) all of the terms of, and conditions to the solicitation and (b) the terms of the Plan; *provided, however*, all parties in interest retain their right to object to confirmation of the Plan pursuant to section 1128 of the Bankruptcy Code.

#### **5. Waivers of Defects, Irregularities, Etc.**

Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawal of ballots will be determined by the Trustee's Counsel and the Trustee in their sole discretion, which determination will be final and binding. Effective withdrawals of ballots must be delivered to the Trustee's Counsel prior to the Voting Deadline. The Trustee reserves the absolute right to contest the validity of any such withdrawal. The Trustee also reserves the right to reject any and all ballots not in proper form, the acceptance of which would, in the opinion of the Trustee or his counsel, be unlawful. The Trustee further reserves the right to waive any defects or irregularities or conditions of delivery as to any particular ballot. The interpretation (including of the ballot and the respective instructions thereto) by the Trustee, unless otherwise directed by the Bankruptcy Court, will be final and binding on all parties. Unless waived, any defects or irregularities in connection with deliveries of ballots must be cured within such time as the Trustee (or the Bankruptcy Court) determines. Neither the Trustee nor any other person will be under any duty to provide notification of defects or irregularities with respect to deliveries of ballots nor will any of them incur any liabilities for failure to provide such notification. Unless otherwise directed by the Bankruptcy Court, delivery of such ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots previously furnished will be invalidated.

#### **6. Withdrawal of Ballots; Revocation**

Any party who has delivered a valid ballot for the acceptance or rejection of the Plan may withdraw such acceptance or rejection by delivering a written notice of withdrawal to the Trustee's Counsel at any time prior to the Voting Deadline. A notice of withdrawal, to be valid, must: (i) contain the description of the Claim(s) to which it relates and the aggregate principal amount represented by such Claim(s); (ii) be signed by the withdrawing party in the same manner as the ballot being withdrawn; (iii) contain a certification that the withdrawing party owns the Claim(s) and possesses the right to withdraw the vote sought to be withdrawn; and (iv) be received by the Trustee's Counsel in a timely manner at the address set forth in the ballot. Prior to the Confirmation Hearing, the Trustee intends to consult with the Trustee's Counsel to determine whether any withdrawals of ballots were received and whether the requisite

acceptances of the Plan have been received. As stated above, the Trustee expressly reserves the absolute right to contest the validity of any such withdrawals of ballots.

A purported notice of withdrawal of ballots which is not received in a timely manner by the Trustee's Counsel will not be effective to withdraw a previously cast ballot. Any party who has previously submitted to the Trustee's Counsel prior to the Voting Deadline a properly completed ballot may revoke such ballot and change his or its vote by submitting to the Trustee's Counsel prior to the Voting Deadline a subsequent properly completed ballot for acceptance or rejection of the Plan. In the case where more than one timely, properly completed ballot is received, only the ballot which bears the latest date will be counted for purposes of determining whether the requisite acceptances have been received.

**7. Further Information; Additional Copies**

If you have any questions or require further information about the voting procedure for voting your Claim or about the solicitation package, or if you wish to obtain an additional copy of the Plan, the Disclosure Statement, or any exhibits to such documents (at your own expense, unless otherwise specifically required by Bankruptcy Rule 3017(d)), please contact the Trustee's Counsel at: **(207) 228-7374**.

**XIII.**

**CONFIRMATION OF THE PLAN**

**A. CONFIRMATION HEARINGS**

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after appropriate notice, to hold a hearing on confirmation of a chapter 11 plan. The Bankruptcy Court has scheduled the Confirmation Hearing for \_\_\_\_\_ [ ], **2015 at 10:00 a.m. (prevailing Eastern Time)**. The Confirmation Hearing may be adjourned from time-to-time by the Trustee or the Bankruptcy Court without further notice except for an announcement of the adjourned date made at the Confirmation Hearing or any subsequent adjourned Confirmation Hearing.

**B. OBJECTIONS**

Section 1128 of the Bankruptcy Code provides that any party in interest may object to the confirmation of a plan. Any objection to confirmation of the Plan must be in writing, must conform to the Bankruptcy Rules and the Local Bankruptcy Rules, must set forth the name of the objector, the nature and amount of Claims held or asserted by the objector against the Debtor's Estate or property, the basis for the objection and the specific grounds therefor, and must be filed with the Bankruptcy Court, and served upon (i) Bernstein, Shur, Sawyer & Nelson, P.A., 100 Middle Street, P.O. Box 9729, Portland, Maine 04101 (Attn: \_\_\_\_\_), and (ii) the U.S. Trustee, 537 Congress Street, Suite 300 Portland, ME 04101 (collectively, the "Notice Parties"), so as to be received no later than the Objection Deadline of \_\_\_\_\_ [ ], **2015 at 5:00 p.m. (prevailing Eastern Time)**.

Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014. **UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.**

**C. REQUIREMENTS FOR CONFIRMATION OF THE PLAN**

**1. Requirements of Section 1129(a) of the Bankruptcy Code**

**(a) General Requirements**

At the confirmation hearing, the Bankruptcy Court will determine whether the following confirmation requirements specified in section 1129 of the Bankruptcy Code have been satisfied:

- i. The Plan complies with the applicable provisions of the Bankruptcy Code.
- ii. The Trustee has complied with the applicable provisions of the Bankruptcy Code.
- iii. The Plan has been proposed in good faith and not by any means proscribed by law.
- iv. Any payment made or promised by the Trustee or by a Person acquiring property under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Case, or in connection with the Plan and incident to the Chapter 11 Case, has been disclosed to the Bankruptcy Court, and any such payment made before confirmation of the Plan is reasonable, or if such payment is to be fixed after confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court as reasonable.
- v. The Trustee has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a Liquidating Trustee under the Plan, and the appointment to, or continuance in, such office of such individual is consistent with the interests of creditors and equity holders and with public policy.
- vi. With respect to each Class of Claims, each holder of an Impaired Claim either has accepted the Plan or will receive or retain under the Plan on account of such holder's Claim, property of a value, as of the Effective Date, that is not less than the amount such holder would receive or retain if the Debtor liquidated on the Effective Date under chapter 7 of the Bankruptcy Code. *See* discussion of "Best Interests Test" below.
- vii. Except to the extent the Plan meets the requirements of section

1129(b) of the Bankruptcy Code (discussed below), each class of Claims has either accepted the Plan or is not impaired under the Plan.

- viii. Except to the extent that the holder of a particular Claim has agreed to a different treatment of such Claim, the Plan provides that Administrative Expense Claims and Priority Claims will be paid in full on the Effective Date.
- ix. At least one class of Impaired Claims has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim in such class.
- x. Confirmation of the Plan is not likely to be followed by the need for further financial reorganization of the Debtor or any successor to the Debtor under the Plan, unless such liquidation or reorganization is proposed in the Plan. *See* discussion of “Feasibility” below.
- xi. All fees payable under section 1930 of title 28, as determined by the Court at the hearing on confirmation of the applicable Plan, have been paid or the applicable Plan provides for the payment of all such fees on the Effective Date of the applicable Plan.

**(b) Railroad-Specific Requirements**

At the confirmation hearing, the Bankruptcy Court also will determine whether the following confirmation requirements specified in sections 1172 and 1173 of the Bankruptcy Code have been satisfied:

- i. The Plan must specify the extent to and the means by which any of the Debtor’s rail service is proposed to be continued or terminated, and whether any of the Debtor’s railroad lines are proposed to be transferred or abandoned.
- ii. Each creditor or equity security holder must receive or retain under the Plan property of a value, as of the effective date of the plan, that is not less than the value of property that each such creditor or equity security holder would so receive or retain if all of the operating railroad lines of the Debtor were sold, and the proceeds of such sale, and the other property of the estate, were distributed under chapter 7 of this title on such date.
- iii. In light of the Debtor’s past earnings and the probable prospective earnings of the reorganized Debtor, there must be adequate coverage by such prospective earnings of any fixed charges, such

as interest on debt, amortization of funded debt, and rent for leased railroads, provided for by the Plan.

- iv. The Plan must be consistent with the public interest.

(c) **Best Interests Test**

As stated in Section (C)(1)(b)(ii) above, the Bankruptcy Code requires that each holder of an impaired Claim either (i) accepts the Plan or (ii) receives or retains under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive or retain if the Debtor liquidated under chapter 7 of the Bankruptcy Code on the Effective Date.

The first step in meeting this test is to determine the dollar amount that would be generated from the liquidation of the Debtor's Assets and property in a hypothetical chapter 7 liquidation. The gross amount of Cash available would be the sum of the proceeds from the disposition of the Debtor's Assets and the Cash held by the Debtor at the time of the commencement of the chapter 7 case. The next step is to reduce that total by the amount of any Claims secured by such Assets, the costs and expenses of the liquidation, and such additional administrative expenses and Priority Claims that may result from the termination of the Debtor's businesses and the use of chapter 7 for the purposes of liquidation. Any remaining net Cash would be allocated to creditors in strict priority in accordance with section 726 of the Bankruptcy Code. Finally, taking into account the time necessary to accomplish the liquidation, the present value of such allocations may be compared to the value of the property that is proposed to be distributed under the Plan on the Effective Date.

The Debtor's cost of liquidation under chapter 7 would include the fees payable to a chapter 7 trustee in bankruptcy, as well as those that might be payable to attorneys and other professionals that such trustee may engage, plus any unpaid expenses incurred by the Trustee during the Chapter 11 Case and allowed in the chapter 7 case.

After consideration of the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to creditors (*see* Liquidation Analysis), the Trustee has determined that confirmation of the Plan will provide each creditor with a recovery that is not less than it would receive pursuant to a liquidation of the Debtor's Assets and property under chapter 7 of the Bankruptcy Code.

Additionally, the Trustee has determined that, because the Plan is a plan of liquidation and the Debtor will not emerge as a "reorganized debtor," the requirements of section 1173(a)(iii) do not apply.

Finally, the Trustee has determined that the Plan is consistent with the public interest. The Trustee believes that the distributions to be made to creditors, including victims of the Derailment, through the Plan represent the best and most timely recoveries possible under the circumstances, and the operation of the Debtor's former railroad lines by the Purchaser will preserve the important function of those lines in the transportation and commercial systems of the United States and Quebec.

(d) **Feasibility**

Section 1129(a)(11) of the Bankruptcy Code provides that a chapter 11 plan may be confirmed only if the Bankruptcy Court finds that the plan is feasible. A feasible plan is one which will not lead to a need for further reorganization or liquidation of the debtor. The Bankruptcy Court will find that the Plan is feasible if it determines that the Debtor will be able to satisfy the conditions precedent to the Effective Date and otherwise have sufficient funds to meet its post-Effective Date obligations to pay for the costs of administering and fully consummating the Plan and closing the Chapter 11 Cases.

The Trustee believes that the Plan satisfies the financial feasibility requirement imposed by the Bankruptcy Code because the Plan maximizes the value of the Debtor's Estate, ensures that sufficient liquid Assets available for the satisfaction of Claims, and will enable the distributions contemplated in the Plan.

2. **Requirements of Section 1129(b) of the Bankruptcy Code**

The Bankruptcy Court may confirm the Plan over the rejection or deemed rejection of the Plan by a class of Claims if the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to such class.

(a) **No Unfair Discrimination**

This test applies to classes of Claims that are of equal priority and are receiving different treatment under a plan. The test does not require that the treatment be the same or equivalent, but that such treatment be "fair."

The Trustee believes that under the Plan all impaired classes of Claims are treated in a manner that is fair and consistent with the treatment of other classes of Claims having the same priority. Accordingly, the Trustee believes the Plan does not discriminate unfairly as to any impaired class of Claims.

(b) **Fair and Equitable Test**

This test applies to classes of different priority and status (e.g., secured versus unsecured) and includes the general requirement that no class of Claims receive more than 100% of the allowed amount of the Claims in such class. The test sets forth different standards for what is fair and equitable, depending on the type of Claims in such class. In order to demonstrate that a plan is fair and equitable, the plan proponent must demonstrate:

i. **Secured Creditors.** With respect to a class of Secured Claims, the Plan provides: (a) that the holders of Secured Claims retain their Liens securing such Claims, whether the property subject to such Liens is retained by the Debtor or transferred to another entity, to the extent of the Allowed amount of such Claims, and receive on account of such Claim deferred Cash payments totaling at least the Allowed amount of such Claim, of a value, as

of the Effective Date of the Plan, of at least the value of such holder's interest in the Estate's interest in such property, or (b) for the sale, subject to section 363 of the Bankruptcy Code, of any property that is subject to the Liens securing such Claims, free and clear of such Liens, with such Liens to attach to the proceeds of such sale, and the treatment of such Liens on proceeds under clause (a) or (c) of this paragraph, or (c) that the holders of Secured Claims receive the "indubitable equivalent" of their Allowed Secured Claim.

**ii. Unsecured Creditors.** With respect to a class of Unsecured Claims: (a) the Plan provides that each holder of a Claim of such class receive or retain on account of such Claim property of a value, as of the Effective Date of the Plan, equal to the Allowed amount of such Claim, or (b) the holder of any Claim that is junior to the Claims of such class will not receive or retain under the Plan on account of such junior Claim any property.

**(c) Application to the Plan**

The Trustee believes the Plan satisfies both the "no unfair discrimination" requirement and the "fair and equitable" requirement notwithstanding that Classes 14 and 15 are deemed to reject the Plan, because as to these Classes, there is no Class of equal priority receiving more favorable treatment and no Class that is junior to such dissenting Class will receive or retain any property on account of the Claims in such Class.

As to any Class that may reject the Plan, the Trustee believes the Plan will satisfy both the "no unfair discrimination" requirement and the "fair and equitable" requirements, because, as to any such dissenting Class, there is no Class of equal priority receiving more favorable treatment, and such Class will either be paid in full, or no Class that is junior to such a dissenting Class will receive or retain any property on account of the Claims in such Class.

**3. Alternative to Confirmation and Consummation of the Plan**

If the Plan is not confirmed and consummated, the alternatives to the Plan include (a) liquidation of the Debtor's Assets and property under section 1174 of the Bankruptcy Code, and (b) an alternative chapter 11 plan.

**(a) Liquidation Under Section 1174**

Under section 1174 of the Bankruptcy Code, on request of a party in interest and after notice and a hearing, the Court may, or, if a plan has not been confirmed under section 1173 before five years after the date of the order for relief, the Court shall, order the Trustee to cease the Debtor's operation and to collect and reduce to money all of the Property of the Estate in the same manner as if the case were a case under chapter 7 of this title.

**(b) Alternative Plan**

If the Plan is not confirmed, the Trustee (or if the Trustee's exclusive period in which to file a plan has expired, any other party in interest) could attempt to formulate a different chapter 11 plan. With respect to an alternative plan, the Trustee has explored various alternatives in



connection with the formulation and development of the Plan. The Trustee believes that the Plan, as described herein, enables creditors to realize the most value under the circumstances.

4. **Nonconsensual Confirmation**

If any impaired Class of Claims entitled to vote will not accept the Plan by the requisite statutory majority provided in section 1126(c) of the Bankruptcy Code, the Trustee reserves the right to amend the Plan in accordance with Section 12.3 of the Plan or undertake to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code or both. With respect to impaired Classes of Claims that are deemed to reject the Plan, the Trustee will request that the Bankruptcy Court confirm the Plan pursuant to section 1129(b) of the Bankruptcy Code.

*[Remainder of page left intentionally blank.]*

**XIV.**

**CONCLUSION**

The Trustee believes that confirmation and implementation of the Plan is in the best interests of all creditors, and urge holders of impaired Claims in Classes 8, 9, 10, 11, 12, and 13 to vote to accept the Plan and to evidence such acceptance by returning their ballots so that they will be received no later than **5:00p.m. (prevailing Eastern Time) on \_\_\_\_\_ [ ], 2015.**

Dated: March 31, 2015

Respectfully submitted,

/s/ Robert J. Keach  
Robert J. Keach, Esq., as Chapter 11 Trustee  
to Montreal Maine & Atlantic Railway, Ltd.



**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670  
Chapter 11

**TRUSTEE'S PLAN OF LIQUIDATION DATED MARCH 31, 2015**

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Dated: March 31, 2015

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**EXHIBITS**

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Exhibit 1.158	XL Settlement Agreement

Robert J. Keach, Esq., as chapter 11 trustee (the “Trustee”) for Montreal Maine & Atlantic Railway, Ltd. (“MMA” or the “Debtor”), the debtor in the above-captioned chapter 11 case, hereby proposes the Plan of Liquidation Dated March \_\_, 2015 (the “Plan”) to all of the known creditors and Holders of interests of the Debtor, as authorized by section 1121(a) of title 11 of the United States Code (the “Bankruptcy Code”), and moves this Court to enter an order confirming the Plan pursuant to section 1129 of the Bankruptcy Code, including, if required, section 1129(b). This Plan proposes to resolve all Claims against and Equity Interests in the Debtor. **IN PARTICULAR CREDITORS AND PARTIES IN INTEREST SHOULD REVIEW SECTIONS 10.5 AND 10.6 OF THIS PLAN, WHICH PROVIDE FOR THIRD-PARTY RELEASES AND INJUNCTIONS THAT MAY AFFECT THE RIGHT TO PURSUE CLAIMS AGAINST NON-DEBTOR PARTIES AFTER THE PLAN IS CONFIRMED. CREDITORS AND PARTIES IN INTEREST SHOULD ALSO NOTE THAT THIS PLAN IS COORDINATED WITH, AND DESIGNED TO FUNCTION IN TANDEM WITH, THE CCAA PLAN FILED ON BEHALF OF THE DEBTOR’S CANADIAN SUBSIDIARY IN ITS CCAA CASE IN CANADA (AND WHICH IS ATTACHED AS EXHIBIT 1.28 HERETO); THE CCAA PLAN SHOULD ALSO BE CAREFULLY CONSIDERED.** The Trustee reserves the right to, among other things, alter, amend, modify, revoke or withdraw this Plan prior to the Effective Date as set forth in Sections 12.8 and 12.9.

## ARTICLE I

### DEFINITIONS AND INTERPRETATION

**A. Definitions.** The following terms when used in the Plan shall, unless the context otherwise requires, have the following respective meanings:

**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** Administrative Expense Claim means any Claim constituting a cost or expense of administration of the Chapter 11 Case pursuant to sections 330, 365, 503(b), 507(a)(2) or 507(b) of the Bankruptcy Code, including, without limitation, (a) any Claim under section 503(b)(9) of the Bankruptcy Code for the value of goods sold to the Debtor in the ordinary course of business and received by the Debtor within twenty (20) days before the Petition Date, (b) any actual and necessary cost and expense, incurred after the Petition Date, of preserving the Estate, (c) any actual and necessary cost and expense, incurred after the Petition Date, of operating the Debtor’s business, (d) any indebtedness or obligation incurred or assumed by the Trustee during the Chapter 11 Case, and (e) any compensation for professional services rendered and reimbursement of expenses incurred after the Petition Date; *provided, however*, that (i) any fees or charges assessed against the Estate under section 1930 of chapter 123 of title 28 of the United States Code are excluded from the definition of Administrative Expense Claim and shall be paid

in accordance with Section 12.4 of the Plan; and (ii) claims under 11 U.S.C. § 1171(a), including any Derailment Claims, shall be excluded from this definition of Administrative Expense Claim.

**1.3** Administrative Expense Claims Bar Date means December 1, 2014, the date established by the Bankruptcy Court pursuant to the *Order Establishing the Deadline for Filing Administrative Claims and Approving the Form and Manner of Notice Thereof* [D.E. 1164] as the deadline by which any person or entity asserting an Administrative Expense Claim against the Debtor must file an application for allowance of an Administrative Expense Claim.

**1.4** Administrative Expense Fund means the fund maintained by the Trustee, and any successor to the Trustee, sufficient to pay the Administrative Expense Claims of the Trustee and the Trustee's professionals and the professionals retained by the Creditors' Committee, as well as of the Estate Representative and his professionals, which fund shall consist of the Estate's portion of the Settlement Payments (but not including the XL Indemnity Payment) allocable to payment of administrative expenses pursuant to the CCAA Plan and the Settlement Agreements, as well as such portion of Cash and proceeds of Residual Assets as the Trustee, in his reasonable discretion, shall determine is necessary to insure full payment of such Administrative Expense Claims, but, with respect to any portion of the Settlement Payments, subject to any cap on such allocation set forth in the CCAA Plan, as amended.

**1.5** Affiliate has the meaning ascribed to such term in Section 101(2) of the Bankruptcy Code, and shall include, without limitation, MMA Canada.

**1.6** Affiliate Parties Injunction means the injunction described in Section 10.6(b)(ii) of this Plan.

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

**1.8** Affiliate Release means the release set forth in Section 10.5(b)(iii) of this Plan.

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

**1.10** Allowed means, with reference to any Claim against the Debtor, other than an Administrative Expense Claim, (a) any fixed Claim against the Debtor that has been listed by the Debtor in its Schedules (as such Schedules may be amended by the Debtor from time to time in accordance with Bankruptcy Rule 1009 and any applicable Local Bankruptcy Rule) as liquidated in amount and not disputed or contingent and for which no contrary Proof of Claim has been filed or no timely objection to allowance or request for estimation has been interposed, (b) any Proof of Claim filed on or before the Bar Date (i) as to which no objection has been or is interposed in accordance with any applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules or the Bankruptcy Court and as to which any such applicable period of limitation has expired or (ii) as to which any objection has been determined by a Final Order and to the extent such objection is determined in favor of the respective Holder of such Claim, (c) any Claim expressly allowed by a Final Order or under the

Plan, (d) any Claim that is compromised, settled or otherwise resolved pursuant to a Final Order of the Bankruptcy Court or as provided in Section 7.20 of the Plan, and (e) any Claim filed in the CCAA Case that is deemed filed in the Chapter 11 Case by virtue of the Bar Date Order and which would qualify as Allowed under subsection (b) of this paragraph 1.10 above; *provided, however*, that (1) Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not be considered “Allowed Claims” and (2) “Allowed Claim” shall not include any Claim subject to disallowance in accordance with section 502(d) of the Bankruptcy Code. Unless otherwise specified in the Plan or by order of the Bankruptcy Court, “Allowed Claim” shall not, for any purpose under the Plan, include interest from and after the Petition Date or penalties assessed on any Claim.

**1.11** Allowed Administrative Expense Claim means an Administrative Expense Claim a request for payment of which was timely filed with the Bankruptcy Court on or before the Administrative Expense Claims Bar Date and which has been allowed pursuant to a Final Order of the Bankruptcy Court, including, without limitation, the Confirmation Order, but Derailment Claims shall not be or become Allowed Administrative Expense Claims.

**1.12** APA means that certain Asset Purchase Agreement dated as of December 12, 2013 (as amended from time to time), by and among the Trustee, MMA Canada, and the Purchaser.

**1.13** Assets means any and all assets, property, property interests and property rights of the Debtor, whether tangible, intangible, vested, contingent, exclusive, joint, real, personal or mixed, that constitute property of the Estate.

**1.14** Asset Sale means the sale of substantially all (but not all) of the Assets of the Debtor and MMA Canada to the Purchaser pursuant to the APA.

**1.15** Asset Sale Consideration means the total consideration paid and/or provided by the Purchaser under the APA including, without limitation, Cash and assumption of obligations of the Debtor and/or MMA Canada.

**1.16** Avoidance Actions means any actions commenced, or that may be commenced before or after the Effective Date, pursuant to sections 510, 542, 543, 544, 545, 547, 548, 549, 550, 551, 552, or 553 of the Bankruptcy Code, including, without limitation, such actions that arise under state law for fraudulent conveyance, insider preference, and other similar avoidance actions.

**1.17** Bankruptcy Code means title 11 of the United States Code, as amended from time to time, as applicable to the Chapter 11 Case.

**1.18** Bankruptcy Court means the United States Bankruptcy Court for the District of Maine.

**1.19** 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.

**1.20** Bar Date means, as to a particular claim, the deadline for filing a Proof of Claim as to such Claim established by the Bar Date Order.

**1.21** Bar Date Order means the order of the Bankruptcy Court dated March 20, 2014 and entered at Docket No. 783 establishing deadlines for the filing of Proofs of Claim and establishing other claims filing procedures and requirements, as well as providing for the deemed filings in this Chapter 11 Case, of certain Derailment Claims for which proofs of claim were filed in the CCAA Case.

**1.22** Books and Privileges means all books and records of the Debtor, including, without limitation, all documents and communications of any kind, whether physical or electronic, the right to assert or waive any privilege, including, without limitation, any attorney-client privilege, work-product protection, or other privilege or immunity attaching to any documents or communications (whether written, electronic, or oral), and rights to direct current or former agents, attorneys, advisors, and other professionals of the Debtor to deliver such documents or communications.

**1.23** Business Day means any day other than a Saturday, Sunday, or any other day on which commercial banks are required or authorized to close by law or executive order.

**1.24** Cash means lawful currency of the United States of America or Canada, including but not limited to bank deposits, checks, and other similar items.

**1.25** Causes of Action means any and all Claims, Avoidance Actions, demands, rights, actions, rights of action, causes of action, judgments, proceedings, damages, accounts, defenses, affirmative defenses, rights of setoff, offsets, powers, privileges, licenses, franchises, third-party claims, counterclaims, cross-claims, actions for declaratory or injunctive relief, suits and other rights of recovery of the Debtor, the Trustee, and the Estate (but subject in all cases to the exculpation provisions of Section 10.3 and the release provisions of Section 10.5, and the injunctions set forth in Section 10.6 of the Plan), against or with respect to any Person, including without limitation, Claims of the Debtor, Trustee, or Estate against any affiliate, current or former officer, director or employee of the Debtor or any affiliate or property, wherever located, of any nature whatsoever, whether known or unknown, suspected or unsuspected, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, secured or unsecured, asserted or unasserted or pending as of the Effective Date, whether direct, indirect, derivative or on any other basis, whether existing or hereafter arising, whether arising in whole or in part prior to, on or after the Petition Date, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Case or thereafter, in contract or in tort, at law or in equity, whether pursuant to any federal or state statute or common law or under any theory of law or equity, including, without limitation, the Trustee's Derailment Litigation as well as any available: (a) rights of setoff, counterclaim, recoupment, replevin or reclamation, and Claims on contracts or for breaches of duties imposed by law; (b) rights to object to or seek estimation of Claims or Equity Interests; (c) Claims

pursuant to section 362 of the Bankruptcy Code; (d) Claims, causes of action and defenses against any Person, including without limitation, for intentional or negligent misrepresentation, fraud, mistake, duress and usury, breach of fiduciary duty, malpractice, negligence, breach of contract, wrongful distribution, aiding and abetting, or inducement, and (e) Avoidance Actions.

**1.26** 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.

**1.27** CCAA Court means the court presiding over the CCAA Case.

**1.28** 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 this Plan as Exhibit 1.28.

**1.29** CCAA Approval Order means the Final Order of the CCAA Court sanctioning, conforming and/or confirming the CCAA Plan and, *inter alia*, approving and implementing the Releases and Injunctions.

**1.30** Chapter 11 Case means the Debtor's chapter 11 case.

**1.31** Chapter 15 Case means the case commenced or to be commenced under Chapter 15 of the Bankruptcy Code by the Monitor as the foreign representative of MMA Canada in the Bankruptcy Court for the purposes of, without limitation, obtaining the Chapter 15 Recognition and Enforcement Order.

**1.32** Chapter 15 Recognition and Enforcement Order means the order entered by the Bankruptcy Court, pursuant to 11 U.S.C. §§ 1507 and 1521, recognizing and enforcing to the fullest extent possible within the United States, the CCAA Approval Order.

**1.33** Chubb means the insurer under the Chubb Policy and any other entity providing or contributing to coverage or funding of coverage under the Chubb Policy.

**1.34** Chubb Policy means the insurance policy issued by Federal Insurance Company to Rail World, Inc. and Rail World Holdings LLC bearing Policy Number 8210 2375.

**1.35** Claim has the meaning set forth in section 101(5) of the Bankruptcy Code and, to the extent same would broaden the definition, as set forth in any order of the CCAA Court.

**1.36** Claimant means the Holder of a Claim.

**1.37** Claims Objection Date means the date that is one-hundred twenty (120) days from the last to occur of: (a) the Bar Date; (b) with respect to a specified Claim for which a creditor is allowed to file a Proof of Claim after the Bar Date, twenty (20) days after the date on which such Proof of Claim is to be filed; or (c) the Confirmation Date. The failure to object to any Claim by

the Claims Objection Date shall not constitute a waiver, acceptance, or release of any Claim or Cause of Action against a creditor, including any Avoidance Actions.

**1.38** Class means any group of Claims or Equity Interests classified by the Plan pursuant to section 1122 of the Bankruptcy Code.

**1.39** Class 13 Cash means any Cash generated from the monetization or liquidation of Residual Assets, any unencumbered Cash which was part of, or was generated from the Asset Sale Consideration or the Debtor's operations, and any surplus WD Trust Assets, as determined pursuant to Section 5.16 of the Plan, in all cases to the extent not used to fund the Administrative Expense Fund.

**1.40** Collateral means any property or interest in property of the Estate subject to a Lien, charge, encumbrance, or right of setoff to secure the payment or performance of a Claim, which Lien, charge, encumbrance, or right of setoff is not subject to avoidance under the Bankruptcy Code.

**1.41** Confirmation Date means the date on which the Confirmation Order becomes a Final Order.

**1.42** Confirmation Hearing means the hearing held by the Bankruptcy Court to consider confirmation of the Plan, as the same may be amended, pursuant to section 1128(a) of the Bankruptcy Code.

**1.43** Confirmation Order means the Order entered by the Bankruptcy Court confirming the Plan, as the same may be amended, pursuant to section 1129 of the Bankruptcy Code, which shall include, without limitation, approval of the Settlement Agreements and the Releases and Injunctions.

**1.44** Contingent Claim means any Claim, the liability for which attaches or is dependent upon the occurrence or happening of, or is triggered by, an event, which event has not yet occurred, happened, or been triggered, as of the date on which such Claim is sought to be estimated or an objection to such Claim is filed, whether or not such event is within the actual or presumed contemplation of the Holder of such Claim and whether or not a relationship between the Holder of such Claim and the applicable Debtor now or hereafter exists or previously existed.

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

**1.46** Creditors' Committee means the official committee of Derailment victims appointed by the Bankruptcy Court on October 18, 2013.

**1.47** D&O Insurance Policies means all primary and excess insurance policies of the Debtor, MMA Canada, the Rail World Parties, or a non-Debtor Affiliate that provides for, among other things, coverage for liability related to the actions or omissions of the directors or officers of the Debtor, MMA Canada or any of all of the Rail World Parties other than the XL



Policy, Indian Harbor Policy, the Chubb Policy and Hartford Policy, but specifically including, without limitation, the Great American Policy.

**1.48** Debtor means Montreal Maine & Atlantic Railway, Ltd.

**1.49** 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.

**1.50** 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 1.51, 1.52, 1.54, 1.56 and 1.57.

**1.51** 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, the federal government of Canada, and/or the Village of Lac Mégantic, Québec, or any agency, division, or instrumentality of such entities.

**1.52** 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.

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

**1.54** 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) all 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.

**1.55** Derailment Property Damage Claims Distribution Mechanism shall mean Schedule C attached to this Plan.

**1.56** 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 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.

**1.57** 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).

**1.58** Disbursing Agent means the Person or entity appointed to make distributions pursuant to the Plan under Article VII of the Plan.

**1.59** Disclosure Statement means that certain disclosure statement filed by the Trustee, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code relating to the Plan, including, without limitation, all exhibits and schedules thereto, as the same may be amended, supplemented, or otherwise modified from time to time.

**1.60** Distribution Date means a date or dates, including the Initial Distribution Date, as determined by the Disbursing Agent, on which the Disbursing Agent makes a distribution to Holders of Allowed Claims and/or the WD Trust.

**1.61** Distribution Record Date means the record date for purposes of making distributions under the Plan on account of Allowed Claims, which date shall be the Confirmation Date.

**1.62** District Court means the United States District Court for the District of Maine.

**1.63** Disputed Claim means a Claim which the Debtor listed on its schedules as contingent, unliquidated or disputed or any Claim against the Debtor which has been the subject of a written objection filed with the Bankruptcy Court by the Claims Objection Date.

**1.64** Effective Date means a date which is a Business Day and which is set in accordance with Section 9.2 of the Plan, and is the date upon which the Plan becomes effective.

**1.65** Equity Interest means the interest of any Holder of equity securities of the Debtor represented by issued and outstanding shares of common or preferred stock or other instrument evidencing a present ownership interest in the Debtor, whether or not transferable, or any option, warrant, contractual or other right to acquire any such interest.

**1.66** Estate means the estate created in the Chapter 11 Case of the Debtor pursuant to section 541 of the Bankruptcy Code.

**1.67** Estate Injunction means the injunction described in Section 10.6(b)(i) of the Plan.

**1.68** Estate Representative means the Trustee or any successor in interest to the Trustee in such capacity, including, but not limited to, the Estate Representative, whether such successor is appointed under the Plan, the Confirmation Order, or otherwise.

**1.69** Exculpated Party means any of the Debtor, the Trustee, the Disbursing Agent, the WD Trustee, the Estate, the WD Trust, the Creditors' Committee, and their respective professionals retained after the Petition Date and approved by the Bankruptcy Court, each in their respective capacities.

**1.70** Final Order means an order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court and has not been reversed, vacated, amended, modified or stayed and as to which (a) the time to appeal, petition for certiorari or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for certiorari or other proceedings for a new trial, reargument or rehearing shall then be pending or (b) if an appeal, writ of certiorari, new trial, reargument or rehearing thereof has been sought, (i) such order or judgment shall have been affirmed by the highest court to which such order was appealed, certiorari shall have been denied or a new trial, reargument or rehearing shall have been denied or resulted in no modification of such order, and (ii) the time to take any further appeal, petition for certiorari, or move for a new trial, reargument or rehearing shall have expired; provided, however, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or the Local Bankruptcy Rules, or any other applicable U.S. or Canadian rule or procedure, may be filed relating to such order shall not prevent such order from being a Final Order.

**1.71** 45G Proceeds shall have the meaning set forth in the FRA Adequate Protection Order.

**1.72** FRA shall mean the United States of America, through the Department of Transportation, Federal Railroad Administration.

**1.73** FRA Adequate Protection Order shall mean the order entered in the Chapter 11 Case at Docket No. 742.

**1.74** Funds for Distribution shall have the meaning set forth in the CCAA Plan.

**1.75** General Unsecured Claim means any Claim against the Debtor other than a Derailment Claim, Administrative Expense Claim, Secured Claim, Priority Tax Claim, Priority Claim, or Subordinated Claim.

**1.76** Governmental Unit has the meaning set forth in section 101(27) of the Bankruptcy Code.

**1.77** Great American means Great American Insurance Company.

**1.78** Great American Policy means the insurance policy issued by Great American to MMA Canada and bearing policy number DML 9924 836.

**1.79** Hartford means The Hartford Casualty Insurance Company, together with its parents, subsidiaries, affiliates, officers and directors, but strictly as the insurer under the Hartford Policy.

**1.80** Hartford Policy means the insurance policy issued by Hartford to Rail World, Inc. and bearing policy number 83 SBA PBO432 SA.

**1.81** Holder means a creditor holding, including by assignment, a Claim against the Estate.

**1.82** Indian Harbor Policy means the policy issued by Indian Harbor Insurance Company to the Debtor and bearing Policy No. RRL - 003723801.

**1.83** Initial Distribution means the first distribution that the Disbursing Agent makes to Holders of Allowed Claims or the WD Trust.

**1.84** Initial Distribution Date means the date occurring on or as soon as reasonably practicable after the Effective Date, but in no event more than one-hundred-and-twenty (120) days after the Effective Date, on which the Disbursing Agent makes the Initial Distribution to Holders of Allowed Claims or the WD Trust.

**1.85** Initial WD Trust Assets means the share of the Settlement Payments allocable to Derailment Wrongful Death Claims, i.e. 24% 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.

**1.86** Injunctions means, collectively, the Estate Injunction, the Affiliated Parties Injunction and the Third Party Injunction, as set forth in Section 10.6 of this Plan.

**1.87** Insurance Action means any Claim, Cause of Action, or right of the Debtor, or of any Person or entity to the extent such Claim, Cause of Action or right is assigned to the Trustee or the Estate Representative pursuant to a Settlement Agreement, under the laws of any jurisdiction, against any Insurance Company, arising from or related to: (a) any such Insurance Company’s failure to provide or pay under an insurance policy; (b) the refusal of any such Insurance Company to compromise and settle any Derailment Claim under or pursuant to any insurance policy; (c) the interpretation or enforcement of the terms of any insurance policy with respect to any Derailment Claim; or (d) any conduct of any Insurance Company constituting “bad faith” or other wrongful conduct under applicable law.

**1.88** Insurance Company means any insurance company, insurance broker, or syndicate insurance broker, guaranty association, or any other entity that may have liability under an insurance policy.

**1.89** Lien has the meaning set forth in section 101(37) of the Bankruptcy Code.

**1.90** 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.

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

**1.92** MMA Canada means Montreal Maine and Atlantic Canada Co., the debtor in the CCAA Case.

**1.93** Officers and Directors means the Officers and Directors of the Debtor and MMA Canada as of the date of the Derailment.

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

**1.95** “Person” or “Persons” shall mean (and include) a natural person or persons, a group of natural persons acting as individuals, a group of natural individuals acting in collegial capacity (e.g., as a committee, board of directors, etc.), a corporation, partnership, limited liability company, limited liability partnership, or limited partnership, a proprietorship, joint venture trust, legal representative, or any other unincorporated association, business organization or enterprise, any government entity or other regulatory authority and any successor in interest, Governmental Unit, heir, executor, administrator, trustee, trustee in bankruptcy, or receiver of any person or entity .

**1.96** Petition Date means August 7, 2013.

**1.97** Plan means the Debtor’s Plan of Liquidation Dated March 31, 2015, as the same may be amended from time to time.

**1.98** Plan Implementation Date with respect to the CCAA Plan, shall have the meaning set forth in the CCAA Plan.

**1.99** Plan Supplement means the supplement or supplements, as amended or modified, to the Plan containing certain documents relevant to the implementation of the Plan and which shall include, but will not be limited to, the WD Trust Agreement and the Wrongful Death Claim Resolution Procedures. The Plan Supplement shall be filed with the Bankruptcy Court by the Plan Supplement Filing Date.

**1.100** Plan Supplement Filing Date means the date that is no later than ten (10) calendar days before the deadline set to file objections to the approval of the Disclosure Statement.

**1.101** Post-Effective Date Estate means the Estate, as preserved by this Plan and the Debtor, from and after the Effective Date.

**1.102** Post-Confirmation Causes of Action shall mean: (a) any and all Causes of Action, whether arising before or after the Petition Date and whether arising under state or federal law, constituting Avoidance Actions; (b) the Trustee's Derailment Litigation; (c) any Insurance Action (except to the extent the underlying insurance policy constitutes a Settlement Non-Cash Asset); (d) any other litigation initiated by the Trustee before or after the Petition Date as to any Causes of Action; and (e) any and all proceeds, whether in the form of cash or otherwise, from any recoveries on or settlement of such Causes of Action.

**1.103** Priority Claim means any Claim (other than an Administrative Expense Claim or a Priority Tax Claim) to the extent such Claim is entitled to a priority in payment under section 507(a) of the Bankruptcy Code.

**1.104** Priority Tax Claim means a Claim of a Governmental Unit of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

**1.105** Pro Rata means, with respect to a particular Claim, as of a particular distribution date, the ratio (expressed as a percentage) of the amount of that particular Claim to the sum of the aggregate amount of all Allowed Claims (and Unresolved Claims that are accounted for in the Unresolved Claims Reserve with respect to the Debtor) of the same Class.

**1.106** Proof of Claim means any proof of claim filed with the Bankruptcy Court or its duly appointed claims agent with respect to the Debtor pursuant to Bankruptcy Rules 3001 or 3002, unless and to the extent that the Bankruptcy Court has ordered the use of a special or customized form for the particular type of Claim at issue, and in such case, the special or customized form proof of claim, as well as any proof of claim filed with the CCAA Court and which would be deemed filed in the Bankruptcy Court by virtue of an order of the CCAA Court or the Bar Date Order.

**1.107** Purchaser means Railroad Acquisition Holdings LLC, now doing business as Central Maine and Québec Railroad.

**1.108** 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) Montreal 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.

**1.109** Reallocated Dividends shall have the meaning set forth in the CCAA Plan.

**1.110** Released Parties means (a) the Debtor; (b) the Trustee and his agents, attorneys, accountants, financial advisors, restructuring consultants, and investment bankers; (c) MMA Canada and its 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) the Creditors' Committee and its members and attorneys; (h) Contributing Parties; and (i) 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 1.110 to this Plan.

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

**1.112** Residual Assets means all Assets, if any, belonging to the Debtor, the Estate or MMA Canada and not sold in the Asset Sale, including, without limitation, real estate, Cash, personal property, intangibles, rights to payment, Post-Confirmation Causes of Action, and any other Causes of Action of the Debtor or the Estate not previously released or released pursuant to the Plan or included in the Initial WD Trust Assets, all of which Causes of Action are preserved under the Plan.

**1.113** Sale Order means that certain Order Granting Motion to Sell entered by the Bankruptcy Court in the Chapter 11 Case on or about January 24, 2014, and authorizing the sale of Assets to the Purchaser.

**1.114** 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.

**1.115** Secured Claim means a Claim, if any, that is secured by a valid, perfected, and enforceable Lien on property of the Debtor under applicable state law or by reason of a Final Order on property in which the Estate has an interest to the extent of the value of such property or a Claim, if any, that is subject to a permissible setoff under section 553 of the Bankruptcy Code, to the extent of such permissible setoff, in each case as determined in accordance with section 506(a) of the Bankruptcy Code, or as otherwise agreed upon in writing by the Trustee and the Holder of such Claim.

**1.116** 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.

**1.117** Settlement Non-Cash Assets means any rights, Assets, or property, other than Cash, transferred to the Trustee, the Monitor, MMA Canada, the Estate or the Estate Representatives, pursuant to any Settlement Agreement, this Plan or the CCAA Plan, including, without limitation, rights under or pursuant to the Chubb Policy, the Great American Policy, and any other D&O Insurance Policies or Policy specifically designated in such Settlement Agreement.



**1.118** Settlement Payments means any payment funded or to be paid to the Trustee, the Monitor, or the Estate, or the WD Trust pursuant to a Settlement Agreement.

**1.119** Subordinated Claims means all Claims that are subordinated or subject to subordination to any or all General Unsecured Claims, including, without limitation, Claims that are subject to subordination pursuant to sections 509 and 510 of the Bankruptcy Code.

**1.120** Tax Authority means a federal, state, local, or foreign government, or agency, instrumentality, or employee thereof, court or other body (if any) charged with the administration of any law relating to Taxes.

**1.121** Tax Code means the United States Internal Revenue Code of 1986, as amended from time to time.

**1.122** Tax Returns means a return, declaration, form, election letter, report, statement, estimate, information return, or other information filed or required to be filed with respect to any Taxes, including any schedule or attachment thereto or amendment thereof, including any claim for a Tax refund.

**1.123** Taxes means all (a) federal, state, local, or foreign taxes, including, without limitation, all net income, alternative minimum, net worth or gross receipts, capital, value added, franchise, profits, estimated, property, transfer, and sales or use taxes; and (b) interest, penalties, fines, additions to tax or additional amounts imposed by any Tax Authority or paid in connection with any item described in clause (a) hereof.

**1.124** Third Party Injunction means the injunction described in Section 10.6(b)(iii) of the Plan.

**1.125** Transferred WD Cases means the civil actions transferred pursuant to 28 U.S.C. §157(b)(5) in connection with the Chapter 11 Case to the District Court, originally filed in the Cook County, Illinois state court, and appearing on the docket of the District Court as Civil Action Nos. 00113-00130NT.

**1.126** Travelers' Proceeds shall have the meaning set forth in the FRA Adequate Protection Order.

**1.127** Treasury Regulations means the United States Department of Treasury regulations promulgated under the Tax Code.

**1.128** Trustee's Derailment Litigation means Adversary Proceeding No. 14-01001 filed in the Bankruptcy Court and captioned *Robert J. Keach, solely in his capacity as the chapter 11 trustee for Montreal Maine & Atlantic Railway, Ltd., Plaintiff v. World Fuel Corporation, World Fuel Services, Inc., Western Petroleum Company, World Fuel Services, Canada, Inc., Petroleum Transport Solutions, LLC, Canadian Pacific Railway Company, and Irving Oil Limited, Defendants*, including without limitation, all claims and counterclaims therein, as same may be amended from time to time.

**1.129** Unclaimed Property means any distribution of Cash or any other property made to the Holder of an Allowed Claim pursuant to the Plan that (a) is returned to the Disbursing Agent or WD Trustee as undeliverable and no appropriate forwarding address is received within the later of (i) ninety (90) days after the Effective Date and (ii) ninety (90) days after such attempted distribution by the Disbursing Agent or WD Trustee is made to such Holder or (b) in the case of a distribution made in the form of a check, is not negotiated within ninety (90) days after remittance of the check and no request for re-issuance is made within such 90-day period.

**1.130** Unimpaired means, with respect to any Claim, that such Claim is not impaired within the meaning of section 1124 of the Bankruptcy Code.

**1.131** Unliquidated Claim means any Claim, the amount of liability for which has not been fixed, whether pursuant to agreement, applicable law, or otherwise, as of the date on which such Claim is asserted or sought to be estimated.

**1.132** Unresolved Claim means, with reference to any Claim, any Claim (a) if any portion of such Claim is neither Allowed nor disallowed under the Plan or a Final Order nor deemed Allowed under sections 502, 503 or 1111 of the Bankruptcy Code, (b) which has been or hereafter is listed by the Debtor on its Schedules as unliquidated, disputed or contingent and which has not been resolved by written agreement of the parties or a Final Order, or (c) as to which the Debtor or any other party in interest has interposed a timely objection and/or request for estimation in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules, which objection or request for estimation has not been withdrawn or determined by a Final Order. Prior to the expiration of the time within which to object to such Claim set forth in the Plan or otherwise established by order of the Bankruptcy Court, a Claim shall be considered an Unresolved Claim if (a) the amount of the Claim specified in a Proof of Claim exceeds the amount of the Claim scheduled by the Debtor as not disputed, contingent or unliquidated, (b) a Proof of Claim asserts a priority or security interest inconsistent with the Debtor's Schedules, or (c) the Claim specified in a Proof of Claim was not included in the Debtor's Schedules.

**1.133** Unresolved Claims Reserve means, with respect to the WD Trust, Cash that is allocated and retained by the WD Trust on each distribution date in accordance with the provisions of the Plan and the WD Trust Agreement on account of Unresolved Claims against the WD Trust in an amount that the WD Trustee estimates would be necessary to pay such Unresolved Claims on such distribution dates if such Claims were Allowed or in an amount that the Bankruptcy Court may estimate pursuant to section 502(c) of the Bankruptcy Code. For the avoidance of doubt, the Unresolved Claims Reserve may be held in a single account with the unreserved Cash portion of the WD Trust Assets, provided, however, that the WD Trustee reserves the appropriate amounts for the Unresolved Claims Reserve, as provided for in the Plan, within the single account.

**1.134** U.S. Trustee means the United States Trustee for the District of Maine.

**1.135** UST Fees means the quarterly fees paid and payable to the U.S. Trustee.

**1.136** WD Trust means the trust organized under Maine 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.

**1.137** WD Trust Administrative Reserve has the meaning ascribed to such term in the WD Trust Agreement.

**1.138** 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.

**1.139** 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.

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

**1.141** 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.

**1.142** 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 up to a cap of \$250,000, but excluding payments to Holders of Allowed Derailment Wrongful Death Claims or reimbursements of such payments.

**1.143** WD Trustee means the Person designated on or before the Plan Supplement Filing Date in accordance with the WD Trust Agreement to govern and administer the WD Trust on and after the Effective Date.

**1.144** Wheeling shall mean Wheeling & Lake Erie Railway Company, a creditor of the Debtor.

**1.145** Wheeling Adversary Proceeding shall mean Adversary Proceeding No. 13-01033 pending before the Bankruptcy Court and any claims and counterclaims therein.

**1.146** Wheeling Appeal shall mean Wheeling's appeal of the order of the United States Bankruptcy Appellate Panel of the First Circuit dated December 9, 2014.

*1.147* Wheeling Orders shall mean the orders of the Bankruptcy Court entered at Docket Nos. 376 and 1047 to the extent they affect any Claim or Lien, if any, of Wheeling.

*1.148* Wheeling § 506(c) Motion shall mean the Trustee's Motion Seeking To Surcharge Wheeling's Collateral and filed at Docket No. 854.

*1.149* Wheeling § 363 Motion shall mean Wheeling's Motion, filed at Docket No. 603 allegedly seeking to enforce certain of the Wheeling Orders.

*1.150* Wheeling Proceedings mean the Wheeling Adversary Proceeding, the Wheeling Appeal, the Wheeling Orders, the Wheeling § 506(c) Motion, the Wheeling § 363 Motion, and any other proceeding or contested matter that may be initiated by or against Wheeling, including any Avoidance Action.

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

*1.152* XL Additional Payment means the payment of US \$5 million to be paid to the Monitor and the Trustee pursuant to the XL Settlement Agreement.

*1.153* XL Companies means Indian Harbor Insurance Company, XL Insurance, XL Group plc and their affiliates.

*1.154* XL Indemnity Payment means the payment of CDN \$25 million to be paid to the Monitor pursuant to the XL Settlement Agreement.

*1.155* XL Insurance means the Canadian Branch of XL Insurance Company SE (formerly XL Insurance Company Limited).

*1.156* XL Policy means the insurance policy issued by XL Insurance and bearing policy number RLC003808301.

*1.157* XL Policies means the Indian Harbor Policy and the XL Policy.

*1.158* XL Settlement Agreement shall mean the Settlement Agreement attached as Exhibit 1.158 to this Plan.

**B. Interpretation; Application of Definitions and Rules of Construction.**

Unless otherwise specified, all section or exhibit references in the Plan are to the respective section in, or exhibit to, the Plan, as the same may be amended, waived, or modified from time to time. The words "herein," "hereof," "hereto," "hereunder," and other words of similar import refer to the Plan as a whole and not to any particular section, subsection, or clause contained therein. Whenever the words "include," "includes" or "including" are used in the Plan, they are deemed to be followed by the words "without limitation." A term used herein that is not

defined herein shall have the meaning ascribed to that term in the Bankruptcy Code. The rules of construction contained in section 102 of the Bankruptcy Code shall apply to the Plan. Words denoting the singular number shall include the plural number and vice versa, as appropriate, and words denoting one gender shall include the other gender and the neuter and words denoting the neuter shall include any applicable gender. Unless otherwise provided herein, in the event that a particular term of the Plan (including any exhibits or schedules hereto) conflicts with a particular term of the definitive documentation required to be implemented pursuant to the terms of the Plan, the definitive documentation shall control and shall be binding on the parties thereto. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions of the Plan.

## ARTICLE II

### **PROVISIONS FOR PAYMENT OF NON-CLASSIFIED CLAIMS**

#### ***2.1 Administrative Expense Claims.***

(a) Allowance of Administrative Expense Claims. An Administrative Expense Claim, with respect to which a request for payment has been properly and timely filed shall become an Allowed Administrative Expense Claim if no objection to such request is filed by the Trustee with the Bankruptcy Court on or before the one-hundred-and-twentieth (120th) day after the Effective Date, or on such later date as may be fixed by the Bankruptcy Court, whether fixed before or after the one-hundred-and twentieth (120th) day after the Effective Date. If an objection is timely filed, the Administrative Expense Claim shall become an Allowed Administrative Expense Claim only to the extent Allowed by Final Order or as such Claim is settled, compromised, or otherwise resolved by the Trustee or the Estate Representative pursuant to Section 7.20 of the Plan.

(b) Payment of Allowed Administrative Expense Claims. Except to the extent that a Holder of an Allowed Administrative Expense Claim (other than a Claim covered by Section 2.2 or 2.3 of the Plan) agrees to a less favorable treatment, each Allowed Administrative Expense Claim (including any Allowed Claim asserted under section 503(b)(9) of the Bankruptcy Code) shall be paid in full, in Cash, in an amount equal to the unpaid portion of such Allowed Administrative Expense Claim within thirty (30) days following the later to occur of (a) the Effective Date, or (b) the date on which such Administrative Expense Claim shall become an Allowed Claim; *provided, however,* that Allowed Administrative Expense Claims (other than a Claim covered by Section 2.2 or 2.3 of the Plan) against the Debtor representing liabilities incurred in the ordinary course of business by the Debtor shall be paid, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to, such transactions.

(c) Section 1171(a) and 1171(b) Claims; Derailment Government Claims. All Derailment Wrongful Death Claims and Derailment Moral Damages and Personal Injury Claims, to the extent afforded administrative expense status under section 1171(a) of the Bankruptcy Code shall be treated as Class 12 and Class 8 Claims respectively, as provided in the Plan, and

shall not be Allowed Administrative Expense Claims. Claims arising under section 1171(b) of the Bankruptcy Code, if any, shall be treated as Allowed Administrative Expense Claims to the extent Allowed by a Final Order of the Bankruptcy Court, but shall be treated as junior in priority to all other Allowed Administrative Expense Claims. To the extent that any Derailment Government Claim might be an Allowed Administrative Expense Claim under applicable law, such Derailment Government Claim will not be treated or paid as an Administrative Expense Claim but shall be treated solely as a Class 10 Claim.

**2.2 Professional Compensation and Reimbursement Claims.**

All Persons seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date under sections 326, 328, 330, and 331 of the Bankruptcy Code or filing applications for allowance of Administrative Expense Claims arising under section 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) of the Bankruptcy Code shall (a) file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is sixty (60) days after the Effective Date, and (b) be paid in full, in Cash, by the Trustee or Disbursing Agent, as applicable, such amounts as are allowed by the Bankruptcy Court (i) within thirty (30) days after the date on which the order relating to any such Administrative Expense Claim is entered or (ii) upon such other terms as may be mutually agreed upon between the Holder of such Administrative Expense Claim and the Trustee or Disbursing Agent, as applicable.

**2.3 Priority Tax Claims.**

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, each Holder of an Allowed Priority Tax Claim that has not already been paid in full shall receive, in full satisfaction, settlement, and release of and in exchange for such Allowed Priority Tax Claim, on the later of the Effective Date and the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, or as soon as practicable thereafter, Cash in an amount equal to such Allowed Priority Tax Claim.

**ARTICLE III**

**CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS**

The following table designates the classes of Claims against, and Equity Interests in, the Debtor and specifies which of those Classes are impaired or Unimpaired by the Plan and entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code or deemed to accept or reject the Plan under that Section.

<b>Class</b>	<b>Designation</b>	<b>Impairment</b>	<b>Entitled to Vote</b>
<b>Class 1</b>	<b>Wheeling Secured Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 2</b>	<b>FRA Secured Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 3</b>	<b>MDOT Secured Claims</b>	<b>Unimpaired</b>	<b>No</b>

<b>Class</b>	<b>Designation</b>	<b>Impairment</b>	<b>Entitled to Vote</b>
<b>Class 4</b>	<b>Bangor Savings Bank Secured Claim</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 5</b>	<b>State Income Tax Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 6</b>	<b>Municipal Tax Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 7</b>	<b>Other Priority Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>Class 8</b>	<b>Derailment Moral Damages and Personal Injury Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 9</b>	<b>Derailment Property Damage Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 10</b>	<b>Derailment Government Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 11</b>	<b>Derailment Property Subrogated Insurance Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 12</b>	<b>Derailment Wrongful Death Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 13</b>	<b>General Unsecured Claims</b>	<b>Impaired</b>	<b>Yes</b>
<b>Class 14</b>	<b>Subordinated Claims</b>	<b>Impaired</b>	<b>No (Deemed to Reject)</b>
<b>Class 15</b>	<b>Equity Interests</b>	<b>Impaired</b>	<b>No (Deemed to Reject)</b>

**3.1** *Class 1* shall consist of all Allowed Secured Claims of any kind or nature held by Wheeling against the Debtor.

**3.2** *Class 2* shall consist of all Allowed Secured Claims of any kind or nature held by the United States of America, Department of Transportation, acting by and through the FRA against the Debtor.

**3.3** *Class 3* shall consist of all Allowed Secured Claims of any kind or nature held by Maine Department of Transportation (“MDOT”) against the Debtor.

**3.4** *Class 4* shall consist of all Allowed Secured Claims of any kind or nature held by Bangor Savings Bank against the Debtor.

**3.5** *Class 5* shall consist of all Allowed Income Tax Claims of any kind or nature held by any state government, including Maine and Vermont, against the Debtor.

**3.6** *Class 6* shall consist of all Allowed Tax Claims of any kind or nature held by any municipality.

**3.7** *Class 7* shall consist of all non-Tax Priority Claims of any kind or nature against the Debtor.

**3.8** *Class 8* shall consist of all Allowed Derailment Moral Damages and Personal Injury Claims.

**3.9** *Class 9* shall consist of all Allowed Derailment Property Damage Claims.

**3.10** *Class 10* shall consist of all Allowed Derailment Government Claims.

**3.11** *Class 11* shall consist of all Derailment Property Subrogated Insurance Claims.

**3.12** *Class 12* shall consist of all Derailment Wrongful Death Claims.

**3.13** *Class 13* shall consist of all Allowed General Unsecured Claims of any kind or nature against the Debtor, including Allowed General Unsecured Claims arising from a deficiency of Collateral securing any Allowed Secured Claims.

**3.14** *Class 14* shall consist of all Subordinated Claims.

**3.15** *Class 15* shall consist of all Equity Interests in the Debtor.

## ARTICLE IV

### **TREATMENT OF CLAIMS AND EQUITY INTERESTS**

#### **4.1** *Class 1: Wheeling Secured Claims.*

(a) Impairment and Voting. Class 1 is unimpaired by the Plan. The Holder of the Class 1 Claim is not entitled to vote to accept or reject the Plan.

(b) Distributions. Except to the extent that a Holder of an Allowed Wheeling Secured Claim (i) has been paid by the Trustee, in whole or in part, prior to the Effective Date; (ii) has been or will be paid from the liquidation of its Collateral on and after the Petition Date, (iii) has been or will be paid pursuant to the CCAA Plan; or (iv) agrees to a less favorable treatment, the Holder of the Class 1 Claim shall (A) receive Cash from the sale or monetization of the Collateral securing such Claim, if any, subject to the Trustee's right to recover certain costs and expenses pursuant to 506(c) of the Bankruptcy Code, and (B) retain all of its rights and obligations pursuant to the Wheeling Proceedings, as well as the right to assert that any future recoveries by the Trustee, including any Residual Assets or proceeds thereof, are Collateral securing the Class 1 Claim (and the Trustee shall reserve the right to contest such claims). To the extent of any deficiency in the value of Collateral securing the Class 1 Claim, the Holder shall hold a Class 13 Claim in the amount of such deficiency.

#### **4.2** *Class 2: FRA Secured Claims.*

(a) Impairment and Voting. Class 2 is unimpaired by the Plan. The Holder of the Class 2 claim is not entitled to vote to accept or reject the Plan.

(b) Distributions. Except to the extent that the Holder of the Class 2 Claim (i) has been paid by the Trustee, in whole or in part, prior to the Effective Date; (ii) has been or will be paid pursuant to the CCAA Plan; or (iii) agrees to a less favorable treatment, the Holder of an Allowed Class 2 Claim shall (A) receive Cash from the sale or monetization of the Collateral securing such Claim, pursuant to the Sale Order and the APA, or otherwise; (B) retain its liens, if any, in Residual Assets, and (C) retain its rights pursuant to the FRA Adequate Protection Order, including any rights to some or all of the 45G Proceeds and the Travelers' Proceeds. To the extent of any deficiency in the value of Collateral securing the Class 2 Claim, the Holder of the



Class 2 Claim shall hold a Class 13 Claim in the amount of such deficiency.

**4.3 Class 3: MDOT Secured Claims.**

(a) Impairment and Voting. Class 3 is unimpaired by the Plan. The Holder of the Class 3 Claim is not entitled to vote to accept or reject the Plan.

(b) Distributions. As a consequence of the Asset Sale, there is no value attributable to the Class 3 Claim. See 11 U.S.C. § 506(a). The Holder, of the Class 3 Claim shall receive a Class 13 Claim in the amount of such deficiency.

**4.4 Class 4: Bangor Savings Bank Secured Claims.**

(a) Impairment and Voting. Class 4 is unimpaired by the Plan. The Holder of the Class 4 Claim is not entitled to vote to accept or reject the Plan.

(b) Distributions. The Holder of the Class 4 Claim was granted relief from the automatic stay and allowed to liquidate its Collateral, to the extent such Collateral was property of the Estate. To the extent of any deficiency, see 11 U.S.C. § 506(a), the Holder of the Class 4 Claim shall have a Class 13 Claim in the amount of such deficiency.

**4.5 Class 5: State Income Tax Claims.**

(a) Impairment and Voting. Class 5 is unimpaired by the Plan. The Holders of Allowed Class 5 Claims are not entitled to vote to accept or reject the Plan.

(b) Distributions. The Trustee believes that any Class 5 Claims are the sole responsibility of non-Debtor Affiliates. To the extent the Estate is obligated with respect to any Class 5 Claims, such Class 5 Claims will be paid in full, including any interest and penalties, on the later of the Effective Date, or thirty (30) days after the date such claims become Allowed Claims.

**4.6 Class 6: Municipal Tax Claims.**

(a) Impairment and Voting. Class 6 claims are not impaired by the Plan. The Holders of Allowed Class 6 Claims are not entitled to vote to accept or reject the Plan.

(b) Distributions. The Trustee believes that all Class 6 Claims were paid in full from the Asset Sale Consideration. To the extent unpaid, such Class 6 Claims will be paid in full, including any interest and penalties, on the later of the Effective Date, or thirty (30) days after the date such claims become Allowed Claims.

**4.7 Class 7: Other Priority Claims.**

(a) Impairment and Voting. Class 7 Claims are unimpaired by the Plan. Each Holder of an Allowed Other Priority Claim in Class 7 is not entitled to vote to accept or reject

the Plan.

(b) Distributions. The Class 7 Claims were paid in full from the Asset Sale Consideration.

**4.8 Class 8: Derailment Moral Damages and Personal Injury Claims.**

(a) Impairment and Voting. Class 8 Claims are impaired by the Plan. Holders of Class 8 Claims are entitled to vote to accept or reject the Plan.

(b) Distributions. Class 8 Claims shall be satisfied solely in accordance with the terms of the CCAA Plan, and shall take nothing in addition thereto under this Plan. **HOLDERS OF CLASS 8 CLAIMS SHALL BE SUBJECT TO RELEASES AND INJUNCTIONS PRECLUDING PURSUIT OF ANY CLAIM AGAINST CERTAIN PARTIES IN ACCORDANCE WITH THIS PLAN AND THE CCAA PLAN, AS WELL AS THE CONFIRMATION ORDER, THE CHAPTER 15 RECOGNITION AND ENFORCEMENT ORDER AND THE CCAA APPROVAL ORDER.**

**4.9 Class 9: Derailment Property Damage Claims.**

(a) Impairment and Voting. Class 9 Claims are impaired by the Plan. Holders of Class 9 Claims are entitled to vote to accept or reject the Plan.

(b) Distributions. Class 9 Claims shall be satisfied solely in accordance with the terms of the CCAA Plan, and shall take nothing in addition thereto under this Plan. **HOLDERS OF CLASS 9 CLAIMS SHALL BE SUBJECT TO RELEASES AND INJUNCTIONS PRECLUDING PURSUIT OF ANY CLAIM AGAINST CERTAIN PARTIES IN ACCORDANCE WITH THIS PLAN AND THE CCAA PLAN, AS WELL AS THE CONFIRMATION ORDER, THE CHAPTER 15 RECOGNITION AND ENFORCEMENT ORDER AND THE CCAA APPROVAL ORDER.**

**4.10 Class 10: Derailment Government Claims.**

(a) Impairment and Voting. Class 10 Claims are impaired by the Plan. Holders of Class 10 Claims are entitled to vote to accept or reject the Plan.

(b) Distributions. Class 10 Claims shall be satisfied solely in accordance with the terms of the CCAA Plan, and shall take nothing in addition thereto under this Plan. **HOLDERS OF CLASS 10 CLAIMS SHALL BE SUBJECT TO RELEASES AND INJUNCTIONS PRECLUDING PURSUIT OF ANY CLAIM AGAINST CERTAIN PARTIES IN ACCORDANCE WITH THIS PLAN AND THE CCAA PLAN, AS WELL AS THE CONFIRMATION ORDER, THE CHAPTER 15 RECOGNITION AND ENFORCEMENT ORDER AND THE CCAA APPROVAL ORDER.**

**4.11 Class 11: Derailment Property Subrogated Insurance Claims.**

(a) Impairment and Voting. Class 11 Claims are impaired by the Plan. Holders of Class 11 Claims are entitled to vote to accept or reject the Plan.

(b) Distributions. Class 11 Claims shall be satisfied solely in accordance with the terms of the CCAA Plan, and shall take nothing in addition thereto under this Plan. **HOLDERS OF CLASS 11 CLAIMS SHALL BE SUBJECT TO RELEASES AND INJUNCTIONS PRECLUDING PURSUIT OF ANY CLAIM AGAINST CERTAIN PARTIES IN ACCORDANCE WITH THIS PLAN AND THE CCAA PLAN, AS WELL AS THE CONFIRMATION ORDER, THE CHAPTER 15 RECOGNITION AND ENFORCEMENT ORDER AND THE CCAA APPROVAL ORDER.**

**4.12 Class 12: Derailment Wrongful Death Claims.**

(a) Impairment and Voting. Class 12 Claims are impaired by the Plan. Each Holder of an Allowed Derailment Wrongful Death Claim in Class 12 is entitled to vote to accept or reject the Plan.

(b) Distributions. Except to the extent provided in the Affiliated Parties Settlement Agreement, each Holder of a Class 12 Claim shall be enjoined from pursuing any Claim against the Released Parties as set forth in Article X of the Plan, and Allowed Derailment Wrongful Death Claims shall be channeled to the WD Trust, and each Derailment Wrongful Death Claimant shall receive, in complete settlement, satisfaction and discharge of his or her Allowed Derailment Wrongful Death Claim against the Released Parties, a share of the beneficial interests in the WD Trust, subject, however, to the preservation of Claims against parties other than Released Parties, as set forth below. Except as otherwise provided herein, each Class 12 Claimant remains entitled to any recovery from third parties or liability insurance proceeds that may be liable on or otherwise available to satisfy such Derailment Wrongful Death Claims in whole or in part, but only to the extent any such third parties or insurers are not Released Parties, *provided, however*, that notwithstanding anything herein or in the WD Trust Agreement to the contrary, to the extent that (i) a Derailment Wrongful Death Claimant realizes a recovery from any third party, other than in accordance with the Plan and pursuant to the WD Trust Agreement, on account of the Claimant's Derailment Wrongful Death Claim, and (ii) such third party has filed a timely Proof of Claim against the Estate for contribution or indemnity based in whole or in part on its actual or potential liability obligations to such Claimant, (A) such third party's payment to such Claimant shall be presumed to be solely on account of that third party's own liability to such Claimant, and shall not be deemed to be a payment of the Derailment Wrongful Death Claim in full within the meaning of section 509(c) of the Bankruptcy Code until so agreed by the WD Trustee or otherwise so determined by the Bankruptcy Court, and (B) any distribution from the WD Trust to which such Holder of a Derailment Wrongful Death Claim would otherwise be entitled shall be reserved until such time as the third party's claim is resolved. An entity that is liable with the Debtor on, or that has secured, an Allowed Derailment Wrongful Death Claim, and that pays such Allowed Derailment Wrongful Death Claim in full, shall, to the extent provided by Section 509 of the Bankruptcy Code, be subrogated to the rights of the Holder of such Allowed Derailment Wrongful Death

Claim under and for purposes of the Plan, and such subrogated Claim shall be treated as a Class 12 Claim in accordance with the Plan, and to the extent that the entity's payment of the Allowed Derailment Wrongful Death Claim is not a payment in full, such entity shall be treated in accordance with Section 509 of the Bankruptcy Code, including, but not limited to, subordination of such entity's Claim(s) in accordance therewith.

**HOLDERS OF CLASS 12 CLAIMS MAY BE REQUIRED TO SUBMIT ADDITIONAL DOCUMENTATION REGARDING THEIR CLAIM AS PROVIDED BY THE WRONGFUL DEATH CLAIM RESOLUTION PROCEDURES. HOLDERS OF CLASS 12 CLAIMS SHALL BE SUBJECT TO RELEASES AND INJUNCTIONS PRECLUDING PURSUIT OF ANY CLAIM AGAINST CERTAIN PARTIES IN ACCORDANCE WITH THIS PLAN AND THE CCAA PLAN, AS WELL AS THE CONFIRMATION ORDER, THE CHAPTER 15 RECOGNITION AND ENFORCEMENT ORDER AND THE CCAA APPROVAL ORDER.**

**4.13 Class 13: General Unsecured Claims.**

(a) Impairment and Voting. Class 13 Claims are impaired by the Plan. Each Holder of an Allowed General Unsecured Claim in Class 13 is entitled to vote to accept or reject the Plan.

(b) Distributions. Each Holder of Allowed Class 13 Claims shall receive such Holder's Pro Rata share of the Class 13 Cash.

**4.14 Class 14: Subordinated Claims.**

(a) Impairment and Voting. Class 14 Claims are impaired. Each Holder of a Class 14 Claim is deemed to reject the Plan and is not entitled to vote to accept or reject the Plan.

(b) Distributions. Each Holder of a Class 14 Claim shall not be entitled to, and shall not receive or retain, any property or interest on account of such Equity Interests under the Plan.

**HOLDERS OF CLASS 14 CLAIMS SHALL BE SUBJECT TO RELEASES AND INJUNCTIONS PRECLUDING PURSUIT OF ANY CLAIM AGAINST CERTAIN PARTIES IN ACCORDANCE WITH THIS PLAN AND THE CCAA PLAN, AS WELL AS THE CONFIRMATION ORDER, THE CHAPTER 15 RECOGNITION AND ENFORCEMENT ORDER AND THE CCAA APPROVAL ORDER.**

**4.15 Class 15: Equity Interests.**

(a) Impairment and Voting. Class 15 is impaired by the Plan. Each Holder of an Equity Interest in the Debtor is deemed to reject the Plan and is not entitled to vote to accept or reject the Plan.

(b) Distributions. On the Effective Date, all existing Equity Interests in the Debtor shall be cancelled and extinguished and the Holders of Equity Interests in the Debtor shall not be entitled to, and shall not receive or retain, any property or interest on account of such Equity Interests under the Plan.

## ARTICLE V

### SETTLEMENT AGREEMENTS; THE WD TRUST

#### *5.1 Settlement Agreements.*

To the extent any Settlement Agreements have not been previously approved by the Bankruptcy Court, the entry of the Confirmation Order shall constitute approval of such Settlement Agreements by the Bankruptcy Court and the Bankruptcy Court's finding that, to the extent required under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules, the Settlement Agreements are in the best interests of the Debtor, the Estate and all Holders of Claims in the Chapter 11 Case, are fair, equitable and reasonable, and have been entered into in good faith by all parties thereto. Upon the occurrence of the conditions to effectiveness set forth in each of the Settlement Agreements, the Settlement Agreements shall be binding and enforceable against the parties to the Settlement Agreements in accordance with their terms. However, nothing in the Plan or the Confirmation Order shall preclude a Released Party from exercising its rights to terminate a Settlement Agreement as provided for under such Settlement Agreement. To the extent not previously approved by the Bankruptcy Court, copies of the Settlement Agreements will be included in the Plan Supplement, although filed under seal (except for the XL Settlement Agreement attached hereto), and the provisions thereof are incorporated into this Plan, as if the same were fully set forth herein. In accordance with the terms of any applicable Settlement Agreement(s), any and all otherwise applicable statutes of limitations or repose or other time-related limitations relating to the Released Parties' and the Released Parties' Claims (as defined therein) shall be deemed to have been tolled for statute of limitations purposes during the period from the Execution Date (as defined therein) to the Plan Implementation Date (as defined therein) or the date that such Settlement Agreement becomes null and void pursuant to the Settlement Agreement.

#### *5.2 Exhaustion of Insurance Policies.*

(a) On the Effective Date, and upon full payment and performance under the XL Settlement Agreement, the XL Policies shall be deemed completely exhausted and any and all of the XL Companies' obligations under the XL Policies shall be, and are deemed to be, extinguished.

(b) On the Effective Date, and upon full performance under the relevant Settlement Agreements (and subject to any exceptions contained in such Settlement Agreements), the policy of any Insurance Company that is a Contributing Party shall be deemed completely exhausted and any and all of the Insurance Company's obligations under such policy shall be, and are deemed to be, extinguished.

### ***5.3 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.

### ***5.4 Purpose of WD Trust.***

The WD Trust shall be established for the sole purpose of implementing this 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 this Plan, is to hold the WD Trust Assets and dispose of the same in accordance with the WD Trust Agreement and this Plan in accordance with Treasury Regulation section 301.7701-4(d).

### ***5.5 Assets of the WD Trust.***

As soon as practicable after the Implementation 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 this Plan and the CCAA 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.

### ***5.6 Governance of the WD Trust.***

The WD Trust will be administered by the WD Trustee. Subsequent appointments of WD Trustee(s) shall be made in accordance with the provisions of the WD Trust Agreement and this Plan. Decisions with respect to all matters 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.

### ***5.7 Role of the WD Trustee.***

In furtherance of, and consistent with the purpose of, the WD Trust and this Plan, the WD

Trustee shall, subject to the terms of this 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 this 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 this Plan), to deviate therefrom.

### **5.8 *Investments.***

Investments of all assets, including monies, held in the WD Trust shall be administered, subject to the limitations and provisions set forth in this Section 5.8, 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 July 26, 2013. 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.

### **5.9 *Fees, Costs and Expenses of the WD Trust.***

- (a) The WD Trust shall pay from the WD Trust Assets all (i) WD Trust

Expenses; (ii) any tax liability imposed on the WD Trust rather than on any Disputed Claims reserve, if any; (iii) obligations or other liabilities incurred or assumed by the WD Trust (including but not limited to any reserves established by the WD Trust); (iv) expenses reasonably necessary to meet contingent liabilities and to maintain the value of the WD Trust Assets during liquidation; and (v) expenses reasonably necessary to satisfy any other obligations of the WD Trust set forth in this 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 this 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.

#### ***5.10 Distribution of the WD Trust Assets.***

The WD Trustee shall distribute the proceeds of the WD Trust Assets strictly in accordance with this 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 this Section 5.10, 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.

#### ***5.11 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 this Section 5.11, 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.

### ***5.12 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 this 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 no later than distributions are made to other Holders of Derailment Claims under the CCAA Plan, subject only to any delays necessitated by Section 5.14 of this Plan and any orders issued by the District Court under Section 5.14 of this Plan.

### ***5.13 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 (other than the WD Trust Assets allocable to a Disputed Claims reserve as provided in Section 7.20 hereof) 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 (other than the WD Trust Assets allocable to an Expense Fund (as defined in the WD Trust Agreement), if any, or any Disputed Claims reserve as described in Section 7.20 hereof). 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 this 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 this 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 this 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 this Section 5.13. 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 and Disputed Claims of the WD Trust Beneficiaries at the end of the taxable year. WD Trust taxable income or loss allocated to Disputed Claims shall be allocated to the Disputed Claim Reserve (as described in Section 7.20 hereof) (whichever applies), and reported to taxing authorities appropriately, as described further herein. 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, including the Disputed Claims reserve described in Section

7.20 hereof, 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.

(e) **Reporting Related to Contested Claims Reserve.** Notwithstanding any other provision of the WD Trust Agreement to the contrary, subject to definitive guidance from the Internal Revenue Service or a court of competent jurisdiction to the contrary, the WD Trustee may treat any WD Trust Asset allocable to, or retained on account of, a “Disputed Claims Reserve” as held by one or more discrete entities for federal, and state and local, income tax purposes, subject to an allocable share of all expenses and obligations of the WD Trust, on account of such Disputed Claims. The WD Trustee may, in his or her sole discretion, file a tax election to treat any Disputed Claims Reserve as a “Disputed Ownership Fund” within the meaning of Treasury Regulation Section 1.468B-9 for United States federal income tax purposes rather than to tax such reserve as a part of the WD Trust. All WD Trust Beneficiaries, all Holders of Allowed Class 12 Claims, and all holders of Disputed Claims, shall be bound by such income tax treatment.

#### **5.14 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 the District Court to 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 the District Court to 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.

#### **5.15 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.

**5.16 Distribution of Surplus.**

The WD Trustee shall make all payments required to be paid to Holders of Allowed Class 12 Claims under this Plan, in accordance with the terms and conditions of the WD Trust Agreement, the Wrongful Death Claim Resolution Procedures, and this 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.

**ARTICLE VI**

**6.1 *Management of the Post-Effective Date Estate.***

(a) Estate Representative. On the Effective Date, (i) the authority, power and incumbency of the persons then acting as directors and officers of the Debtor, and that of the Trustee, shall be terminated, (ii) such directors, officers and the Trustee shall be deemed to have been discharged pursuant to Bankruptcy Code section 350(a), and (iii) the Estate shall nonetheless be preserved pursuant to sections 1123(b)(3), 1123(b)(6) and 1172 of the Bankruptcy Code and Robert J. Keach shall be appointed as the sole representative of the Post-Effective Date Estate, and the sole officer and director of the Debtor in such capacity, to serve in accordance with the certificate of incorporation and the bylaws of the Debtor, as such may be amended, and to carry out the provisions of the Plan.

(b) Compensation. The Estate Representative shall be entitled to the same compensation and reimbursement of expenses as would be payable to a chapter 11 trustee under sections 326 and 330 of the Bankruptcy Code and shall file fee applications under the Bankruptcy Code for approval by the Bankruptcy Court of such fees and expenses.

(c) Indemnification. The Estate Representative shall have quasi-judicial immunity to the fullest extent allowed by law (and the same as would be afforded a chapter 11 trustee) and shall have no liability to the Debtor or its creditors, except for willful misconduct. The Estate shall indemnify and hold harmless the Estate Representative for any losses incurred in his or her capacity as such, except to the extent such losses were the result of the Estate Representative's willful misconduct.

(d) Successor. In the event the Estate Representative dies, is terminated or resigns for any reason, the Bankruptcy Court shall designate a successor on motion of any party in interest.

**6.2 *Duties and Powers of the Estate Representative.***

The Estate Representative shall have the power of a chapter 11 trustee (and of the sole officer of the Debtor), and, without limitation, shall have the power and authority to implement and administer the Plan, and to prosecute any action or cause of action necessary to implement the Plan, including, without limitation, to enforce the Releases and Injunctions and also including, without limitation, the following power and authority:

(a) Claims. The Estate Representative may object to, compromise or settle any or all Claims against the Debtor or the Estate, other than Class 12 Claims.

(b) Selling, Monetizing or Liquidating Residual Assets. The Estate Representative may, but is not required to, sell, monetize or liquidate the Settlement Non-Cash Assets and the Residual Assets, including, without limitation, through the prosecution of Post-Confirmation Causes of Action.

(c) Abandoning Assets. The Estate Representative may abandon or donate any Assets, if he concludes in his sole discretion that they are of no benefit or inconsequential value without the need for further order or notice.

(d) Retention of Professionals. After the Effective Date, the Estate Representative may retain such law firms or attorneys, experts, advisors, consultants, investigators, appraisers, auctioneers, corporate management services, or other persons or professional firms as the Estate Representative 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 Estate Representative may pay or appropriate funds necessary to pay the professionals for services rendered and expenses incurred after the Effective Date; such professionals shall file fee applications under the Bankruptcy Code for approval by the Bankruptcy Court of such fees and expenses. The Estate Representative may retain any firm previously retained by the Trustee.

(e) Books and Records. The Estate Representative shall maintain the Debtor's books and records, maintain accounts, make distributions and take other actions consistent with the Plan and the implementation of the Plan. The Estate Representative shall have the responsibility of storing and maintaining the Debtor's books and records only until such time as he or she deems, in his or her sole discretion, such books and records may be abandoned or destroyed, and the Estate Representative shall have no liability to any party on account of such abandonment or destruction. In addition to the materials to be provided to the WD Trustee pursuant to Section 5.15 of the Plan, at the time such materials are provided to the WD Trustee pursuant to Section 5.15 of the Plan, the Estate Representative shall provide the WD Trustee with such of the Debtor's books and records as the WD Trustee may reasonably request in connection with the administration of the Wrongful Death Claim Resolution Procedures, and the Estate Representative shall have no liability to any party on account of such provision. The Estate Representative shall retain the right to access and copy any records provided to the WD Trustee. For purposes of this Section, books and records include computer generated or computer maintained books and records and computer data, as well as electronically generated or maintained books and records or data, together with books and records of the Debtor maintained by or in possession of third parties and all of the claims and rights of the Debtor in and to their

books and records, wherever located.

(f) Agreements. The Estate Representative may enter into any agreement or execute any document which he deems to be required by or consistent with the Plan or necessary or appropriate to its implementation and perform all of obligations of the Post-Effective Date Estate.

(g) Investment Power. Management of all Residual Assets and investments of the Post-Effective Date Estate's Cash shall be administered, subject to the limitations and provisions set forth herein, in view of the manner in which individuals of ordinary prudence, discretion and judgment would act in the management of their own affairs. The Estate Representative shall invest and reinvest the Post-Effective Date Estates' Cash and keep the Post-Effective Date Estates' Cash 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 July 26, 2013. Each account shall be treated as a single fund without distinction between principal and income. For purposes of this paragraph, "interest-bearing account" includes 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. All investments shall be made so as to at all times provide sufficient liquidity to meet the anticipated cash needs of the Post-Effective Date Estate as set forth herein.

(h) Tax Obligations. The Estate Representative shall (i) endeavor to complete and file the Debtor's or the Post-Effective Date Estates', as applicable, federal and state tax returns, (ii) request, if necessary, an expedited determination of any unpaid tax liability of the Debtor under Bankruptcy Code section 505 for all taxable periods of the Debtor ending after the Petition Date as determined under applicable tax laws and (iii) represent the interest and account of the Debtor, its Estate or the Post-Effective Date Estate, as applicable, before any taxing authority in all matters.

(i) Reporting Duties. The Estate Representative shall be responsible for filing informational returns on behalf of the Debtor or the Post-Effective Date Estate, as applicable, and any other statements, returns or disclosures relating to the Debtor or the Post-Effective Date Estate, as applicable, that are required by any governmental unit or applicable law.

(j) Reasonable Fees and Expenses. The Estate Representative may incur and pay and satisfy any reasonable and necessary fees and expenses in connection with the performance of his or her duties under the Plan without the need for further order or notice.

### **6.3 Other Actions.**

The Estate Representative may take all other actions not inconsistent with the provisions of the Plan which the Estate Representative deems reasonably necessary or desirable with respect to administering the Plan, including without limitation, to fully effectuate and enforce the Releases and Injunctions.

**6.4 Closing of the Chapter 11 Case.**

When all Disputed Claims have become Allowed Claims or have been disallowed by Final Order, and this Plan has been substantially consummated, the WD Trustee and/or the Estate Representative may, if he or she so elects in his or her sole discretion, seek authority from the Bankruptcy Court to close the Chapter 11 Case in accordance with the Bankruptcy Code and the Bankruptcy Rules.

**6.5 Cancellation of Existing Agreements.**

Except for purposes of evidencing a right to distributions under this Plan or otherwise provided hereunder, on the Effective Date all of the agreements and other documents, except for and other than the WD Trust Agreement, the Settlement Agreements and insurance policies issued to, or insurance agreements entered into by the Debtor prior to the Petition Date (including, without limitation, any D&O Insurance Policies), evidencing the Claims or rights of any Holder of a Claim against the Debtor, including any notes evidencing such Claims, shall be deemed cancelled.

**6.6 Continued Corporate Existence.**

The Debtor shall continue to exist after the Effective Date, with all powers of a corporation under the laws of the State of Delaware except for shareholder management (the "Post-Effective Date Debtor"). The Post-Effective Date Debtor's certificate of incorporation and bylaws shall be deemed amended to include a provision prohibiting the issuance of non-voting equity securities, thereby satisfying the requirements of Bankruptcy Code section 1123(a)(6). The Estate Representative, as the sole officer and director of the Post-Effective Date Debtor, shall perform each of the actions provided for under this Plan without any requirement of further action by or consent or vote of the shareholders. At the discretion of the Estate Representative, the Post-Effective Date Debtor shall be authorized, only following the completion of all disbursements to Holders of Allowed Claims, other than Allowed Class 12 Claims, other transfers and other actions required under this Plan, including without limitation, the sale, monetization or liquidation of the Residual Assets, or to file certificates of cancellation or dissolution. The filing of such certificates of cancellation or dissolution shall be deemed authorized and approved in all respects without further action under applicable law, regulation, order or rule, including, without express or implied limitation, any action by the shareholders. After the Effective Date, the shareholders shall have no power or authority with respect to the management, operation or other functions of the Post-Effective Date Debtor.

**6.7 Effectuating Documents and Further Transactions.**

Upon the Effective Date, the Estate Representative is authorized and directed to execute, deliver, file or record such contracts, releases and other agreements or documents and take such actions as he or she may deem to be necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan.

## ARTICLE VII

### **PROVISIONS GOVERNING VOTING AND DISTRIBUTIONS**

#### ***7.1 Disallowance of Multi-Claimant or Class Proofs of Claim.***

In accordance with the Bar Date Order, Claims evidenced by (a) Proofs of Claim joining or on behalf of two (2) or more claimants submitted without the prior approval of the Bankruptcy Court, or (b) by Proofs of Claim purporting to be on behalf of a class of claimants shall be and are hereby disallowed to the extent not previously disallowed.

#### ***7.2 Voting of Claims.***

Each Holder of an Allowed Claim in an impaired Class of Claims that is entitled to vote on the Plan pursuant to Article II and Article IV of the Plan shall be entitled to vote separately to accept or reject the Plan, as provided in such order as is entered by the Bankruptcy Court establishing procedures with respect to the solicitation and tabulation of votes to accept or reject the Plan, or any other order or orders of the Bankruptcy Court.

#### ***7.3 Acceptance by Impaired Classes of Claims.***

Pursuant to section 1126(c) of the Bankruptcy Code, an impaired Class of Claims shall have accepted the Plan if, after excluding any Claims held by any Holder designated pursuant to section 1126(e) of the Bankruptcy Code, (a) the Holders of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan, and (b) more than one-half in number of such Allowed Claims actually voting in such Class have voted to accept the Plan. If a Class contains Claims and none of such Claims votes, the Class is deemed to accept the Plan.

#### ***7.4 Nonconsensual Confirmation.***

If any impaired Class of Claims entitled to vote does not accept the Plan by the requisite statutory majority provided in section 1126 of the Bankruptcy Code, or as otherwise required by the Plan, or is not deemed to accept the Plan, the Debtor reserves the right to amend the Plan in accordance with Section 12.8 of the Plan or to undertake to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code, or both. With respect to impaired Classes of Claims that are deemed to reject the Plan, the Debtor intends to request that the Bankruptcy Court confirm the Plan pursuant to section 1129(b) of the Bankruptcy Code.

#### ***7.5 Date of Distributions.***

Distributions to Holders of Claims shall be made on the Initial Distribution Date, and on any subsequent Distribution Dates, as provided in Article II and Article IV of the Plan. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as



of the required date.

**7.6 *Disbursing Agent.***

All distributions under the Plan shall be made by the Disbursing Agent, except distributions to Class 12 Claims and WD Trust Beneficiaries (which distributions shall be made in accordance with the WD Trust Agreement and Article 5 of this Plan). The Disbursing Agent shall be deemed to hold all property to be distributed under the Plan in trust for the entities entitled to receive the same. The Disbursing Agent shall not hold an economic or beneficial interest in the property to be distributed under the Plan.

**7.7 *Appointment of Disbursing Agent.***

The Estate Representative is hereby appointed as Disbursing Agent for all purposes under the Plan.

**7.8 *Rights and Powers of Disbursing Agent.***

The Disbursing Agent shall be empowered to (a) effect all actions and execute all agreements, instruments and other documents necessary to perform the Disbursing Agent's duties under the Plan, (b) make all distributions contemplated by the Plan, (c) employ professionals to represent the Disbursing Agent with respect to its responsibilities and, (d) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions of the Plan.

The Disbursing Agent shall only be required to act and make distributions in accordance with the terms of the Plan and shall have no (a) liability for actions taken in accordance with the Plan or in reliance upon information provided to it in accordance with the Plan or (b) obligation or liability for distributions under the Plan to any party who does not hold an Allowed Claim at the time of distribution or who does not otherwise comply with the terms of the Plan; *provided, however,* that the foregoing shall not affect the liability that otherwise would result from any such act or omission to the extent such act or omission is determined by a Final Order to have constituted willful misconduct, gross negligence, intentional fraud, or criminal conduct of any such Person.

**7.9 *Expenses of Disbursing Agent.***

Except as otherwise ordered by the Bankruptcy Court, any reasonable fees and expenses incurred by the Disbursing Agent (including, without limitation, Taxes and reasonable attorneys' fees and expenses) on or after the Effective Date shall be paid in Cash by the Estate in the ordinary course of business, following approval of the Bankruptcy Court. Disbursements by the Disbursing Agent shall be treated as disbursements by the Estate Representative for the purpose of Section 6.1 of this Plan.

**7.10 Delivery of Distributions.**

Subject to Bankruptcy Rule 9010, and except as provided in Section 5.14, all distributions to any Holder of an Allowed Claim shall be made at the address of such Holder (a) as set forth on the Schedules filed with the Bankruptcy Court, (b) on the books and records of the Debtor, as applicable, unless the Debtor has been notified in writing of a change of address, including, without limitation, by the filing of a Proof of Claim by such Holder that contains an address for such Holder different than the address of such Holder as set forth on the Schedules, or (c) as otherwise allowed under Section 4.5 of the CCAA Plan with respect to distributions to Representative Counsel (as defined in the CCAA Plan)

**7.11 Undeliverable and Unclaimed Distributions.**

In the event that any distribution to any Holder of an Allowed Claim is returned as undeliverable, the Disbursing Agent shall use commercially reasonable efforts to determine the current address of each Holder, but no distribution to such Holder shall be made unless and until the Disbursing Agent has determined the then current address of such Holder; *provided, however,* that all distributions under the Plan that are unclaimed for a period of six (6) months after distribution thereof shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and any entitlement of any Holder of any Claims to such distributions shall be extinguished and forever barred. The Trustee and Disbursing Agent shall have no further obligation to make any distribution to the Holder of such Claim on account of such Claim, and any entitlement of any Holder of such Claim to any such distributions shall be extinguished and forever barred; *provided, however,* that the Holder of such Claim may receive future distributions on account of such Claim by contacting the Disbursing Agent at some point prior to the final Distribution Date. For the avoidance of doubt, the Disbursing Agent shall not be required to retain an outside investigator to determine the current address of any Holders of an Allowed Claim whose distribution is returned as undeliverable.

**7.12 Distribution Record Date.**

As of the close of business on the Distribution Record Date, the claims register shall be closed. The Disbursing Agent shall have no obligation to recognize any transfer of any such Claims occurring after the close of business on the Distribution Record Date, and shall instead be entitled to recognize and deal for all purposes under the Plan with only those Holders of record as of the close of business on the Distribution Record Date.

**7.13 Manner of Payment.**

At the option of the Disbursing Agent, any Cash payment to be made pursuant to the Plan may be made by a check or wire transfer.

**7.14 Currency.**

Where a Claim has been denominated in foreign currency on a Proof of Claim, the Allowed amount of such Claim shall be calculated in currency of the United States of America

based upon the conversion rate in place as of the Petition Date and in accordance with section 502(b) of the Bankruptcy Code.

**7.15 *Minimum Cash Distributions.***

The Disbursing Agent shall not be required to make any Initial Distribution or semi-annual distribution of Cash less than \$100 to any Holder of an Allowed General Unsecured Claim; *provided, however*, that if any distribution is not made pursuant to this Section 7.15, such distribution shall be added to any subsequent distribution to be made on behalf of the Holder's Allowed General Unsecured Claim. The Disbursing Agent shall not be required to make any final distribution of Cash less than \$50 to any Holder of an Allowed General Unsecured Claim. If either (a) all Allowed Claims (other than those whose distributions are deemed undeliverable hereunder) have been paid in full or (b) the amount of any final distribution to any Holder of Allowed General Unsecured Claims would be \$50 or less, then no further distribution shall be made by the Disbursing Agent and any surplus Cash remaining in the Estate shall be donated and distributed to a charitable organization exempt from U.S. federal income tax under Section 501(c)(3) of the Internal Revenue Code selected by the Disbursing Agent.

**7.16 *Setoffs and Recoupment.***

The Disbursing Agent may, but shall not be required to, setoff against or recoup from any Claim and from any payments to be made pursuant to the Plan in respect of such Claim any claims of any nature whatsoever that the Trustee may have against the Claimant, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Trustee or the Disbursing Agent of any such claim it may have against such claimant.

**7.17 *Interest and Penalty on Claims.***

Unless otherwise provided in the Plan or the Confirmation Order, no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date or penalties on any Claim. Any such interest or penalty component of any such Claims, if Allowed, shall be paid only in accordance with section 726(b) of the Bankruptcy Code.

**7.18 *No Distribution in Excess of Allowed Amounts.***

Notwithstanding anything to the contrary in the Plan, no Holder of an Allowed Claim shall receive in respect of such Claim any distribution of a value as of the Effective Date in excess of the Allowed Amount of such Claim, provided, however, that, notwithstanding any limit created by this section 7.18, distributions to Class 12 Claims shall be made in accordance with the Wrongful Death Claim Resolution Procedures, and provided, further, that nothing in this Section 7.18 shall limit, discharge or modify any rights of any holder of a claim against any person or entity that is not a Released Party.

**7.19 *Allocation of Plan Distributions Between Principal and Interest.***

To the extent that any Allowed Claim entitled to a distribution under the Plan consists of

indebtedness and other amounts (such as accrued but unpaid interest thereon), such distribution shall be allocated first to the principal amount of the Claim (as determined for United States federal income tax purposes) and then, to the extent the distribution exceeds the principal amount of the Claim, to such other amounts.

**7.20 Procedures for Treating Disputed Claims Other Than Class 12 Claims.**

(a) Estimation of Claims. The Estate Representative may at any time request that the Bankruptcy Court estimate any Claim, other than a Class 12 Claim, pursuant to section 502(c) of the Bankruptcy Code. In the event that the Bankruptcy Court estimates any Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Estate Representative may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently disallowed, reduced, compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

(b) Resolution of Disputed Claims. To the extent that a Disputed Claim is not Allowed or becomes an Allowed Claim in an amount less than the amount of the Disputed Claim set forth in the Proof of Claim, or as previously estimated by the Bankruptcy Court, the excess of the amount of Cash that would have been distributed to the Holder of the Disputed Claim if the Claim had been Allowed in full over the amount of Cash actually distributed on account of such Disputed Claim shall be available Cash. *Holders of Disputed Claims shall not be entitled to interest if such Disputed Claim becomes an Allowed Claim.*

**ARTICLE VIII**

**EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**8.1 Rejection of Executory Contracts and Unexpired Leases.**

(a) Pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, all executory contracts and unexpired leases that exist between the Debtor and any Person, *except for and other than the WD Trust Agreement, the Settlement Agreements (including the insurance policy rights assigned to the Debtor pursuant thereto) and insurance policies related to, or insurance agreements entered into by the Debtor prior to the Petition Date (including, without limitation, any D&O Insurance Policies)* shall be deemed rejected by the Debtor as of immediately prior to the Effective Date, except for any executory contract or unexpired lease (i) that has been assumed and assigned or rejected pursuant to an order of the Bankruptcy Court entered prior to the Effective Date, (ii) as to which a motion for approval of the assumption or assignment of such executory contract or unexpired lease has been filed and served prior to the Confirmation Date, or (iii) is otherwise provided for under Sections 8.2 or 8.3 of the Plan.

(b) Insurance Policies and Agreements. Except as set forth in the Settlement Agreements, Section 5.2 of the Plan, or the Confirmation Order, insurance policies

issued to, or insurance agreements entered into by, the Debtor prior to the Petition Date (including, without limitation, any D&O Insurance Policies covering directors' or officers' conduct) shall continue in effect after the Effective Date. To the extent that such insurance policies or agreements (including, without limitation, any policies covering directors' or officers' conduct) are considered to be executory contracts, then, notwithstanding anything to the contrary herein, this Plan shall constitute a motion to assume or ratify such insurance policies and agreements, and, subject to the occurrence of the Effective Date, the entry of the Confirmation Order shall constitute approval of such assumption pursuant to section 365(a) of the Bankruptcy Code and a finding that each such assumption is in the best interests of the Debtor and its Estate. Unless otherwise determined by the Bankruptcy Court pursuant to a Final Order or agreed to by the parties thereto prior to the Effective Date, no payments shall be required to cure any defaults of the Debtor existing as of the Confirmation Date with respect to each such insurance policy or agreement. To the extent that the Bankruptcy Court determines otherwise as to any such insurance policy or agreement, the Trustee reserves the right to seek the rejection of such insurance policy or agreement or other available relief.

#### ***8.2 Approval of Rejection of Executory Contracts and Unexpired Leases.***

Entry of the Confirmation Order shall, subject to and upon the occurrence of the Effective Date, constitute the approval, pursuant to sections 365(a), 1123(b)(2), and 1123(b)(6) of the Bankruptcy Code, of the assumption, assignment, and/or rejection of the executory contracts and unexpired leases treated pursuant to Section 8.1 of the Plan.

#### ***8.3 Bar Date for Filing Proofs of Claim Relating to Executory Contracts and Unexpired Leases Rejected Pursuant to the Plan.***

Proofs of Claim for damages arising out of the rejection of an executory contract or unexpired lease pursuant to Section 8.1 of the Plan must be filed with the Bankruptcy Court and served upon the Trustee or the Estate Representative, as the case may be, no later than thirty (30) days after notice of the Effective Date. All such Proofs of Claim not filed within the time set forth in Section shall be forever barred from assertion against the Debtor and its Estate or its Assets.

#### ***8.4 Rejection Claims of Officers and Directors of the Debtor.***

Notwithstanding section 8.1(a) of this Plan, in consideration for the releases and injunctions provided in this Plan and the Settlement Agreements, (a) all contracts or agreements between the Debtor and the former and current officers or directors of the Debtor, with the exception of the Settlement Agreements and any agreements entered into in connection with the Settlement Agreements, including the Affiliated Parties Settlement Agreement, are deemed rejected as of the Effective Date, without the need for any further action by the Estate Representative and (b) the Claims of such former and current officers or directors of the Debtor, if any, resulting from such rejection are hereby deemed waived.

#### ***8.5 Benefit Plans.***

All employment and severance policies, workers' compensation programs, and all

compensation, bonus and benefit plans, policies, programs, and arrangements of the Debtor applicable to its present and former employees, officers and directors, including, without express or implied limitation, all savings plans, cash and equity or equity-based incentive plans, retirement plans, health care plans, disability plans, and life, accidental death, and dismemberment insurance plans shall be deemed terminated immediately prior to the Effective Date without any further action by the Bankruptcy Court or the Debtor.

**8.6 *Reservation of Rights.***

Nothing contained in the Plan or the Plan Supplement shall constitute an admission by the Debtor that any contract or lease subject to this Article VIII is in fact an executory contract or unexpired lease or that the Debtor has any liability thereunder.

**ARTICLE IX**

**CONDITIONS TO CONFIRMATION AND EFFECTIVENESS**

**9.1 *Conditions to Confirmation.***

This Plan shall not be confirmed unless the Confirmation Order (a) is in a form and substance satisfactory to the Trustee and is otherwise consistent and in accord with the Settlement Agreements, and (b) approves and implements, among other things, (i) the Settlement Agreements, to the extent any of the Settlement Agreements have not otherwise or previously been approved by the Bankruptcy Court, and (ii) the Releases and Injunctions set forth in this Plan. In addition, Confirmation of this Plan is conditioned upon the entry of the CCAA Approval Order and the Chapter 15 Recognition and Enforcement Order, and both such orders becoming Final Orders. The foregoing conditions to confirmation of this Plan are material and non-waivable.

**9.2 *Date of Effective Date.***

The Effective Date shall occur on the later of: (a) the first Business Day following thirty (30) days after the Confirmation Date, provided that a court of competent jurisdiction has not entered a stay of the Confirmation Order as of such date (in which instance, the Effective Date will not occur until such stay is dissolved); and (b) the first Business Day on which all other conditions to the Effective Date have been satisfied or waived.

**9.3 *Conditions to Effective Date.***

The Effective Date shall not occur until (a) all of the conditions set forth in Section 9.1 have occurred; (b) the Confirmation Order has become a Final Order; (c) the conditions to implementation of the CCAA Plan have been met; and (d) the Plan Implementation Date shall have occurred. The foregoing conditions to the occurrence of the Effective Date are material and non-waivable.

**9.4 *Satisfaction of Conditions.***

Any actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously, and no such action shall be deemed to have occurred prior to the taking of any other such action.

**9.5 Occurrence of Effective Date.**

The Trustee shall cause the Effective Date to occur as soon as is practicable.

**9.6 Substantial Consummation Upon Effective Date.**

On the Effective Date, this Plan will be deemed to be substantially consummated under the applicable sections of the Bankruptcy Code.

**ARTICLE X**

**EFFECT OF CONFIRMATION**

**10.1 Vesting of Assets.**

As of the Effective Date, the property of the Estate shall vest in the Post-Effective Date Estate or such other entity as provided in this Plan.

(a) From and after the Effective Date, the Estate Representative or WD Trustee, as the case may be, may dispose of, or cause to be disposed of, the assets of the Post-Effective Date Estate and the WD Trust, respectively, free of any restrictions of the Bankruptcy Code, but in accordance with the provisions, as the case may be, of this Plan and the WD Trust Documents.

(b) As of the Effective Date, all assets of the Post-Effective Date Estate and the WD Trust shall be free and clear of all Claims, except as otherwise provided in this Plan or the Confirmation Order.

**10.2 Binding Effect.**

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, on and after the Effective Date, the provisions of this Plan shall bind any Holder of a Claim against, or Equity Interest in, the Debtor and its respective successors and assigns, and all Holders of Derailment Claims, whether or not the Claim or Equity Interest of such Holder is impaired under this Plan, whether or not such Claim or Equity Interest has been filed or asserted against the Debtor and whether or not such Holder has accepted this Plan.

**10.3 Exculpations and Limitation of Liability.**

As of the Effective Date, none of (a) the Trustee, (b) the Creditors Committee, (c) the Monitor, (d) MMA Canada, or (e) the members, representatives, accountants, financial advisors, consultants and attorneys of the entities described in (a) through (e) 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 this 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 this Plan or the Disclosure Statement, or (iii) any distributions made pursuant to this Plan, except for any acts determined by Final Order to have constituted willful misconduct, bad faith or gross negligence.

***10.4 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 this 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 this 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 this Plan; (iii) the Releases and Injunctions contained in this 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 this 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 this Plan or the amount of such Claim.



**10.5 Releases.**

(a) **Settlement Agreement Releases Supplemented; No Impact on Rights to Object.** Nothing in this Section 10.5 or otherwise in this 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 this 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. Except as expressly set forth in the Settlement Agreements, nothing in this 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 this 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 this particular 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 1.35 of the Plan, for the purposes of Article X 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, remedies, interests, actions, liabilities, demands, duties, injuries, compensation, damages, expenses, fees, and/or costs of whatever kind or nature (including attorney’s fees and expenses), whether foreseen or unforeseen, known or unknown, asserted or unasserted, contingent or matured, liquidated or unliquidated, whether in tort, contract, extra-contractual responsibility or otherwise, whether statutory, at common law or in equity, including but not limited to claims for breach of contract, tort, breach of the implied covenant of good faith and fair dealing, loss of support, loss of consortium, statutory or regulatory violations, for indemnity or contribution, or punitive, exemplary or extra-contractual damages of any type, (i) arising out of, based upon, or relating in any way, in whole or in part, directly or indirectly, whether through a direct claim, cross-claim, third-party claim, subrogation claim, contribution claim, class action or otherwise, to 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, or environmental damage, remediation or exposure 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 this Article X 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 this 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 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 (including any Claims assigned by the Other Released Parties to the Trustee, MMA Canada or their designee pursuant to a Settlement Agreement), debts, obligations, demands, (including any Claims or Causes of Action for contribution, indemnity 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, suits, judgments, damages, rights, remedies and Post-Confirmation Causes of Action, whatsoever (other than the right to enforce the obligations under this 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, this Plan, the Disclosure Statement, the Estate, the XL Policies, 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 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 and 9.3 of this Plan, and full performance under the applicable Settlement Agreement(s), 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 this Plan (other than the right to enforce the obligations under this 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, this Plan, the Disclosure Statement, any prepetition act or omission of the Debtor, the Estate, the XL Policies and the negotiation or funding of the*

**Settlement Agreements.**

(iii) **Releases by Affiliated Released Parties.** *Subject in all respects to the provisions of Sections 9.1 and 9.3 of this 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, 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, debts, obligations, demands, (including any Claims or Causes of Action for contribution, indemnity 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, 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 including, without limitation, arising out of the Derailment, the Chapter 11 Case, this 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 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 Retained Parties, or (C) any Claims or rights of any of the Rail World Parties and/or the D&O Parties 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 and 9.3 of this 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, this 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) 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 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 Section 9.1 of this 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 additional 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, debts, obligations, demands, (including any Claims or Causes of Action for contribution, indemnity, 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, 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, this Plan, the Disclosure Statement, the Estate, and 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 assigned by the Other Released Parties to the Trustee, MMA Canada or their designee pursuant to a Settlement Agreement, 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 other rights to the extent preserved by any of the Other Released Parties in their respective Settlement Agreement(s), including any rights preserved against Insurance Companies by the Other Released Parties; 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.*

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

*release the Other 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, (including any Claims or Causes of Action for contribution, indemnity, 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, suits, judgments, damages, rights, (including any right of setoff, subrogation, contribution, 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, this Plan, the Disclosure Statement, the Estate, and the Trustee's 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), including any rights preserved against Insurance Companies by the Other Released Parties; 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.*

#### **10.6 Injunctions.**

(a) **No Impact on the Rights of the Parties to the Settlement Agreements.**

Nothing in this Section 10.6 or otherwise in this 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.

(b) **Injunctions.**

(i) **Injunction in Favor of the Debtor and Estate Representative(s).**

Except as to the rights and claims created or expressly preserved by this 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, this 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 above.

(ii) **Injunction in Favor of Affiliated Released Parties.** Except as to the rights and claims created or expressly preserved by this 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 and non-settling parties, 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, 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 this Plan, the CCAA Plan, the

**Settlement Agreements, and the Confirmation Order, upon the Effective Date, all Persons and entities, including, without limitation, all Holders of Derailment Claims 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, 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 punitive damages), demands (including any Claims or Causes of Action for contribution, indemnity, 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, 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.**

#### ***10.7 Terms of Pre-Plan Injunction and Stays.***

Unless otherwise provided in this Plan, the Confirmation Order or a separate order of the Bankruptcy Court, all injunctions or stays arising under or entered during the Chapter 11 Case under section 105 or 362 of the Bankruptcy Code, entered in the Transferred WD Cases, or otherwise arising under applicable law and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in such applicable order, provided, however, that to the extent against any remaining defendant that is not a Released Party as of the Effective Date, the Trustee will cooperate with the plaintiffs in the Transferred WD Cases in seeking a transfer of such cases to the forum selected by such plaintiffs, and will cooperate in seeking from the District Court, in the order transferring such cases, a finding that the Settlement Agreements and transactions with Released Parties approved and implemented pursuant to this Plan were entered into in good faith pursuant to and in accordance with 740 ILCS 100/2(c).

#### ***10.8 Criminal Charges.***

Notwithstanding anything to the contrary in this Article X, nothing herein shall release or enjoin any Claim by Canada (as defined in the CCAA Plan) against any Person for fraud or criminal conduct, and quasi-criminal conduct and, for greater certainty, for any fine or penalty

arising from any regulatory investigation and prosecution arising from such conduct.

## ARTICLE XI

### RETENTION OF JURISDICTION

#### *11.1 Jurisdiction of Bankruptcy Court.*

Except as otherwise explicitly set forth in this Plan or the WD Trust Agreement as to those matters which are to be considered and determined by the District Court pursuant to an order withdrawing the reference as to those matters, the Bankruptcy Court shall retain original and exclusive jurisdiction of matters arising under, and subject to any limitations contained in any Settlement Agreements, arising out of or related to the Chapter 11 Case and this Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for all matters, to the maximum extent permitted by law, including for, among other things, the following purposes:

- (a) To determine any motion, adversary proceeding, application, contested matter and other litigated matter pending on or commenced after the Confirmation Date, including, without limitation, any proceeding relating to any Post-Confirmation Cause of Action, and any proceeding to implement and enforce the Releases and Injunctions;
- (b) To consider Disputed Claims, including objections, allowance, classification, priority, compromise, estimation or payment of any Claim, including Class 12 Claims at the request of the WD Trustee;
- (c) To hear and determine all applications under sections 330, 331 and 503(b) of the Bankruptcy Code for allowance and payment of Administrative Expense Claims, including awards of compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date;
- (d) To enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified or vacated;
- (e) To issue injunctions, enter and implement other orders and take such other actions as may be necessary or appropriate to restrain interference by any person with the consummation, implementation, or enforcement of this Plan, the Releases, the Injunctions, the Settlement Agreements, the Confirmation Order or any other order of the Bankruptcy Court;
- (f) To hear and determine any application to modify this Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in this Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;



(g) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of this Plan, the Confirmation Order, any transactions or payments contemplated by any of the foregoing, or any agreement or other document governing or relating to any of the foregoing;

(h) To take any action and issue such orders as may be necessary to construe, enforce, implement, execute and consummate this Plan or to maintain the integrity of this Plan following consummation;

(i) To recover all assets of the Debtor and property of the Estate, wherever located;

(j) To determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(k) To hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including, without limitation, matters with respect to any taxes payable by a trust established in furtherance of this Plan, including the WD Trust);

(l) To hear and determine any other matters related to this Plan, the Disclosure Statement, the Confirmation Order, the Post-Confirmation Causes of Action, the WD Trust Agreement and related documents and not inconsistent with the Bankruptcy Code and title 28 of the United States Code; and

(m) To enter a final decree closing the Chapter 11 Case.

## ARTICLE XII

### MISCELLANEOUS PROVISIONS

#### ***12.1 Withdrawal of the Reference.***

The rights of the Trustee, the Estate Representative, or the WD Trustee to move, pursuant to 28 U.S.C § 157(d) and Bankruptcy Rule 5011 for a withdrawal of the reference to the Bankruptcy Court of those matters under this Plan or the WD Trust Agreement which are to be considered and determined by the District Court, or which the Trustee determines, in his sole discretion, require consideration by the District Court, shall be and hereby are expressly preserved, and such motion may be made at any time subsequent to the filing of this Plan.

#### ***12.2 Dissolution of the Creditors' Committee.***

The Creditors' Committee shall dissolve on the Effective Date; *provided, however*, that (a) the Creditors' Committee shall continue to exist after the Effective Date for the purposes of opposing any pending appeals of the Confirmation Order and taking any actions related thereto, and the Creditors' Committee's professionals may seek compensation for and reimbursement of expenses related to such opposition and actions, if any, from the Post-Effective Date Estate, and (b) after dissolution of the Creditors' Committee, the Creditors' Committee's professionals shall

retain their rights to pursue, review and object to any applications for compensation and reimbursement of expenses filed in accordance with Section 2.1 and 2.2 of this Plan.

### ***12.3 Quasi-Judicial Immunity.***

The Confirmation Order shall provide that the Estate Representative, the WD Trustee, and the Settlement Administrator(s) are entitled to quasi-judicial immunity to the fullest extent allowed by law in connection with their implementation of the Confirmation Order, this Plan, the WD Trust Agreement and, the Wrongful Death Claim Resolution Procedures.

### ***12.4 Payment of Statutory Fees.***

On the Effective Date, and thereafter as may be required, the Estate Representative shall pay all fees payable pursuant to 28 U.S.C. § 1930, including all quarterly fees pursuant to 28 U.S.C. § 1930 that become due after the Effective Date.

### ***12.5 Effectuating Documents and Further Transactions.***

The Trustee, up to the Effective Date, and the Estate Representative, subsequent to the Effective Date, are authorized to execute, deliver, file or record such contracts, releases and other agreements or documents and take such actions as the Trustee or the Estate Representative, as the case may be, deem to be reasonably necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan.

### ***12.6 Exemption from Transfer Taxes.***

Pursuant to section 1146(c) of the Bankruptcy Code, the assignment or surrender of any lease or sublease, or the delivery of any deed or other instrument of transfer under, in furtherance of or in connection with this Plan, including any bills of sale, or assignments executed in connection with any disposition of assets contemplated by this Plan (including transfers of assets to and by the WD Trust) shall not be subject to any stamp, real estate transfer, mortgage recording, sales, use or other similar tax.

### ***12.7 Elimination of Vacant Classes; Deemed Acceptance.***

Any Class that is not occupied as of the commencement of the Confirmation Hearing by an Allowed Claim or a Claim temporarily allowed under Bankruptcy Rule 3018 shall be deemed eliminated from this Plan for purposes of voting to accept or reject this Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code. Any Class that is occupied as of such date by an Allowed Claim or such a temporary allowed claim and as to which no vote is cast shall be deemed to vote to accept the plan for purposes of Sections 1129(a)(8) and 1129(a)(10) of the Bankruptcy Code.

### ***12.8 Modification of Plan.***

The Plan may be amended, modified or supplemented by the Trustee in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as the Bankruptcy

Court may otherwise direct. Prior to the Effective Date, the Trustee may make appropriate technical adjustments and modifications to this Plan without further order or approval of the Bankruptcy Court, provided that such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Equity Interests. In addition, after the Effective Date, so long as such action does not materially adversely affect the treatment of Holders of Claims or Equity Interests under this Plan, the Estate Representative may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in this Plan or the Confirmation Order. Notwithstanding the foregoing, without the prior express consent of the relevant Contributing Parties, this Plan may not be amended pursuant to this paragraph if such amendment, would materially adversely affect the Releases and Injunctions in favor of the Released Parties or the rights of any of the Released Parties under their respective Settlement Agreements as set forth herein. Any such amendment, modification or supplement must be contained in a written document that is filed with the Bankruptcy Court, and must be discussed in advance with, and not objected to by, the Released Parties.

### ***12.9 Revocation or Withdrawal of Plan.***

The Trustee reserves the right to revoke or withdraw this Plan at any time prior to the Confirmation Date. If the Trustee takes such action, this Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any Claim by or against the Debtor or any other Person or to prejudice in any manner the rights of the Debtor or any other Person in any further proceedings involving the Debtor. However, notwithstanding the foregoing, the Trustee shall use his best efforts to obtain confirmation of this Plan as it is presently proposed.

### ***12.10 Severability.***

Subject to Section 9.1, relative to conditions to Confirmation, if, prior to the entry of the Confirmation Order, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the plan proponents, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation, except to the extent that such holding, alteration or interpretation, invalidates a condition to effectiveness of this Plan, any of the Releases in Section 10.5, any of the Injunctions in Section 10.6, or any other provision herein that would materially adversely affect the rights of any of the Settling Parties under their respective Settlement Agreements, or requires any Released Party to pay more than the sum set forth in their respective Settlement Agreement(s). The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms, and upon the Effective Date all such provisions are accordingly non-severable. For the avoidance of doubt, to the extent that any alteration, or modification of this Plan or Confirmation Order materially and adversely affects the releases contained in the Released Parties' Settlement Agreements, the Released Parties may terminate their respective Settlement Agreement(s) if and as provided for in their Settlement Agreement(s).

***12.11 Schedules and Exhibits.***

The schedules and exhibits to this Plan are incorporated into and are a part of this Plan as if set forth in full herein.

***12.12 Successors and Assigns.***

All the rights, benefits and obligations of any person named or referred to in this Plan shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors and/or assigns of such person.

***12.13 Governing Law.***

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit to the Plan or Plan Supplement provides otherwise (in which case the governing law specified therein shall be applicable to such exhibit), the rights, duties, and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Maine without giving effect to its principles of conflict of laws.

***12.14 Notices.***

All notices, requests and demands to or upon the Trustee, the Creditors' Committee, the U. S. Trustee, or the WD Trustee shall be in writing (including by facsimile transmission) to be effective and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Trustee:

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

If to the Official Committee of Derailment Victims:

Luc A. Despins, Esq.  
PAUL HASTINGS, LLP  
75 East 55th Street  
New York, NY 10022  
Telephone: (212) 318-6001  
Facsimile: (212) 230-7771

If to the WD Trustee:

[TO BE INCLUDED IN THE PLAN SUPPLEMENT]

If to the U.S. Trustee:

Stephen G. Morrell, Esq.  
OFFICE OF THE UNITED STATES TRUSTEE  
537 Congress Street  
Portland, ME 04101  
Telephone: (207) 780-3564

***12.15 Time.***

In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

***12.16 Section Headings.***

The section headings contained in the Plan are for reference purposes only and shall not affect in any way the meaning or interpretation of the Plan.

***12.17 No Admissions.***

As to contested matters, adversary proceedings and other Causes of Action or threatened Causes of Action, the Plan shall not constitute or be construed as an admission of any fact or liability, stipulation, or waiver, but rather as a statement made in settlement negotiations. The Plan shall not be admissible in any non-bankruptcy proceeding nor shall it be construed to be conclusive advice on the tax, securities, and other legal effects of the Plan as to Holders of Claims against, and Equity Interests in, the Debtor.

March 31, 2015

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

*/s/ Robert J. Keach*

By: Robert J. Keach, Esq.

**SCHEDULE A TO THE  
TRUSTEE'S PLAN OF LIQUIDATION DATED MARCH 31, 2015**

**Distribution Mechanism with Respect to the Wrongful Death Claims**

<b>Points Allocation Matrix</b>		
<b>Criteria</b>	<b>Points per Criteria</b>	
<b>1. Age of the decedents</b>	<b><u>Age of Decedent</u></b> <ul style="list-style-type: none"> <li>• Less than 18</li> <li>• 18 to less than 26</li> <li>• 26 to less than 60</li> <li>• 60 to less than 66</li> <li>• 66 and greater</li> </ul>	<b><u>Points</u></b> <ul style="list-style-type: none"> <li>• 3</li> <li>• 8</li> <li>• 10</li> <li>• 8</li> <li>• 3</li> </ul>
<b>2. If decedent survived by children</b>	<b><u>Age of Surviving Children</u></b> <ul style="list-style-type: none"> <li>• Less than 21</li> <li>• 21 to less than 31</li> <li>• 31 to less than 51</li> <li>• 51 and greater</li> </ul>	<b><u>Points</u></b> <ul style="list-style-type: none"> <li>• 15</li> <li>• 7</li> <li>• 5</li> <li>• 3</li> </ul>
<b>3. If decedent is survived by a spouse</b>	<b><u>Annual Income of Decedent</u></b> <ul style="list-style-type: none"> <li>• Less than \$20,000</li> <li>• \$20,000 to less than \$50,000</li> <li>• \$50,000 to less than \$75,000</li> <li>• \$75,000 to less than \$100,000</li> <li>• \$100,000 and greater</li> </ul>	<b><u>Points</u></b> <ul style="list-style-type: none"> <li>• 12.50</li> <li>• 15.00</li> <li>• 16.25</li> <li>• 17.50</li> <li>• 18.75</li> </ul>
<b>4. If decedent is survived by a spouse but no children</b>	<ul style="list-style-type: none"> <li>• If parents, 5 additional points</li> <li>• If no parents, but siblings, then 2.5 points per sibling to a maximum of 7.5 points</li> </ul>	
<b>5. If decedent is not survived by a spouse or child and the decedent <u>is a minor</u></b>	<ul style="list-style-type: none"> <li>• 10 points for each surviving parent and</li> <li>• 5 points for each surviving sibling</li> </ul>	
<b>6. If decedent is not survived by a spouse or child and the decedent <u>is not a minor</u></b>	<ul style="list-style-type: none"> <li>• 5 points for each surviving parent and</li> <li>• 2.5 points for each surviving sibling</li> </ul>	
<b>7. If decedent is survived by a child</b>	<ul style="list-style-type: none"> <li>• Set aside of 5% to parents and siblings with a potential reallocation to ensure a minimum payment of \$25,000 to each parent and sibling</li> </ul>	

Victim	Total Points	Allocation %	Estimated Potential Distribution
1	68	4.78%	\$3,691,000
2	23	1.63%	1,258,000
3	32	2.27%	1,750,000
4	20	1.42%	1,094,000
5	18	1.24%	957,000
6	20	1.42%	1,094,000
7	6	0.42%	328,000
8	38	2.66%	2,050,000
9	28	1.95%	1,504,000
10	14	0.99%	766,000
11	23	1.63%	1,258,000
12	16	1.13%	875,000
13	20	1.42%	1,094,000
14	28	1.95%	1,504,000
15	40	2.83%	2,187,000
16	52	3.65%	2,816,000
17	28	1.95%	1,504,000
18	25	1.77%	1,367,000
19	23	1.63%	1,258,000
20	40	2.83%	2,187,000
21	17	1.20%	930,000
22	18	1.27%	984,000
23	38	2.66%	2,050,000
24	21	1.45%	1,121,000
25	23	1.63%	1,258,000
26	55	3.90%	3,007,000
27	25	1.77%	1,367,000
28	53	3.72%	2,871,000
29	40	2.83%	2,187,000
30	31	2.16%	1,668,000
31	20	1.42%	1,094,000
32	23	1.63%	1,258,000
33	25	1.77%	1,367,000
34	40	2.83%	2,187,000
35	13	0.92%	711,000
36	13	0.92%	711,000
37	45	3.15%	2,433,000
38	21	1.45%	1,121,000
39	25	1.77%	1,367,000
40	30	2.12%	1,640,000
41	23	1.59%	1,230,000
42	41	2.92%	2,255,000
43	40	2.83%	2,187,000
44	40	2.83%	2,187,000
45	13	0.92%	711,000
46	53	3.72%	2,871,000
47	31	2.21%	1,709,000
48	40	2.83%	2,187,000
<b>1,412</b>	<b>100.00%</b>	<b>\$77,205,000</b>	

The amounts above are prior to any fees that may be claimed by the claimants' attorneys or the Class Representatives, as applicable.

(all amounts are in Canadian dollars)

## Schedule B to the Trustee's Plan of Liquidation Dated March 31, 2015

## Distribution Mechanism with Respect to the Moral Damage Claims

	<u>Points</u>	<u>Estimated # of claimants</u>	<u>Total points</u>	<u>%</u>	<u>Est. Dist.</u>	<u>Dist. per claim</u>
Trouble & Inconvenience	5.0	3,700	18,500	35.8%	\$11,472,000	\$3,100
<u>Evacuations</u>						
Per day of displacement	1.0	1,850	10,370	20.1%	6,430,000	620
Maximum	30.0					per day
Red Zone/Yellow Zone	50.0	140	7,000	13.5%	4,341,000	31,010
Grandparents and grandchildren (note 1)	15.0	50	750	1.5%	465,000	9,300
Post Traumatic Stress - short term (note 2)	50.0	100	5,000	9.7%	3,100,000	31,000
Post Traumatic Stress - long term (note 2)	100.0	100	10,000	19.3%	6,201,000	62,010
Bodily Injury	50.0	2	100	0.2%	62,000	31,000
Buffer (note 3)					2,000,000	
<b>Total (notes 1 &amp; 4)</b>			<b>51,720</b>	<b>100%</b>	<b>\$34,071,000</b>	

Note 1: This is a cumulative calculation, whereby one claimant can fall into more than one category, however wrongful death claimants and grandparents and grandchildren cannot claim for post traumatic stress.

Note 2: For those who have been given a medical diagnosis of post traumatic stress, a depressive disorder, an anxiety disorder and/or otherwise remain under medical care for mental health issues arising from the disaster and for those who were present in the red zone at the time of the derailment. In order to qualify in this category and to determine if you qualify for short term or long term post traumatic stress, further details will be required by the Monitor.

Note 3: To be used for any increase in the post traumatic stress category (if any) and thereafter any unused portion will be distributed to all the other categories of moral damages on a pro rata basis.

Note 4: The final amounts may vary depending on further information received.

(all amounts are in Canadian dollars)



**Schedule C to the  
Trustee's Plan of Liquidation Dated March 31, 2015**

**Distribution Mechanism with Respect to the  
Property and Economic Damages Claims**

- Property and Economic Damages Claims will be valued pursuant to the Claims Resolution Order.
- The value of the Property and Economic Damages Claims is currently estimated at \$75 million.
- Following the valuation of the Property and Economic Damages Claims pursuant to the Claims Resolution Order, creditors having Proven Claims will be paid on a pro-rata basis.
- In the event that, following the review of these claims pursuant to the Claims Resolution Order, the aggregate value of the Property and Economic Damages Claims is reduced below \$75 million, the difference between the amount of \$75 million and the revised aggregate value of these claims will be allocated on a pro-rata basis to the value of the claims in the other categories described in Sections 4.2 (a) (b) (d) and (e).

**Any distributions made may be subject to fees that may be claimed by the claimants' attorneys or the Class Representatives, as applicable.**

**(all amounts are in Canadian dollars)**

Court File No. 450-11-000167-134

SUPERIOR COURT  
(COMMERCIAL DIVISION)

SITTING AS A COURT DESIGNATED PURSUANT TO THE *COMPANIES'*  
*CREDITORS ARRANGEMENT ACT*, R.S.C. C. C 36, AS AMENDED)

IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT OF:

**MONTREAL, MAINE & ATLANTIC CANADA CO. (MONTREAL, MAINE & ATLANTIQUE  
CANADA CIE)**

PETITIONER

AND

**RICHTER ADVISORY GROUP INC. (RICHTER GROUPE CONSEIL INC.)**

MONITOR

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**PLAN OF COMPROMISE AND ARRANGEMENT**

pursuant to the *Companies' Creditors Arrangement Act*  
concerning, affecting and involving

**MONTREAL, MAINE & ATLANTIC CANADA CO.**

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**March 31, 2015**

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**PLAN OF COMPROMISE AND ARRANGEMENT  
(THE CAPITALIZED TERMS USED IN THIS DOCUMENT HAVE THE MEANING  
ASCRIED THERETO IN SECTION 1.1 HEREOF)**

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

**WHEREAS** as a result of the numerous claims against MMAC and its parent company, MMA, arising out of the Derailment, along with the ensuing operational and financial impact arising therefrom, MMAC and MMA became insolvent;

**WHEREAS** numerous claims arising out of the Derailment have also been made against other persons and entities, including the Released Parties in both Canada and the United States of America;

**WHEREAS** on August 7, 2013, MMA filed a voluntary petition in the Bankruptcy Court for relief under Chapter 11 of the U.S. Bankruptcy Code;

**WHEREAS** on August 8, 2013, the Honourable Justice Castonguay of the CCAA Court granted an initial order in respect of MMAC (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**");

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

**WHEREAS** on September 4, 2013, the CCAA Court and the Bankruptcy Court adopted the Cross-Border Insolvency Protocol entered into between MMAC, the Monitor and the Trustee, the purpose of which is, *inter alia*, to facilitate the fair, open and efficient administration of the CCAA Proceeding and of the Bankruptcy Case for the benefit of the Creditors and interested parties;

**WHEREAS** through the concerted and coordinated efforts of MMAC, the Monitor and the Trustee, predicated on constituting an Indemnity Fund with a view to providing compensation for the Derailment Claims filed pursuant to the Claims Procedure Order, a number of Settlement Agreements have been reached with the Released Parties providing for contributions towards the Indemnity Fund;

**WHEREAS** the aforesaid Settlement Agreements are conditional upon obtaining for the Released Parties appropriate releases and the Injunction and Release enforceable both in Canada and the United States of America;

**WHEREAS** the Monitor will seek recognition and enforcement of this Plan and of the Canadian Approval Order from the Bankruptcy Court pursuant to Chapter 15 of the Bankruptcy Code;

**WHEREAS** the Trustee (for and on behalf of MMA) will file in the Bankruptcy Case the U.S. Plan, which will provide, among other things, for distribution of the Funds for Distribution in accordance with this Plan and the entry of the U.S. Approval Order;

**NOW THEREFORE**, MMAC hereby proposes this plan of compromise and arrangement pursuant to the CCAA.

## **ARTICLE 1 INTERPRETATION**

### **1.1 Defined Terms**

Administration Charge	has the meaning ascribed thereto in Section 7.1 hereof.
Administration Charge Reserve	has the meaning ascribed thereto in Section 7.1 hereof.
Affected Claims	any and all Claims, other than any Unaffected Claim and any Claim referred to in Section 5.3.
Approval Date	the date on which the Approval Orders become Final Orders. If the Canadian Approval Order, the Class Action Order and the U.S. Approval Order become Final Orders on different dates, the Approval Date is the latest date on which any of the Canadian Approval Order, the Class Action Order or the U.S. Approval Order becomes a Final Order.
Approval Orders	the Canadian Approval Order, the Class Action Order and the U.S. Approval Order, collectively.
Bankruptcy Case	the case styled <i>in re Montreal, Maine &amp; Atlantic Railway Ltd., Bankr. D. Me. No. 13-10670</i> .
Bankruptcy Code	Title 11 of the United States Code.
Bankruptcy Court	United States Bankruptcy Court for the District of Maine, as presiding over the Bankruptcy Case.
Bodily Injury and Moral Damages Claims	shall have the meaning ascribed thereto in Section 3.5(b) hereof.
Business Day	a day, other than Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Montreal, Québec, Canada.
Canadian Approval Order	an Order, as set out in Schedule C hereof, entered in the CCAA Proceeding, which Order shall, among other things, (i) approve, sanction and/or confirm the Plan, (ii) approve the Settlement Agreements; (iii) authorize the Parties to undertake the settlement and the transactions contemplated by the Settlement Agreements; and (iv) provide for the Injunction and Release.
Canadian Professionals	the Monitor, Woods LLP, Gowling Lafleur Henderson LLP and the Claims Officer.

CCAA	has the meaning ascribed thereto in the recitals.
CCAA Court	Superior Court, Province of Quebec, as presiding over the CCAA Proceeding.
CCAA Filing Date	August 8, 2013.
CCAA Proceeding	<i>In the Matter of the Plan of Compromise or Arrangement of Montreal Maine &amp; Atlantic Canada Co.</i> , Superior Court, Province of Quebec, No. 500-11-045094-139.
Chubb	Chubb & Son, a division of Federal Insurance Company, together with its parents, subsidiaries, affiliates, officers and directors, but strictly as insurer under the Chubb Policy.
Chubb Policy	That certain insurance policy bearing number 8210 2375 issued by Federal Insurance Company to Rail World, Inc. and Rail World Holdings LLC.
Claim or Claims	means, as the context requires, past, present and future claims, causes of action, obligations, rights, liens suits, judgments, orders, applications 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 (a) in any way arising out of, based upon, or relating in any way, in whole or in part, directly or indirectly, whether through a claim that was, is, may or could have been asserted in the Canadian Class Action, or a direct claim, cross-claim, third-party claim, warranty claim, recursory claim, subrogation claim, forced intervention, contribution claim, class action or otherwise, to (i) the Derailment, including but not limited to any claims for wrongful death, survival, personal injury, emotional distress, loss of support, loss of consortium, property damage, economic loss, moral damage, material damage and bodily injury, statutory and common law product and manufacturing liability, negligence, or environmental damage, remediation, exposure or any claim that would constitute any right to an equitable remedy for breach of performance even if such breach does not give rise to a right of payment and/or or exposure; (ii) the Policies; (iii) the issuance of the Policies; (iv) insurance coverage under the Policies,



reimbursement or payment under the Policies; (v) any act or omission of an insurer of any type for which a Claimant might seek relief in connection with the Policies; (vi) the Existing Agreements; or (b) that would otherwise constitute a claim as against MMA, MMAC or their Estates (i) provable in bankruptcy under the Bankruptcy and Insolvency Act, R.S.C. 1985, c.B-3, had MMAC become bankrupt on August 6, 2013; and/or (ii) within the definition of "claim" set forth in section 101(5) of the Bankruptcy Code; and/or (iii) that are advanced or could have been advanced in the Canadian Class Action.

Claimant	any Person holding or potentially holding any Claim (including any transferee or assignee of a Claim) against (i) MMA, (ii) MMAC, (iii) to the extent applicable, the Estates, and/or (iv) any of the Released Parties.
Claims Bar Date	has the meaning ascribed thereto in the Claims Procedure Order.
Claims Officer	the court officer to be appointed pursuant to the Claims Resolution Order to adjudicate on the validity and quantum of any disputed Claims for the purpose of this Plan.
Claims Procedure	the procedure established for the filing of Claims in the CCAA Proceeding pursuant to the Claims Procedure Order.
Claims Procedure Order	the Amended Claims Procedure Order rendered on June 13, 2014, in the CCAA Proceeding by the CCAA Court, establishing, among other things, a claims procedure in respect of MMAC, as such Order may be amended, restated or varied from time to time.
Claims Resolution Order	an order of the CCAA Court establishing the procedure for determining the validity and quantum of any disputed Claims for the purpose of this Plan.
Class Action	the putative class action commenced on or about July 15, 2013, before the Superior Court, Province of Quebec, under court file 450-06-000001-132, including all subsequent amendments and all proceedings in this Court file, whether before or after the action is authorized to proceed as a class action.
Class Action Court	Superior Court, Province of Quebec, as presiding over the Class Action.
Class Action Order	an order, issued in the Class Action (i) confirming and declaring that the Canadian Approval Order and the U.S. Approval Order shall be binding and given full effect against parties designated and part of the Class Action, whether as a class representative, class member, named defendant/respondent or mis-en-cause, (ii) removing the allegations and conclusions against the Released Parties, and (iii) terminating the Class Action against the Released

Parties without costs.

Class Representatives	has the meaning ascribed to “Class Action Plaintiffs” and to “Class Counsel” by the CCAA Court in the Representation Order.
Cook County Actions	the civil actions transferred pursuant to 28 U.S.C. §157(b)(5) in connection with the Bankruptcy Case to the District Court, originally filed in the Cook County, Illinois state court, and appearing on the docket of the District Court as Civil Action Nos. 00113-00130NT.
Creditors	collectively all Persons having Proven Claims and “Creditor” means any one of them.
D&O Parties	Edward A. Burkhardt, Larry Parsons, Steven J. Lee, Stephen Archer, Robert C. Grindrod, Joseph R. McGonigle, Gaynor Ryan, M Donald Gardner, Jr., Fred Yocum, Yves Bourdon and James Howard, each of whom is or was a director or officer of MMA, MMAC, Montreal, Maine & Atlantic Corporation and/or LMS Acquisition Corporation.
Derailment	July 6, 2013 derailment in Lac-Mégantic, Quebec, 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.
Derailment Claims	the Proof of Claims filed under Schedules 1, 2, 3, 4 and 5 pursuant to the Claims Procedure Order.
Distribution Date	the date or dates from time to time set in accordance with the provisions of the Plan to effect distributions in respect of the Proven Claims.
Effective Time	8:00 a.m. (Montreal time) on the Plan Implementation Date.
Estates	the MMA bankruptcy estate and, to the extent applicable, the MMAC estate.
Existing Agreements	The contracts between MMAC and/or MMA and some of the Released Parties, listed in Schedule D hereto.
Final Order	an order of the CCAA Court, the Class Action Court or the Bankruptcy Court that is no longer subject to further appeals, either because the time to appeal has expired without an appeal being filed, or because it has been affirmed by any and all courts with jurisdiction to consider any appeals therefrom.
Filing Date	August 8, 2013.
Funds for Distribution	the net amount of the Settlement Funds following payment to the Canadian Professionals of their CCAA Court-approved professional

fees and disbursements and of the U.S. Professionals Bankruptcy Court-approved administrative expenses, for each group of professionals respectively up to a maximum amount equal to the amount of their share of the Administration Charge Reserve.

- Great American Great American Insurance Company, together with its parents, subsidiaries, affiliates, officers and directors.
- Great American Policy that certain policy of insurance bearing number DML 9924 836 issued by Great American to MMAC.
- Government Claims has the meaning ascribed thereto in Section 3.5(e) hereof.
- Hartford The Hartford Casualty Insurance Company, together with its parents, subsidiaries, affiliates, officers and directors, but strictly as insurer under the Hartford Policy.
- Hartford Policy that certain policy of insurance bearing number 83 SBA PBO432 SA issued by Hartford to Rail World Inc.
- Indemnity Claims has the meaning ascribed thereto in Section 3.5(f) hereof.
- Indemnity Fund trust accounts into which the Settlement Funds shall be paid.
- Indian Harbor Indian Harbor Insurance Company, but strictly as insurer under the Indian Harbor Policy.
- Indian Harbor Policy insurance policy issued by Indian Harbor to MMA, bearing number RRL003723801.
- Injunction and Release an order by the CCAA Court and the Bankruptcy Court permanently and automatically releasing, enjoining and forbidding the enforcement, prosecution, continuation and/or commencement of any Claim that any Person or Claimant holds or asserts or may in the future hold or assert against any of the Released Parties or that could give rise to a Claim against the Released Parties whether through a cross-claim, third-party claim, warranty claim, recursory claim, subrogation claim, forced intervention or otherwise, arising out of, in connection with and/or in any way related to the Derailment, the Policies, MMA, and/or MMAC. The Injunction and Release order shall provide that any and all Claims against the Released Parties be permanently and automatically compromised, discharged and extinguished, that all Persons and Claimants, whether or not consensually, shall be deemed to have granted full, final, absolute, unconditional, complete and definitive releases of any and all Claims to the Released Parties and shall be permanently and forever barred, estopped, stayed and enjoined from (i) pursuing any Claim, directly or indirectly, against the Released Parties, (ii) continuing or commencing, directly or indirectly, any action or other proceeding with respect to any Claim against the Released Parties, (iii) seeking the enforcement, levy,

attachment, collection, contribution or recovery of or from any judgment, award, decree, or order against the Released Parties or property of the Released Parties with respect to any Claim, (iv) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or the property of the Released Parties with respect to any Claim, (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Approval Orders to the full extent permitted by applicable law, and (vi) asserting any right of setoff, compensation, subrogation, contribution, indemnity, claim or action in warranty or forced intervention, recoupment or avoidance of any kind against any obligations due to the Released Parties with respect to any Claim or asserting any right of assignment of or subrogation against any obligation due by any of the Released Parties. The Injunction and Release order shall provide that it has no effect on the rights and obligations provided by the "*Entente d'assistance financière découlant du sinistre survenu dans la ville de Lac-Mégantic*" signed on February 19, 2014 between Canada and the Province. Notwithstanding the foregoing, the "Injunction and Release" shall not extend to and shall not be construed as extending to Unaffected Claims.

Meeting	a meeting or meetings of the Creditors and Claimants to consider and vote on the Plan held pursuant to the Meeting Order and includes any meeting or meetings resulting from the adjournment thereof.
Meeting Order	an order of the CCAA Court directing the calling and holding of the Meeting.
MMA	Montreal, Maine & Atlantic Railway Ltd.
MMAC	Montreal, Maine & Atlantic Canada Co.
Monitor	Richter Advisory Group Inc. (Richter Groupe Conseil Inc.), in its capacity as Monitor in the CCAA Proceeding.
Non-Derailment Claims	has the meaning ascribed thereto in Section 3.5(g) hereof.
Person	means and includes an individual, a natural person or persons, a group of natural persons acting as individuals, a group of natural persons acting in collegial capacity (e.g., as a committee, board of directors, etc.), a corporation, partnership, limited liability company or limited partnership, a proprietorship, joint venture, trust, legal representative, or any other unincorporated association, business organization or enterprise, any government entity and any successor in interest, heir, executor, administrator, trustee, trustee in bankruptcy, or receiver of any person or entity.

Plan	This plan of compromise and arrangement in the CCAA Proceeding.
Plan Implementation Date	The Business Day on which the Monitor has filed with the CCAA Court the certificate contemplated in Section 6.2 hereof.
Plan Termination Date	January 29, 2016
Policies	the Indian Harbor Policy, the XL Policy, the Chubb Policy and the Hartford Policy
Property and Economic Damages Claims	has the meaning ascribed thereto in Section 3.5(c) hereof.
Proof of Claim	the form of Proof of Claim for Creditors as approved by the Claims Procedure Order.
Proven Claim	a Claim finally determined, settled or accepted for voting and distribution purposes in accordance with the provisions of this Plan or the Claims Resolution Order.
Province	the Attorney General for the Province of Quebec.
Rail World Parties	means (i) Rail World Holdings, LLC; (ii) Rail World, inc.; (iii) Rail World Locomotive Leasing LLC ("RWLL"); (iv) The San Luis Central R.R. Co.; (v) Pea Vine Corporation; (vi) LMS Acquisition Corporation; (vii) Earlston Associates L.P.; (viii) Montreal, Maine & Atlantic Corporation; and (ix) each of the shareholders, directors and officers or members or partners of the foregoing, to the extent they are not D&O Parties. For the avoidance of doubt, Rail World Parties also includes Edward Burkhardt, solely in his capacity as director, officer and shareholder of the Rail World Parties.
Released Parties	the Persons listed in Schedule "A" hereto.
Representation Order	the order rendered on March 28, 2014 in the CCAA Proceeding by the CCAA Court appointing, as representatives of the class members designated in the Class Action and for the purposes of the CCAA Proceeding, the Class Action Plaintiffs and the Class Counsel (as these terms are defined in said order).
Settlement Agreements	collectively, those agreements whereby Third Party Defendants undertake to make acceptable monetary contributions toward the Indemnity Fund in consideration for being included as Released Parties in the Plan. Individually referred to as a "Settlement Agreement".
Settlement Funds	the aggregate monetary contributions payable under the Settlement Agreements, including the XL Indemnity Payment and the XL Additional Payment, before potential recovery on claims assigned to MMAC and the Trustee by certain of the Released Parties, which

monetary contributions are estimated, as of the date hereof, at one hundred eighty-two million three hundred thousand Canadian dollars (CAD\$182,300,000.00) plus eighty-nine million four hundred thousand US dollars (US\$89,400,000.00).

Subrogated Insurer Claims	has the meaning ascribed thereto in Section 3.5(d) hereof.
Third Party Defendants	any Person with a risk of liability arising out of or related to the Derailment, including, without limitation, the defendants to the Class Action and the Cook County Actions.
Trustee	Robert J. Keach, in his capacity as chapter 11 Trustee appointed in the Bankruptcy Case, or such other Person(s) as may be approved by the Bankruptcy Court in the future to serve in such capacity in the Bankruptcy Case.
Unaffected Claims	has the meaning given to that term in Section 3.3 hereof.
U.S. Approval Order	(i) an Order entered in the Bankruptcy Case sanctioning, approving and/or confirming the U.S. Plan or (ii) an order entered in the Bankruptcy Case pursuant to the applicable sections of chapter 15 of the Bankruptcy Code, which order sanctions, recognizes and enforces the terms of the Canadian Approval Order. In either case, a "U.S. Approval Order" must, among other things, (a) approve the Settlement Agreements; (b) authorize the parties to undertake the settlement and the transactions contemplated by the Settlement Agreements; and (c) order the Injunction and Release.
U.S. Plan	the plan of liquidation, to be filed by the Trustee (for and on behalf of MMA) in the Bankruptcy Case, which shall provide, among other things, for the distribution of the Funds for Distribution in accordance with this Plan, the Canadian Approval Order and U.S. Approval Order.
U.S. Professionals	the Trustee, the Trustee's professionals and Paul Hastings LLP as counsel for the Official Committee of Victims as defined in the order authorizing the appointment of a victims' committee entered in the Bankruptcy Case on October 18, 2013.
XL Companies	Indian Harbor and XL Insurance.
XL Additional Payment	USD \$5 million.
XL Indemnity Payment	CAD \$25 million.
XL Insurance	the Canadian Branch of XL Insurance Company SE (formerly XL Insurance Company Limited) but strictly as insurer under the XL Policy.

XL Policy	insurance policy issued by XL Insurance, bearing number RLC003808301.
XL Settlement Agreement	the agreement executed among the XL Companies, MMAC and the Trustee providing for the payment of the XL Indemnity Payment and the XL Additional Payment, which shall constitute a Settlement Agreement within the meaning of Section 1.1.
Website	the website maintained by the Monitor in respect of the CCAA Proceedings pursuant to the Initial Order at the following web address: <a href="http://www.richter.ca/en/insolvency-cases/m/montreal-maine-and-atlantic-canada-co">http://www.richter.ca/en/insolvency-cases/m/montreal-maine-and-atlantic-canada-co</a> .
Wrongful Death Claims	has the meaning ascribed thereto in Section 3.5(a) hereof.
Wrongful Death Victims	the spouse or common law partner, child, parent, and sibling of the persons deceased as a result of the Derailment.

## 1.2 Certain Rules of Interpretation

For the purposes of this Plan:

- (a) any reference in the Plan to an Order, agreement, contract, instrument, release, exhibit or other document means such Order, agreement, contract, instrument, release, exhibit or other document as it may have been or may be validly amended, modified or supplemented;
- (b) the division of the Plan into "articles" and "sections" and the insertion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of the Plan, nor are the descriptive headings of "articles" and "sections" intended as complete or accurate descriptions of the content thereof;
- (c) unless the context otherwise requires, words importing the singular shall include the plural and *vice versa*, and words importing any gender shall include all genders;
- (d) the words "includes" and "including" and similar terms of inclusion shall not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather shall mean "includes but is not limited to" and "including but not limited to", so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (e) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Montréal, Québec and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. (Montréal time) on such Business Day;
- (f) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by

extending the period to the next succeeding Business Day if the last day of the period is not a Business Day;

- (g) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation; and
- (h) references to a specified "article" or "section" shall, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specified article or section of the Plan, whereas the terms "the Plan", "hereof", "herein", "hereto", "hereunder" and similar expressions shall be deemed to refer generally to the Plan and not to any particular "article", "section" or other portion of the Plan and include any documents supplemental hereto.

### **1.3 Currency**

Any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon exchange rate on the Filing Date.

### **1.4 Successors and Assigns**

The Plan shall be binding upon and shall inure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in the Plan.

### **1.5 Governing Law**

The Plan shall be governed by and construed in accordance with the laws of the Province of Québec and the federal laws of Canada applicable therein. All questions as to the interpretation or application of the Plan and all proceedings taken in connection with the Plan and its provisions shall be subject to the jurisdiction of the CCAA Court.

### **1.6 Schedules**

The following Schedules to the Plan are incorporated by reference into the Plan and form part of the Plan:

Schedule "A"	List of Released Parties
Schedule "B"	Settlement Agreements
Schedule "C"	Draft Canadian Approval Order
Schedule "D"	List of Existing Agreements
Schedule "E"	Distribution mechanism with respect to the Wrongful Death Claims



Schedule "F"	Distribution mechanism with respect to the Bodily Injury and Moral Damages Claims
Schedule "G"	Distribution mechanism with respect to the Property and Economic Damages Claims
Schedule "H"	XL Settlement Agreement

The Settlement Agreements, save and except for the XL Settlement Agreement, shall not be attached to the copy of the Plan served on the interested parties and filed publicly with the CCAA Court or the Bankruptcy Court, and MMAC shall apply to the CCAA Court and Bankruptcy Court to have Schedule "B" filed on a sealed and confidential basis. The Settlement Agreements, save and except for the XL Settlement Agreement, shall not otherwise be made public in order to preserve the confidentiality of the settlements and terms therein.

## **ARTICLE 2 PURPOSE AND EFFECT OF THE PLAN**

### **2.1 Purpose**

The purpose of the Plan is:

- (a) to effect a full, final and irrevocable compromise, release, discharge, cancellation and bar of all Affected Claims against the Released Parties;
- (b) to effect the distribution of the Funds for Distribution and payment of the Proven Claims as set forth in Sections 4.2 and 4.3;

The Plan is put forward in the expectation that the Creditors, when considered as a whole, will derive a greater benefit from the implementation of the Plan than they would in the event of a bankruptcy of MMAC.

## **ARTICLE 3 CLASSIFICATION, VOTING AND RELATED MATTERS**

### **3.1 Class of Creditors**

The Creditors shall constitute a single class for the purposes of considering and voting on this Plan.

### 3.2 Claims Procedure

Creditors shall prove their respective claims, vote in respect of this Plan, and receive the distributions provided for under and pursuant to this Plan in accordance with the Claims Procedure Order, the Claims Resolution Order, the Meeting Order and this Plan. Any Person having a Claim that is not a Proven Claim is bound by such Orders, including that of being precluded from receiving a distribution under this Plan, and is forever barred and estopped from asserting such Claim against the Released Parties.

### 3.3 Unaffected Claims

Notwithstanding anything to the contrary herein, this Plan does not compromise, release, discharge, cancel, bar or otherwise affect:

- (a) the rights or claims of the Canadian Professionals and the U.S. Professionals for fees and disbursements incurred or to be incurred for services rendered in connection with or relating to the CCAA Proceeding or the Bankruptcy Case, including the implementation of this Plan and the U.S. Plan.
- (b) to the extent that there is, or may be, coverage for such Claims under any policy of insurance issued by Great American or any affiliate, including, without limitation, the Great American Policy, and only to the extent such coverage is actually provided, which coverage shall be assigned to the Trustee and MMAC and without any obligation on the part of the Rail World Parties or the D&O Parties to make any payment or contribution to supplement what is actually obtained by the Trustee or MMAC from such insurance policy (i) claims by MMAC or the Trustee (and only the Trustee, MMAC, their designee, or, to the extent applicable, the Estates) against the Rail World Parties and/or the D&O Parties; and (ii) claims by the holders of Wrongful Death Claims against Rail World, Inc., provided further, that any right or recovery by such holders of any right or recovery by such holders of Wrongful Death Claims pursuant to the action authorized by this subparagraph shall be, in all respects, subordinate to the claims of the Trustee and MMAC, and their successors under the Plan, in the above policies and (iii) claims by MMAC or the Trustee against the D&O Parties for any alleged breach of fiduciary duty or any similar claim based upon the D&O parties' authorization for payments to holders of notes and warrants issued pursuant to that certain Note and Warrant Purchase Agreement dated January 8, 2003 between MMA and certain noteholders (as amended from time to time) to the extent such payments arise from the sale of certain assets of MMA to the State of Maine.
- (c) claims by MMAC and the Trustee under applicable bankruptcy and non bankruptcy law to avoid and/or recover transfers from MMA, MMAC or MMA Corporation to the holders of notes and warrants issued pursuant to that certain Note and Warrant Purchase Agreement dated as of January 8, 2003 between MMA and certain noteholders (as amended from time to time) to the extent such payments arise from the distribution of proceeds from the sale of certain assets of MMA to the State of Maine.
- (d) claims or causes of action of any Person, including MMAC, MMA and the Released Parties (subject to the limitations contained in their respective

Settlement Agreements), against third parties other than any of the Released Parties (subject to paragraph 3.3(e)).

- (e) claims or other rights preserved by any one of the Released Parties as set forth in Schedule A.
- (f) MMAC's obligations under the Plan, the Settlement Agreements, and the Approval Orders;
- (g) Claims against MMAC, except any Claims of the Released Parties other than Canada. However, subject to the Approval Orders becoming Final Orders, the Attorney General of Canada (i) has undertaken to irrevocably withdraw the Proof of Claim filed on behalf of Department of Transport Canada and the Proof of Claim filed on behalf of the Department of Public Safety and Emergency Preparedness, (ii) has agreed to the reallocation in favor of the Creditors of any and all dividends payable pursuant to this Plan or the U.S. Plan on the Proof of Claim filed on behalf of Canada Economic Development for Quebec Regions, as set forth in Section 4.3, and (iii) has agreed not to file any additional Proof of Claim under the CCAA Proceeding or the Bankruptcy Case;
- (h) any liability or obligation of and claim against the Third Party Defendants, insofar as they are not Released Parties, of whatever nature for or in connection with the Derailment, including but not limited to the Class Action and the Cook County Actions;
- (i) any Person for fraud or criminal and quasi-criminal charges filed or that may be filed and, for greater certainty, for any fine or penalty arising from any such charges;
- (j) any claims that any of the Rail World Parties and the D&O Parties may have to seek recovery from any of their insurers for any attorneys' fees, expenses and costs they have incurred prior to the Approval Date.
- (k) claims that fall under Section 5.1(2) of the CCAA.

All of the foregoing rights and claims set out in this Section 3.3, inclusive, are collectively referred to as the "**Unaffected Claims**" and any one of them is an "**Unaffected Claim**".

### **3.4 Treatment of Creditors**

The Creditors shall receive the treatment provided for in this Plan on account of their Claims and, on the Plan Implementation Date, the Affected Claims will be compromised, released and otherwise extinguished against the Released Parties in accordance with the terms of this Plan.

### 3.5 Voting Rights for Creditors

Subject to this Plan, the Claims Procedure Order, the Claims Resolution Order and the Meeting Order, each Creditor shall be entitled to vote and for voting purposes each of such Claims shall be valued at an amount that is equal to the Creditor's Proven Claim, the whole subject to the following:

- (a) the aggregate of the votes of all Wrongful Death Victims having a Proven Claim for damages resulting from the death of a person as a consequence of the Derailment (for greater certainty, those Claims that fall under Schedule 1 of the Proof of Claim and were recognized as such or that were filed in the Bankruptcy Case) (collectively, the "**Wrongful Death Claims**" and, individually, a "**Wrongful Death Claim**") shall represent no more than 22.2% in value of all votes cast by Creditors;
- (b) the aggregate of the votes of all Creditors having a Proven Claim relating to the Derailment for damages resulting from bodily injuries suffered by themselves or another person and, without limitation, all claims for moral damages (for greater certainty, those Claims that fall under Schedules 2 and 3(a) of the Proof of Claim and were recognized as such or determined to be Bodily Injury and Moral Damages Claims or that were filed in the Bankruptcy Case) (collectively, the "**Bodily Injury and Moral Damages Claims**" and, individually, a "**Bodily Injury and Moral Damages Claim**") shall represent no more than 11.1% in value of all votes cast by Creditors;
- (c) the aggregate of the votes of all Creditors having a Proven Claim relating to the Derailment for damages suffered by an individual or a business not resulting from bodily injuries or death of a person (for greater certainty, those Claims that fall under Schedules 3(a) and 3(b) of the Proof of Claim and were recognized as such or that were filed in the Bankruptcy Case) (collectively, the "**Property and Economic Damages Claims**" and, individually, a "**Property and Economic Damages Claim**") shall represent no more than 8.3% in value of all votes cast by Creditors;
- (d) the aggregate of the votes of all Creditors having a Proven Claim in their capacity as subrogated insurers for claims directly resulting from the Derailment (for greater certainty, those Claims that fall under Schedule 4 of the Proof of Claim and were recognized as such) (collectively, the "**Subrogated Insurer Claims**" and, individually, a "**Subrogated Insurer Claim**") shall represent no more than 3.8% in value of all votes cast by Creditors;
- (e) the aggregate of the votes of all government entities or municipalities having a Proven Claim relating to the Derailment (for greater certainty, those claims that fall under Schedule 5 of the Proof of Claim and were recognized as such) (collectively, the "**Government Claims**" and, individually, a "**Government Claim**") shall represent no more than 48.5% in value of all votes cast by Creditors;
- (f) Creditors having a Proven Claim relating to the Derailment for contribution or indemnity (for greater certainty, those claims that fall under Schedule 6 of the Proof of Claim and were recognized as such) (collectively, the "**Indemnity**

**Claims**” and, individually, an **“Indemnity Claim”**) shall represent 0% in value of all votes cast by Creditors.

- (g) Creditors having filed a Proof of Claim for damages unrelated to the Derailment (for greater certainty, those claims that fall under Schedule 7 of the Proof of Claim and were recognized as such) (collectively, the **“Non-Derailment Claims”** and, individually, a **“Non-Derailment Claim”**) shall represent no more than 6.1% in value of all votes cast by Creditors.

### **3.6 Interest**

Interest shall not accrue or be paid on any Claim from and after the Filing Date.

### **3.7 Duplicate Claims**

A Creditor who has a Claim against more than one of MMAC, MMA or the Released Parties or has filed or is deemed to have filed claims both in the Bankruptcy Case and the CCAA Proceeding, in respect of the same debt or obligation, shall only be entitled to assert one Claim in respect of such debt or obligation, and any duplicate Claim filed by such Creditor will be disallowed for voting and distribution purposes under this Plan and the U.S. Plan so that only a single Claim remains under which said Creditors can exercise distribution rights.

## **ARTICLE 4 DISTRIBUTIONS**

### **4.1 Contributions to the Indemnity Fund**

Each of the Released Parties shall deliver to the Monitor the monies necessary to fully fund that amount of the Indemnity Fund which it is obligated to pay pursuant to the Settlement Agreements within such delay as has been agreed to pursuant to the Settlement Agreements and in any event within no more than 30 days after they have received written notice from the Monitor and the Trustee certifying that the Approval Orders become Final Orders, and such monies shall be held by the Monitor in trust in one or more interest bearing accounts and distributed by the Monitor in accordance with the terms of this Plan. Should this Plan be terminated for any reason in accordance with Section 6.3 or 8.3, such monies shall be returned by the Monitor, with any interest earned thereon, forthwith to the respective parties having contributed such monies. For greater certainty, any contributions to the Indemnity Fund received by the Monitor that are in U.S. Dollars shall be held by the Monitor in trust in U.S. Dollars and converted into Canadian Dollars on the Plan Implementation Date (save and except the portion to be remitted to the Trustee pursuant to Section 4.2(a)) and any contributions to the Indemnity Fund received by the Monitor that are in Canadian Dollars shall be held by the Monitor in trust in Canadian Dollars and not converted into U.S. Dollars.

### **4.2 Distribution to Creditors**

The following Creditors having Proven Claims shall be entitled to distribution under this Plan as follows:

- (a) Creditors having Wrongful Death Claims shall, in the aggregate, receive 24.1% of

the Funds for Distribution in full and final satisfaction of their Proven Claims as against the Released Parties. This amount will be remitted by the Monitor to the Trustee to fund a trust dedicated to the distribution to the Creditors having Wrongful Death Claims in accordance with the mechanism set forth in Schedule E hereto.

- (b) Creditors having Bodily Injury and Moral Damages Claims shall, in the aggregate, receive 10.4% of the Funds for Distribution in full and final satisfaction of their Proven Claims as against the Released Parties. This amount will be distributed by the Monitor in accordance with the mechanism set forth in Schedule F hereto.
- (c) Creditors having Property and Economic Damages Claims shall, in the aggregate, receive 9.0% of the Funds for Distribution in full and final satisfaction of their Proven Claims as against the Released Parties. This amount will be distributed by the Monitor in accordance with the mechanism set forth in Schedule G hereto.
- (d) Creditors having Subrogated Insurer Claims shall, in the aggregate, receive 4.1% of the Funds for Distribution in full and final satisfaction of their Proven Claims as against the Released Parties. This amount will be distributed by the Monitor on a *pro rata* basis amongst the Creditors having Subrogated Insurer Claims.
- (e) Creditors having Government Claims shall, in the aggregate, receive 52.4% of the Funds for Distribution in full and final satisfaction of their Proven Claims as against the Released Parties. This amount will be distributed by the Monitor on a *pro rata* basis amongst the Province, the City of Lac-Mégantic, the Attorney General of Canada (on behalf of Canada Economic Development for Quebec Regions) and the Commission de la Santé et de la Sécurité au Travail (CSST). For the purpose of this Plan, the Proven Claims of the Province, the City of Lac-Mégantic, the Federal Government of Canada (Economic Development of Canada, Quebec Regions) and the Commission de la Santé et de la Sécurité au Travail (CSST) are evaluated and established as follows:
  - (i) Province: CAD\$409,313,000 (or 94% of the Government Claims)
  - (ii) The City of Lac-Mégantic: CAD\$5,000,000 (or 1.1% of the Government Claims)
  - (iii) The Attorney General of Canada (on behalf of Canada Economic Development for Quebec Regions): CAD\$21,000,000 (or 4.8% of the Government Claims)
  - (iv) CSST: CAD\$313,775 (or 0.1% of the Government Claims)

For greater certainty, Creditors having Indemnity Claims and Non-Derailment Claims shall not be entitled to distribution under this Plan or the U.S. Plan in relation to the Indemnity Fund and shall have no right to any portion of the Funds for Distribution. However, the Creditors having Non-Derailment Claims against MMAC will be entitled to distribution under the U.S. Plan, in accordance with its terms from any available net proceeds of the liquidation of MMA's assets.

Notwithstanding the foregoing, in the event that, following the review of the Property and Economic Damages Claims pursuant to the Claims Resolution Order, the aggregate value of the Property and Economic Damages Claims is reduced below \$75 million, the difference between the amount of \$75 million and the revised aggregate value of these claims will be allocated on a pro-rata basis to the value of the claims in the other categories described in Sections 4.2 (a) (b) (d) and (e).

#### 4.3 Additional Distributions to Creditors

With the agreement of the Province and the Federal Government of Canada (Economic Development of Canada, Quebec Region), any and all amounts payable pursuant to this Plan:

- (a) to the Province out of the XL Indemnity Payment (estimated at CAD\$13,735,000);
- (b) to the Attorney General of Canada (on behalf of Canada Economic Development for Quebec Regions) (estimated at CAD\$6,936,000);

(collectively, the “**Reallocated Dividends**”)

will be distributed to the Creditors having Proven Claims in respect of (i) Wrongful Death Claims, (ii) Bodily Injury and Moral Damages Claims and (iii) Property and Economic Damages Claims in accordance with the percentages set forth in subsection 4.2 (a) (b) and (c) hereof, namely:

- (i) 53.3% of the Reallocated Dividends will be distributed to the Creditors having Wrongful Death Claims;
- (ii) 26.7% of the Reallocated Dividends will be distributed to Creditors having Bodily Injury and Moral Damages Claims; and
- (iii) 20.0% of the Reallocated Dividends will be distributed to Creditors having Property and Economic Damages Claims.

#### 4.4 Timing of Distributions to Creditors

The Monitor shall hold the Settlement Funds in trust pending distribution thereof in accordance with the terms of this Plan and the Settlement Agreements, as applicable. Within 45 calendar days following the Plan Implementation Date, and receipt by the Monitor of any applicable tax ruling or clearance certificate, the Monitor shall make distributions to or on behalf of Creditors (including, without limitation, to the Trustee in accordance with Section 4.2(a) or to the Creditors' Representative Counsel in accordance with Section 4.5, to be held by such Representative Counsel in trust for such Creditors) in accordance with the terms of this Plan.

#### 4.5 Delivery of Distributions to Creditors

Distributions to Creditors shall be made in accordance with the terms of this Plan, as applicable, by the Monitor: (A) at the addresses set forth in the Proofs of Claim filed by such Creditors in accordance with the Claims Procedure Order; (B) if applicable, at the addresses set forth in any written notices of address change delivered to the Monitor after the date on which any corresponding proof of claim was filed, provided such notice is received by the Monitor at least five (5) Business Days prior to the Plan Implementation Date; or (C) if applicable, and to the extent differing from the foregoing, at the address of such Creditors' respective legal representatives (the "**Representative Counsel**"), in trust for such Creditors, subject to the receipt by the Monitor at least five (5) business days prior to the Plan Implementation Date of a written instruction to that effect from said Creditors, it being understood that the class members in the Class Action, to the extent they have not sent an Opt-Out Notice (as these terms are defined in the Representation Order) within the prescribed delay, shall be deemed represented by the Class Counsel (as these terms are defined in the Representation Order) and said Class Counsel shall be considered as Representative Counsel duly authorized to receive the above-mentioned distribution in trust for all such class members. For greater certainty, and without limiting the foregoing:

- (i) With respect to the distributions to be made under this Plan to Representative Counsel, any disputes among the Creditors they represent and Representative Counsel with respect to the timing, allocation, quantum or other terms of the payment of the monies in question by Representative Counsel to and among those Creditors shall have no bearing or effect on the releases set out in the Settlement Agreements or this Plan, including, without limitation, the releases and injunctions in favour of the Released Parties (whether pursuant to the Settlement Agreements, the Plan, the U.S. Plan, the Approval Orders, or otherwise); and
- (ii) this Plan shall be effective and binding as and when set out in Section 6.2, and the fact that one or more of the Representative Counsel may be required or elect to commence or pursue further steps or proceedings or to otherwise resolve additional matters, issues or things subsequent to the Plan Implementation Date in order to be lawfully entitled to make distributions to the Creditors they represent (including, without limitation, obtaining the approval by any Court of the payment of their respective professional fees and disbursements from the distributions in question) shall have no bearing or effect on the Settlement Agreements, this Plan, the U.S. Plan, or the Approval Orders, irrespective of the timing and outcome of such further steps and proceedings.



#### 4.6 Allocation of Distributions

All distributions made to Creditors in respect of Proven Claims pursuant to this Plan shall be applied first in payment of the outstanding principal amount of the Proven Claim and only after the principal portion of any such Proven Claim is satisfied in full, to any portion of such Proven Claim comprising accrued and unpaid interest (but solely to the extent that interest is an allowable portion of such Proven Claim pursuant to this Plan or otherwise). In the event that the principal amount of all Proven Claims has been paid in full, each Creditor shall, at the request of the Monitor, be responsible for providing a representation and warranty with respect to its residency for purposes of the *Income Tax Act* (Canada). If any Creditor fails to provide satisfactory evidence that it is a resident of Canada for purposes of the *Income Tax Act* (Canada), then the Monitor shall have the right to:

- (i) assume and otherwise consider such Creditor to be a non-resident of Canada for the purposes of the *Income Tax Act* (Canada); and
- (ii) withhold any non-resident withholding tax that would be imposed under the *Income Tax Act* (Canada) based on such assumption from any amounts payable to such Creditor under this Plan,

until such time as such Creditor provides satisfactory evidence to the contrary to the Monitor, unless the non-resident withholding tax has already been remitted to the Canada Revenue Agency. For greater certainty, the distributions to be made pursuant to this Plan to Creditors having Proven Claims do not include, and are not intended to include, any amounts on account of interest on such Claims.

#### 4.7 Transfer of Claims; Record Date for Distributions

Claims may be sold, transferred or assigned at any time by the holder thereof, whether prior or subsequent to the Plan Implementation Date, provided that:

- (i) Neither MMAC nor the Monitor shall be obligated to deal with or to recognize the purchaser, transferee or assignee of the Claim as the Creditor in respect thereof unless and until written notice of the sale, transfer or assignment is provided to the Monitor, such notice to be in form and substance satisfactory to the Monitor, acting reasonably within five (5) Business Days prior to the Plan Implementation Date
- (ii) only holders of record of Claims as at the date of the Meeting Order shall be entitled to attend, vote or otherwise participate at such meeting of Creditors; provided, however, that: (A) for the purposes of determining whether this Plan has been approved by a majority in number of the Creditors only the vote of the transferor or the transferee, whichever holds the highest dollar value of such Claims will be counted, and, if such value shall be equal, only the vote of the transferee will be counted; and (B) if a Claim has been transferred to more than one transferee, for purposes of determining whether this Plan has been approved by a majority in number of the Creditors, only the vote of the transferee with the highest value of such Claim will be counted; and

- (iii) only holders of record of Claims as at five (5) Business Days prior to the Plan Implementation Date shall have the right to participate in the corresponding distribution provided for under Section 4.2 of this Plan.

## **ARTICLE 5 RELEASES AND INJUNCTIONS**

### **5.1 Plan Releases and Injunctions**

All Affected Claims shall be fully, finally, absolutely, unconditionally, completely, irrevocably and forever compromised, remised, released, discharged, cancelled and barred on the Plan Implementation Date as against the Released Parties.

All Persons (regardless of whether or not such Persons are Creditors or Claimants) shall be permanently and forever barred, estopped, stayed and enjoined from (i) pursuing any Claim, directly or indirectly, against the Released Parties, (ii) continuing or commencing, directly or indirectly, any action or other proceeding with respect to any Claim against the Released Parties, or with respect to any claim that could give rise to a Claim against the Released Parties whether through a cross-claim, third-party claim, warranty claim, recursory claim, subrogation claim, forced intervention or otherwise, (iii) seeking the enforcement, levy, attachment, collection, contribution or recovery of or from any judgment, award, decree, or order against the Released Parties or property of the Released Parties with respect to any Claim, (iv) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or the property of the Released Parties with respect to any Claim, (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Approval Orders to the full extent permitted by applicable law, (vi) asserting any right of setoff, compensation, subrogation, contribution, indemnity, claim or action in warranty or forced intervention, recoupment or avoidance of any kind against any obligations due to the Released Parties with respect to any Claim or asserting any right of assignment of or subrogation against any obligation due by any of the Released Parties with respect to any Claim, and (vii) taking any actions to interfere with the Implementation or consummation of this Plan; provided, however, that the foregoing shall not apply to the enforcement of any obligations under the Plan.

Notwithstanding the foregoing, the Plan Releases and Injunctions as provided in this Section 5.1 (i) shall have no effect on the rights and obligations provided by the "*Entente d'assistance financière découlant du sinistre survenu dans la ville de Lac-Mégantic*" signed on February 19, 2014 between Canada and the Province, (ii) shall not extend to and shall not be construed as extending to any Unaffected Claims.

### **5.2 Timing of Releases and Injunctions**

All releases and injunctions set forth in this Article 5 shall become effective on the Plan Implementation Date at the Effective Time.

### **5.3 Claims against Third Party Defendants**

Any Claim of any Person, including MMAC and MMA, against the Third Party Defendants that are not also Released Parties: (a) is unaffected by this Plan; (b) is not discharged, released, cancelled or barred pursuant to this Plan; (c) shall be permitted to continue as against said Third Party Defendants; (d) shall not be limited or restricted by this Plan in any manner as to quantum to the extent that there is no double recovery as a result of the indemnification received by the Creditors or Claimants pursuant to this Plan; and (e) does not constitute an Affected Claim under this Plan. For greater certainty, and notwithstanding anything else contained herein, in the event that a Claim is asserted by any Person, including MMAC and MMA, against any Third Party Defendants that are not also Released Parties any and all right(s) of such Third Party Defendants to claim over, claim against or otherwise assert or pursue any rights or any Claim against any of the Released Parties at any time, shall be released and discharged and forever barred pursuant to the terms of this Plan and the Approval Orders.

## **ARTICLE 6 CONDITIONS PRECEDENT AND IMPLEMENTATION**

### **6.1 Conditions Precedent to Implementation of Plan**

The implementation of this Plan shall be conditional upon the fulfillment, or waiver (strictly with respect to Sections 6.1(e) and (f)), of the following conditions on or before the Plan Implementation Date:

(a) Entry of the Canadian Approval Order

The Canadian Approval shall have been granted by the CCAA Court, including the granting by the CCAA Court of its approval of the compromises, releases and injunctions contained in and effected by this Plan.

(b) Confirmation by the Trustee of the entry of the U.S. Approval Order

The Trustee shall have confirmed in writing to the Monitor that the U.S. Approval Order has been granted by the Bankruptcy Court, including the granting by the Bankruptcy Court of its approval of the compromises, releases and injunctions contained in and effected by this Plan.

(c) Entry of the Class Action Order

The Class Action Order shall have been granted by the Superior Court, Province of Quebec.

(d) Expiry of Appeal Periods

The Canadian Approval Order and the Class Action Order shall have become Final Orders and the Trustee shall have confirmed in writing to the Monitor that the U.S. Approval Order has become a Final Order.

(e) Contributions

Each of the Released Parties shall have paid to the Monitor the amounts payable by it pursuant to its Settlement Agreement, in accordance with the terms of the Settlement Agreements.

(f) Completion of Necessary Documentation

MMAC, the Monitor and the Trustee, as applicable, shall have obtained the execution and delivery by all relevant Persons of all agreements, settlements, resolutions, indentures, releases, documents and other instruments that are necessary to be executed and delivered to implement and give effect to all material terms and provisions of this Plan and the Settlement Agreements.

## 6.2 Monitor's Certificate

Upon the satisfaction of the conditions set out in Section 6.1 hereof, the Monitor shall file with the CCAA Court in the CCAA Proceeding and with the Trustee a certificate that states that all conditions precedent set out in Section 6.1 of this Plan have been satisfied and that the Plan Implementation Date has occurred.

## 6.3 Termination of Plan for Failure to Become Effective

If the Plan Implementation Date shall not have occurred on or before the Plan Termination Date, then, subject to further Order of the CCAA Court and the Bankruptcy Court, as applicable, this Plan shall automatically terminate and be of no further force or effect; provided that this Plan shall not automatically terminate pursuant to this section if the sole basis for the non-occurrence of the Plan Implementation Date is the pendency of any appeal or application for leave to appeal with respect to the Approval Orders.

## ARTICLE 7 ADMINISTRATION CHARGE

### 7.1 Administration Charge and Administration Charge Reserve

The Settlement Funds, to the exclusion of the XL Indemnity Payment, up to a maximum of CAD\$20 million, plus any applicable sales taxes for the Canadian Professionals (the "**Administration Charge Reserve**"), shall upon the Effective Time on the Plan Implementation Date be subject to an administration charge in favour of the Canadian Professionals and shall constitute a carveout in favour of the U.S. Professionals in order to secure the payment of the fees, disbursements and entitlements owed or to be owed to them for the services rendered by them in connection with or relating to the CCAA Proceeding and the Bankruptcy Case (the "**Administration Charge**"). 60% of the Administration Charge Reserve shall be for the benefit of the Canadian Professionals and 40% shall be for the benefit of the U.S. Professionals. These funds shall be distributed to the Canadian Professionals pursuant to an order of the CCAA Court and to the U.S. Professionals pursuant to an order of the Bankruptcy Court. The Administration Charge shall rank in priority to any and all other hypothecs, mortgages, liens, security interests, priorities, charges, encumbrances, security or rights of whatever nature or kind or deemed trusts affecting the Settlement Funds, if any. The Administration Charge and the Administration Charge Reserve are established on the basis of incurred fees and

disbursements as well as on an estimate of fees, disbursements and entitlements for which the Canadian Professionals and the U.S. Professionals could seek Court approval and are based on the Settlement Funds as presently constituted. The balance of the Administration Charge Reserve, if any, after payment of all fees, disbursements and entitlements of the Canadian Professionals and U.S. Professionals, shall form part of the Indemnity Fund, for distribution in accordance with the Plan.

## **ARTICLE 8 GENERAL**

### **8.1 Binding Effect**

On the Plan Implementation Date:

- (a) the Plan will become effective at the Effective Time;
- (b) the Plan shall be final and binding in accordance with its terms for all purposes on all Persons named or referred to in, or subject to the Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns; and
- (c) each Person named or referred to in, or subject to, the Plan will be deemed to have consented and agreed to all of the provisions of the Plan, in its entirety and shall be deemed to have executed and delivered all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

### **8.2 Deeming Provisions**

In the Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

### **8.3 Non-Consummation**

If the Approval Orders are not issued or if the Plan Implementation Date does not occur before the Plan Termination Date, (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan or any Settlement Agreement, including the fixing or limiting to an amount certain any Claim, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against the Released Parties or any other Person; (ii) prejudice in any manner the rights of the Released Parties or any other Person in any further proceedings involving MMAC and/or the Derailment; or (iii) constitute an admission of any sort by the Released Parties or any other Person.

### **8.4 Plan Amendment**

MMAC reserves the right, at any time prior to the Plan Implementation Date, to amend, modify and/or supplement this Plan, provided that:

- (i) any amendment, modification or supplement to Articles 5 and 6 (including any defined terms contained therein) as well as any amendment, modification or supplement made to any other Article which affects the rights of Released Parties under their respective Settlement Agreement(s), may be made only with the written consent of the Released Parties or the affected Released Party, as the case may be, which can be provided at their sole discretion.
- (ii) any such amendment, modification or supplement must be contained in a written document that is filed with the CCAA Court, and must be discussed in advance with, and not objected to by the Released Parties and, if made following the Meeting, communicated to such of the Creditors and in such manner, if any, as may be ordered by the CCAA Court;
- (iii) any amendment, modification or supplement may be made unilaterally by MMAC following the Approval Orders, provided that it concerns a matter which, in the opinion of MMAC and the Monitor, acting reasonably, is of an administrative nature required to better give effect to the implementation of this Plan and to the Approval Orders and is not adverse to the financial or economic interests of the Creditors or the Released Parties; and
- (iv) any supplementary plan or plans of compromise or arrangement filed with the CCAA Court by MMAC and, if required by this Section 8.4, approved by the CCAA Court shall, for all purposes, be and be deemed to be a part of and incorporated in this Plan.

## **8.5 Severability**

In the event that any provision in this Plan (other than Articles 5 and 6 and all defined terms contained therein or any other provision herein that would materially adversely affect the rights of any of the Released Parties under their respective Settlement Agreement(s), or requires any Released Party to pay more than the sum set forth in their respective Settlement Agreement(s)) is held by the CCAA Court to be invalid, void or unenforceable, the CCAA Court shall, following due notice to the parties in interest and a hearing on the issue, have the power to alter and interpret such term or provision to make it valid and enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered and interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Canadian Approval Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms, as same may be recognized, enforced and given effect by the U.S. Approval Order.

## **8.6 Paramourncy**

From and after the Plan Implementation Date, any conflict between: (A) this Plan; and (B) any information summary in respect of this Plan, or the covenants, warranties, representations; terms, conditions, provisions or obligations, express or implied, of any contract, mortgage, security agreement, indenture, loan agreement, commitment letter, document or agreement, written or oral, and any and all amendments and supplements thereto existing between MMAC and any Creditor, Released Party or other Person as at the Plan Implementation Date will be deemed to be governed by the terms, conditions and provisions of this Plan and the Approval Orders, which shall take precedence and priority. Notwithstanding the foregoing, the rights and duties of the parties under the Settlement Agreements are set forth in and shall be governed by the Settlement Agreements. More particularly, the Plan Releases and Injunctions 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 this Plan or the Approval Orders and the Settlement Agreements, the terms of the Settlement Agreements will apply with respect to the parties thereto.

## **8.7 Responsibilities of the Monitor**

The Monitor is acting in its capacity as Monitor in the CCAA Proceeding, and the Monitor will not be responsible or liable for any obligations of MMAC hereunder. The Monitor will have only those powers granted to it by this Plan, by the CCAA and by any Order of the CCAA Court in the CCAA Proceeding, including the Initial Order.

## **8.8 Unclaimed Distributions**

If any Person entitled to a cash distribution pursuant to this Plan cannot be located on the Plan Implementation Date or at any time thereafter or otherwise fails to claim his/her/its distribution hereunder, then such cash or cash equivalent instruments shall be set aside and held in a segregated, non-interest-bearing account to be maintained by the Monitor on behalf of such Person. If such Person is located within six (6) months of the Plan Implementation Date, such cash (less the allocable portion of taxes (including withholding taxes), if any, paid by MMAC on account of such Person) and proceeds thereof, shall be paid or distributed to such Person. If such Person cannot be located within six (6) months of the Plan Implementation Date, any such cash, and interest and proceeds thereon, shall be remitted by the Monitor to a charitable association of its choice (if possible, in the Monitor's sole appreciation, dedicated to providing assistance to the victims of the Derailment), and such Person shall be deemed to have released its claim to such monies; provided, however, that nothing contained in this Plan shall require MMAC or the Monitor to attempt to locate such Person. Any distribution cheques that have not been negotiated within three (3) months of issuance shall be cancelled by the Monitor, and any right or entitlement to such distribution shall be treated as an unclaimed cash or distribution pursuant to this Section 8.8.

## 8.9 Notices

Any notice or other communication to be delivered hereunder must be in writing and reference the Plan and may, subject as hereinafter provided, be made or given by personal delivery, ordinary mail or by facsimile or email addressed to the respective parties as follows:

(a) If to MMAC

Montreal Maine & Atlantic Canada Co.  
C/o Gowling Lafleur Henderson LLP  
3700 – 1 Place Ville Marie  
Montréal, Québec H3B 3P4

Attention: Me Patrice Benoit (patrice.benoit@gowlings.com)  
Attention : Me Pierre Legault (pierre.legault@gowlings.com)  
Fax : 514-876-9550

(b) If to the Monitor:

Richter Advisory Group  
1981 McGill College Avenue, 11<sup>th</sup> Floor  
Montréal, Québec H3A 0G6

Attention: Mr. Gilles Robillard (grobillard@richter.ca)  
Attention: Mr. Andrew Adessky (aadessky@richter.ca)  
Fax: 514-934-3504

with a copy by email or fax (which shall not be deemed notice) to:

Attention: Me Sylvain Vauclair (svauclair@woods.qc.ca)  
Fax: 514-284-2046

(c) If to the Trustee:

Robert J. Keach, Esq. (rkeach@bernsteinshur.com)  
Bernstein Shur Sawyer & Nelson  
100 Middle Street  
P.O. Box 9729  
Portland, ME 04104-5029  
Fax: 207-774-1127

or to such other address as any party may from time to time notify the others in accordance with this section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or emailing, provided that such day in either event is a Business Day and the communication is so delivered, faxed or emailed before 5:00 p.m. (Montréal time) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.



#### **8.10 Further Assurances**

MMAC and any other Person named or referred to in the Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the Plan and to give effect to the transactions contemplated herein.

#### **8.11 No Preference**

Sections 38 and 95 to 101 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 shall not apply to this Plan, save and except insofar as they may allow for the preservation or enforcement of (i) any claim brought or that could be brought in the future by the Trustee or MMAC (and only the Trustee, MMAC, their designee, or, to the extent applicable, the Estates) against the Rail World Parties and/or the D&O Parties but only to the extent that there is, or may be, insurance coverage for such claims under any policy of insurance issued by Great American, including, without limitation, the Great American Policy, and (ii) claims by the Trustee or MMAC (and only the Trustee, MMAC, their designee, or, to the extent applicable, the Estates) under applicable bankruptcy and non-bankruptcy law to avoid and/or recover transfers from MMA, MMAC or Montreal, Maine & Atlantic Corporation to the holders of notes and warrants issued pursuant to that certain Note and Warrant Purchase Agreement dated as of January 8, 2003 between MMA and certain noteholders (as amended from time to time) to the extent any such transfers arise from the distribution of proceeds from the sale of certain assets of MMA to the State of Maine, including any claims by or on behalf of the Trustee or the Estates against any of the D&O Parties for any alleged breach of fiduciary duty or any similar claim based upon the D&O Parties' authorization for payment of such notes, but any such breach of fiduciary duty or any similar claim shall be limited to recovery from the insurer under any policy of insurance issued by Great American, including, without limitation, the Great American Policy.

#### **8.12 No Admission**

Notwithstanding anything herein to the contrary, nothing contained in this Plan shall be deemed as an admission by the Released Parties with respect to any matter set forth herein including, without limitation, liability on any Claim.

DATED as of the 31<sup>st</sup> day of March, 2015

**Schedule “A” List of Released Parties**

PLAN OF COMPROMISE AND ARRANGEMENT

concerning, affecting and involving

MONTREAL, MAINE & ATLANTIC CANADA CO.

**SCHEDULE A TO THE PLAN OF COMPROMISE AND ARRANGEMENT OF  
MONTREAL, MAINE & ATLANTIC CANADA CO.  
List of Released Parties**

The list below consists of the parties who have executed settlement agreements with Montreal Maine & Atlantic Canada Co. (“MMAC”) and Robert J. Keach in his capacity as Chapter 11 Trustee of Montreal, Maine & Atlantic Railway Ltd. (the “Trustee”); Nothing in this list shall supersede, effect, modify or amend any such settlement agreement and to the extent of any conflict between the descriptions in this list and any such settlement agreement, the settlement agreement shall govern. All such settlement agreements are subject to court approval and other conditions, and the inclusion of any person or entity on this list does not create or imply the release of such person or entity from any claim; in all respects, the settlement agreements, and the court orders pertaining to the settlement agreements, shall govern. The term “Affiliate” used in this Schedule “A” means with respect to any entity, all other entities directly or indirectly controlling, controlled by, or under direct or indirect common control with such entity. The other capitalized terms used herein have the meaning ascribed to them in the Plan. The Released Parties are as follows:

1. **Devlar Energy Marketing LLC together with their parents Lario Oil & Gas Company and Devo Trading & Consulting Company (collectively “Devlar”)**, as well as their subsidiaries, Affiliates and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys and insurers, (including St. Paul Fire and Marine Insurance Company and its direct and indirect parents, subsidiaries and Affiliates), but only to the extent of coverage afforded to Devlar by such insurers in relation to the Derailment.
2. **Oasis Petroleum Inc. and Oasis Petroleum LLC (jointly, “Oasis”)**, together with their parents, subsidiaries, Affiliates and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys and insurers (including St. Paul Fire and Marine Insurance Company and its direct and indirect parents, subsidiaries and affiliates) but only to the extent of coverage afforded to Oasis by such insurers in relation to the Derailment, as well as the entities identified in

Schedule 2 hereto but strictly as non-operating working interest owners or joint venturers in the specific Oasis-operated wells that produced oil that was provided and supplied by Oasis that was transported in the train involved in the Derailment.

3. **Inland Oil & Gas Corporation, Whiting Petroleum Corporation, Enerplus Resources (USA) Corporation, Halcón Resources Corporation, Tracker Resources, Kodiak Oil & Gas Corp. (now known as Whiting Canadian Holding Company, ULC) and Golden Eye Resources LLC**, together with each of their respective parents, subsidiaries, Affiliates, and each of their former and current respective employees, officers, directors, successors and permitted assignees and attorneys, but strictly as non-operating working interest owners or joint venturers in any wells that produced oil that was provided, supplied and transported in the train involved in the Derailment.
4. **Arrow Midstream Holdings CCC. (“Arrow”)** together with its parents, subsidiaries, Affiliates, successors, officers, directors, principals, employees, attorneys, accountants, representatives, and insurers. For the avoidance of doubt, Arrow shall include its current parent Crestwood Midstream Partners LP; and insurers mean only those insurers who have issued liability insurance policies to or in favor of Arrow actually or potentially providing insurance for Claims against Arrow arising from or relating to the Derailment, including without limitation, Commerce and Industry Insurance Company under policy no. 3023278 and National Union Fire Insurance Company of Pittsburg, Pa. under policy no. 41131539.
5. **Marathon Oil Company (“Marathon”)**, together with its parent, subsidiaries, successors and assigns, Affiliates, officers, directors, principals, employees, attorneys, accountants, representatives, insurers (to the extent strictly limited to coverage afforded to Marathon in relation to the Derailment), as well as the entities identified in schedule 5 attached hereto, but strictly as non-operating working interest owners or joint venturers in the specific Marathon-operated wells that produced and supplied oil that was transported on the train involved in the Derailment. For the avoidance of doubt, insurers, as used in this definition, shall include all insurers that issued liability policies to or for the benefit of Marathon and that actually or potentially provided coverage for Claims relating to or

arising from the Derailment, including, but not limited to, Yorktown Assurance Corporation policy number XSL-7-2013 and Old Maine Assurance Ltd. (reinsurance Agreement).

6. **QEP Resources, Inc. (“QEP”)**, together with its parents, subsidiaries, Affiliates, successors and assigns, officers, directors, principals, employees, attorneys, accountants, representatives, insurers (to the extent strictly limited to coverage afforded to QEP in relation to the Derailment), as well as those entities identified in schedule 6 attached hereto, but strictly as non-operating working interest owners or joint venturers in the specific QEP-operated wells that produced and supplied oil that was transported on the train involved in the Derailment. For the avoidance of doubt, insurers, as used in this definition, shall include all insurers that issued liability policies to or for the benefit of QEP and that actually or potentially provided coverage for Claims relating to or arising from the Derailment, including, but not be limited to, National Union Fire Insurance Company of Pittsburgh, Pa. (policy number 194-99-62); American Guarantee & Liability Insurance Company (policy number UMB6692611-02).
7. **Slawson Exploration Company, Inc. (“Slawson”)**, together with its parents, subsidiaries, Affiliates, successors and assigns, officers, directors, principals, employees, attorneys, accountants, representatives, insurers (to the extent strictly limited to coverage afforded to Slawson in relation to the Derailment), as well as those entities identified on schedule 7 attached hereto, but strictly as non-operating working interest owners in the specific Slawson-operated wells that produced oil that was transported on the train involved in the Derailment. For the avoidance of doubt, insurers, as used in this definition, shall include all insurers that issued liability policies to or for the benefit of Slawson and that actually or potentially provided coverage for Claims relating to or arising from the Derailment, including, but not be limited to, Federal Insurance Company (policy 3579 09 19 and 7981 72 74), Arch Specialty Insurance Company (policy EE00039761 03), and AIG (policy BE031941993).
8. **Indian Harbor Insurance Company, XL Insurance, XL Group plc and their Affiliates** (strictly as insurers of MMA and MMAC).

9. **Edward A. Burkhardt, Larry Parsons, Steven J. Lee, Stephen Archer, Robert C. Grindrod, Joseph C. McGonigle, Gaynor Ryan, Donald Gardner, Jr., Fred Yocum, Yves Bourdon and James Howard, in their capacity as directors and officers of MMA and MMAC, Montreal, Maine & Atlantic Corporation and/or LMS Acquisition Corporation (the “D&O Parties”).**
10. **Hartford Casualty Insurance Company, together with its parents, subsidiaries, Affiliates, officers and directors** (strictly as insurer of Rail World, Inc.).
11. **Chubb & Son, a division of Federal Insurance Company** (strictly as insurers of Rail World, Inc. and Rail World Holdings, LLC).
12. **Rail World Holdings LLC; Rail World, Inc.; Rail World Locomotive Leasing LLC; The San Luis Central R.R. Co.; Pea Vine Corporation; LMS Acquisition Corporation; MMA Corporation; Earlston Associates L.P.,** and each of the shareholders, directors, officers or members or partners of the foregoing, to the extent they are not D&O Parties (the “**Rail World Parties**”). For the avoidance of doubt, (i) Rail World Parties also includes Edward A. Burkhardt, solely in his capacity as director, officer and/shareholder of certain of the Rail World Parties; and (ii) the inclusion of the above entities within the definition of “Rail World Parties”, except for the purpose of the settlement agreement executed with MMAC and the Trustee, shall not be construed to create or acknowledge an affiliation between or among any of the Rail World Parties.
13. **General Electric Railcar Services Corporation, General Electric Company** and each of its and their respective parents, Affiliates, subsidiaries, limited liability companies, special purpose vehicles, partnerships, joint ventures, and other related business entities, and each of its and their respective current or former parents, Affiliates, subsidiaries, limited liability companies, special purpose vehicles, partnerships, joint ventures, other related business entities, principals, partners, shareholders, officers, directors, managers, partners, employees, agents, insurers, attorneys, accountants, financial advisors, investment bankers, consultants, any other professionals, any other representatives or advisors, and any and all persons who control any of these, as well as any predecessors-in-interest of, or any assignors or vendors of any equipment involved in the Derailment

to, any of the foregoing entities and any of the successors and assigns of any of the foregoing entities.

14. **Trinity Industries, Inc., Trinity Industries Leasing Company, Trinity Tank Car, Inc., and Trinity Rail Leasing 2012 LLC, Trinity Rail Group LLC, RIV 2013 Rail Holdings LLC, and Trinity Rail Leasing Warehouse Trust**, inclusive of each of their respective predecessors, agents, servants, employees, shareholders, officers, directors, attorneys, representatives, successors, assigns, parents, subsidiaries, Affiliates, limited liability companies, insurers, and reinsurers (but strictly to the extent of coverage afforded to the such parties by said insurers and reinsurers), including but not limited to whether such entities are in the business of leasing, manufacturing, servicing or administrating rail cars.
15. **Union Tank Car Company, the UTLX International Division of UTCC, The Marmon Group LLC and Procor Limited (the “UTCC Parties”)**, and each of their respective predecessors, servants, employees, owners, members (strictly with respect to The Marmon Group LLC), shareholders, officers, directors, partners, associates, attorneys, representatives, successors, assigns, subsidiaries, Affiliates, and parent companies, insurers, and reinsurers listed in schedule 15 attached hereto, but strictly to the extent of coverage afforded to the UTCC Parties by said insurers and reinsurers, regardless of whether such entities are or were in the business of leasing, manufacturing, servicing, or administering rail car leases or otherwise.
16. **First Union Rail Corporation (“First Union”)**, together with its parents, subsidiaries, Affiliates, officers, directors, predecessors, successors, assigns, servants, employees, shareholders, attorneys, representatives and insurers and reinsurers (strictly to the extent limited to coverage afforded to First Union, and including, but not limited to, Lexington Insurance Company (including pursuant to the Pollution Legal Liability Select Policy no. PL52675034 and Stand Alone Excess Liability Policy no. 018403252) and Superior Guaranty Insurance Company (including pursuant to Excess Liability Policy no. 404-1XSCI13)).

17. **CIT Group, Inc.**, and its Affiliates, Federal Insurance Company solely in its capacity as an insurer of CIT Group, Inc. and its Affiliates and not in any other capacity, and Arch Insurance Group solely in its capacity as an insurer of CIT Group, Inc. and its Affiliates, and not in any other capacity.
18. **ConocoPhillips Company (“ConocoPhillips”)**, together with its subsidiaries, Affiliates, and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys, and insurers (and the insurers direct and indirect parents, subsidiaries and Affiliates), but with regards to such insurers, only to the extent of coverage provided to ConocoPhillips by such insurers in relation to the Derailment, as well as those entities identified in Schedule 18 hereto, but strictly as non-operating working interest owners in the specific ConocoPhillips operated wells that produced and supplied oil that was transported on the train involved in the Derailment.
19. **Shell Oil Company and Shell Trading (US) Company**, together with their subsidiaries, Affiliates, and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys, and insurers (and the insurers’ direct and indirect parents, subsidiaries and Affiliates), but with regards to such insurers, only to the extent of coverage provided to Shell Oil Company and Shell Trading (US) Company, by such insurers in relation to the Derailment.
20. **Incorr Energy Group LLC (“Incorr”)**, together with its subsidiaries, Affiliates and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys and insurers but only with respect to coverage afforded by such insurers to Incorr in relation to the Derailment.
21. **Enserco Energy, LLC**, together with its parent, subsidiaries, Affiliates, and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys, and insurers (and the insurers’ direct and indirect parents, subsidiaries and Affiliates), but with regards to such insurers, only to the extent of coverage provided to Enserco Energy, LLC, by such insurers in relation to the Derailment.



22. **The Attorney General of Canada, the Government of Canada, Her Majesty the Queen in Right of Canada and the departments, crown corporations and agencies including the Canadian Transportation Agency, and including all past, present and future Ministers, officers, employees, representatives, servants, agents, parent, subsidiary and affiliated crown corporations and agencies, and their respective estates, successors and assigns.**
23. **(i) Irving Oil Limited, Irving Oil Company, Limited, Irving Oil Operations General Partner Limited and Irving Oil Commercial G.P.,** (ii) any of their Affiliates (as defined in the settlement agreement), (iii) any predecessors, successors and assigns of any of the foregoing Persons named in clauses (i) and (ii) of this paragraph 23, and (iv) any directors, officers, agents and/or employees of any of the foregoing Persons named in clauses (i), (ii) and (iii) of this paragraph 23 (the “**Irving Parties**”), and the insurers listed in Schedule 23 attached hereto, but only in their respective capacities as insurers of the Irving Parties under the insurance policies listed by policy numbers in said Schedule 23 (the “**Irving Insurers**”). Notwithstanding the foregoing or anything else in this list and the Plan, the claims (including the Claims) and/or other rights that the Irving Parties have (or may have) against their insurers (including but not limited to the Irving Insurers) or any one or more of them under any applicable policies, at law, in equity or otherwise, are fully preserved and said insurers (including but not limited to the Irving Insurers) are not Released Parties in connection with said claims and/or other rights of the Irving Parties.

Notwithstanding the foregoing or anything else in this list, and without implying or providing any limitation, the term “Settling Defendants” as used herein or above does not include, and shall not be deemed to include, any of the following: (a) Canadian Pacific Railway Company, (b) World Fuel Services Corporation, (c) World Fuel Services, Inc., (d) World Fuel Services, Canada, Inc., (e) Petroleum Transport Solutions, LLC, (f) Western Petroleum Co., (g) Strobel Starostka Transfer LLC, (h) Dakota Plains Marketing LLC, (i) Dakota Plains Holdings, Inc., (j) DPTS Marketing Inc., (k) Dakota Plains Transloading LLC, (l) Dakota Petroleum Transport Solution LLC, and (m) SMBC Rail Services, LLC.

**SCHEDULE 2**  
**LIST OF NON-OPERATING WORKING INTEREST OWNERS OR**  
**JOINT VENTURERS IN OASIS OPERATED WELLS**

Whiting Oil And Gas Corporation;  
Hess Corporation;  
Hess Bakken Investments II LLC  
Continental Resources Inc;  
Sinclair Oil And Gas Company;  
Conoco Phillips Company;  
Black Bear Resources, LLLP;  
Castlerock Resources Inc;  
Deep Creek Exploration;  
Enerplus Resources Usa Corporation;  
Fidelity E&P Company;  
Fidelity Exploration & Production Co;  
Inland Oil & Gas Corporation;  
Jake Energy Inc.;  
Kerogen Resources Inc;  
Lilley & Company;  
Lilley And Associates LLC;  
Linn Energy Holdings LLC;  
Lone Rider Trading Company;  
Mayhem Oil And Gas Inc;  
Missouri River Royalty Corp;  
Nj Petroleum LLC;  
Northern Energy Corporation;  
Northern Oil & Gas Inc;  
O.T. Cross Oil LLC;  
Ottetail Land & Permit Services;  
Penroc Oil Corporation;  
Reef 2011 Private Drilling Fund LP;  
Shakti Energy LLC;  
Slawson Exploration Company Inc;  
Statoil Oil & Gas LP;  
WHC Exploration LLC;

**SCHEDULE 5**

**LIST OF NON-OPERATING WORKING INTEREST OWNERS OR JOINT  
VENTURERS IN MARATHON OPERATED WELLS**

ALAMEDA ENERGY INC  
ARTHUR FRANK LONG JR  
BEARTOOTH RIDGE RESOURCES  
CARL W STERUD JR  
CHUGASH EXPLORATION LP  
CONDOR PETROLEUM INC  
CONTINENTAL RESOURCES INC  
DISPUTED STATE-TRIBAL INTEREST  
ENDEAVOR ENERGY RESOURCES LP  
ENERPLUS RESOURCES CORPORATION  
ESTATE OF KARL WILLIAM STERUD  
ESTATE OF WALLACE HICKEL  
EVERTSON ENERGY PARTNERS LLC  
GADECO LLC  
GOLDENEYE RESOURCES LLC  
HALCON WILLISTON I LLC  
HESS BAKKEN INVESTMENTS II LLC  
ILAJEAN REAMS  
JENNIFER BYSTROM  
JOSEPHINE ANN KJONAAS  
KOOTENAI RESOURCE CORP  
LA PETROLEUM INC  
LGFE-M LP  
LINDA ELWOOD  
LOUIS WALTER LONG  
MARCIN PRODUCTION LLC  
MICHAEL HARVEY STERUD  
MISSOURI RIVER ROYALTY CORPORATION  
MONTANA OIL PROPERTIES INC  
MONTE TEDDY LONG  
NATURAL RESOURCE PARTNERS LP  
NORTHERN ENERGY CORP  
NORTHERN OIL AND GAS INC  
PETROGULF CORP  
QEP ENERGY COMPANY  
RAINBOW ENERGY MARKETING CORP  
RONALD KNIGHT  
S REGER FAMILY INC

SLAWSON EXPLORATION COMPANY INC  
SLAWSON RESOURCES COMPANY  
SPOTTED HAWK DEVELOPMENT LLC  
STEWART GEOLOGICAL INC  
TDB RESOURCES LP  
USG PROPERTIES BAKKEN II LLC  
VERSA ENERGY LLC  
VITESSE ENERGY LLC  
VITESSE OIL LLC  
W NORTH FUND II LP  
ZAGOIL COMPANY LLC

**SCHEDULE 6**

**LIST OF NON-OPERATING WORKING INTEREST OWNERS OR JOINT  
VENTURERS IN QEP OPERATED WELLS**

3LAND INC  
ACTION REALTORS INC  
ADELE L. SKODA  
AMERADA HESS CORPORATION  
ANDREW J HORVAT REVOCABLE TRUST  
ARMSTRONG CHILDREN'S TRUST  
ARMSTRONG MINERALS, LLC  
AVALON NORTH LLC  
BADLANDS HOLDING COMPANY  
BANDED ROCK LLC  
BIG PRAIRIE INVESTMENTS, LLC  
BLACK STONE ENERGY COMPANY, LLC  
BORGOIL RESOURCES, LLP  
BRUCE P. IVERSON  
BURLINGTON RESOURCES OIL & GAS  
BXP PARTNERS III, LP  
CHUGASH EXPLORATION LP  
CONTINENTAL RESOURCES INC  
COPPERHEAD CORPORATION  
CRESCENT ENERGY, INC.  
CRS MINERALS LLC  
DAKOTA WEST LLC  
DALE LEASE ACQUISITIONS 2011-B LP  
DAVIS EXPLORATION  
DEBRA KAY TORNBERG  
DEEP CREEK EXPLORATION LLC  
DEVON ENERGY PRODUCTION CO. LP  
DIAMOND EXPLORATION INC  
DORCHESTER MINERALS LP  
DUANE A. IVERSON  
E. W. BOWLES  
ENDEAVOR ENERGY RESOURCES LP  
ENERPLUS RESOURCES (USA)  
ESTATE OF ROBERT J MCCANN JR  
EZ OIL, LLC

FORESTAR PETROLEUM GROUP  
GAEDEKE WILLISTON BASIN HOLDINGS  
GARY LEE MCCORMICK  
GREEN RIVER ENERGY LLC  
HALCON RESOURCES CORP COMPANY  
HESS BAKKEN INVESTMENTS II LLC  
HESS CORPORATION  
INTERNATIONAL PETROLEUM CORPORATION  
INTERNOS, INC.  
J KAMP OIL LLC  
JEFF GARSKE  
JERALDINE BJORNSON  
JJS WORKING INTERESTS LLC  
JOEL ALM  
JOHN B. BJORNSON  
JT ENERGY, LLC  
JTT OIL LLC  
JUNE ANN GREENBERG  
KENNETH STEVENSON  
KODIAK OIL & GAS (USA) INC  
L LOWRY MAYS  
LANDSOUTH PROPERTIES, LLC  
LEE MCCORMICK MARITAL TRUST  
LEGION LAND & EXPLORATION CORP  
LELAND STENEHJEM, JR.  
LGFE-M L.P.  
LINDSEY K MULLENIX  
LMAC, LLC  
LONE RIDER TRADING COMPANY  
LONETREE ENERGY & ASSOCIATES  
M & M ENERGY INC  
MADDOX FAMILY TRUST  
MARATHON OIL COMPANY  
MBI OIL & GAS LLC  
MCBRIDE OIL & GAS CORPORATION  
MILBURN INVESTMENTS, LLC  
MISSOURI RIVER ROYALTY COMPANY  
MUREX PETROLEUM CORPORATION  
NORTHERN ENERGY CORPORATION  
NORTHERN OIL AND GAS, INC.

NORTHLAND ROYALTY CORPORATION  
NOWITZKI OIL & GAS LP  
O. A. HANSON  
OPINOR ANNA PTY KAISER FUND  
PETROGLYPH ENERGY  
PETROVAUGHN INC.  
PHILIP R. BISHOP  
PRADERA DEL NORTE, INC.  
RALPH MADDOX FAMILY TRUST  
RAVEN OIL PROPERTIES INC  
REEF 2011 PRIVATE DRILLING FUND LP  
ROBERT J. MCCORMICK  
ROBERT POST JOHNSON  
SCOTT ENERGY, LLC  
SCOTT K. BJORNSON  
SCOTT WARD  
SIDNEY K. LEACH  
SIERRA RESOURCES INC  
SINCLAIR OIL & GAS COMPANY  
SIXTY NINE OIL & GAS LP  
SKLARCO LLC  
SLAWSON EXPLORATION CO INC  
SM ENERGY COMPANY  
SOUTH FORK EXPLORATION, LLC  
SPOTTED HAWK DEVELOPMENT LLC  
SRP ENTERPRISES, INC.  
STEVEN H HARRIS FAMILY LIMITED  
STUBER MINERAL RESOURCES LLC  
SUNDHEIM OIL CORPORATION  
SUSAN D STENEHJEM  
THE ERICKSON FAMILY TRUST  
THE MILLENNIUM CORPORATION  
THE TRIPLE T INC.  
TIMOTHY J. RITTER  
TL & JH KAISER SUPERANNUATION  
TURMOIL INC  
TWIN CITY TECHNICAL, LLC  
USG PROPERTIES BAKKEN II LLC  
VINNIE CORP  
VINTAGE OIL & GAS, LLC

VIVIAN MCCORMICK WARREN  
WESTERN ENERGY CORPORATION  
WILLIAM G SEAL ESTATE  
WOLF ENERGY LLC  
XTO ENERGY INC  
XTO OFFSHORE INC  
ZACHARY D VANOVER



**SCHEDULE 7**

**LIST OF NON OPERATING WORKING INTEREST OWNERS  
OR JOINT VENTURERS IN SLAWSON OPERATED WELLS**

A.G. Andrikopoulos Resources, Inc.  
Abercrombie Energy, Inc.  
Alameda Energy, Inc.  
Anthony J. Klein  
Bakken HBT II, LP  
Beartooth Ridge Resources, Inc.  
Beck Sherven Legion Post #290  
Benjamin Kirkaldie  
BigSky Oil & Gas, LLC  
Bob Featherer LLC  
Brendall Energy, LLC  
Burlington Northern & Sante Fe  
C King Oil  
Cedar Creek Wolverine, LLC  
Centaur Consulting, LLC  
Chugash Exploration, LP  
Comanche Exploration Company  
Continental Resources, Inc.  
Craig A. Slawson  
D. Sumner Chase, III 2001 Irr. Trust  
David L. Hilleren  
David W. Strickler Trust  
Davis Exploration, LLC  
Deep Blue, LLC  
Dogwood Hill Farms, LLC  
DS&S Chase, LLC  
Enerplus Resources (USA) Corp  
Formation Energy LP  
Frederic Putnam  
Gadeco, LLC

Gaedeke Williston Basin, Ltd.  
Gasco Limited Partnership  
GHG Partners, LLC  
Great Plains Oil Properties, LLC  
Greenhead Energy, Inc.  
Gulfport Energy Corporation  
HRC Energy, LLC  
Huston Energy Corporation  
Icenine Properties, LLC  
Inland Oil and Gas Corporation  
James H Bragg  
John Schell  
Kenneth Lyson and Claudia G. Lyson  
Kodiak Oil & Gas (USA), Inc.  
Kootenai Resources Corporation  
L D Davis & Marilyn Davis, JTS  
Lario Oil and Gas Company  
Linn Energy Holdings, LLC  
Marcin Production, LLC  
Mark Lee  
Marshall & Winston, Inc.  
Mary Newman  
Melbby Gas III, LLC  
Missouri River Royalty Corporation  
Montana Oil Properties, Inc.  
MRG Holdings, LLC  
Mwiley Resources, Inc.  
Nadel and Gussman Bakken, LLC  
Northern Oil and Gas, Inc.  
Oxy USA, Inc.  
Pegasus Group Inc.  
Petro-Huston, LLC  
Petroshale (US) Inc.  
Pine Oil Co.  
Pine Petroleum, Inc.  
Piscato Oil, LLC

Polish Oil & Gas, Inc.  
Raymond Resources Inc.  
Riley Resources, Inc.  
Robert A. Erickson & Cleo  
S. Reger Family, Inc.  
Sheringham Corporation  
Slawson Resources Co.  
Statoil Oil & Gas, LP  
Stewart Geological, Inc.  
Stuart F. Chase  
Stuart F. Chase 2001 Irr. Trust  
Thomas Lambert  
Todd Slawson  
Todd Slawson Trust  
Tracker Resource Development III, LLC  
U S Energy Development Corporation  
USG Properties Bakken II, LLC  
Vitesse Energy, LLC  
Vitesse Oil, LLC  
W B Oil LLC  
Whiting Oil and Gas  
Windsor Dakota, LLC  
Zagoil Company, LLC

## SCHEDULE 15

### LIST OF UTCC'S INSURERS AND REINSURERS

#### Canadian Insurance Companies

ACE INA Insurance

Chartis Insurance Company of Canada (n/k/a AIG Insurance Company of Canada)

Westport Insurance Corporation

#### U.S. Insurance Companies

ACE American Insurance Company

American Zurich Insurance Company

Lexington Insurance Company

North American Capacity Insurance Company

Starr Indemnity & Liability Company

#### Bermudian Insurance Companies

ACE Bermuda Insurance Ltd.

Allied World Assurance Company Ltd.

Argo Re Ltd.

Chartis Excess Limited (n/k/a American International Reinsurance Company Ltd.)

Chubb Atlantic Indemnity Ltd.

Hanseatic Insurance Company (Bermuda) Limited

Iron-Starr Excess Agency Ltd. / Ironshore Insurance Ltd. / Starr Insurance & Reinsurance Limited

Starr Insurance & Reinsurance Limited

XL Insurance (Bermuda) Ltd.

**SCHEDULE 18**

**LIST OF NON-OPERATING INTEREST OWNERS OR JOINT VENTURERS IN  
CONOCOPHILLIPS OPERATED WELLS**

Continental Resources Inc.

Hess Corporation

JAG Oil Limited Partnership

Linn Energy Holdings LLC

Newfield Production Company

Northern Oil & Gas Inc.

Twin City Technical LLC

WM Energy Resources Inc.

## **SCHEDULE 23**

### **LIST OF IRVING INSURERS**

1. ACE INA Insurance
  - CGL 523952
  - XBC 602712
2. Zurich Insurance plc, UK Branch
  - B0509E1149413
  - B0509E1181313
3. Zurich Insurance Company Ltd
  - 8840960
  - 8838799
4. AEGIS, Syndicate AES 1225
  - B0509E1149413
5. Mitsui Sumitomo, Insurance Corporate Capital, Limited as sole member of Syndicate, 3210 at Lloyds
  - B0509E1181113
6. QBE Casualty Syndicate 386
  - B0509E1181113
7. QBE Syndicate 1886
  - B0509E1181113
8. Underwriters at Lloyd's and Lloyd's Syndicates, Subscribing to Policy No. B0509HM231013, including the following
  - AEGIS Syndicate AES 1225
  - Syndicate CNP 4444
  - Syndicate MKL 3000
  - Syndicate HIS 33
  - Syndicate LIB 4472
  - Syndicate ANV 1861
  - Syndicate MFM 2468
  - Syndicate AUW 609
  - Syndicate TUL 1301

- Syndicate SKD 1897
  - Syndicate AML 2001
  - Syndicate NAV 1221
  - Syndicate TRV 5000
9. XL Insurance (Bermuda) Ltd.
    - XLUMB-742875
  10. Oil Casualty Insurance, Ltd.
    - U920303-0313
  11. Argo Re Ltd.
    - ARGO-CAS-OR-000227.1
  12. Chubb Atlantic Indemnity Ltd.
    - 3310-17-91
  13. Zurich Insurance Company Ltd
    - 8838799
  14. Iron-Starr Excess Agency Ltd.
    - 1S0000822
  15. AIG Excess Liability Insurance International Limited
    - 1657346
  16. ACE Bermuda Insurance Ltd.
    - 1OC-1338/5
  17. Liberty Mutual Insurance Company
    - XSTO-631084-013
  18. ACE Underwriting Agencies Limited, as managing agency of Syndicate 2488 at Lloyd's, and ACE European Group Limited
    - B0509EI181413

**Schedule “D” List of Existing Agreements**

PLAN OF COMPROMISE AND ARRANGEMENT

concerning, affecting and involving

MONTREAL, MAINE & ATLANTIC CANADA CO.



**MONTREAL, MAINE & ATLANTIC CANADA CO.**  
**Schedule D**  
**List of Existing Agreements**

- Rail World Locomotive Leasing, LLC Railroad Locomotive Lease Agreement dated February 10, 2004, as amended.
- Rail World Locomotive Leasing, LLC Railroad Locomotive Lease Agreement dated July 1, 2012.
- Management Agreement dated January 8, 2003, as amended, by and among Montreal Maine & Atlantic Railway, Ltd., Montreal, Maine & Atlantic Canada Co., MM&A Rolling Stock Corporation, LMS Acquisition Corporation and Rail World, Inc.
- Retention Agreement between Montreal, Maine & Atlantic Railway, Ltd. and M. Donald Gardner dated on or about August 5, 2011.
- Retention Agreement between Montreal, Maine & Atlantic Railway, Ltd. and Joseph McGonigle dated on or about August 5, 2011.
- Retention Agreement between Montreal, Maine & Atlantic Railway, Ltd. and Gaynor Ryan dated on or about August 5, 2011.
- Agreement between Montreal Maine & Atlantic Railway, Ltd. and LMS Acquisition Corporation regarding payment of bulk starch transloading costs.
- Letter agreement dated May 31, 2012 between Montreal, Maine & Atlantic Canada and Rail World, Inc. regarding reimbursement payments from Government of Quebec, Minister of Transport.

**Schedule "E" Distribution mechanism with respect to the  
Wrongful Death Claims**

PLAN OF COMPROMISE AND ARRANGEMENT

concerning, affecting and involving

MONTREAL, MAINE & ATLANTIC CANADA CO.

**Montreal Maine & Atlantic Canada Co.  
Schedule E  
Distribution Mechanism with Respect to the Wrongful Death Claims**

<b>Points Allocation Matrix</b>		
<b>Criteria</b>	<b>Points per Criteria</b>	
<b>1. Age of the decedents</b>	<b><u>Age of Decedent</u></b>	<b><u>Points</u></b>
	<ul style="list-style-type: none"> <li>• Less than 18</li> <li>• 18 to less than 26</li> <li>• 26 to less than 60</li> <li>• 60 to less than 66</li> <li>• 66 and greater</li> </ul>	<ul style="list-style-type: none"> <li>• 3</li> <li>• 8</li> <li>• 10</li> <li>• 8</li> <li>• 3</li> </ul>
<b>2. If decedent survived by children</b>	<b><u>Age of Surviving Children</u></b>	<b><u>Points</u></b>
	<ul style="list-style-type: none"> <li>• Less than 21</li> <li>• 21 to less than 31</li> <li>• 31 to less than 51</li> <li>• 51 and greater</li> </ul>	<ul style="list-style-type: none"> <li>• 15</li> <li>• 7</li> <li>• 5</li> <li>• 3</li> </ul>
<b>3. If decedent is survived by a spouse</b>	<b><u>Annual Income of Decedent</u></b>	<b><u>Points</u></b>
	<ul style="list-style-type: none"> <li>• Less than \$20,000</li> <li>• \$20,000 to less than \$50,000</li> <li>• \$50,000 to less than \$75,000</li> <li>• \$75,000 to less than \$100,000</li> <li>• \$100,000 and greater</li> </ul>	<ul style="list-style-type: none"> <li>• 12.50</li> <li>• 15.00</li> <li>• 16.25</li> <li>• 17.50</li> <li>• 18.75</li> </ul>
<b>4. If decedent is survived by a spouse but no children</b>	<ul style="list-style-type: none"> <li>• If parents, 5 additional points</li> <li>• If no parents, but siblings, then 2.5 points per sibling to a maximum of 7.5 points</li> </ul>	
<b>5. If decedent is not survived by a spouse or child and the decedent <u>is a minor</u></b>	<ul style="list-style-type: none"> <li>• 10 points for each surviving parent and</li> <li>• 5 points for each surviving sibling</li> </ul>	
<b>6. If decedent is not survived by a spouse or child and the decedent <u>is not a minor</u></b>	<ul style="list-style-type: none"> <li>• 5 points for each surviving parent and</li> <li>• 2.5 points for each surviving sibling.</li> </ul>	
<b>7. If decedent is survived by a child</b>	<ul style="list-style-type: none"> <li>• Set aside of 5% to parents and siblings with a potential reallocation to ensure a minimum payment of \$25,000 to each parent and sibling</li> </ul>	

**Montreal Maine & Atlantic Canada Co.  
Schedule E  
Distribution Mechanism with Respect to the Wrongful Death Claims**

Victim	Total Points	Allocation %	Estimated Potential Distribution
1	68	4.78%	\$ 3,691,000
2	23	1.63%	1,257,000
3	32	2.27%	1,750,000
4	20	1.42%	1,094,000
5	18	1.24%	957,000
6	20	1.42%	1,094,000
7	6	0.42%	328,000
8	38	2.66%	2,049,000
9	28	1.95%	1,504,000
10	14	0.99%	765,000
11	23	1.63%	1,258,000
12	16	1.13%	875,000
13	20	1.42%	1,094,000
14	28	1.95%	1,504,000
15	40	2.83%	2,187,000
16	52	3.65%	2,816,000
17	28	1.95%	1,504,000
18	25	1.77%	1,367,000
19	23	1.63%	1,257,000
20	40	2.83%	2,187,000
21	17	1.20%	929,000
22	18	1.27%	984,000
23	38	2.66%	2,050,000
24	21	1.45%	1,121,000
25	23	1.63%	1,258,000
26	55	3.90%	3,007,000
27	25	1.77%	1,367,000
28	53	3.72%	2,871,000
29	40	2.83%	2,187,000
30	31	2.16%	1,668,000
31	20	1.42%	1,094,000
32	23	1.63%	1,257,000
33	25	1.77%	1,367,000
34	40	2.83%	2,187,000
35	13	0.92%	711,000
36	13	0.92%	711,000
37	45	3.15%	2,433,000
38	21	1.45%	1,121,000
39	25	1.77%	1,367,000
40	30	2.12%	1,640,000
41	23	1.59%	1,230,000
42	41	2.92%	2,255,000
43	40	2.83%	2,187,000
44	40	2.83%	2,187,000
45	13	0.92%	711,000
46	53	3.72%	2,871,000
47	31	2.21%	1,709,000
48	40	2.83%	2,187,000
	<b>1,412</b>	<b>100.0%</b>	<b>\$ 77,205,000</b>

The above amounts are prior to any fees that may be claimed by the claimants attorneys or the Class Representatives, as applicable.

(all amounts are in Canadian dollars)

**Schedule "F" Distribution mechanism with respect to the Bodily  
Injury and Moral Damages Claims**

PLAN OF COMPROMISE AND ARRANGEMENT

concerning, affecting and involving

MONTREAL, MAINE & ATLANTIC CANADA CO.

**Montreal, Maine & Atlantic Canada Co.**  
**Schedule F**  
**Distribution Mechanism with Respect to the Moral Damage Claims**

	<u>Points</u>	<u>Estimated # of claimants</u>	<u>Total points</u>	<u>%</u>	<u>Est. Dist.</u>	<u>Dist. per claim</u>
Trouble & Inconvenience	5.0	3,700	18,500	35.8%	\$ 11,472,000	\$ 3,100
<b>Evacuations</b>						
Per day of displacement	1.0	1,850	10,370	20.1%	6,430,000	620
Maximum	30.0					par jour
Red Zone/Yellow Zone	50.0	140	7,000	13.5%	4,341,000	31,010
Grandparents and grandchildren (note 1)	15.0	50	750	1.5%	465,000	9,300
Post Traumatic Stress - short term (note 2)	50.0	100	5,000	9.7%	3,100,000	31,000
Post Traumatic Stress - long term (note 2)	100.0	100	10,000	19.3%	6,201,000	62,010
Bodily Injury	50.0	2	100	0.2%	62,000	31,000
Buffer (note 3)					2,000,000	
<b>Total (notes 1 &amp; 4)</b>			<b>51,720</b>	<b>100%</b>	<b>\$ 34,071,000</b>	

The above amounts are prior to any fees that may be claimed by the claimants' attorneys or the Class Representatives, as applicable.

Note 1: This is a cumulative calculation, whereby one claimant can fall into more than one category, however wrongful death claimants cannot claim for post traumatic stress.

Note 2: For those who have been given a medical diagnosis of post traumatic stress, a depressive disorder, an anxiety disorder and/or otherwise remain under medical care for mental health issues arising from the disaster and for those who were present in the red zone at the time of the derailment. In order to qualify in this category and to determine if you qualify for short term or long term post traumatic stress further details will be required by the Monitor.

Note 3: To be used for any increase in the post traumatic stress category (if any) and thereafter any unused portion will be distributed to all the other categories of moral damages on a pro rata basis.

Note 4: The final amounts may vary depending on further information received.

**(all amounts are in Canadian dollars)**

**Schedule “G” Distribution mechanism with respect to the property  
and Economic Damages Claims**

PLAN OF COMPROMISE AND ARRANGEMENT

concerning, affecting and involving

MONTREAL, MAINE & ATLANTIC CANADA CO.

**Montreal, Maine & Atlantic Canada Co.**  
**Schedule G**  
**Distribution Mechanism with Respect to the Property and Economic Damages Claims**

- Property and Economic Damages Claims will be valued pursuant to the Claims Resolution Order.
- The value of the Property and Economic Damages Claims is currently estimated at \$75 million.
- Following the valuation of the Property and Economic Damages Claims pursuant to the Claims Resolution Order, creditors having Proven Claims will be paid on a pro-rata basis.
- In the event that, following the review of these claims pursuant to the Claims Resolution Order, the aggregate value of the Property and Economic Damages Claims is reduced below \$75 million, the difference between the amount of \$75 million and the revised aggregate value of these claims will be allocated on a pro-rata basis to the value of the claims in the other categories described in Sections 4.2 (a) (b) (d) and (e).

**Any distributions made may be subject to fees that may be claimed by the claimants' attorneys or the Class Representatives, as applicable.**

**(all amounts are in Canadian dollars)**



**Schedule “H” XL Settlement Agreement**  
**PLAN OF COMPROMISE AND ARRANGEMENT**  
**concerning, affecting and involving**  
**MONTREAL, MAINE & ATLANTIC CANADA CO.**

EXECUTION COPY

**SETTLEMENT AGREEMENT**

This Agreement is made as of the Execution Date by the XL Companies, the Trustee and MMAC, and shall be effective as of the Approval Date.<sup>1</sup>

**RECITALS**

WHEREAS, MMA and MMAC are insureds under a Railroad Liability Insurance Policy, bearing number RRL003723801 and in effect from April 1, 2013 to April 1, 2014 (subject to any extensions as may be or have been agreed between the parties), issued by Indian Harbor;

WHEREAS, MMA and MMAC are insureds under a Railroad Liability Insurance Policy, bearing the number RLC003808301 and in effect from April 1, 2013 to April 1, 2014 (subject to any extensions as may be or have been agreed between the parties), issued by XL Insurance;

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

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

WHEREAS, Richter Advisory Group Inc. has been appointed as Monitor in connection with the CCAA Proceeding;

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

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

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

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WHEREAS, various claims arising out of the Derailment have been made against MMA, MMAC, and other insureds under the Policies;

WHEREAS, the Parties wish to resolve all Claims that have arisen or could in the future arise relating to the Policies by agreeing to a global settlement relating to Claims and possible Claims against the XL Companies arising out of the Derailment or otherwise under the Policies;

WHEREAS, the Canadian Policy is the applicable policy in respect of any loss, cost or expense arising out of the Derailment, and covered losses arising out of the Derailment will substantially exceed the applicable CAN \$25 million per occurrence limit in the Canadian Policy;

WHEREAS, the Parties recognize that, to the extent applicable, Quebec law provides that the proceeds of the Canadian Policy are property of the victims of the Derailment, and the Parties seek to establish a mechanism for promptly providing those victims with access to those proceeds;

WHEREAS, the parties also seek to achieve a global resolution of any and all other matters relating to the Policies, through a buy-back, by the XL Companies, of the Trustee's and MMAC's remaining interests in the Policies;

WHEREAS, through this Agreement, the Plan and the Approval Orders, the Parties seek to provide the XL Companies with the broadest possible release with respect to the Policies and to provide that the XL Companies shall have no further obligations to any Person for any and all Claims that have been, or could in the future be, asserted against the XL Companies in relation to the Policies and/or the Derailment;

WHEREAS, the XL Companies have sought, and the Trustee, MMAC and the Monitor have agreed, through the negotiations leading to this Agreement, to create a mechanism under

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which all of the Directors, Officers and Employees, and all other Persons that assert any right or interest in the Policies have had reasonable opportunity to become a Settling Defendant and Released Party by entering into an appropriate settlement agreement.

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

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

I. DEFINITIONS

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

1.1. "Agreement" means this Settlement Agreement.

1.2. "Approval Date" means the date on which the U.S. Approval Order and the Canadian Approval Order become Final Orders. If the U.S. Approval Order and the Canadian Approval Order become Final Orders on different dates, the Approval Date is the date on which the later order to become a Final Order becomes a Final Order.

1.3. "Approval Orders" means the U.S. Approval Order and the Canadian Approval Order, collectively.

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

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

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

1.7. "Canadian Approval Order" means an order entered in the CCAA Proceeding, which Order shall be in form and substance acceptable to the XL Companies, and shall, among

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other things, (i) approve, sanction and/or confirm the Canadian Plan, (ii) approve this Agreement; (iii) authorize MMAC to undertake the settlement and the transactions contemplated by this Agreement; (iv) authorize the sale of MMAC's remaining interest, in the Policies, if any, to the extent permitted by law, to the XL Companies free and clear of any and all claims and interests; (v) vest any and all interests in the XL Indemnity Payment; (vi) provide that the XL Companies are good faith purchasers of MMAC's remaining interests in the Policies and, as such, are entitled to all protections provided to a good-faith purchaser; and (vii) provide for the Injunction.

1.8. "Canadian Policy" means the insurance policy issued by XL Insurance, bearing number RLC003808301.

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

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

1.11. "CCAA Court" means the Superior Court, Province of Québec, as presiding over the CCAA Proceeding.

1.12. "CCAA Proceeding" means the case styled *In the Matter of the Plan of Compromise or Arrangement of Montreal, Maine & Atlantic Canada Co.*, Superior Court, Province of Québec, No. 500-11-045094-139.

1.13. "CIT Group" means CIT Group, Inc.

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1.14. "Claim" means past, present and future claims, causes of action, obligations, rights, suits, judgments, remedies, interests, actions, liabilities, demands, duties, injuries, damages, expenses, fees, 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 or otherwise, whether statutory, at common law or in equity, including but not limited to claims for breach of contract, breach of the implied covenant of good faith and fair dealing, statutory or regulatory violations, for indemnity or contribution, or punitive, exemplary or extra-contractual damages of any type, (a) arising out of, based upon, or relating in any way related to, in whole or in part, directly or indirectly, whether through a direct claim, cross-claim, third-party claim, subrogation claim, class action or otherwise, to (i) the Derailment, including any claims for wrongful death, personal injury, emotional distress, property damage, economic loss, or environmental damage, remediation or exposure; (ii) the Policies; (iii) the issuance of the Policies; (iv) insurance coverage under the Policies, reimbursement or payment under the Policies; (v) any act or omission of an insurer of any type for which a Claimant might seek relief in connection with the Policies, or (b) that would otherwise constitute a claim (i) provable in bankruptcy under the Bankruptcy and Insolvency Act, R.S.C. 1985, c.B-3, had MMAC become bankrupt on August 6, 2013; or (ii) within the definition of "claim" set forth in Section 101(5) of the Bankruptcy Code.

1.15. "Claimant" means any Person holding or potentially holding any Claim against (i) MMA, (ii) MMAC, (iii) to the extent applicable, the Estates, (iv) any XL Company, and/or (v) any of the Released Parties.

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

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1.17. "Directors, Officers and Employees" mean any and all persons or entities who qualify as an officer, director, partner, or employee under either of the Policies.

1.18. "Estates" means the MMA bankruptcy estate and, to the extent applicable, the MMAC estate.

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

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

1.21. "Indian Harbor" means Indian Harbor Insurance Company.

1.22. "Injunction" means an order by the CCAA Court and the Bankruptcy Court permanently releasing and enjoining the enforcement, prosecution, continuation or commencement of any (a) Claim that any Person or Claimant holds or asserts or may in the future hold or assert against the XL Companies arising out of, in connection with and/or in any way related to any of the Policies and (b) Claim against any Released Party and/or Settling Defendant arising out of, in connection with and/or in any way related to the Policies or the Derailment. The Injunction order shall provide that all Persons and Claimants, whether or not consensually, shall be deemed to have granted full and complete releases to the XL Companies and the Released Parties and shall be permanently and forever barred, estopped, stayed and enjoined from (i) pursuing any Claim against the XL Companies and the Released Parties, (ii) continuing or commencing any action or other proceeding with respect to any Claim against the XL Companies and the Released Parties, (iii) seeking the enforcement, attachment, collection or

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recovery of any judgment, award, decree, or order against the XL Companies and the Released Parties or property of the XL Companies and the Released Parties with respect to any Claim, (iv) creating, perfecting, or enforcing any encumbrance of any kind against the XL Companies and the Released Parties or the property of the XL Companies and the Released Parties with respect to any Claim, and (v) asserting any right of setoff, subrogation, or recoupment of any kind against any obligations due to the XL Companies and the Released Parties with respect to any Claim, the whole to the extent that any such Claim Arises out of, is in connection with and/or in any way related to the Derailment or the Policies.

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

1.24. "MMAC" means Montreal, Maine and Atlantic Canada Co.

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

1.26. "Other Insurer" means any Person that provided, or claims or is alleged to have provided, any insurance coverage to MMA, MMAC, any of their Directors, Officers and Employees, or affiliates.

1.27. "Parties" means the Trustee (for himself solely as a trustee, for MMA and for its estate), MMAC, and the XL Companies.

1.28. "Person" means and includes a natural person or persons, a group of natural persons acting as individuals, a group of natural individuals acting in collegial capacity (e.g., as a committee, board of directors, etc.), a corporation, partnership, limited liability company or limited partnership, a proprietorship, joint venture, trust, legal representative, or any other unincorporated association, business organization or enterprise, any government entity and any



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successor in interest, heir, executor, administrator, trustee, trustee in bankruptcy, or receiver of any person or entity.

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

1.30. "Policies" mean the U.S. Policy and the Canadian Policy.

1.31. "Proceedings" mean the Bankruptcy Case and the CCAA Proceeding.

1.32. "Rail World" means Rail World, Inc.

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

1.34. "Settlement Amount" means the sum of the XL Indemnity Payment plus the XL Additional Payment, to be paid by the XL Companies pursuant to Section 2.1 of this Agreement.

1.35. "Settling Defendant" has the meaning set forth in Section 1.33 of this Agreement.

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

1.37. "U.S. Approval Order" means (x) an Order entered in the Bankruptcy Case sanctioning, approving and/or confirming the Plan, or (y) an order entered in the Bankruptcy Case pursuant to the applicable sections of chapter 15 of the Bankruptcy Code, which order recognizes and enforces the terms of the Canadian Approval Order. In either case, a "U.S. Approval Order" shall be in form and substance acceptable to the XL Companies, and must,

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among other things, (i) approve this Agreement; (ii) authorize the Trustee to undertake the settlement and the transactions contemplated by this Agreement; (iii) authorize the sale of the MMA estate's remaining interest in the Policies to the XL Companies free and clear of any and all claims and interests; (iv) vest any and all interests in the XL Indemnity Payment; (v) provide that the XL Companies are good faith purchasers of the MMA estate's remaining interests in the Policies and, as such, are entitled to all protections provided to a good-faith purchaser; and (vi) provide for the Injunction.

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

1.39. "U.S. Policy" means the insurance policy issued by Indian Harbor, bearing number RRL003723801.

1.40. "XL Companies" means Indian Harbor, XL Insurance, XL Group plc and their affiliates.

1.41. "XL Additional Payment" is US \$5 million.

1.42. "XL Indemnity Payment" is CDN \$25 million.

1.43. "XL Insurance" means the Canadian Branch of XL Insurance Company SE (formerly XL Insurance Company Limited).

1.44. "XL Policies" means the Canadian Policy and the U.S. Policy.

II. SALE OF THE ESTATES' REMAINING INTERESTS IN THE POLICIES AND  
PAYMENT OF THE SETTLEMENT AMOUNT

2.1. Subject to all of the terms and conditions of this Agreement, in full and final settlement of all responsibilities under and arising out of the Policies, the XL Companies shall

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purchase from the Trustee and MMAC, and the Trustee and MMAC shall sell, convey, transfer and deliver to the XL Companies, after payment of the Settlement Amount, MMA's and the MMAC's remaining interests, if any and to the extent permitted by law, in each of the Policies, free and clear of any and all Interests of any and all Persons. Within five calendar days of payment of the Settlement Amount, and upon request of the XL Companies, the Trustee and MMAC shall execute and deliver to the XL Companies bills of sale, in form and substance acceptable to the XL Companies, evidencing such sales of MMA's and the MMAC estate's remaining interests in the Policies to the XL Companies, which sales shall be effective as of the Approval Date.

2.2. Subject to all of the terms of this Agreement, in full and final settlement of all responsibilities under and arising out of the Policies, including the sale of MMA's and the MMAC estate's remaining interests in the Policies, XL Insurance shall pay the Settlement Amount to the Monitor by no later than the 10th calendar day after Approval Orders become Final Orders. The Trustee (to whom a portion of the Settlement Amount will be remitted by the Monitor for distribution to some of the Claimants, the whole in accordance with the Plan), MMAC and the Monitor covenant and agree that the proceeds of the XL Indemnity Payment shall be distributed in accordance with the Plan. The Trustee and MMAC intend to seek authorization to use the entire amount of the XL Additional Payment for the payment of (i) allowed administrative expenses in the Bankruptcy Case and (ii) the professional fees and disbursements of the Monitor, the Monitor's counsel and MMAC's counsel in the CCAA Proceeding.

2.3. The Parties agree that (i) the Settlement Amount is the total amount the XL Companies are obligated to pay on account of any and all Claims of any kind made under or

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related to the Policies; (ii) under no circumstance will the XL Companies ever be obligated to make any additional payments to MMA, MMAC, the Trustee, the Estates (where applicable), or any other Person in connection with the Policies; (iii) all limits of liability of the Policies, including all per occurrence and aggregate limits, shall be deemed fully and properly exhausted; (iv) the Settlement Amount is the full purchase price of MMAC's and the MMA estate's remaining interests in the Policies, and upon payment of the Settlement Amount, the XL Companies will be deemed to own MMAC's and the MMA estate's remaining interests in the Policies free and clear of any and all claims and interests of any Person, (v) subject to the terms of this Agreement and the occurrence of the Approval Date, the XL Companies shall have no further obligation to MMA, MMAC, the Trustee, the Estates (where applicable), or any other Person or Claimant under or related to the Policies for any Claim; and (vi) the Settlement Amount is at least equal to the fair value of MMAC's and the MMA estate's remaining interests in the Policies.

2.4. Effective immediately upon payment of the Settlement Amount, and without any further action by any of the Parties, all of MMA's and MMAC's rights and the rights of all other Persons under and with respect to the Policies shall be permanently and irrevocably extinguished.

III. BANKRUPTCY AND CCAA RELATED OBLIGATIONS

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

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

3.3. If either of the Approval Orders (or any other orders of the Bankruptcy Court or CCAA Court relating to this Agreement) shall be appealed by any Person (or a petition for certiorari or motion for rehearing or reargument shall be filed with respect thereto), the Trustee and MMAC agree to take all reasonable steps to defend against such appeal, petition or motion, provided, however, that nothing herein shall preclude the Parties from consummating the transactions contemplated herein if the Approval Orders shall have been entered and have not been stayed and the XL Companies, in their sole discretion, waive in writing the requirement that each of the Approval Orders be a Final Order.

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

3.5. The Trustee and MMAC agree to cooperate with the XL Companies and their representatives in connection with seeking approval of the Plans and the Approval Orders. Such cooperation shall include consulting with the XL Companies, at their request, concerning the status of the Proceedings, including the status of the Plans and Approval Orders, and providing the XL Companies with draft copies of requested pleadings, notices, proposed orders and other documents relating to the Proceedings, the Plans, the Approval Orders and/or the service of the

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Plans and Approval Orders as soon as reasonably practicable so as to afford the XL Companies a reasonable opportunity to review and comment on any such documents in advance of filing. The Trustee and MMAC further covenant and agree that they will not submit for approval in the Proceedings any motion, adversary proceeding, filing or other request the approval of which could conflict with, supersede, abrogate, nullify, modify or restrict the terms of the Agreement and the rights of the XL Companies hereunder, or in any way prevent or interfere with the consummation or performance of the transactions contemplated by this Agreement, including any transaction that is contemplated by or approved pursuant to the Plans or the Approval Orders.

3.6. In the event any Person asserts a Claim against any of the XL Companies after the Approval Date, arising out of or related to any matter released by this Agreement, the XL Companies shall notify the Trustee and/or MMAC and the Trustee and/or MMAC shall immediately seek an order from the CCAA Court and/or the Bankruptcy Court enjoining such Claim, as the XL Companies may elect and direct.

3.7. On the same day that MMAC and the Trustee file the Plan, or as soon as practicable thereafter, MMAC (through the Monitor) and the Trustee shall serve copies of the Plan on (i) each Person known to the Trustee, MMAC or the XL Companies to have a Claim against any of them or the Estates through participating in the Proceedings, the filing of a lawsuit, or the filing of a proof of claim or other assertion of a Claim, or otherwise (or to his, her, or its proxy, representative or counsel of record); (ii) any and all Persons known to the Trustee, MMAC or the XL Companies entitled or allegedly entitled to insurance coverage under the Policies, including Rail World, the Directors, Officers and Employees, and any other additional insured (or Persons claiming to be additional insureds) or otherwise claiming to be entitled to

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benefits under the Policies and those Persons falling within a policy definition of "named insured"; (iii) all other Persons who or that have filed timely proofs of claim in the Proceedings; (iv) all Persons on the master service lists maintained in the Proceedings; and (v) all other parties in interest, including any Person who or that filed a notice of appearance and demand for service of papers in the Proceedings. MMAC (through the Monitor) and the Trustee shall also provide appropriate publication notice, and such further or other notice as may be required by the CCAA Court (with respect to MMAC) or the Bankruptcy Court (with respect to the Trustee). As soon as reasonably practical after filing the Plan, the certificates of the service provided by mail and by publication shall be filed by the Monitor in the CCAA Proceedings and by the Trustee in the Bankruptcy Case.

IV. RELEASE

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

(a) MMAC and the Trustee, on behalf of themselves and, to the extent applicable, the Estates, hereby fully, finally, and completely remise, release, acquit and forever discharge the XL Companies from any and all Claims whether actual or alleged, known or unknown, accrued or unaccrued, existing or potential, suspected or unsuspected with respect to, relating to, or in any way arising out of the Policies. The release of the XL Companies under this Section 4.1 of the Agreement shall include, but shall not be limited to, any and all Claims for coverage with respect to, relating to, or in any way arising out of the Policies whether for property damage, bodily injury, personal injury, advertising injury, or any other form of loss, expense, or other benefits, covered or potentially covered, under the Policies. In addition, MMAC and the Trustee, on behalf of themselves and, to the extent applicable, the Estates, hereby withdraw any and all requests, demands, or tenders for defense or indemnity previously

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submitted to the XL Companies under the Policies and further surrender, relinquish, and release any further right to tender or present any Claims whatsoever to the XL Companies under the Policies. Furthermore, by virtue of the foregoing releases and the Approval Orders, XL Companies shall have no duty to defend or indemnify MMA, MMAC, the Trustee and any other insured under the Policies, on behalf of themselves and the Estates, with respect to any past, present, or future Claim, nor shall XL Companies have any other duty or obligation whatsoever to any other Person with respect to any and all Claims arising out of, in connection with, and relating to the Policies.

(b) The XL Companies hereby fully, finally, and completely remise, release, acquit and forever discharge MMA, MMAC, the Trustee, the Estates and all the Released Parties from any and all Claims whether actual or alleged, known or unknown, accrued or unaccrued, existing or potential, suspected or unsuspected with respect to, relating to, or in any way arising out of the Policies. The XL Companies also waive any and all rights, at law or contractual, of subrogation, indemnification, and/or contribution that they have, or may have, against any Person as a result of or on account of the payment of the Settlement Amount, including without limitation any rights based on any "Other Insurance" clause in the Policies.

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

4.3. Changes In Fact Or Law. The Parties acknowledge that there may be changes in the law with respect to interpretation of coverage under the Policies or otherwise and/or that the Parties may hereafter discover facts different from, or in addition to, those which they now



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believe to be true with respect to any and all of the claims herein released. Nevertheless, the Parties hereby agree that the releases set forth above, and in the Plan and the Approval Orders, shall be and remain effective in all respects, notwithstanding any changes in the law and/or the discovery of such additional or different facts. Moreover, the Trustee and MMAC understand that Claims that have been or may be asserted may increase or decrease in amount or in severity over time, that Claims that have been or may be asserted may include progressive, cumulative, unknown, and/or unforeseen elements, and that there may be hidden, unknown, and unknowable damages, defense expenses, or other costs related to such Claims. Nevertheless, the Parties irrevocably and knowingly agree that the releases contained in Section 4.1 of this Agreement include a full and complete and irrevocable release and discharge from all known and unknown rights or Claims or interest arising out of, in connection with, and/or relating to, in any manner or fashion, the Policies.

4.4. General Release. In furtherance of their express intent to fully, finally, and irrevocably release and discharge each other for all Claims, known and unknown, as set forth in this Section 4 of the Agreement, and in the Plan and the Approval Orders, each of the Parties expressly waives any and all rights it may have under any contract, statute, code, regulation, ordinance, or the common law, which may limit or restrict the effect of a general release as to Claims released herein, arising out of, in connection with, and/or relating to the Policies.

4.5. Reinsurance. The releases set forth in this Section 4 of the Agreement shall not apply to or have any effect on the XL Companies' right to any claim for reinsurance in connection with the Policies; nor shall any matter related to the XL Companies' assertion of any claim to reinsurance affect the XL Companies' obligations under this Agreement.

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

4.7. No Assignment Of Claims. The Trustee on behalf of himself, MMA and the MMA estate, and MMAC, on behalf of itself and, to the extent applicable, the MMAC estate, warrant and represent that they have not sold, assigned, transferred, conveyed, or otherwise disposed of any Claims that they are releasing in this Agreement. Moreover, Trustee on behalf of himself, MMA and the MMA estate, and MMAC, on behalf of itself and the MMAC estate, represent, warrant, and agree that they will not in any way assist any Person in the establishment of any Claim against the XL Companies that arises out of, results from, or in any way relates to, the XL Companies' investigation, handling, defense, or settlement by the XL Companies of Claims released under this Agreement.

V. REPRESENTATIONS AND WARRANTIES OF THE PARTIES.

Each of the Parties separately represents and warrants as follows:

- (a) Subject to the entry of the Approval Orders, it has the requisite power and authority to enter into this Agreement and to perform the obligations imposed on it or him by this Agreement;
- (b) Subject to the Approval Date, the execution and delivery of, and the performance of the obligations contemplated by this Agreement have been approved by duly authorized representatives of the Party, and by all other necessary actions of the Party;
- (c) Each Party has expressly authorized its or his undersigned representative to execute this Agreement on the Party's behalf as its or his duly authorized agent;

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

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

VI. MISCELLANEOUS PROVISIONS

6.1. Conditions Precedent. This agreement is conditioned on the Approval Orders becoming Final Orders, the form and substance of which shall be acceptable to the XL Companies to the extent of any provision affecting the XL Companies and/or the rights thereof, after all parties, known by the Trustee or MMAC to be insured or to claim to be insured under the XL Policies, receive notice of the Plans and Approval Orders and have an opportunity to be heard thereon.

6.2. Termination Rights. If the Bankruptcy Court or the CCAA Court declines to enter either of the Approval Orders, or if the Approval Orders are vacated or modified in a way that is not acceptable to the XL Companies, or are reversed on appeal such that they do not become Final Orders, the XL Companies, may terminate this Agreement by delivering written notice of such termination to the Trustee and MMAC. In the event that this Agreement is terminated, (i) the Agreement shall be deemed null and void; (ii) the XL Companies shall not be obligated to pay the Settlement Amount pursuant to this Agreement; (iii) the XL Companies, MMAC and the Trustee shall have all of the rights, defenses and obligations under or with respect to any and all Policies that they would have had absent this Agreement; and (iv) any and all otherwise applicable statutes of limitations or repose, or other time-related limitations, shall be deemed to have been tolled for the period from the Execution Date through the date that the Agreement becomes null and void pursuant to the terms of this Agreement.

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

6.4. No Precedential Value. The settlement reflected in this Agreement shall be without precedential value, and it is not intended to be, nor shall it be construed as, an interpretation of any insurance policies. It shall not be used as evidence, or in any other manner, in any court or other dispute resolution proceeding, to create, prove, or interpret the obligations of the XL Companies under any insurance policies issued to MMA, MMAC, or to any other Person, provided, however, that subject to the provisions of Section 6.15 of this Agreement, this Agreement may be used as evidence in any defense of the XL Companies of any obligation arising under the Policies.

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

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

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6.7. No Admission of Liability. The Parties agree that this Agreement is the result of a compromise of disputed issues of coverage, and that the execution and delivery of this Agreement by any of the Parties shall not constitute or be construed as an admission of any liability, a course of performance, or wrongdoing on the part of any of them. The Parties acknowledge that this Agreement is not, and cannot be construed as, any admission by the XL Companies that any defense, indemnity, or other coverage obligation exists under the Policies, or that XL Companies have any other obligation of any nature whatsoever with respect to the Policies. By entering into this Agreement, the Trustee, MMAC, and the XL Companies have not waived nor will be deemed to have waived any right, obligation, privilege, defense or position it may have asserted or might assert in connection with any claim, matter, Person, or insurance policy outside the scope of this Agreement. No Person other than the Parties hereto shall have any legally enforceable rights or benefits under this Agreement except as specifically set forth in Section 4.6 of this Agreement.

6.8. Attorneys' Fees, Costs, And Expenses. Each of the Parties shall bear its own costs, attorneys' fees, and expenses in connection with the negotiations for and preparation of this Agreement. Additionally, the attorneys' fees, expenses, and costs incurred by the XL Companies for the investigation and defense of any claims prior to the Approval Date shall be the sole responsibility of the XL Companies. Notwithstanding the foregoing, the XL Companies acknowledge that the Trustee and MMAC intend to seek authorization to use the entire amount of the XL Additional Payment for the payment of (i) allowed administrative expenses in the Bankruptcy Case and (ii) the fees and disbursements of the Monitor, the Monitor's counsel and MMAC's counsel in the CCAA Proceeding.

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

6.10. No Third Party Beneficiaries. Except as set forth in Section 4.6 of this Agreement, nothing in this Agreement is intended or shall be construed to give any Person, other than the XL Companies, MMAC, and the Trustee (on behalf of himself as trustee, MMA, and the MMA estate) and their respective successors and permitted assigns, any legal or equitable right, remedy, or claim under or in respect to this Agreement or any provisions contained herein; this Agreement and any conditions and provisions hereof being and intended to be for the sole and exclusive benefit of the XL Companies, MMAC and the Trustee (on behalf of himself as a trustee, MMA, and the MMA estate) as well as each of their successors and permitted assigns, and for the benefit of no other Person. Notwithstanding the foregoing, neither this Agreement nor the rights and obligations set forth herein shall be assigned without the prior written consent of the other Party, except that this Section shall not prohibit any assignment by the XL Companies (a) made by merger, consolidation, or operation of law or (b) to a Person who succeeds to all or substantially all of such Party's assets.

6.11. Severability. If any provisions of this Agreement, or the application thereof, shall for any reason or to any extent be construed by a court of competent jurisdiction to be invalid or

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unenforceable, the remainder of this Agreement, and application of such provisions to other circumstances, shall remain in effect and be interpreted so as best to reasonably effect the intent of the Parties. Notwithstanding the foregoing, all of the conditions precedent in this Agreement will remain in full force and effect following any determination that any other provisions of this Agreement are invalid or unenforceable.

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

- (a) As to the XL Companies:

Anthony Vidovich  
General Counsel – Global Claims  
XL Group – Insurance  
100 Constitution Plaza  
Hartford, CT 06103  
anthony.vidovich@xlgroup.com

- (b) As to the Trustee:

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

- (c) As to MMAC:

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

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With a simultaneous copy to the Monitor:

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

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

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

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



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

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

6.18. Cross-Border Insolvency Protocol. Each of the Parties hereby acknowledges and agrees that the Cross-Border Insolvency Protocol attached as Schedule C to this Agreement shall apply for purposes of any action, suit or proceeding arising out of or relating to this Agreement or any of the transactions contemplated hereby.

6.19. This Agreement may be executed in two or more counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

6.20. This Agreement constitutes the Parties' entire agreement and supersedes and replaces all prior written and oral agreements regarding the subject matter of this Agreement. Each Party acknowledges that no other Party or agent or attorney of any other Party has made any promise, representation or warranty, express or implied, which is not expressly contained in this Agreement.

6.21. Rules of Construction. As used in this Agreement, the singular and masculine gender shall mean also the plural and feminine or neuter, as may be appropriate, "it" shall include "he" and "she"; and "each" and "all" includes "each" and "every." Unless the context of this Agreement otherwise requires, (i) words using the singular or plural number also include the plural or singular number, respectively; (ii) the terms "hereof," "herein," "hereby" and

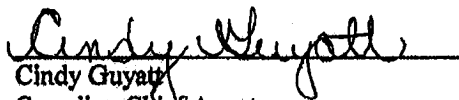
EXECUTION COPY

derivative or similar words refer to this entire Agreement; (iii) the words "include," "includes" or "including" shall be deemed to be followed by the words "without limitation," and (iv) the word "or" shall be disjunctive but not exclusive. References to this Agreement and other documents shall be deemed to include all subsequent amendments and other modification thereto.

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

**XL Insurance:**

**Chapter 11 Trustee:**

  
Cindy Guyatt  
Canadian Chief Agent  
XL Insurance Company SE

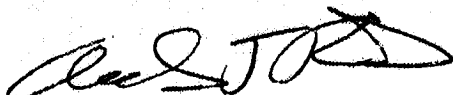
\_\_\_\_\_  
Robert J. Keach  
Chapter 11 Trustee  
*In re Montreal, Main & Atlantic Railway, Ltd.,*  
Bankr. D. Me. 13-10670

Dated: March 4, 2015

Dated: March \_\_, 2015

**Indian Harbor Insurance Company:**

**Montreal, Maine and Atlantic Canada Co.:**

  
\_\_\_\_\_  
Andrew J. Pinkes  
Director and Executive Vice President

\_\_\_\_\_  
Robert J. Keach  
Sole Shareholder, in capacity as Chapter 11  
Trustee, *In re Montreal, Main & Atlantic*  
*Railway, Ltd.,* Bankr. D. Me. 13-10670

Dated: March 4, 2015

Dated: March \_\_, 2015

EXECUTION COPY

derivative or similar words refer to this entire Agreement; (iii) the words "include," "includes" or "including" shall be deemed to be followed by the words "without limitation," and (iv) the word "or" shall be disjunctive but not exclusive. References to this Agreement and other documents shall be deemed to include all subsequent amendments and other modification thereto.

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

**XL Insurance:**

\_\_\_\_\_  
Cindy Guyatt  
Canadian Chief Agent  
XL Insurance Company SE

Dated: March \_\_, 2015

**Indian Harbor Insurance Company:**

\_\_\_\_\_  
Andrew J. Pinkes  
Director and Executive Vice President

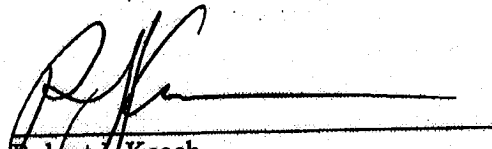
Dated: March \_\_, 2015

**Chapter 11 Trustee:**

  
\_\_\_\_\_  
Robert J. Keach  
Chapter 11 Trustee  
*In re Montreal, Main & Atlantic Railway, Ltd.,*  
Bankr. D. Me. 13-10670

Dated: March 23, 2015

**Montreal, Maine and Atlantic Canada Co.:**

  
\_\_\_\_\_  
Robert J. Keach  
Sole Shareholder, in capacity as Chapter 11  
Trustee, *In re Montreal, Main & Atlantic*  
*Railway, Ltd., Bankr. D. Me. 13-10670*

Dated: March \_\_, 2015

**EXHIBIT 1.110 TO THE TRUSTEE'S  
PLAN OF LIQUIDATION DATED MARCH 31, 2015**

**List of Released Parties**

The list below consists of the parties who have executed settlement agreements with Montreal Maine & Atlantic Canada Co. (“MMAC”) and Robert J. Keach in his capacity as Chapter 11 Trustee of Montreal, Maine & Atlantic Railway Ltd. (the “Trustee”). Nothing in this list shall supersede, effect, modify or amend any such settlement agreement and to the extent of any conflict between the descriptions in this list and any such settlement agreement, the settlement agreement shall govern. All such settlement agreements are subject to court approval and other conditions, and the inclusion of any person or entity on this list does not create or imply the release of such person or entity from any claim; in all respects, the settlement agreements, and the court orders pertaining to the settlement agreements, shall govern. Unless otherwise defined in any of the settlement agreements, the term “Affiliate” used in this Schedule “A” means with respect to any entity, all other entities directly or indirectly controlling, controlled by, or under direct or indirect common control with such entity. The other capitalized terms used herein have the meaning ascribed to them in the Plan. The parties who have executed settlement agreements with MMAC and the Trustee are as follows (collectively, the “Settling Defendants”):

1. **Devlar Energy Marketing LLC together with their parents Lario Oil & Gas Company and Devo Trading & Consulting Company (collectively “Devlar”)**, as well as their subsidiaries, Affiliates and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys and insurers, (including St. Paul Fire and Marine Insurance Company and its direct and indirect parents, subsidiaries and Affiliates), but only to the extent of coverage afforded to Devlar by such insurers in relation to the Derailment.
2. **Oasis Petroleum Inc. and Oasis Petroleum LLC (jointly, “Oasis”)**, together with their parents, subsidiaries, Affiliates and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys and insurers (including St. Paul Fire and Marine Insurance Company and its direct and

indirect parents, subsidiaries and affiliates) but only to the extent of coverage afforded to Oasis by such insurers in relation to the Derailment, as well as the entities identified in Schedule 2 hereto but strictly as non-operating working interest owners or joint venturers in the specific Oasis-operated wells that produced oil that was provided and supplied by Oasis that was transported in the train involved in the Derailment.

3. **Inland Oil & Gas Corporation, Whiting Petroleum Corporation, Enerplus Resources (USA) Corporation, Halcón Resources Corporation, Tracker Resources, Kodiak Oil & Gas Corp. (now known as Whiting Canadian Holding Company, ULC) and Golden Eye Resources LLC**, together with each of their respective parents, subsidiaries, Affiliates, and each of their former and current respective employees, officers, directors, successors and permitted assignees and attorneys, but strictly as non-operating working interest owners or joint venturers in any wells that produced oil that was provided, supplied and transported in the train involved in the Derailment.
4. **Arrow Midstream Holdings CCC. (“Arrow”)** together with its parents, subsidiaries, Affiliates, successors, officers, directors, principals, employees, attorneys, accountants, representatives, and insurers. For the avoidance of doubt, Arrow shall include its current parent Crestwood Midstream Partners LP; and insurers mean only those insurers who have issued liability insurance policies to or in favor of Arrow actually or potentially providing insurance for Claims against Arrow arising from or relating to the Derailment, including without limitation, Commerce and Industry Insurance Company under policy no. 3023278 and National Union Fire Insurance Company of Pittsburg, Pa. under policy no. 41131539.
5. **Marathon Oil Company (“Marathon”)**, together with its parent, subsidiaries, successors and assigns, Affiliates, officers, directors, principals, employees, attorneys, accountants, representatives, insurers (to the extent strictly limited to coverage afforded to Marathon in relation to the Derailment), as well as the entities identified in schedule 5 attached hereto, but strictly as non-operating working interest owners or joint venturers in the specific Marathon-operated wells that produced and supplied oil that was transported on the train involved in the Derailment. For the avoidance of doubt, insurers, as used in

this definition, shall include all insurers that issued liability policies to or for the benefit of Marathon and that actually or potentially provided coverage for Claims relating to or arising from the Derailment, including, but not limited to, Yorktown Assurance Corporation policy number XSL-7-2013 and Old Maine Assurance Ltd. (reinsurance Agreement).

6. **QEP Resources, Inc. (“QEP”)**, together with its parents, subsidiaries, Affiliates, successors and assigns, officers, directors, principals, employees, attorneys, accountants, representatives, insurers (to the extent strictly limited to coverage afforded to QEP in relation to the Derailment), as well as those entities identified in schedule 6 attached hereto, but strictly as non-operating working interest owners or joint venturers in the specific QEP-operated wells that produced and supplied oil that was transported on the train involved in the Derailment. For the avoidance of doubt, insurers, as used in this definition, shall include all insurers that issued liability policies to or for the benefit of QEP and that actually or potentially provided coverage for Claims relating to or arising from the Derailment, including, but not be limited to, National Union Fire Insurance Company of Pittsburgh, Pa. (policy number 194-99-62); American Guarantee & Liability Insurance Company (policy number UMB6692611-02).
  
7. **Slawson Exploration Company, Inc. (“Slawson”)**, together with its parents, subsidiaries, Affiliates, successors and assigns, officers, directors, principals, employees, attorneys, accountants, representatives, insurers (to the extent strictly limited to coverage afforded to Slawson in relation to the Derailment), as well as those entities identified on schedule 7 attached hereto, but strictly as non-operating working interest owners in the specific Slawson-operated wells that produced oil that was transported on the train involved in the Derailment. For the avoidance of doubt, insurers, as used in this definition, shall include all insurers that issued liability policies to or for the benefit of Slawson and that actually or potentially provided coverage for Claims relating to or arising from the Derailment, including, but not be limited to, Federal Insurance Company (policy 3579 09 19 and 7981 72 74), Arch Specialty Insurance Company (policy EE00039761 03), and AIG (policy BE031941993).

8. **Indian Harbor Insurance Company, XL Insurance, XL Group plc and their Affiliates** (strictly as insurers of MMA and MMAC).
9. **Edward A. Burkhardt, Larry Parsons, Steven J. Lee, Stephen Archer, Robert C. Grindrod, Joseph C. McGonigle, Gaynor Ryan, Donald Gardner, Jr., Fred Yocum, Yves Bourdon and James Howard, in their capacity as directors and officers of MMA and MMAC, Montreal, Maine & Atlantic Corporation and/or LMS Acquisition Corporation (the “D&O Parties”).**
10. **Hartford Casualty Insurance Company, together with its parents, subsidiaries, Affiliates, officers and directors** (strictly as insurer of Rail World, Inc.).
11. **Chubb & Son, a division of Federal Insurance Company** (strictly as insurers of Rail World, Inc. and Rail World Holdings, LLC).
12. **Rail World Holdings LLC; Rail World, Inc.; Rail World Locomotive Leasing LLC; The San Luis Central R.R. Co.; Pea Vine Corporation; LMS Acquisition Corporation; MMA Corporation; Earlston Associates L.P.,** and each of the shareholders, directors, officers or members or partners of the foregoing, to the extent they are not D&O Parties (the “Rail World Parties”). For the avoidance of doubt, (i) Rail World Parties also includes Edward A. Burkhardt, solely in his capacity as director, officer and/shareholder of certain of the Rail World Parties; and (ii) the inclusion of the above entities within the definition of “Rail World Parties”, except for the purpose of the settlement agreement executed with MMAC and the Trustee, shall not be construed to create or acknowledge an affiliation between or among any of the Rail World Parties.
13. **General Electric Railcar Services Corporation, General Electric Company** and each of its and their respective parents, Affiliates, subsidiaries, limited liability companies, special purpose vehicles, partnerships, joint ventures, and other related business entities, and each of its and their respective current or former parents, Affiliates, subsidiaries, limited liability companies, special purpose vehicles, partnerships, joint ventures, other related business entities, principals, partners, shareholders, officers, directors, managers, partners, employees, agents, insurers, attorneys, accountants, financial advisors,

investment bankers, consultants, any other professionals, any other representatives or advisors, and any and all persons who control any of these, as well as any predecessors-in-interest of, or any assignors or vendors of any equipment involved in the Derailment to, any of the foregoing entities and any of the successors and assigns of any of the foregoing entities.

14. **Trinity Industries, Inc., Trinity Industries Leasing Company, Trinity Tank Car, Inc., and Trinity Rail Leasing 2012 LLC, Trinity Rail Group LLC, RIV 2013 Rail Holdings LLC, and Trinity Rail Leasing Warehouse Trust**, inclusive of each of their respective predecessors, agents, servants, employees, shareholders, officers, directors, attorneys, representatives, successors, assigns, parents, subsidiaries, Affiliates, limited liability companies, insurers, and reinsurers (but strictly to the extent of coverage afforded to the such parties by said insurers and reinsurers), including but not limited to whether such entities are in the business of leasing, manufacturing, servicing or administrating rail cars.
15. **Union Tank Car Company, the UTLX International Division of UTCC, The Marmon Group LLC and Procor Limited (the “UTCC Parties”)**, and each of their respective predecessors, servants, employees, owners, members (strictly with respect to The Marmon Group LLC), shareholders, officers, directors, partners, associates, attorneys, representatives, successors, assigns, subsidiaries, Affiliates, and parent companies, insurers, and reinsurers listed in schedule 15 attached hereto, but strictly to the extent of coverage afforded to the UTCC Parties by said insurers and reinsurers, regardless of whether such entities are or were in the business of leasing, manufacturing, servicing, or administering rail car leases or otherwise.
16. **First Union Rail Corporation (“First Union”)**, together with its parents, subsidiaries, Affiliates, officers, directors, predecessors, successors, assigns, servants, employees, shareholders, attorneys, representatives and insurers and reinsurers (strictly to the extent limited to coverage afforded to First Union, and including, but not limited to, Lexington Insurance Company (including pursuant to the Pollution Legal Liability Select Policy no. PL52675034 and Stand Alone Excess Liability Policy no. 018403252) and Superior



Guaranty Insurance Company (including pursuant to Excess Liability Policy no. 404-1XSC113)).

17. **CIT Group, Inc.**, and its Affiliates, Federal Insurance Company solely in its capacity as an insurer of CIT Group, Inc. and its Affiliates and not in any other capacity, and Arch Insurance Group solely in its capacity as an insurer of CIT Group, Inc. and its Affiliates, and not in any other capacity.
18. **ConocoPhillips Company (“ConocoPhillips”)**, together with its subsidiaries, Affiliates, and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys, and insurers (and the insurers direct and indirect parents, subsidiaries and Affiliates), but with regards to such insurers, only to the extent of coverage provided to ConocoPhillips by such insurers in relation to the Derailment, as well as those entities identified in Schedule 18 hereto, but strictly as non-operating working interest owners in the specific ConocoPhillips operated wells that produced and supplied oil that was transported on the train involved in the Derailment.
19. **Shell Oil Company and Shell Trading (US) Company**, together with their subsidiaries, Affiliates, and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys, and insurers (and the insurers’ direct and indirect parents, subsidiaries and Affiliates), but with regards to such insurers, only to the extent of coverage provided to Shell Oil Company and Shell Trading (US) Company, by such insurers in relation to the Derailment.
20. **Incorr Energy Group LLC (“Incorr”)**, together with its subsidiaries, Affiliates and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys and insurers but only with respect to coverage afforded by such insurers to Incorr in relation to the Derailment.
21. **Enserco Energy, LLC**, together with its parent, subsidiaries, Affiliates, and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys, and insurers (and the insurers’ direct and indirect parents, subsidiaries and Affiliates), but with regards to such insurers, only to the extent of

coverage provided to Enserco Energy, LLC, by such insurers in relation to the Derailment.

22. **The Attorney General of Canada, the Government of Canada, Her Majesty the Queen in Right of Canada and the departments, crown corporations and agencies including the Canadian Transportation Agency, and including all past, present and future Ministers, officers, employees, representatives, servants, agents, parent, subsidiary and affiliated crown corporations and agencies, and their respective estates, successors and assigns.**
  
23. (i) **Irving Oil Limited, Irving Oil Company, Limited, Irving Oil Operations General Partner Limited and Irving Oil Commercial G.P.**, (ii) any of their Affiliates (as defined in the settlement agreement), (iii) any predecessors, successors and assigns of any of the foregoing Persons named in clauses (i) and (ii) of this paragraph 23, and (iv) any directors, officers, agents and/or employees of any of the foregoing Persons named in clauses (i), (ii) and (iii) of this paragraph 23 (the “Irving Parties”), and the insurers listed in Schedule 23 attached hereto, but only in their respective capacities as insurers of the Irving Parties under the insurance policies listed by policy numbers in said Schedule 23 (the “Irving Insurers”). Notwithstanding the foregoing or anything else in this list and the Plan, the claims (including the Claims, as defined in the settlement agreement) and/or other rights that the Irving Parties have (or may have) against their insurers (including, but not limited to, the Irving Insurers) or anyone or more of them under any applicable policies, at law, in equity or otherwise, are fully preserved and said insurers (including, but not limited to, the Irving Insurers) are not Released Parties in connection with said claims and/or other rights of the Irving Parties.

Notwithstanding the foregoing or anything else in this list, and without implying or providing any limitation, the term “Settling Defendants” as used herein or above does not include, and shall not be deemed to include, any of the following: (a) Canadian Pacific Railway Company, (b) World Fuel Services Corporation, (c) World Fuel Services, Inc., (d) World Fuel Services, Canada, Inc., (e) Petroleum Transport Solutions, LLC, (f) Western Petroleum Co., (g)

Strobel Starostka Transfer LLC, (h) Dakota Plains Marketing LLC, (i) Dakota Plains Holdings, Inc., (j) DPTS Marketing Inc., (k) Dakota Plains Transloading LLC, (l) Dakota Petroleum Transport Solution LLC, and (m) SMBC Rail Services, LLC.

**SCHEDULE 2**  
**LIST OF NON-OPERATING WORKING INTEREST OWNERS OR**  
**JOINT VENTURERS IN OASIS OPERATED WELLS**

Whiting Oil And Gas Corporation;  
Hess Corporation;  
Hess Bakken Investments II LLC  
Continental Resources Inc;  
Sinclair Oil And Gas Company;  
Conoco Phillips Company;  
Black Bear Resources, LLLP;  
Castlerock Resources Inc;  
Deep Creek Exploration;  
Enerplus Resources Usa Corporation;  
Fidelity E&P Company;  
Fidelity Exploration & Production Co;  
Inland Oil & Gas Corporation;  
Jake Energy Inc.;  
Kerogen Resources Inc;  
Lilley & Company;  
Lilley And Associates LLC;  
Linn Energy Holdings LLC;  
Lone Rider Trading Company;  
Mayhem Oil And Gas Inc;  
Missouri River Royalty Corp;  
Nj Petroleum LLC;  
Northern Energy Corporation;  
Northern Oil & Gas Inc;  
O.T. Cross Oil LLC;  
Ottetail Land & Permit Services;  
Penroc Oil Corporation;  
Reef 2011 Private Drilling Fund LP;  
Shakti Energy LLC;  
Slawson Exploration Company Inc;  
Statoil Oil & Gas LP;  
WHC Exploration LLC;

**SCHEDULE 5**

**LIST OF NON-OPERATING WORKING INTEREST OWNERS OR JOINT  
VENTURERS IN MARATHON OPERATED WELLS**

ALAMEDA ENERGY INC  
ARTHUR FRANK LONG JR  
BEARTOOTH RIDGE RESOURCES  
CARL W STERUD JR  
CHUGASH EXPLORATION LP  
CONDOR PETROLEUM INC  
CONTINENTAL RESOURCES INC  
DISPUTED STATE-TRIBAL INTEREST  
ENDEAVOR ENERGY RESOURCES LP  
ENERPLUS RESOURCES CORPORATION  
ESTATE OF KARL WILLIAM STERUD  
ESTATE OF WALLACE HICKEL  
EVERTSON ENERGY PARTNERS LLC  
GADECO LLC  
GOLDENEYE RESOURCES LLC  
HALCON WILLISTON I LLC  
HESS BAKKEN INVESTMENTS II LLC  
ILAJEAN REAMS  
JENNIFER BYSTROM  
JOSEPHINE ANN KJONAAS  
KOOTENAI RESOURCE CORP  
LA PETROLEUM INC  
LGFE-M LP  
LINDA ELWOOD  
LOUIS WALTER LONG  
MARCIN PRODUCTION LLC  
MICHAEL HARVEY STERUD  
MISSOURI RIVER ROYALTY CORPORATION  
MONTANA OIL PROPERTIES INC  
MONTE TEDDY LONG  
NATURAL RESOURCE PARTNERS LP  
NORTHERN ENERGY CORP  
NORTHERN OIL AND GAS INC  
PETROGULF CORP  
QEP ENERGY COMPANY  
RAINBOW ENERGY MARKETING CORP  
RONALD KNIGHT  
S REGER FAMILY INC

SLAWSON EXPLORATION COMPANY INC  
SLAWSON RESOURCES COMPANY  
SPOTTED HAWK DEVELOPMENT LLC  
STEWART GEOLOGICAL INC  
TDB RESOURCES LP  
USG PROPERTIES BAKKEN II LLC  
VERSA ENERGY LLC  
VITESSE ENERGY LLC  
VITESSE OIL LLC  
W NORTH FUND II LP  
ZAGOIL COMPANY LLC

**SCHEDULE 6**

**LIST OF NON-OPERATING WORKING INTEREST OWNERS OR JOINT  
VENTURERS IN QEP OPERATED WELLS**

3LAND INC  
ACTION REALTORS INC  
ADELE L. SKODA  
AMERADA HESS CORPORATION  
ANDREW J HORVAT REVOCABLE TRUST  
ARMSTRONG CHILDREN'S TRUST  
ARMSTRONG MINERALS, LLC  
AVALON NORTH LLC  
BADLANDS HOLDING COMPANY  
BANDED ROCK LLC  
BIG PRAIRIE INVESTMENTS, LLC  
BLACK STONE ENERGY COMPANY, LLC  
BORGOIL RESOURCES, LLP  
BRUCE P. IVERSON  
BURLINGTON RESOURCES OIL & GAS  
BXP PARTNERS III, LP  
CHUGASH EXPLORATION LP  
CONTINENTAL RESOURCES INC  
COPPERHEAD CORPORATION  
CRESCENT ENERGY, INC.  
CRS MINERALS LLC  
DAKOTA WEST LLC  
DALE LEASE ACQUISITIONS 2011-B LP  
DAVIS EXPLORATION  
DEBRA KAY TORNBERG  
DEEP CREEK EXPLORATION LLC  
DEVON ENERGY PRODUCTION CO. LP  
DIAMOND EXPLORATION INC  
DORCHESTER MINERALS LP  
DUANE A. IVERSON  
E. W. BOWLES  
ENDEAVOR ENERGY RESOURCES LP  
ENERPLUS RESOURCES (USA)  
ESTATE OF ROBERT J MCCANN JR  
EZ OIL, LLC

FORESTAR PETROLEUM GROUP  
GAEDEKE WILLISTON BASIN HOLDINGS  
GARY LEE MCCORMICK  
GREEN RIVER ENERGY LLC  
HALCON RESOURCES CORP COMPANY  
HESS BAKKEN INVESTMENTS II LLC  
HESS CORPORATION  
INTERNATIONAL PETROLEUM CORPORATION  
INTERNOS, INC.  
J KAMP OIL LLC  
JEFF GARSKE  
JERALDINE BJORNSON  
JJS WORKING INTERESTS LLC  
JOEL ALM  
JOHN B. BJORNSON  
JT ENERGY, LLC  
JTT OIL LLC  
JUNE ANN GREENBERG  
KENNETH STEVENSON  
KODIAK OIL & GAS (USA) INC  
L LOWRY MAYS  
LANDSOUTH PROPERTIES, LLC  
LEE MCCORMICK MARITAL TRUST  
LEGION LAND & EXPLORATION CORP  
LELAND STENEHJEM, JR.  
LGFE-M L.P.  
LINDSEY K MULLENIX  
LMAC, LLC  
LONE RIDER TRADING COMPANY  
LONETREE ENERGY & ASSOCIATES  
M & M ENERGY INC  
MADDOX FAMILY TRUST  
MARATHON OIL COMPANY  
MBI OIL & GAS LLC  
MCBRIDE OIL & GAS CORPORATION  
MILBURN INVESTMENTS, LLC  
MISSOURI RIVER ROYALTY COMPANY  
MUREX PETROLEUM CORPORATION  
NORTHERN ENERGY CORPORATION  
NORTHERN OIL AND GAS, INC.



NORTHLAND ROYALTY CORPORATION  
NOWITZKI OIL & GAS LP  
O. A. HANSON  
OPINOR ANNA PTY KAISER FUND  
PETROGLYPH ENERGY  
PETROVAUGHN INC.  
PHILIP R. BISHOP  
PRADERA DEL NORTE, INC.  
RALPH MADDOX FAMILY TRUST  
RAVEN OIL PROPERTIES INC  
REEF 2011 PRIVATE DRILLING FUND LP  
ROBERT J. MCCORMICK  
ROBERT POST JOHNSON  
SCOTT ENERGY, LLC  
SCOTT K. BJORNSON  
SCOTT WARD  
SIDNEY K. LEACH  
SIERRA RESOURCES INC  
SINCLAIR OIL & GAS COMPANY  
SIXTY NINE OIL & GAS LP  
SKLARCO LLC  
SLAWSON EXPLORATION CO INC  
SM ENERGY COMPANY  
SOUTH FORK EXPLORATION, LLC  
SPOTTED HAWK DEVELOPMENT LLC  
SRP ENTERPRISES, INC.  
STEVEN H HARRIS FAMILY LIMITED  
STUBER MINERAL RESOURCES LLC  
SUNDHEIM OIL CORPORATION  
SUSAN D STENEHJEM  
THE ERICKSON FAMILY TRUST  
THE MILLENNIUM CORPORATION  
THE TRIPLE T INC.  
TIMOTHY J. RITTER  
TL & JH KAISER SUPERANNUATION  
TURMOIL INC  
TWIN CITY TECHNICAL, LLC  
USG PROPERTIES BAKKEN II LLC  
VINNIE CORP  
VINTAGE OIL & GAS, LLC

VIVIAN MCCORMICK WARREN  
WESTERN ENERGY CORPORATION  
WILLIAM G SEAL ESTATE  
WOLF ENERGY LLC  
XTO ENERGY INC  
XTO OFFSHORE INC  
ZACHARY D VANOVER

**SCHEDULE 7**

**LIST OF NON OPERATING WORKING INTEREST OWNERS  
OR JOINT VENTURERS IN SLAWSON OPERATED WELLS**

A.G. Andrikopoulos Resources, Inc.  
Abercrombie Energy, Inc.  
Alameda Energy, Inc.  
Anthony J. Klein  
Bakken HBT II, LP  
Beartooth Ridge Resources, Inc.  
Beck Sherven Legion Post #290  
Benjamin Kirkaldie  
BigSky Oil & Gas, LLC  
Bob Featherer LLC  
Brendall Energy, LLC  
Burlington Northern & Sante Fe  
C King Oil  
Cedar Creek Wolverine, LLC  
Centaur Consulting, LLC  
Chugash Exploration, LP  
Comanche Exploration Company  
Continental Resources, Inc.  
Craig A. Slawson  
D. Sumner Chase, III 2001 Irr. Trust  
David L. Hilleren  
David W. Strickler Trust  
Davis Exploration, LLC  
Deep Blue, LLC  
Dogwood Hill Farms, LLC  
DS&S Chase, LLC  
Enerplus Resources (USA) Corp  
Formation Energy LP  
Frederic Putnam  
Gadeco, LLC

Gaedeke Williston Basin, Ltd.  
Gasco Limited Partnership  
GHG Partners, LLC  
Great Plains Oil Properties, LLC  
Greenhead Energy, Inc.  
Gulfport Energy Corporation  
HRC Energy, LLC  
Huston Energy Corporation  
Icenine Properties, LLC  
Inland Oil and Gas Corporation  
James H Bragg  
John Schell  
Kenneth Lyson and Claudia G. Lyson  
Kodiak Oil & Gas (USA), Inc.  
Kootenai Resources Corporation  
L D Davis & Marilyn Davis, JTS  
Lario Oil and Gas Company  
Linn Energy Holdings, LLC  
Marcin Production, LLC  
Mark Lee  
Marshall & Winston, Inc.  
Mary Newman  
Melbby Gas III, LLC  
Missouri River Royalty Corporation  
Montana Oil Properties, Inc.  
MRG Holdings, LLC  
Mwiley Resources, Inc.  
Nadel and Gussman Bakken, LLC  
Northern Oil and Gas, Inc.  
Oxy USA, Inc.  
Pegasus Group Inc.  
Petro-Huston, LLC  
Petroshale (US) Inc.  
Pine Oil Co.  
Pine Petroleum, Inc.  
Piscato Oil, LLC

Polish Oil & Gas, Inc.  
Raymond Resources Inc.  
Riley Resources, Inc.  
Robert A. Erickson & Cleo  
S. Reger Family, Inc.  
Sheringham Corporation  
Slawson Resources Co.  
Statoil Oil & Gas, LP  
Stewart Geological, Inc.  
Stuart F. Chase  
Stuart F. Chase 2001 Irr. Trust  
Thomas Lambert  
Todd Slawson  
Todd Slawson Trust  
Tracker Resource Development III, LLC  
U S Energy Development Corporation  
USG Properties Bakken II, LLC  
Vitesse Energy, LLC  
Vitesse Oil, LLC  
W B Oil LLC  
Whiting Oil and Gas  
Windsor Dakota, LLC  
Zagoil Company, LLC

## SCHEDULE 15

### LIST OF UTCC'S INSURERS AND REINSURERS

#### Canadian Insurance Companies

ACE INA Insurance

Chartis Insurance Company of Canada (n/k/a AIG Insurance Company of Canada)

Westport Insurance Corporation

#### U.S. Insurance Companies

ACE American Insurance Company

American Zurich Insurance Company

Lexington Insurance Company

North American Capacity Insurance Company

Starr Indemnity & Liability Company

#### Bermudian Insurance Companies

ACE Bermuda Insurance Ltd.

Allied World Assurance Company Ltd.

Argo Re Ltd.

Chartis Excess Limited (n/k/a American International Reinsurance Company Ltd.)

Chubb Atlantic Indemnity Ltd.

Hanseatic Insurance Company (Bermuda) Limited

Iron-Starr Excess Agency Ltd. / Ironshore Insurance Ltd. / Starr Insurance & Reinsurance Limited

Starr Insurance & Reinsurance Limited

XL Insurance (Bermuda) Ltd.

**SCHEDULE 18**

**LIST OF NON-OPERATING INTEREST OWNERS OR JOINT VENTURERS IN  
CONOCOPHILLIPS OPERATED WELLS**

Continental Resources Inc.

Hess Corporation

JAG Oil Limited Partnership

Linn Energy Holdings LLC

Newfield Production Company

Northern Oil & Gas Inc.

Twin City Technical LLC

WM Energy Resources Inc.

**SCHEDULE 23**

**LIST OF IRVING INSURERS**

1. ACE INA Insurance
  - CGL 523952
  - XBC 602712
2. Zurich Insurance plc, UK Branch
  - B0509E1149413
  - B0509E1181313
3. Zurich Insurance Company Ltd
  - 8840960
  - 8838799
4. AEGIS, Syndicate AES 1225
  - B0509E1149413
5. Mitsui Sumitomo, Insurance Corporate Capital, Limited as sole member of Syndicate, 3210 at Lloyds
  - B0509E1181113
6. QBE Casualty Syndicate 386
  - B0509E1181113
7. QBE Syndicate 1886
  - B0509E1181113
8. Underwriters at Lloyd's and Lloyd's Syndicates, Subscribing to Policy No. B0509HM231013, including the following
  - AEGIS Syndicate AES 1225
  - Syndicate CNP 4444
  - Syndicate MKL 3000
  - Syndicate HIS 33
  - Syndicate LIB 4472
  - Syndicate ANV 1861
  - Syndicate MFM 2468
  - Syndicate AUW 609
  - Syndicate TUL 1301



- Syndicate SKD 1897
  - Syndicate AML 2001
  - Syndicate NAV 1221
  - Syndicate TRV 5000
9. XL Insurance (Bermuda) Ltd.
    - XLUMB-742875
  10. Oil Casualty Insurance, Ltd.
    - U920303-0313
  11. Argo Re Ltd.
    - ARGO-CAS-OR-000227.1
  12. Chubb Atlantic Indemnity Ltd.
    - 3310-17-91
  13. Zurich Insurance Company Ltd
    - 8838799
  14. Iron-Starr Excess Agency Ltd.
    - 1S0000822
  15. AIG Excess Liability Insurance International Limited
    - 1657346
  16. ACE Bermuda Insurance Ltd.
    - 1OC-1338/5
  17. Liberty Mutual Insurance Company
    - XSTO-631084-013
  18. ACE Underwriting Agencies Limited, as managing agency of Syndicate 2488 at Lloyd's, and ACE European Group Limited
    - B0509EI181413

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**SETTLEMENT AGREEMENT**

This Agreement is made as of the Execution Date by the XL Companies, the Trustee and MMAC, and shall be effective as of the Approval Date.<sup>1</sup>

**RECITALS**

WHEREAS, MMA and MMAC are insureds under a Railroad Liability Insurance Policy, bearing number RRL003723801 and in effect from April 1, 2013 to April 1, 2014 (subject to any extensions as may be or have been agreed between the parties), issued by Indian Harbor;

WHEREAS, MMA and MMAC are insureds under a Railroad Liability Insurance Policy, bearing the number RLC003808301 and in effect from April 1, 2013 to April 1, 2014 (subject to any extensions as may be or have been agreed between the parties), issued by XL Insurance;

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

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

WHEREAS, Richter Advisory Group Inc. has been appointed as Monitor in connection with the CCAA Proceeding;

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

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

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

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WHEREAS, various claims arising out of the Derailment have been made against MMA, MMAC, and other insureds under the Policies;

WHEREAS, the Parties wish to resolve all Claims that have arisen or could in the future arise relating to the Policies by agreeing to a global settlement relating to Claims and possible Claims against the XL Companies arising out of the Derailment or otherwise under the Policies;

WHEREAS, the Canadian Policy is the applicable policy in respect of any loss, cost or expense arising out of the Derailment, and covered losses arising out of the Derailment will substantially exceed the applicable CAN \$25 million per occurrence limit in the Canadian Policy;

WHEREAS, the Parties recognize that, to the extent applicable, Quebec law provides that the proceeds of the Canadian Policy are property of the victims of the Derailment, and the Parties seek to establish a mechanism for promptly providing those victims with access to those proceeds;

WHEREAS, the parties also seek to achieve a global resolution of any and all other matters relating to the Policies, through a buy-back, by the XL Companies, of the Trustee's and MMAC's remaining interests in the Policies;

WHEREAS, through this Agreement, the Plan and the Approval Orders, the Parties seek to provide the XL Companies with the broadest possible release with respect to the Policies and to provide that the XL Companies shall have no further obligations to any Person for any and all Claims that have been, or could in the future be, asserted against the XL Companies in relation to the Policies and/or the Derailment;

WHEREAS, the XL Companies have sought, and the Trustee, MMAC and the Monitor have agreed, through the negotiations leading to this Agreement, to create a mechanism under

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which all of the Directors, Officers and Employees, and all other Persons that assert any right or interest in the Policies have had reasonable opportunity to become a Settling Defendant and Released Party by entering into an appropriate settlement agreement.

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

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

I. DEFINITIONS

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

1.1. "Agreement" means this Settlement Agreement.

1.2. "Approval Date" means the date on which the U.S. Approval Order and the Canadian Approval Order become Final Orders. If the U.S. Approval Order and the Canadian Approval Order become Final Orders on different dates, the Approval Date is the date on which the later order to become a Final Order becomes a Final Order.

1.3. "Approval Orders" means the U.S. Approval Order and the Canadian Approval Order, collectively.

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

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

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

1.7. "Canadian Approval Order" means an order entered in the CCAA Proceeding, which Order shall be in form and substance acceptable to the XL Companies, and shall, among

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other things, (i) approve, sanction and/or confirm the Canadian Plan, (ii) approve this Agreement; (iii) authorize MMAC to undertake the settlement and the transactions contemplated by this Agreement; (iv) authorize the sale of MMAC's remaining interest, in the Policies, if any, to the extent permitted by law, to the XL Companies free and clear of any and all claims and interests; (v) vest any and all interests in the XL Indemnity Payment; (vi) provide that the XL Companies are good faith purchasers of MMAC's remaining interests in the Policies and, as such, are entitled to all protections provided to a good-faith purchaser; and (vii) provide for the Injunction.

1.8. "Canadian Policy" means the insurance policy issued by XL Insurance, bearing number RLC003808301.

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

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

1.11. "CCAA Court" means the Superior Court, Province of Québec, as presiding over the CCAA Proceeding.

1.12. "CCAA Proceeding" means the case styled *In the Matter of the Plan of Compromise or Arrangement of Montreal, Maine & Atlantic Canada Co.*, Superior Court, Province of Québec, No. 500-11-045094-139.

1.13. "CIT Group" means CIT Group, Inc.

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1.14. "Claim" means past, present and future claims, causes of action, obligations, rights, suits, judgments, remedies, interests, actions, liabilities, demands, duties, injuries, damages, expenses, fees, 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 or otherwise, whether statutory, at common law or in equity, including but not limited to claims for breach of contract, breach of the implied covenant of good faith and fair dealing, statutory or regulatory violations, for indemnity or contribution, or punitive, exemplary or extra-contractual damages of any type, (a) arising out of, based upon, or relating in any way related to, in whole or in part, directly or indirectly, whether through a direct claim, cross-claim, third-party claim, subrogation claim, class action or otherwise, to (i) the Derailment, including any claims for wrongful death, personal injury, emotional distress, property damage, economic loss, or environmental damage, remediation or exposure; (ii) the Policies; (iii) the issuance of the Policies; (iv) insurance coverage under the Policies, reimbursement or payment under the Policies; (v) any act or omission of an insurer of any type for which a Claimant might seek relief in connection with the Policies, or (b) that would otherwise constitute a claim (i) provable in bankruptcy under the Bankruptcy and Insolvency Act, R.S.C. 1985, c.B-3, had MMAC become bankrupt on August 6, 2013; or (ii) within the definition of "claim" set forth in Section 101(5) of the Bankruptcy Code.

1.15. "Claimant" means any Person holding or potentially holding any Claim against (i) MMA, (ii) MMAC, (iii) to the extent applicable, the Estates, (iv) any XL Company, and/or (v) any of the Released Parties.

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

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1.17. "Directors, Officers and Employees" mean any and all persons or entities who qualify as an officer, director, partner, or employee under either of the Policies.

1.18. "Estates" means the MMA bankruptcy estate and, to the extent applicable, the MMAC estate.

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

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

1.21. "Indian Harbor" means Indian Harbor Insurance Company.

1.22. "Injunction" means an order by the CCAA Court and the Bankruptcy Court permanently releasing and enjoining the enforcement, prosecution, continuation or commencement of any (a) Claim that any Person or Claimant holds or asserts or may in the future hold or assert against the XL Companies arising out of, in connection with and/or in any way related to any of the Policies and (b) Claim against any Released Party and/or Settling Defendant arising out of, in connection with and/or in any way related to the Policies or the Derailment. The Injunction order shall provide that all Persons and Claimants, whether or not consensually, shall be deemed to have granted full and complete releases to the XL Companies and the Released Parties and shall be permanently and forever barred, estopped, stayed and enjoined from (i) pursuing any Claim against the XL Companies and the Released Parties, (ii) continuing or commencing any action or other proceeding with respect to any Claim against the XL Companies and the Released Parties, (iii) seeking the enforcement, attachment, collection or

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recovery of any judgment, award, decree, or order against the XL Companies and the Released Parties or property of the XL Companies and the Released Parties with respect to any Claim, (iv) creating, perfecting, or enforcing any encumbrance of any kind against the XL Companies and the Released Parties or the property of the XL Companies and the Released Parties with respect to any Claim, and (v) asserting any right of setoff, subrogation, or recoupment of any kind against any obligations due to the XL Companies and the Released Parties with respect to any Claim, the whole to the extent that any such Claim Arises out of, is in connection with and/or in any way related to the Derailment or the Policies.

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

1.24. "MMAC" means Montreal, Maine and Atlantic Canada Co.

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

1.26. "Other Insurer" means any Person that provided, or claims or is alleged to have provided, any insurance coverage to MMA, MMAC, any of their Directors, Officers and Employees, or affiliates.

1.27. "Parties" means the Trustee (for himself solely as a trustee, for MMA and for its estate), MMAC, and the XL Companies.

1.28. "Person" means and includes a natural person or persons, a group of natural persons acting as individuals, a group of natural individuals acting in collegial capacity (e.g., as a committee, board of directors, etc.), a corporation, partnership, limited liability company or limited partnership, a proprietorship, joint venture, trust, legal representative, or any other unincorporated association, business organization or enterprise, any government entity and any



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successor in interest, heir, executor, administrator, trustee, trustee in bankruptcy, or receiver of any person or entity.

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

1.30. "Policies" mean the U.S. Policy and the Canadian Policy.

1.31. "Proceedings" mean the Bankruptcy Case and the CCAA Proceeding.

1.32. "Rail World" means Rail World, Inc.

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

1.34. "Settlement Amount" means the sum of the XL Indemnity Payment plus the XL Additional Payment, to be paid by the XL Companies pursuant to Section 2.1 of this Agreement.

1.35. "Settling Defendant" has the meaning set forth in Section 1.33 of this Agreement.

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

1.37. "U.S. Approval Order" means (x) an Order entered in the Bankruptcy Case sanctioning, approving and/or confirming the Plan, or (y) an order entered in the Bankruptcy Case pursuant to the applicable sections of chapter 15 of the Bankruptcy Code, which order recognizes and enforces the terms of the Canadian Approval Order. In either case, a "U.S. Approval Order" shall be in form and substance acceptable to the XL Companies, and must,

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among other things, (i) approve this Agreement; (ii) authorize the Trustee to undertake the settlement and the transactions contemplated by this Agreement; (iii) authorize the sale of the MMA estate's remaining interest in the Policies to the XL Companies free and clear of any and all claims and interests; (iv) vest any and all interests in the XL Indemnity Payment; (v) provide that the XL Companies are good faith purchasers of the MMA estate's remaining interests in the Policies and, as such, are entitled to all protections provided to a good-faith purchaser; and (vi) provide for the Injunction.

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

1.39. "U.S. Policy" means the insurance policy issued by Indian Harbor, bearing number RRL003723801.

1.40. "XL Companies" means Indian Harbor, XL Insurance, XL Group plc and their affiliates.

1.41. "XL Additional Payment" is US \$5 million.

1.42. "XL Indemnity Payment" is CDN \$25 million.

1.43. "XL Insurance" means the Canadian Branch of XL Insurance Company SE (formerly XL Insurance Company Limited).

1.44. "XL Policies" means the Canadian Policy and the U.S. Policy.

II. SALE OF THE ESTATES' REMAINING INTERESTS IN THE POLICIES AND  
PAYMENT OF THE SETTLEMENT AMOUNT

2.1. Subject to all of the terms and conditions of this Agreement, in full and final settlement of all responsibilities under and arising out of the Policies, the XL Companies shall

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purchase from the Trustee and MMAC, and the Trustee and MMAC shall sell, convey, transfer and deliver to the XL Companies, after payment of the Settlement Amount, MMA's and the MMAC's remaining interests, if any and to the extent permitted by law, in each of the Policies, free and clear of any and all Interests of any and all Persons. Within five calendar days of payment of the Settlement Amount, and upon request of the XL Companies, the Trustee and MMAC shall execute and deliver to the XL Companies bills of sale, in form and substance acceptable to the XL Companies, evidencing such sales of MMA's and the MMAC estate's remaining interests in the Policies to the XL Companies, which sales shall be effective as of the Approval Date.

2.2. Subject to all of the terms of this Agreement, in full and final settlement of all responsibilities under and arising out of the Policies, including the sale of MMA's and the MMAC estate's remaining interests in the Policies, XL Insurance shall pay the Settlement Amount to the Monitor by no later than the 10th calendar day after Approval Orders become Final Orders. The Trustee (to whom a portion of the Settlement Amount will be remitted by the Monitor for distribution to some of the Claimants, the whole in accordance with the Plan), MMAC and the Monitor covenant and agree that the proceeds of the XL Indemnity Payment shall be distributed in accordance with the Plan. The Trustee and MMAC intend to seek authorization to use the entire amount of the XL Additional Payment for the payment of (i) allowed administrative expenses in the Bankruptcy Case and (ii) the professional fees and disbursements of the Monitor, the Monitor's counsel and MMAC's counsel in the CCAA Proceeding.

2.3. The Parties agree that (i) the Settlement Amount is the total amount the XL Companies are obligated to pay on account of any and all Claims of any kind made under or

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related to the Policies; (ii) under no circumstance will the XL Companies ever be obligated to make any additional payments to MMA, MMAC, the Trustee, the Estates (where applicable), or any other Person in connection with the Policies; (iii) all limits of liability of the Policies, including all per occurrence and aggregate limits, shall be deemed fully and properly exhausted; (iv) the Settlement Amount is the full purchase price of MMAC's and the MMA estate's remaining interests in the Policies, and upon payment of the Settlement Amount, the XL Companies will be deemed to own MMAC's and the MMA estate's remaining interests in the Policies free and clear of any and all claims and interests of any Person, (v) subject to the terms of this Agreement and the occurrence of the Approval Date, the XL Companies shall have no further obligation to MMA, MMAC, the Trustee, the Estates (where applicable), or any other Person or Claimant under or related to the Policies for any Claim; and (vi) the Settlement Amount is at least equal to the fair value of MMAC's and the MMA estate's remaining interests in the Policies.

2.4. Effective immediately upon payment of the Settlement Amount, and without any further action by any of the Parties, all of MMA's and MMAC's rights and the rights of all other Persons under and with respect to the Policies shall be permanently and irrevocably extinguished.

III. BANKRUPTCY AND CCAA RELATED OBLIGATIONS

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

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

3.3. If either of the Approval Orders (or any other orders of the Bankruptcy Court or CCAA Court relating to this Agreement) shall be appealed by any Person (or a petition for certiorari or motion for rehearing or reargument shall be filed with respect thereto), the Trustee and MMAC agree to take all reasonable steps to defend against such appeal, petition or motion, provided, however, that nothing herein shall preclude the Parties from consummating the transactions contemplated herein if the Approval Orders shall have been entered and have not been stayed and the XL Companies, in their sole discretion, waive in writing the requirement that each of the Approval Orders be a Final Order.

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

3.5. The Trustee and MMAC agree to cooperate with the XL Companies and their representatives in connection with seeking approval of the Plans and the Approval Orders. Such cooperation shall include consulting with the XL Companies, at their request, concerning the status of the Proceedings, including the status of the Plans and Approval Orders, and providing the XL Companies with draft copies of requested pleadings, notices, proposed orders and other documents relating to the Proceedings, the Plans, the Approval Orders and/or the service of the

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Plans and Approval Orders as soon as reasonably practicable so as to afford the XL Companies a reasonable opportunity to review and comment on any such documents in advance of filing. The Trustee and MMAC further covenant and agree that they will not submit for approval in the Proceedings any motion, adversary proceeding, filing or other request the approval of which could conflict with, supersede, abrogate, nullify, modify or restrict the terms of the Agreement and the rights of the XL Companies hereunder, or in any way prevent or interfere with the consummation or performance of the transactions contemplated by this Agreement, including any transaction that is contemplated by or approved pursuant to the Plans or the Approval Orders.

3.6. In the event any Person asserts a Claim against any of the XL Companies after the Approval Date, arising out of or related to any matter released by this Agreement, the XL Companies shall notify the Trustee and/or MMAC and the Trustee and/or MMAC shall immediately seek an order from the CCAA Court and/or the Bankruptcy Court enjoining such Claim, as the XL Companies may elect and direct.

3.7. On the same day that MMAC and the Trustee file the Plan, or as soon as practicable thereafter, MMAC (through the Monitor) and the Trustee shall serve copies of the Plan on (i) each Person known to the Trustee, MMAC or the XL Companies to have a Claim against any of them or the Estates through participating in the Proceedings, the filing of a lawsuit, or the filing of a proof of claim or other assertion of a Claim, or otherwise (or to his, her, or its proxy, representative or counsel of record); (ii) any and all Persons known to the Trustee, MMAC or the XL Companies entitled or allegedly entitled to insurance coverage under the Policies, including Rail World, the Directors, Officers and Employees, and any other additional insured (or Persons claiming to be additional insureds) or otherwise claiming to be entitled to

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benefits under the Policies and those Persons falling within a policy definition of "named insured"; (iii) all other Persons who or that have filed timely proofs of claim in the Proceedings; (iv) all Persons on the master service lists maintained in the Proceedings; and (v) all other parties in interest, including any Person who or that filed a notice of appearance and demand for service of papers in the Proceedings. MMAC (through the Monitor) and the Trustee shall also provide appropriate publication notice, and such further or other notice as may be required by the CCAA Court (with respect to MMAC) or the Bankruptcy Court (with respect to the Trustee). As soon as reasonably practical after filing the Plan, the certificates of the service provided by mail and by publication shall be filed by the Monitor in the CCAA Proceedings and by the Trustee in the Bankruptcy Case.

IV. RELEASE

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

(a) MMAC and the Trustee, on behalf of themselves and, to the extent applicable, the Estates, hereby fully, finally, and completely remise, release, acquit and forever discharge the XL Companies from any and all Claims whether actual or alleged, known or unknown, accrued or unaccrued, existing or potential, suspected or unsuspected with respect to, relating to, or in any way arising out of the Policies. The release of the XL Companies under this Section 4.1 of the Agreement shall include, but shall not be limited to, any and all Claims for coverage with respect to, relating to, or in any way arising out of the Policies whether for property damage, bodily injury, personal injury, advertising injury, or any other form of loss, expense, or other benefits, covered or potentially covered, under the Policies. In addition, MMAC and the Trustee, on behalf of themselves and, to the extent applicable, the Estates, hereby withdraw any and all requests, demands, or tenders for defense or indemnity previously

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submitted to the XL Companies under the Policies and further surrender, relinquish, and release any further right to tender or present any Claims whatsoever to the XL Companies under the Policies. Furthermore, by virtue of the foregoing releases and the Approval Orders, XL Companies shall have no duty to defend or indemnify MMA, MMAC, the Trustee and any other insured under the Policies, on behalf of themselves and the Estates, with respect to any past, present, or future Claim, nor shall XL Companies have any other duty or obligation whatsoever to any other Person with respect to any and all Claims arising out of, in connection with, and relating to the Policies.

(b) The XL Companies hereby fully, finally, and completely remise, release, acquit and forever discharge MMA, MMAC, the Trustee, the Estates and all the Released Parties from any and all Claims whether actual or alleged, known or unknown, accrued or unaccrued, existing or potential, suspected or unsuspected with respect to, relating to, or in any way arising out of the Policies. The XL Companies also waive any and all rights, at law or contractual, of subrogation, indemnification, and/or contribution that they have, or may have, against any Person as a result of or on account of the payment of the Settlement Amount, including without limitation any rights based on any "Other Insurance" clause in the Policies.

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

4.3. Changes In Fact Or Law. The Parties acknowledge that there may be changes in the law with respect to interpretation of coverage under the Policies or otherwise and/or that the Parties may hereafter discover facts different from, or in addition to, those which they now



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believe to be true with respect to any and all of the claims herein released. Nevertheless, the Parties hereby agree that the releases set forth above, and in the Plan and the Approval Orders, shall be and remain effective in all respects, notwithstanding any changes in the law and/or the discovery of such additional or different facts. Moreover, the Trustee and MMAC understand that Claims that have been or may be asserted may increase or decrease in amount or in severity over time, that Claims that have been or may be asserted may include progressive, cumulative, unknown, and/or unforeseen elements, and that there may be hidden, unknown, and unknowable damages, defense expenses, or other costs related to such Claims. Nevertheless, the Parties irrevocably and knowingly agree that the releases contained in Section 4.1 of this Agreement include a full and complete and irrevocable release and discharge from all known and unknown rights or Claims or interest arising out of, in connection with, and/or relating to, in any manner or fashion, the Policies.

4.4. General Release. In furtherance of their express intent to fully, finally, and irrevocably release and discharge each other for all Claims, known and unknown, as set forth in this Section 4 of the Agreement, and in the Plan and the Approval Orders, each of the Parties expressly waives any and all rights it may have under any contract, statute, code, regulation, ordinance, or the common law, which may limit or restrict the effect of a general release as to Claims released herein, arising out of, in connection with, and/or relating to the Policies.

4.5. Reinsurance. The releases set forth in this Section 4 of the Agreement shall not apply to or have any effect on the XL Companies' right to any claim for reinsurance in connection with the Policies; nor shall any matter related to the XL Companies' assertion of any claim to reinsurance affect the XL Companies' obligations under this Agreement.

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

4.7. No Assignment Of Claims. The Trustee on behalf of himself, MMA and the MMA estate, and MMAC, on behalf of itself and, to the extent applicable, the MMAC estate, warrant and represent that they have not sold, assigned, transferred, conveyed, or otherwise disposed of any Claims that they are releasing in this Agreement. Moreover, Trustee on behalf of himself, MMA and the MMA estate, and MMAC, on behalf of itself and the MMAC estate, represent, warrant, and agree that they will not in any way assist any Person in the establishment of any Claim against the XL Companies that arises out of, results from, or in any way relates to, the XL Companies' investigation, handling, defense, or settlement by the XL Companies of Claims released under this Agreement.

V. REPRESENTATIONS AND WARRANTIES OF THE PARTIES.

Each of the Parties separately represents and warrants as follows:

- (a) Subject to the entry of the Approval Orders, it has the requisite power and authority to enter into this Agreement and to perform the obligations imposed on it or him by this Agreement;
- (b) Subject to the Approval Date, the execution and delivery of, and the performance of the obligations contemplated by this Agreement have been approved by duly authorized representatives of the Party, and by all other necessary actions of the Party;
- (c) Each Party has expressly authorized its or his undersigned representative to execute this Agreement on the Party's behalf as its or his duly authorized agent;

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

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

VI. MISCELLANEOUS PROVISIONS

6.1. Conditions Precedent. This agreement is conditioned on the Approval Orders becoming Final Orders, the form and substance of which shall be acceptable to the XL Companies to the extent of any provision affecting the XL Companies and/or the rights thereof, after all parties, known by the Trustee or MMAC to be insured or to claim to be insured under the XL Policies, receive notice of the Plans and Approval Orders and have an opportunity to be heard thereon.

6.2. Termination Rights. If the Bankruptcy Court or the CCAA Court declines to enter either of the Approval Orders, or if the Approval Orders are vacated or modified in a way that is not acceptable to the XL Companies, or are reversed on appeal such that they do not become Final Orders, the XL Companies, may terminate this Agreement by delivering written notice of such termination to the Trustee and MMAC. In the event that this Agreement is terminated, (i) the Agreement shall be deemed null and void; (ii) the XL Companies shall not be obligated to pay the Settlement Amount pursuant to this Agreement; (iii) the XL Companies, MMAC and the Trustee shall have all of the rights, defenses and obligations under or with respect to any and all Policies that they would have had absent this Agreement; and (iv) any and all otherwise applicable statutes of limitations or repose, or other time-related limitations, shall be deemed to have been tolled for the period from the Execution Date through the date that the Agreement becomes null and void pursuant to the terms of this Agreement.

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

6.4. No Precedential Value. The settlement reflected in this Agreement shall be without precedential value, and it is not intended to be, nor shall it be construed as, an interpretation of any insurance policies. It shall not be used as evidence, or in any other manner, in any court or other dispute resolution proceeding, to create, prove, or interpret the obligations of the XL Companies under any insurance policies issued to MMA, MMAC, or to any other Person, provided, however, that subject to the provisions of Section 6.15 of this Agreement, this Agreement may be used as evidence in any defense of the XL Companies of any obligation arising under the Policies.

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

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

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6.7. No Admission of Liability. The Parties agree that this Agreement is the result of a compromise of disputed issues of coverage, and that the execution and delivery of this Agreement by any of the Parties shall not constitute or be construed as an admission of any liability, a course of performance, or wrongdoing on the part of any of them. The Parties acknowledge that this Agreement is not, and cannot be construed as, any admission by the XL Companies that any defense, indemnity, or other coverage obligation exists under the Policies, or that XL Companies have any other obligation of any nature whatsoever with respect to the Policies. By entering into this Agreement, the Trustee, MMAC, and the XL Companies have not waived nor will be deemed to have waived any right, obligation, privilege, defense or position it may have asserted or might assert in connection with any claim, matter, Person, or insurance policy outside the scope of this Agreement. No Person other than the Parties hereto shall have any legally enforceable rights or benefits under this Agreement except as specifically set forth in Section 4.6 of this Agreement.

6.8. Attorneys' Fees, Costs, And Expenses. Each of the Parties shall bear its own costs, attorneys' fees, and expenses in connection with the negotiations for and preparation of this Agreement. Additionally, the attorneys' fees, expenses, and costs incurred by the XL Companies for the investigation and defense of any claims prior to the Approval Date shall be the sole responsibility of the XL Companies. Notwithstanding the foregoing, the XL Companies acknowledge that the Trustee and MMAC intend to seek authorization to use the entire amount of the XL Additional Payment for the payment of (i) allowed administrative expenses in the Bankruptcy Case and (ii) the fees and disbursements of the Monitor, the Monitor's counsel and MMAC's counsel in the CCAA Proceeding.

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

6.10. No Third Party Beneficiaries. Except as set forth in Section 4.6 of this Agreement, nothing in this Agreement is intended or shall be construed to give any Person, other than the XL Companies, MMAC, and the Trustee (on behalf of himself as trustee, MMA, and the MMA estate) and their respective successors and permitted assigns, any legal or equitable right, remedy, or claim under or in respect to this Agreement or any provisions contained herein; this Agreement and any conditions and provisions hereof being and intended to be for the sole and exclusive benefit of the XL Companies, MMAC and the Trustee (on behalf of himself as a trustee, MMA, and the MMA estate) as well as each of their successors and permitted assigns, and for the benefit of no other Person. Notwithstanding the foregoing, neither this Agreement nor the rights and obligations set forth herein shall be assigned without the prior written consent of the other Party, except that this Section shall not prohibit any assignment by the XL Companies (a) made by merger, consolidation, or operation of law or (b) to a Person who succeeds to all or substantially all of such Party's assets.

6.11. Severability. If any provisions of this Agreement, or the application thereof, shall for any reason or to any extent be construed by a court of competent jurisdiction to be invalid or

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unenforceable, the remainder of this Agreement, and application of such provisions to other circumstances, shall remain in effect and be interpreted so as best to reasonably effect the intent of the Parties. Notwithstanding the foregoing, all of the conditions precedent in this Agreement will remain in full force and effect following any determination that any other provisions of this Agreement are invalid or unenforceable.

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

- (a) As to the XL Companies:

Anthony Vidovich  
General Counsel – Global Claims  
XL Group – Insurance  
100 Constitution Plaza  
Hartford, CT 06103  
anthony.vidovich@xlgroup.com

- (b) As to the Trustee:

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

- (c) As to MMAC:

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

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With a simultaneous copy to the Monitor:

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

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

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

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



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

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

6.18. Cross-Border Insolvency Protocol. Each of the Parties hereby acknowledges and agrees that the Cross-Border Insolvency Protocol attached as Schedule C to this Agreement shall apply for purposes of any action, suit or proceeding arising out of or relating to this Agreement or any of the transactions contemplated hereby.

6.19. This Agreement may be executed in two or more counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

6.20. This Agreement constitutes the Parties' entire agreement and supersedes and replaces all prior written and oral agreements regarding the subject matter of this Agreement. Each Party acknowledges that no other Party or agent or attorney of any other Party has made any promise, representation or warranty, express or implied, which is not expressly contained in this Agreement.

6.21. Rules of Construction. As used in this Agreement, the singular and masculine gender shall mean also the plural and feminine or neuter, as may be appropriate, "it" shall include "he" and "she"; and "each" and "all" includes "each" and "every." Unless the context of this Agreement otherwise requires, (i) words using the singular or plural number also include the plural or singular number, respectively; (ii) the terms "hereof," "herein," "hereby" and

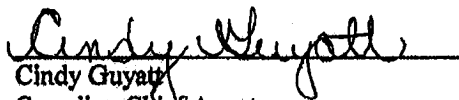
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derivative or similar words refer to this entire Agreement; (iii) the words "include," "includes" or "including" shall be deemed to be followed by the words "without limitation," and (iv) the word "or" shall be disjunctive but not exclusive. References to this Agreement and other documents shall be deemed to include all subsequent amendments and other modification thereto.

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

**XL Insurance:**

**Chapter 11 Trustee:**

  
Cindy Guyatt  
Canadian Chief Agent  
XL Insurance Company SE

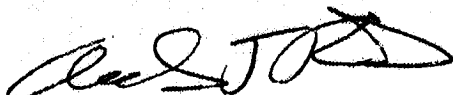
\_\_\_\_\_  
Robert J. Keach  
Chapter 11 Trustee  
*In re Montreal, Main & Atlantic Railway, Ltd.,*  
Bankr. D. Me. 13-10670

Dated: March 4, 2015

Dated: March \_\_, 2015

**Indian Harbor Insurance Company:**

**Montreal, Maine and Atlantic Canada Co.:**

  
\_\_\_\_\_  
Andrew J. Pinkes  
Director and Executive Vice President

\_\_\_\_\_  
Robert J. Keach  
Sole Shareholder, in capacity as Chapter 11  
Trustee, *In re Montreal, Main & Atlantic*  
*Railway, Ltd.,* Bankr. D. Me. 13-10670

Dated: March 4, 2015

Dated: March \_\_, 2015

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derivative or similar words refer to this entire Agreement; (iii) the words "include," "includes" or "including" shall be deemed to be followed by the words "without limitation," and (iv) the word "or" shall be disjunctive but not exclusive. References to this Agreement and other documents shall be deemed to include all subsequent amendments and other modification thereto.

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

**XL Insurance:**

\_\_\_\_\_  
Cindy Guyatt  
Canadian Chief Agent  
XL Insurance Company SE

Dated: March \_\_, 2015

**Indian Harbor Insurance Company:**

\_\_\_\_\_  
Andrew J. Pinkes  
Director and Executive Vice President

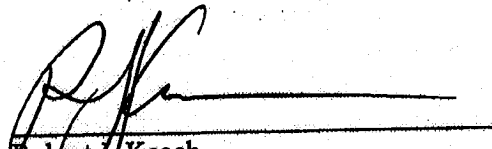
Dated: March \_\_, 2015

**Chapter 11 Trustee:**

  
\_\_\_\_\_  
Robert J. Keach  
Chapter 11 Trustee  
*In re Montreal, Main & Atlantic Railway, Ltd.,*  
Bankr. D. Me. 13-10670

Dated: March 23, 2015

**Montreal, Maine and Atlantic Canada Co.:**

  
\_\_\_\_\_  
Robert J. Keach  
Sole Shareholder, in capacity as Chapter 11  
Trustee, *In re Montreal, Main & Atlantic*  
*Railway, Ltd., Bankr. D. Me. 13-10670*

Dated: March \_\_, 2015



Court File No. 450-11-000167-134

SUPERIOR COURT  
(COMMERCIAL DIVISION)

SITTING AS A COURT DESIGNATED PURSUANT TO THE *COMPANIES'*  
*CREDITORS ARRANGEMENT ACT*, R.S.C. C. C 36, AS AMENDED)

IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT OF:

**MONTREAL, MAINE & ATLANTIC CANADA CO. (MONTREAL, MAINE & ATLANTIQUE  
CANADA CIE)**

PETITIONER

AND

**RICHTER ADVISORY GROUP INC. (RICHTER GROUPE CONSEIL INC.)**

MONITOR

---

**PLAN OF COMPROMISE AND ARRANGEMENT**

pursuant to the *Companies' Creditors Arrangement Act*  
concerning, affecting and involving

**MONTREAL, MAINE & ATLANTIC CANADA CO.**

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**March 31, 2015**

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**PLAN OF COMPROMISE AND ARRANGEMENT  
(THE CAPITALIZED TERMS USED IN THIS DOCUMENT HAVE THE MEANING  
ASCRIED THERETO IN SECTION 1.1 HEREOF)**

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

**WHEREAS** as a result of the numerous claims against MMAC and its parent company, MMA, arising out of the Derailment, along with the ensuing operational and financial impact arising therefrom, MMAC and MMA became insolvent;

**WHEREAS** numerous claims arising out of the Derailment have also been made against other persons and entities, including the Released Parties in both Canada and the United States of America;

**WHEREAS** on August 7, 2013, MMA filed a voluntary petition in the Bankruptcy Court for relief under Chapter 11 of the U.S. Bankruptcy Code;

**WHEREAS** on August 8, 2013, the Honourable Justice Castonguay of the CCAA Court granted an initial order in respect of MMAC (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**");

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

**WHEREAS** on September 4, 2013, the CCAA Court and the Bankruptcy Court adopted the Cross-Border Insolvency Protocol entered into between MMAC, the Monitor and the Trustee, the purpose of which is, *inter alia*, to facilitate the fair, open and efficient administration of the CCAA Proceeding and of the Bankruptcy Case for the benefit of the Creditors and interested parties;

**WHEREAS** through the concerted and coordinated efforts of MMAC, the Monitor and the Trustee, predicated on constituting an Indemnity Fund with a view to providing compensation for the Derailment Claims filed pursuant to the Claims Procedure Order, a number of Settlement Agreements have been reached with the Released Parties providing for contributions towards the Indemnity Fund;

**WHEREAS** the aforesaid Settlement Agreements are conditional upon obtaining for the Released Parties appropriate releases and the Injunction and Release enforceable both in Canada and the United States of America;

**WHEREAS** the Monitor will seek recognition and enforcement of this Plan and of the Canadian Approval Order from the Bankruptcy Court pursuant to Chapter 15 of the Bankruptcy Code;

**WHEREAS** the Trustee (for and on behalf of MMA) will file in the Bankruptcy Case the U.S. Plan, which will provide, among other things, for distribution of the Funds for Distribution in accordance with this Plan and the entry of the U.S. Approval Order;



**NOW THEREFORE**, MMAC hereby proposes this plan of compromise and arrangement pursuant to the CCAA.

**ARTICLE 1  
INTERPRETATION**

**1.1 Defined Terms**

Administration Charge	has the meaning ascribed thereto in Section 7.1 hereof.
Administration Charge Reserve	has the meaning ascribed thereto in Section 7.1 hereof.
Affected Claims	any and all Claims, other than any Unaffected Claim and any Claim referred to in Section 5.3.
Approval Date	the date on which the Approval Orders become Final Orders. If the Canadian Approval Order, the Class Action Order and the U.S. Approval Order become Final Orders on different dates, the Approval Date is the latest date on which any of the Canadian Approval Order, the Class Action Order or the U.S. Approval Order becomes a Final Order.
Approval Orders	the Canadian Approval Order, the Class Action Order and the U.S. Approval Order, collectively.
Bankruptcy Case	the case styled <i>in re Montreal, Maine &amp; Atlantic Railway Ltd., Bankr. D. Me. No. 13-10670</i> .
Bankruptcy Code	Title 11 of the United States Code.
Bankruptcy Court	United States Bankruptcy Court for the District of Maine, as presiding over the Bankruptcy Case.
Bodily Injury and Moral Damages Claims	shall have the meaning ascribed thereto in Section 3.5(b) hereof.
Business Day	a day, other than Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Montreal, Québec, Canada.
Canadian Approval Order	an Order, as set out in Schedule C hereof, entered in the CCAA Proceeding, which Order shall, among other things, (i) approve, sanction and/or confirm the Plan, (ii) approve the Settlement Agreements; (iii) authorize the Parties to undertake the settlement and the transactions contemplated by the Settlement Agreements; and (iv) provide for the Injunction and Release.
Canadian Professionals	the Monitor, Woods LLP, Gowling Lafleur Henderson LLP and the Claims Officer.

CCAA	has the meaning ascribed thereto in the recitals.
CCAA Court	Superior Court, Province of Quebec, as presiding over the CCAA Proceeding.
CCAA Filing Date	August 8, 2013.
CCAA Proceeding	<i>In the Matter of the Plan of Compromise or Arrangement of Montreal Maine &amp; Atlantic Canada Co.</i> , Superior Court, Province of Quebec, No. 500-11-045094-139.
Chubb	Chubb & Son, a division of Federal Insurance Company, together with its parents, subsidiaries, affiliates, officers and directors, but strictly as insurer under the Chubb Policy.
Chubb Policy	That certain insurance policy bearing number 8210 2375 issued by Federal Insurance Company to Rail World, Inc. and Rail World Holdings LLC.
Claim or Claims	means, as the context requires, past, present and future claims, causes of action, obligations, rights, liens suits, judgments, orders, applications 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 (a) in any way arising out of, based upon, or relating in any way, in whole or in part, directly or indirectly, whether through a claim that was, is, may or could have been asserted in the Canadian Class Action, or a direct claim, cross-claim, third-party claim, warranty claim, recursory claim, subrogation claim, forced intervention, contribution claim, class action or otherwise, to (i) the Derailment, including but not limited to any claims for wrongful death, survival, personal injury, emotional distress, loss of support, loss of consortium, property damage, economic loss, moral damage, material damage and bodily injury, statutory and common law product and manufacturing liability, negligence, or environmental damage, remediation, exposure or any claim that would constitute any right to an equitable remedy for breach of performance even if such breach does not give rise to a right of payment and/or or exposure; (ii) the Policies; (iii) the issuance of the Policies; (iv) insurance coverage under the Policies,

reimbursement or payment under the Policies; (v) any act or omission of an insurer of any type for which a Claimant might seek relief in connection with the Policies; (vi) the Existing Agreements; or (b) that would otherwise constitute a claim as against MMA, MMAC or their Estates (i) provable in bankruptcy under the Bankruptcy and Insolvency Act, R.S.C. 1985, c.B-3, had MMAC become bankrupt on August 6, 2013; and/or (ii) within the definition of "claim" set forth in section 101(5) of the Bankruptcy Code; and/or (iii) that are advanced or could have been advanced in the Canadian Class Action.

Claimant	any Person holding or potentially holding any Claim (including any transferee or assignee of a Claim) against (i) MMA, (ii) MMAC, (iii) to the extent applicable, the Estates, and/or (iv) any of the Released Parties.
Claims Bar Date	has the meaning ascribed thereto in the Claims Procedure Order.
Claims Officer	the court officer to be appointed pursuant to the Claims Resolution Order to adjudicate on the validity and quantum of any disputed Claims for the purpose of this Plan.
Claims Procedure	the procedure established for the filing of Claims in the CCAA Proceeding pursuant to the Claims Procedure Order.
Claims Procedure Order	the Amended Claims Procedure Order rendered on June 13, 2014, in the CCAA Proceeding by the CCAA Court, establishing, among other things, a claims procedure in respect of MMAC, as such Order may be amended, restated or varied from time to time.
Claims Resolution Order	an order of the CCAA Court establishing the procedure for determining the validity and quantum of any disputed Claims for the purpose of this Plan.
Class Action	the putative class action commenced on or about July 15, 2013, before the Superior Court, Province of Quebec, under court file 450-06-000001-132, including all subsequent amendments and all proceedings in this Court file, whether before or after the action is authorized to proceed as a class action.
Class Action Court	Superior Court, Province of Quebec, as presiding over the Class Action.
Class Action Order	an order, issued in the Class Action (i) confirming and declaring that the Canadian Approval Order and the U.S. Approval Order shall be binding and given full effect against parties designated and part of the Class Action, whether as a class representative, class member, named defendant/respondent or mis-en-cause, (ii) removing the allegations and conclusions against the Released Parties, and (iii) terminating the Class Action against the Released

Parties without costs.

Class Representatives	has the meaning ascribed to “Class Action Plaintiffs” and to “Class Counsel” by the CCAA Court in the Representation Order.
Cook County Actions	the civil actions transferred pursuant to 28 U.S.C. §157(b)(5) in connection with the Bankruptcy Case to the District Court, originally filed in the Cook County, Illinois state court, and appearing on the docket of the District Court as Civil Action Nos. 00113-00130NT.
Creditors	collectively all Persons having Proven Claims and “Creditor” means any one of them.
D&O Parties	Edward A. Burkhardt, Larry Parsons, Steven J. Lee, Stephen Archer, Robert C. Grindrod, Joseph R. McGonigle, Gaynor Ryan, M Donald Gardner, Jr., Fred Yocum, Yves Bourdon and James Howard, each of whom is or was a director or officer of MMA, MMAC, Montreal, Maine & Atlantic Corporation and/or LMS Acquisition Corporation.
Derailment	July 6, 2013 derailment in Lac-Mégantic, Quebec, 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.
Derailment Claims	the Proof of Claims filed under Schedules 1, 2, 3, 4 and 5 pursuant to the Claims Procedure Order.
Distribution Date	the date or dates from time to time set in accordance with the provisions of the Plan to effect distributions in respect of the Proven Claims.
Effective Time	8:00 a.m. (Montreal time) on the Plan Implementation Date.
Estates	the MMA bankruptcy estate and, to the extent applicable, the MMAC estate.
Existing Agreements	The contracts between MMAC and/or MMA and some of the Released Parties, listed in Schedule D hereto.
Final Order	an order of the CCAA Court, the Class Action Court or the Bankruptcy Court that is no longer subject to further appeals, either because the time to appeal has expired without an appeal being filed, or because it has been affirmed by any and all courts with jurisdiction to consider any appeals therefrom.
Filing Date	August 8, 2013.
Funds for Distribution	the net amount of the Settlement Funds following payment to the Canadian Professionals of their CCAA Court-approved professional

fees and disbursements and of the U.S. Professionals Bankruptcy Court-approved administrative expenses, for each group of professionals respectively up to a maximum amount equal to the amount of their share of the Administration Charge Reserve.

- Great American Great American Insurance Company, together with its parents, subsidiaries, affiliates, officers and directors.
- Great American Policy that certain policy of insurance bearing number DML 9924 836 issued by Great American to MMAC.
- Government Claims has the meaning ascribed thereto in Section 3.5(e) hereof.
- Hartford The Hartford Casualty Insurance Company, together with its parents, subsidiaries, affiliates, officers and directors, but strictly as insurer under the Hartford Policy.
- Hartford Policy that certain policy of insurance bearing number 83 SBA PBO432 SA issued by Hartford to Rail World Inc.
- Indemnity Claims has the meaning ascribed thereto in Section 3.5(f) hereof.
- Indemnity Fund trust accounts into which the Settlement Funds shall be paid.
- Indian Harbor Indian Harbor Insurance Company, but strictly as insurer under the Indian Harbor Policy.
- Indian Harbor Policy insurance policy issued by Indian Harbor to MMA, bearing number RRL003723801.
- Injunction and Release an order by the CCAA Court and the Bankruptcy Court permanently and automatically releasing, enjoining and forbidding the enforcement, prosecution, continuation and/or commencement of any Claim that any Person or Claimant holds or asserts or may in the future hold or assert against any of the Released Parties or that could give rise to a Claim against the Released Parties whether through a cross-claim, third-party claim, warranty claim, recursory claim, subrogation claim, forced intervention or otherwise, arising out of, in connection with and/or in any way related to the Derailment, the Policies, MMA, and/or MMAC. The Injunction and Release order shall provide that any and all Claims against the Released Parties be permanently and automatically compromised, discharged and extinguished, that all Persons and Claimants, whether or not consensually, shall be deemed to have granted full, final, absolute, unconditional, complete and definitive releases of any and all Claims to the Released Parties and shall be permanently and forever barred, estopped, stayed and enjoined from (i) pursuing any Claim, directly or indirectly, against the Released Parties, (ii) continuing or commencing, directly or indirectly, any action or other proceeding with respect to any Claim against the Released Parties, (iii) seeking the enforcement, levy,

attachment, collection, contribution or recovery of or from any judgment, award, decree, or order against the Released Parties or property of the Released Parties with respect to any Claim, (iv) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or the property of the Released Parties with respect to any Claim, (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Approval Orders to the full extent permitted by applicable law, and (vi) asserting any right of setoff, compensation, subrogation, contribution, indemnity, claim or action in warranty or forced intervention, recoupment or avoidance of any kind against any obligations due to the Released Parties with respect to any Claim or asserting any right of assignment of or subrogation against any obligation due by any of the Released Parties. The Injunction and Release order shall provide that it has no effect on the rights and obligations provided by the "*Entente d'assistance financière découlant du sinistre survenu dans la ville de Lac-Mégantic*" signed on February 19, 2014 between Canada and the Province. Notwithstanding the foregoing, the "Injunction and Release" shall not extend to and shall not be construed as extending to Unaffected Claims.

Meeting	a meeting or meetings of the Creditors and Claimants to consider and vote on the Plan held pursuant to the Meeting Order and includes any meeting or meetings resulting from the adjournment thereof.
Meeting Order	an order of the CCAA Court directing the calling and holding of the Meeting.
MMA	Montreal, Maine & Atlantic Railway Ltd.
MMAC	Montreal, Maine & Atlantic Canada Co.
Monitor	Richter Advisory Group Inc. (Richter Groupe Conseil Inc.), in its capacity as Monitor in the CCAA Proceeding.
Non-Derailment Claims	has the meaning ascribed thereto in Section 3.5(g) hereof.
Person	means and includes an individual, a natural person or persons, a group of natural persons acting as individuals, a group of natural persons acting in collegial capacity (e.g., as a committee, board of directors, etc.), a corporation, partnership, limited liability company or limited partnership, a proprietorship, joint venture, trust, legal representative, or any other unincorporated association, business organization or enterprise, any government entity and any successor in interest, heir, executor, administrator, trustee, trustee in bankruptcy, or receiver of any person or entity.

Plan	This plan of compromise and arrangement in the CCAA Proceeding.
Plan Implementation Date	The Business Day on which the Monitor has filed with the CCAA Court the certificate contemplated in Section 6.2 hereof.
Plan Termination Date	January 29, 2016
Policies	the Indian Harbor Policy, the XL Policy, the Chubb Policy and the Hartford Policy
Property and Economic Damages Claims	has the meaning ascribed thereto in Section 3.5(c) hereof.
Proof of Claim	the form of Proof of Claim for Creditors as approved by the Claims Procedure Order.
Proven Claim	a Claim finally determined, settled or accepted for voting and distribution purposes in accordance with the provisions of this Plan or the Claims Resolution Order.
Province	the Attorney General for the Province of Quebec.
Rail World Parties	means (i) Rail World Holdings, LLC; (ii) Rail World, inc.; (iii) Rail World Locomotive Leasing LLC ("RWLL"); (iv) The San Luis Central R.R. Co.; (v) Pea Vine Corporation; (vi) LMS Acquisition Corporation; (vii) Earlston Associates L.P.; (viii) Montreal, Maine & Atlantic Corporation; and (ix) each of the shareholders, directors and officers or members or partners of the foregoing, to the extent they are not D&O Parties. For the avoidance of doubt, Rail World Parties also includes Edward Burkhardt, solely in his capacity as director, officer and shareholder of the Rail World Parties.
Released Parties	the Persons listed in Schedule "A" hereto.
Representation Order	the order rendered on March 28, 2014 in the CCAA Proceeding by the CCAA Court appointing, as representatives of the class members designated in the Class Action and for the purposes of the CCAA Proceeding, the Class Action Plaintiffs and the Class Counsel (as these terms are defined in said order).
Settlement Agreements	collectively, those agreements whereby Third Party Defendants undertake to make acceptable monetary contributions toward the Indemnity Fund in consideration for being included as Released Parties in the Plan. Individually referred to as a "Settlement Agreement".
Settlement Funds	the aggregate monetary contributions payable under the Settlement Agreements, including the XL Indemnity Payment and the XL Additional Payment, before potential recovery on claims assigned to MMAC and the Trustee by certain of the Released Parties, which

monetary contributions are estimated, as of the date hereof, at one hundred eighty-two million three hundred thousand Canadian dollars (CAD\$182,300,000.00) plus eighty-nine million four hundred thousand US dollars (US\$89,400,000.00).

Subrogated Insurer Claims	has the meaning ascribed thereto in Section 3.5(d) hereof.
Third Party Defendants	any Person with a risk of liability arising out of or related to the Derailment, including, without limitation, the defendants to the Class Action and the Cook County Actions.
Trustee	Robert J. Keach, in his capacity as chapter 11 Trustee appointed in the Bankruptcy Case, or such other Person(s) as may be approved by the Bankruptcy Court in the future to serve in such capacity in the Bankruptcy Case.
Unaffected Claims	has the meaning given to that term in Section 3.3 hereof.
U.S. Approval Order	(i) an Order entered in the Bankruptcy Case sanctioning, approving and/or confirming the U.S. Plan or (ii) an order entered in the Bankruptcy Case pursuant to the applicable sections of chapter 15 of the Bankruptcy Code, which order sanctions, recognizes and enforces the terms of the Canadian Approval Order. In either case, a "U.S. Approval Order" must, among other things, (a) approve the Settlement Agreements; (b) authorize the parties to undertake the settlement and the transactions contemplated by the Settlement Agreements; and (c) order the Injunction and Release.
U.S. Plan	the plan of liquidation, to be filed by the Trustee (for and on behalf of MMA) in the Bankruptcy Case, which shall provide, among other things, for the distribution of the Funds for Distribution in accordance with this Plan, the Canadian Approval Order and U.S. Approval Order.
U.S. Professionals	the Trustee, the Trustee's professionals and Paul Hastings LLP as counsel for the Official Committee of Victims as defined in the order authorizing the appointment of a victims' committee entered in the Bankruptcy Case on October 18, 2013.
XL Companies	Indian Harbor and XL Insurance.
XL Additional Payment	USD \$5 million.
XL Indemnity Payment	CAD \$25 million.
XL Insurance	the Canadian Branch of XL Insurance Company SE (formerly XL Insurance Company Limited) but strictly as insurer under the XL Policy.



XL Policy	insurance policy issued by XL Insurance, bearing number RLC003808301.
XL Settlement Agreement	the agreement executed among the XL Companies, MMAC and the Trustee providing for the payment of the XL Indemnity Payment and the XL Additional Payment, which shall constitute a Settlement Agreement within the meaning of Section 1.1.
Website	the website maintained by the Monitor in respect of the CCAA Proceedings pursuant to the Initial Order at the following web address: <a href="http://www.richter.ca/en/insolvency-cases/m/montreal-maine-and-atlantic-canada-co">http://www.richter.ca/en/insolvency-cases/m/montreal-maine-and-atlantic-canada-co</a> .
Wrongful Death Claims	has the meaning ascribed thereto in Section 3.5(a) hereof.
Wrongful Death Victims	the spouse or common law partner, child, parent, and sibling of the persons deceased as a result of the Derailment.

## 1.2 Certain Rules of Interpretation

For the purposes of this Plan:

- (a) any reference in the Plan to an Order, agreement, contract, instrument, release, exhibit or other document means such Order, agreement, contract, instrument, release, exhibit or other document as it may have been or may be validly amended, modified or supplemented;
- (b) the division of the Plan into "articles" and "sections" and the insertion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of the Plan, nor are the descriptive headings of "articles" and "sections" intended as complete or accurate descriptions of the content thereof;
- (c) unless the context otherwise requires, words importing the singular shall include the plural and *vice versa*, and words importing any gender shall include all genders;
- (d) the words "includes" and "including" and similar terms of inclusion shall not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather shall mean "includes but is not limited to" and "including but not limited to", so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (e) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Montréal, Québec and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. (Montréal time) on such Business Day;
- (f) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by

extending the period to the next succeeding Business Day if the last day of the period is not a Business Day;

- (g) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation; and
- (h) references to a specified "article" or "section" shall, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specified article or section of the Plan, whereas the terms "the Plan", "hereof", "herein", "hereto", "hereunder" and similar expressions shall be deemed to refer generally to the Plan and not to any particular "article", "section" or other portion of the Plan and include any documents supplemental hereto.

### **1.3 Currency**

Any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon exchange rate on the Filing Date.

### **1.4 Successors and Assigns**

The Plan shall be binding upon and shall inure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in the Plan.

### **1.5 Governing Law**

The Plan shall be governed by and construed in accordance with the laws of the Province of Québec and the federal laws of Canada applicable therein. All questions as to the interpretation or application of the Plan and all proceedings taken in connection with the Plan and its provisions shall be subject to the jurisdiction of the CCAA Court.

### **1.6 Schedules**

The following Schedules to the Plan are incorporated by reference into the Plan and form part of the Plan:

Schedule "A"	List of Released Parties
Schedule "B"	Settlement Agreements
Schedule "C"	Draft Canadian Approval Order
Schedule "D"	List of Existing Agreements
Schedule "E"	Distribution mechanism with respect to the Wrongful Death Claims

Schedule "F"	Distribution mechanism with respect to the Bodily Injury and Moral Damages Claims
Schedule "G"	Distribution mechanism with respect to the Property and Economic Damages Claims
Schedule "H"	XL Settlement Agreement

The Settlement Agreements, save and except for the XL Settlement Agreement, shall not be attached to the copy of the Plan served on the interested parties and filed publicly with the CCAA Court or the Bankruptcy Court, and MMAC shall apply to the CCAA Court and Bankruptcy Court to have Schedule "B" filed on a sealed and confidential basis. The Settlement Agreements, save and except for the XL Settlement Agreement, shall not otherwise be made public in order to preserve the confidentiality of the settlements and terms therein.

## **ARTICLE 2 PURPOSE AND EFFECT OF THE PLAN**

### **2.1 Purpose**

The purpose of the Plan is:

- (a) to effect a full, final and irrevocable compromise, release, discharge, cancellation and bar of all Affected Claims against the Released Parties;
- (b) to effect the distribution of the Funds for Distribution and payment of the Proven Claims as set forth in Sections 4.2 and 4.3;

The Plan is put forward in the expectation that the Creditors, when considered as a whole, will derive a greater benefit from the implementation of the Plan than they would in the event of a bankruptcy of MMAC.

## **ARTICLE 3 CLASSIFICATION, VOTING AND RELATED MATTERS**

### **3.1 Class of Creditors**

The Creditors shall constitute a single class for the purposes of considering and voting on this Plan.

### **3.2 Claims Procedure**

Creditors shall prove their respective claims, vote in respect of this Plan, and receive the distributions provided for under and pursuant to this Plan in accordance with the Claims Procedure Order, the Claims Resolution Order, the Meeting Order and this Plan. Any Person having a Claim that is not a Proven Claim is bound by such Orders, including that of being precluded from receiving a distribution under this Plan, and is forever barred and estopped from asserting such Claim against the Released Parties.

### **3.3 Unaffected Claims**

Notwithstanding anything to the contrary herein, this Plan does not compromise, release, discharge, cancel, bar or otherwise affect:

- (a) the rights or claims of the Canadian Professionals and the U.S. Professionals for fees and disbursements incurred or to be incurred for services rendered in connection with or relating to the CCAA Proceeding or the Bankruptcy Case, including the implementation of this Plan and the U.S. Plan.
- (b) to the extent that there is, or may be, coverage for such Claims under any policy of insurance issued by Great American or any affiliate, including, without limitation, the Great American Policy, and only to the extent such coverage is actually provided, which coverage shall be assigned to the Trustee and MMAC and without any obligation on the part of the Rail World Parties or the D&O Parties to make any payment or contribution to supplement what is actually obtained by the Trustee or MMAC from such insurance policy (i) claims by MMAC or the Trustee (and only the Trustee, MMAC, their designee, or, to the extent applicable, the Estates) against the Rail World Parties and/or the D&O Parties; and (ii) claims by the holders of Wrongful Death Claims against Rail World, Inc., provided further, that any right or recovery by such holders of any right or recovery by such holders of Wrongful Death Claims pursuant to the action authorized by this subparagraph shall be, in all respects, subordinate to the claims of the Trustee and MMAC, and their successors under the Plan, in the above policies and (iii) claims by MMAC or the Trustee against the D&O Parties for any alleged breach of fiduciary duty or any similar claim based upon the D&O parties' authorization for payments to holders of notes and warrants issued pursuant to that certain Note and Warrant Purchase Agreement dated January 8, 2003 between MMA and certain noteholders (as amended from time to time) to the extent such payments arise from the sale of certain assets of MMA to the State of Maine.
- (c) claims by MMAC and the Trustee under applicable bankruptcy and non bankruptcy law to avoid and/or recover transfers from MMA, MMAC or MMA Corporation to the holders of notes and warrants issued pursuant to that certain Note and Warrant Purchase Agreement dated as of January 8, 2003 between MMA and certain noteholders (as amended from time to time) to the extent such payments arise from the distribution of proceeds from the sale of certain assets of MMA to the State of Maine.
- (d) claims or causes of action of any Person, including MMAC, MMA and the Released Parties (subject to the limitations contained in their respective

Settlement Agreements), against third parties other than any of the Released Parties (subject to paragraph 3.3(e)).

- (e) claims or other rights preserved by any one of the Released Parties as set forth in Schedule A.
- (f) MMAC's obligations under the Plan, the Settlement Agreements, and the Approval Orders;
- (g) Claims against MMAC, except any Claims of the Released Parties other than Canada. However, subject to the Approval Orders becoming Final Orders, the Attorney General of Canada (i) has undertaken to irrevocably withdraw the Proof of Claim filed on behalf of Department of Transport Canada and the Proof of Claim filed on behalf of the Department of Public Safety and Emergency Preparedness, (ii) has agreed to the reallocation in favor of the Creditors of any and all dividends payable pursuant to this Plan or the U.S. Plan on the Proof of Claim filed on behalf of Canada Economic Development for Quebec Regions, as set forth in Section 4.3, and (iii) has agreed not to file any additional Proof of Claim under the CCAA Proceeding or the Bankruptcy Case;
- (h) any liability or obligation of and claim against the Third Party Defendants, insofar as they are not Released Parties, of whatever nature for or in connection with the Derailment, including but not limited to the Class Action and the Cook County Actions;
- (i) any Person for fraud or criminal and quasi-criminal charges filed or that may be filed and, for greater certainty, for any fine or penalty arising from any such charges;
- (j) any claims that any of the Rail World Parties and the D&O Parties may have to seek recovery from any of their insurers for any attorneys' fees, expenses and costs they have incurred prior to the Approval Date.
- (k) claims that fall under Section 5.1(2) of the CCAA.

All of the foregoing rights and claims set out in this Section 3.3, inclusive, are collectively referred to as the "**Unaffected Claims**" and any one of them is an "**Unaffected Claim**".

### **3.4 Treatment of Creditors**

The Creditors shall receive the treatment provided for in this Plan on account of their Claims and, on the Plan Implementation Date, the Affected Claims will be compromised, released and otherwise extinguished against the Released Parties in accordance with the terms of this Plan.

### 3.5 Voting Rights for Creditors

Subject to this Plan, the Claims Procedure Order, the Claims Resolution Order and the Meeting Order, each Creditor shall be entitled to vote and for voting purposes each of such Claims shall be valued at an amount that is equal to the Creditor's Proven Claim, the whole subject to the following:

- (a) the aggregate of the votes of all Wrongful Death Victims having a Proven Claim for damages resulting from the death of a person as a consequence of the Derailment (for greater certainty, those Claims that fall under Schedule 1 of the Proof of Claim and were recognized as such or that were filed in the Bankruptcy Case) (collectively, the "**Wrongful Death Claims**" and, individually, a "**Wrongful Death Claim**") shall represent no more than 22.2% in value of all votes cast by Creditors;
- (b) the aggregate of the votes of all Creditors having a Proven Claim relating to the Derailment for damages resulting from bodily injuries suffered by themselves or another person and, without limitation, all claims for moral damages (for greater certainty, those Claims that fall under Schedules 2 and 3(a) of the Proof of Claim and were recognized as such or determined to be Bodily Injury and Moral Damages Claims or that were filed in the Bankruptcy Case) (collectively, the "**Bodily Injury and Moral Damages Claims**" and, individually, a "**Bodily Injury and Moral Damages Claim**") shall represent no more than 11.1% in value of all votes cast by Creditors;
- (c) the aggregate of the votes of all Creditors having a Proven Claim relating to the Derailment for damages suffered by an individual or a business not resulting from bodily injuries or death of a person (for greater certainty, those Claims that fall under Schedules 3(a) and 3(b) of the Proof of Claim and were recognized as such or that were filed in the Bankruptcy Case) (collectively, the "**Property and Economic Damages Claims**" and, individually, a "**Property and Economic Damages Claim**") shall represent no more than 8.3% in value of all votes cast by Creditors;
- (d) the aggregate of the votes of all Creditors having a Proven Claim in their capacity as subrogated insurers for claims directly resulting from the Derailment (for greater certainty, those Claims that fall under Schedule 4 of the Proof of Claim and were recognized as such) (collectively, the "**Subrogated Insurer Claims**" and, individually, a "**Subrogated Insurer Claim**") shall represent no more than 3.8% in value of all votes cast by Creditors;
- (e) the aggregate of the votes of all government entities or municipalities having a Proven Claim relating to the Derailment (for greater certainty, those claims that fall under Schedule 5 of the Proof of Claim and were recognized as such) (collectively, the "**Government Claims**" and, individually, a "**Government Claim**") shall represent no more than 48.5% in value of all votes cast by Creditors;
- (f) Creditors having a Proven Claim relating to the Derailment for contribution or indemnity (for greater certainty, those claims that fall under Schedule 6 of the Proof of Claim and were recognized as such) (collectively, the "**Indemnity**

**Claims**” and, individually, an **“Indemnity Claim”**) shall represent 0% in value of all votes cast by Creditors.

- (g) Creditors having filed a Proof of Claim for damages unrelated to the Derailment (for greater certainty, those claims that fall under Schedule 7 of the Proof of Claim and were recognized as such) (collectively, the **“Non-Derailment Claims”** and, individually, a **“Non-Derailment Claim”**) shall represent no more than 6.1% in value of all votes cast by Creditors.

### **3.6 Interest**

Interest shall not accrue or be paid on any Claim from and after the Filing Date.

### **3.7 Duplicate Claims**

A Creditor who has a Claim against more than one of MMAC, MMA or the Released Parties or has filed or is deemed to have filed claims both in the Bankruptcy Case and the CCAA Proceeding, in respect of the same debt or obligation, shall only be entitled to assert one Claim in respect of such debt or obligation, and any duplicate Claim filed by such Creditor will be disallowed for voting and distribution purposes under this Plan and the U.S. Plan so that only a single Claim remains under which said Creditors can exercise distribution rights.

## **ARTICLE 4 DISTRIBUTIONS**

### **4.1 Contributions to the Indemnity Fund**

Each of the Released Parties shall deliver to the Monitor the monies necessary to fully fund that amount of the Indemnity Fund which it is obligated to pay pursuant to the Settlement Agreements within such delay as has been agreed to pursuant to the Settlement Agreements and in any event within no more than 30 days after they have received written notice from the Monitor and the Trustee certifying that the Approval Orders become Final Orders, and such monies shall be held by the Monitor in trust in one or more interest bearing accounts and distributed by the Monitor in accordance with the terms of this Plan. Should this Plan be terminated for any reason in accordance with Section 6.3 or 8.3, such monies shall be returned by the Monitor, with any interest earned thereon, forthwith to the respective parties having contributed such monies. For greater certainty, any contributions to the Indemnity Fund received by the Monitor that are in U.S. Dollars shall be held by the Monitor in trust in U.S. Dollars and converted into Canadian Dollars on the Plan Implementation Date (save and except the portion to be remitted to the Trustee pursuant to Section 4.2(a)) and any contributions to the Indemnity Fund received by the Monitor that are in Canadian Dollars shall be held by the Monitor in trust in Canadian Dollars and not converted into U.S. Dollars.

### **4.2 Distribution to Creditors**

The following Creditors having Proven Claims shall be entitled to distribution under this Plan as follows:

- (a) Creditors having Wrongful Death Claims shall, in the aggregate, receive 24.1% of

the Funds for Distribution in full and final satisfaction of their Proven Claims as against the Released Parties. This amount will be remitted by the Monitor to the Trustee to fund a trust dedicated to the distribution to the Creditors having Wrongful Death Claims in accordance with the mechanism set forth in Schedule E hereto.

- (b) Creditors having Bodily Injury and Moral Damages Claims shall, in the aggregate, receive 10.4% of the Funds for Distribution in full and final satisfaction of their Proven Claims as against the Released Parties. This amount will be distributed by the Monitor in accordance with the mechanism set forth in Schedule F hereto.
- (c) Creditors having Property and Economic Damages Claims shall, in the aggregate, receive 9.0% of the Funds for Distribution in full and final satisfaction of their Proven Claims as against the Released Parties. This amount will be distributed by the Monitor in accordance with the mechanism set forth in Schedule G hereto.
- (d) Creditors having Subrogated Insurer Claims shall, in the aggregate, receive 4.1% of the Funds for Distribution in full and final satisfaction of their Proven Claims as against the Released Parties. This amount will be distributed by the Monitor on a *pro rata* basis amongst the Creditors having Subrogated Insurer Claims.
- (e) Creditors having Government Claims shall, in the aggregate, receive 52.4% of the Funds for Distribution in full and final satisfaction of their Proven Claims as against the Released Parties. This amount will be distributed by the Monitor on a *pro rata* basis amongst the Province, the City of Lac-Mégantic, the Attorney General of Canada (on behalf of Canada Economic Development for Quebec Regions) and the Commission de la Santé et de la Sécurité au Travail (CSST). For the purpose of this Plan, the Proven Claims of the Province, the City of Lac-Mégantic, the Federal Government of Canada (Economic Development of Canada, Quebec Regions) and the Commission de la Santé et de la Sécurité au Travail (CSST) are evaluated and established as follows:
  - (i) Province: CAD\$409,313,000 (or 94% of the Government Claims)
  - (ii) The City of Lac-Mégantic: CAD\$5,000,000 (or 1.1% of the Government Claims)
  - (iii) The Attorney General of Canada (on behalf of Canada Economic Development for Quebec Regions): CAD\$21,000,000 (or 4.8% of the Government Claims)
  - (iv) CSST: CAD\$313,775 (or 0.1% of the Government Claims)

For greater certainty, Creditors having Indemnity Claims and Non-Derailment Claims shall not be entitled to distribution under this Plan or the U.S. Plan in relation to the Indemnity Fund and shall have no right to any portion of the Funds for Distribution. However, the Creditors having Non-Derailment Claims against MMAC will be entitled to distribution under the U.S. Plan, in accordance with its terms from any available net proceeds of the liquidation of MMA's assets.



Notwithstanding the foregoing, in the event that, following the review of the Property and Economic Damages Claims pursuant to the Claims Resolution Order, the aggregate value of the Property and Economic Damages Claims is reduced below \$75 million, the difference between the amount of \$75 million and the revised aggregate value of these claims will be allocated on a pro-rata basis to the value of the claims in the other categories described in Sections 4.2 (a) (b) (d) and (e).

#### 4.3 Additional Distributions to Creditors

With the agreement of the Province and the Federal Government of Canada (Economic Development of Canada, Quebec Region), any and all amounts payable pursuant to this Plan:

- (a) to the Province out of the XL Indemnity Payment (estimated at CAD\$13,735,000);
- (b) to the Attorney General of Canada (on behalf of Canada Economic Development for Quebec Regions) (estimated at CAD\$6,936,000);

(collectively, the “**Reallocated Dividends**”)

will be distributed to the Creditors having Proven Claims in respect of (i) Wrongful Death Claims, (ii) Bodily Injury and Moral Damages Claims and (iii) Property and Economic Damages Claims in accordance with the percentages set forth in subsection 4.2 (a) (b) and (c) hereof, namely:

- (i) 53.3% of the Reallocated Dividends will be distributed to the Creditors having Wrongful Death Claims;
- (ii) 26.7% of the Reallocated Dividends will be distributed to Creditors having Bodily Injury and Moral Damages Claims; and
- (iii) 20.0% of the Reallocated Dividends will be distributed to Creditors having Property and Economic Damages Claims.

#### 4.4 Timing of Distributions to Creditors

The Monitor shall hold the Settlement Funds in trust pending distribution thereof in accordance with the terms of this Plan and the Settlement Agreements, as applicable. Within 45 calendar days following the Plan Implementation Date, and receipt by the Monitor of any applicable tax ruling or clearance certificate, the Monitor shall make distributions to or on behalf of Creditors (including, without limitation, to the Trustee in accordance with Section 4.2(a) or to the Creditors' Representative Counsel in accordance with Section 4.5, to be held by such Representative Counsel in trust for such Creditors) in accordance with the terms of this Plan.

#### 4.5 Delivery of Distributions to Creditors

Distributions to Creditors shall be made in accordance with the terms of this Plan, as applicable, by the Monitor: (A) at the addresses set forth in the Proofs of Claim filed by such Creditors in accordance with the Claims Procedure Order; (B) if applicable, at the addresses set forth in any written notices of address change delivered to the Monitor after the date on which any corresponding proof of claim was filed, provided such notice is received by the Monitor at least five (5) Business Days prior to the Plan Implementation Date; or (C) if applicable, and to the extent differing from the foregoing, at the address of such Creditors' respective legal representatives (the "**Representative Counsel**"), in trust for such Creditors, subject to the receipt by the Monitor at least five (5) business days prior to the Plan Implementation Date of a written instruction to that effect from said Creditors, it being understood that the class members in the Class Action, to the extent they have not sent an Opt-Out Notice (as these terms are defined in the Representation Order) within the prescribed delay, shall be deemed represented by the Class Counsel (as these terms are defined in the Representation Order) and said Class Counsel shall be considered as Representative Counsel duly authorized to receive the above-mentioned distribution in trust for all such class members. For greater certainty, and without limiting the foregoing:

- (i) With respect to the distributions to be made under this Plan to Representative Counsel, any disputes among the Creditors they represent and Representative Counsel with respect to the timing, allocation, quantum or other terms of the payment of the monies in question by Representative Counsel to and among those Creditors shall have no bearing or effect on the releases set out in the Settlement Agreements or this Plan, including, without limitation, the releases and injunctions in favour of the Released Parties (whether pursuant to the Settlement Agreements, the Plan, the U.S. Plan, the Approval Orders, or otherwise); and
- (ii) this Plan shall be effective and binding as and when set out in Section 6.2, and the fact that one or more of the Representative Counsel may be required or elect to commence or pursue further steps or proceedings or to otherwise resolve additional matters, issues or things subsequent to the Plan Implementation Date in order to be lawfully entitled to make distributions to the Creditors they represent (including, without limitation, obtaining the approval by any Court of the payment of their respective professional fees and disbursements from the distributions in question) shall have no bearing or effect on the Settlement Agreements, this Plan, the U.S. Plan, or the Approval Orders, irrespective of the timing and outcome of such further steps and proceedings.

#### 4.6 Allocation of Distributions

All distributions made to Creditors in respect of Proven Claims pursuant to this Plan shall be applied first in payment of the outstanding principal amount of the Proven Claim and only after the principal portion of any such Proven Claim is satisfied in full, to any portion of such Proven Claim comprising accrued and unpaid interest (but solely to the extent that interest is an allowable portion of such Proven Claim pursuant to this Plan or otherwise). In the event that the principal amount of all Proven Claims has been paid in full, each Creditor shall, at the request of the Monitor, be responsible for providing a representation and warranty with respect to its residency for purposes of the *Income Tax Act* (Canada). If any Creditor fails to provide satisfactory evidence that it is a resident of Canada for purposes of the *Income Tax Act* (Canada), then the Monitor shall have the right to:

- (i) assume and otherwise consider such Creditor to be a non-resident of Canada for the purposes of the *Income Tax Act* (Canada); and
- (ii) withhold any non-resident withholding tax that would be imposed under the *Income Tax Act* (Canada) based on such assumption from any amounts payable to such Creditor under this Plan,

until such time as such Creditor provides satisfactory evidence to the contrary to the Monitor, unless the non-resident withholding tax has already been remitted to the Canada Revenue Agency. For greater certainty, the distributions to be made pursuant to this Plan to Creditors having Proven Claims do not include, and are not intended to include, any amounts on account of interest on such Claims.

#### 4.7 Transfer of Claims; Record Date for Distributions

Claims may be sold, transferred or assigned at any time by the holder thereof, whether prior or subsequent to the Plan Implementation Date, provided that:

- (i) Neither MMAC nor the Monitor shall be obligated to deal with or to recognize the purchaser, transferee or assignee of the Claim as the Creditor in respect thereof unless and until written notice of the sale, transfer or assignment is provided to the Monitor, such notice to be in form and substance satisfactory to the Monitor, acting reasonably within five (5) Business Days prior to the Plan Implementation Date
- (ii) only holders of record of Claims as at the date of the Meeting Order shall be entitled to attend, vote or otherwise participate at such meeting of Creditors; provided, however, that: (A) for the purposes of determining whether this Plan has been approved by a majority in number of the Creditors only the vote of the transferor or the transferee, whichever holds the highest dollar value of such Claims will be counted, and, if such value shall be equal, only the vote of the transferee will be counted; and (B) if a Claim has been transferred to more than one transferee, for purposes of determining whether this Plan has been approved by a majority in number of the Creditors, only the vote of the transferee with the highest value of such Claim will be counted; and

- (iii) only holders of record of Claims as at five (5) Business Days prior to the Plan Implementation Date shall have the right to participate in the corresponding distribution provided for under Section 4.2 of this Plan.

## **ARTICLE 5 RELEASES AND INJUNCTIONS**

### **5.1 Plan Releases and Injunctions**

All Affected Claims shall be fully, finally, absolutely, unconditionally, completely, irrevocably and forever compromised, remised, released, discharged, cancelled and barred on the Plan Implementation Date as against the Released Parties.

All Persons (regardless of whether or not such Persons are Creditors or Claimants) shall be permanently and forever barred, estopped, stayed and enjoined from (i) pursuing any Claim, directly or indirectly, against the Released Parties, (ii) continuing or commencing, directly or indirectly, any action or other proceeding with respect to any Claim against the Released Parties, or with respect to any claim that could give rise to a Claim against the Released Parties whether through a cross-claim, third-party claim, warranty claim, recursory claim, subrogation claim, forced intervention or otherwise, (iii) seeking the enforcement, levy, attachment, collection, contribution or recovery of or from any judgment, award, decree, or order against the Released Parties or property of the Released Parties with respect to any Claim, (iv) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or the property of the Released Parties with respect to any Claim, (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Approval Orders to the full extent permitted by applicable law, (vi) asserting any right of setoff, compensation, subrogation, contribution, indemnity, claim or action in warranty or forced intervention, recoupment or avoidance of any kind against any obligations due to the Released Parties with respect to any Claim or asserting any right of assignment of or subrogation against any obligation due by any of the Released Parties with respect to any Claim, and (vii) taking any actions to interfere with the Implementation or consummation of this Plan; provided, however, that the foregoing shall not apply to the enforcement of any obligations under the Plan.

Notwithstanding the foregoing, the Plan Releases and Injunctions as provided in this Section 5.1 (i) shall have no effect on the rights and obligations provided by the "*Entente d'assistance financière découlant du sinistre survenu dans la ville de Lac-Mégantic*" signed on February 19, 2014 between Canada and the Province, (ii) shall not extend to and shall not be construed as extending to any Unaffected Claims.

### **5.2 Timing of Releases and Injunctions**

All releases and injunctions set forth in this Article 5 shall become effective on the Plan Implementation Date at the Effective Time.

### **5.3 Claims against Third Party Defendants**

Any Claim of any Person, including MMAC and MMA, against the Third Party Defendants that are not also Released Parties: (a) is unaffected by this Plan; (b) is not discharged, released, cancelled or barred pursuant to this Plan; (c) shall be permitted to continue as against said Third Party Defendants; (d) shall not be limited or restricted by this Plan in any manner as to quantum to the extent that there is no double recovery as a result of the indemnification received by the Creditors or Claimants pursuant to this Plan; and (e) does not constitute an Affected Claim under this Plan. For greater certainty, and notwithstanding anything else contained herein, in the event that a Claim is asserted by any Person, including MMAC and MMA, against any Third Party Defendants that are not also Released Parties any and all right(s) of such Third Party Defendants to claim over, claim against or otherwise assert or pursue any rights or any Claim against any of the Released Parties at any time, shall be released and discharged and forever barred pursuant to the terms of this Plan and the Approval Orders.

## **ARTICLE 6 CONDITIONS PRECEDENT AND IMPLEMENTATION**

### **6.1 Conditions Precedent to Implementation of Plan**

The implementation of this Plan shall be conditional upon the fulfillment, or waiver (strictly with respect to Sections 6.1(e) and (f)), of the following conditions on or before the Plan Implementation Date:

(a) Entry of the Canadian Approval Order

The Canadian Approval shall have been granted by the CCAA Court, including the granting by the CCAA Court of its approval of the compromises, releases and injunctions contained in and effected by this Plan.

(b) Confirmation by the Trustee of the entry of the U.S. Approval Order

The Trustee shall have confirmed in writing to the Monitor that the U.S. Approval Order has been granted by the Bankruptcy Court, including the granting by the Bankruptcy Court of its approval of the compromises, releases and injunctions contained in and effected by this Plan.

(c) Entry of the Class Action Order

The Class Action Order shall have been granted by the Superior Court, Province of Quebec.

(d) Expiry of Appeal Periods

The Canadian Approval Order and the Class Action Order shall have become Final Orders and the Trustee shall have confirmed in writing to the Monitor that the U.S. Approval Order has become a Final Order.

(e) Contributions

Each of the Released Parties shall have paid to the Monitor the amounts payable by it pursuant to its Settlement Agreement, in accordance with the terms of the Settlement Agreements.

(f) Completion of Necessary Documentation

MMAC, the Monitor and the Trustee, as applicable, shall have obtained the execution and delivery by all relevant Persons of all agreements, settlements, resolutions, indentures, releases, documents and other instruments that are necessary to be executed and delivered to implement and give effect to all material terms and provisions of this Plan and the Settlement Agreements.

## 6.2 Monitor's Certificate

Upon the satisfaction of the conditions set out in Section 6.1 hereof, the Monitor shall file with the CCAA Court in the CCAA Proceeding and with the Trustee a certificate that states that all conditions precedent set out in Section 6.1 of this Plan have been satisfied and that the Plan Implementation Date has occurred.

## 6.3 Termination of Plan for Failure to Become Effective

If the Plan Implementation Date shall not have occurred on or before the Plan Termination Date, then, subject to further Order of the CCAA Court and the Bankruptcy Court, as applicable, this Plan shall automatically terminate and be of no further force or effect; provided that this Plan shall not automatically terminate pursuant to this section if the sole basis for the non-occurrence of the Plan Implementation Date is the pendency of any appeal or application for leave to appeal with respect to the Approval Orders.

## ARTICLE 7 ADMINISTRATION CHARGE

### 7.1 Administration Charge and Administration Charge Reserve

The Settlement Funds, to the exclusion of the XL Indemnity Payment, up to a maximum of CAD\$20 million, plus any applicable sales taxes for the Canadian Professionals (the "**Administration Charge Reserve**"), shall upon the Effective Time on the Plan Implementation Date be subject to an administration charge in favour of the Canadian Professionals and shall constitute a carveout in favour of the U.S. Professionals in order to secure the payment of the fees, disbursements and entitlements owed or to be owed to them for the services rendered by them in connection with or relating to the CCAA Proceeding and the Bankruptcy Case (the "**Administration Charge**"). 60% of the Administration Charge Reserve shall be for the benefit of the Canadian Professionals and 40% shall be for the benefit of the U.S. Professionals. These funds shall be distributed to the Canadian Professionals pursuant to an order of the CCAA Court and to the U.S. Professionals pursuant to an order of the Bankruptcy Court. The Administration Charge shall rank in priority to any and all other hypothecs, mortgages, liens, security interests, priorities, charges, encumbrances, security or rights of whatever nature or kind or deemed trusts affecting the Settlement Funds, if any. The Administration Charge and the Administration Charge Reserve are established on the basis of incurred fees and

disbursements as well as on an estimate of fees, disbursements and entitlements for which the Canadian Professionals and the U.S. Professionals could seek Court approval and are based on the Settlement Funds as presently constituted. The balance of the Administration Charge Reserve, if any, after payment of all fees, disbursements and entitlements of the Canadian Professionals and U.S. Professionals, shall form part of the Indemnity Fund, for distribution in accordance with the Plan.

## **ARTICLE 8 GENERAL**

### **8.1 Binding Effect**

On the Plan Implementation Date:

- (a) the Plan will become effective at the Effective Time;
- (b) the Plan shall be final and binding in accordance with its terms for all purposes on all Persons named or referred to in, or subject to the Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns; and
- (c) each Person named or referred to in, or subject to, the Plan will be deemed to have consented and agreed to all of the provisions of the Plan, in its entirety and shall be deemed to have executed and delivered all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

### **8.2 Deeming Provisions**

In the Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

### **8.3 Non-Consummation**

If the Approval Orders are not issued or if the Plan Implementation Date does not occur before the Plan Termination Date, (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan or any Settlement Agreement, including the fixing or limiting to an amount certain any Claim, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against the Released Parties or any other Person; (ii) prejudice in any manner the rights of the Released Parties or any other Person in any further proceedings involving MMAC and/or the Derailment; or (iii) constitute an admission of any sort by the Released Parties or any other Person.

### **8.4 Plan Amendment**

MMAC reserves the right, at any time prior to the Plan Implementation Date, to amend, modify and/or supplement this Plan, provided that:

- (i) any amendment, modification or supplement to Articles 5 and 6 (including any defined terms contained therein) as well as any amendment, modification or supplement made to any other Article which affects the rights of Released Parties under their respective Settlement Agreement(s), may be made only with the written consent of the Released Parties or the affected Released Party, as the case may be, which can be provided at their sole discretion.
- (ii) any such amendment, modification or supplement must be contained in a written document that is filed with the CCAA Court, and must be discussed in advance with, and not objected to by the Released Parties and, if made following the Meeting, communicated to such of the Creditors and in such manner, if any, as may be ordered by the CCAA Court;
- (iii) any amendment, modification or supplement may be made unilaterally by MMAC following the Approval Orders, provided that it concerns a matter which, in the opinion of MMAC and the Monitor, acting reasonably, is of an administrative nature required to better give effect to the implementation of this Plan and to the Approval Orders and is not adverse to the financial or economic interests of the Creditors or the Released Parties; and
- (iv) any supplementary plan or plans of compromise or arrangement filed with the CCAA Court by MMAC and, if required by this Section 8.4, approved by the CCAA Court shall, for all purposes, be and be deemed to be a part of and incorporated in this Plan.

## **8.5 Severability**

In the event that any provision in this Plan (other than Articles 5 and 6 and all defined terms contained therein or any other provision herein that would materially adversely affect the rights of any of the Released Parties under their respective Settlement Agreement(s), or requires any Released Party to pay more than the sum set forth in their respective Settlement Agreement(s)) is held by the CCAA Court to be invalid, void or unenforceable, the CCAA Court shall, following due notice to the parties in interest and a hearing on the issue, have the power to alter and interpret such term or provision to make it valid and enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered and interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Canadian Approval Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms, as same may be recognized, enforced and given effect by the U.S. Approval Order.



## **8.6 Paramourncy**

From and after the Plan Implementation Date, any conflict between: (A) this Plan; and (B) any information summary in respect of this Plan, or the covenants, warranties, representations; terms, conditions, provisions or obligations, express or implied, of any contract, mortgage, security agreement, indenture, loan agreement, commitment letter, document or agreement, written or oral, and any and all amendments and supplements thereto existing between MMAC and any Creditor, Released Party or other Person as at the Plan Implementation Date will be deemed to be governed by the terms, conditions and provisions of this Plan and the Approval Orders, which shall take precedence and priority. Notwithstanding the foregoing, the rights and duties of the parties under the Settlement Agreements are set forth in and shall be governed by the Settlement Agreements. More particularly, the Plan Releases and Injunctions 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 this Plan or the Approval Orders and the Settlement Agreements, the terms of the Settlement Agreements will apply with respect to the parties thereto.

## **8.7 Responsibilities of the Monitor**

The Monitor is acting in its capacity as Monitor in the CCAA Proceeding, and the Monitor will not be responsible or liable for any obligations of MMAC hereunder. The Monitor will have only those powers granted to it by this Plan, by the CCAA and by any Order of the CCAA Court in the CCAA Proceeding, including the Initial Order.

## **8.8 Unclaimed Distributions**

If any Person entitled to a cash distribution pursuant to this Plan cannot be located on the Plan Implementation Date or at any time thereafter or otherwise fails to claim his/her/its distribution hereunder, then such cash or cash equivalent instruments shall be set aside and held in a segregated, non-interest-bearing account to be maintained by the Monitor on behalf of such Person. If such Person is located within six (6) months of the Plan Implementation Date, such cash (less the allocable portion of taxes (including withholding taxes), if any, paid by MMAC on account of such Person) and proceeds thereof, shall be paid or distributed to such Person. If such Person cannot be located within six (6) months of the Plan Implementation Date, any such cash, and interest and proceeds thereon, shall be remitted by the Monitor to a charitable association of its choice (if possible, in the Monitor's sole appreciation, dedicated to providing assistance to the victims of the Derailment), and such Person shall be deemed to have released its claim to such monies; provided, however, that nothing contained in this Plan shall require MMAC or the Monitor to attempt to locate such Person. Any distribution cheques that have not been negotiated within three (3) months of issuance shall be cancelled by the Monitor, and any right or entitlement to such distribution shall be treated as an unclaimed cash or distribution pursuant to this Section 8.8.

## 8.9 Notices

Any notice or other communication to be delivered hereunder must be in writing and reference the Plan and may, subject as hereinafter provided, be made or given by personal delivery, ordinary mail or by facsimile or email addressed to the respective parties as follows:

(a) If to MMAC

Montreal Maine & Atlantic Canada Co.  
C/o Gowling Lafleur Henderson LLP  
3700 – 1 Place Ville Marie  
Montréal, Québec H3B 3P4

Attention: Me Patrice Benoit (patrice.benoit@gowlings.com)  
Attention : Me Pierre Legault (pierre.legault@gowlings.com)  
Fax : 514-876-9550

(b) If to the Monitor:

Richter Advisory Group  
1981 McGill College Avenue, 11<sup>th</sup> Floor  
Montréal, Québec H3A 0G6

Attention: Mr. Gilles Robillard (grobillard@richter.ca)  
Attention: Mr. Andrew Adessky (aadessky@richter.ca)  
Fax: 514-934-3504

with a copy by email or fax (which shall not be deemed notice) to:

Attention: Me Sylvain Vauclair (svauclair@woods.qc.ca)  
Fax: 514-284-2046

(c) If to the Trustee:

Robert J. Keach, Esq. (rkeach@bernsteinshur.com)  
Bernstein Shur Sawyer & Nelson  
100 Middle Street  
P.O. Box 9729  
Portland, ME 04104-5029  
Fax: 207-774-1127

or to such other address as any party may from time to time notify the others in accordance with this section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or emailing, provided that such day in either event is a Business Day and the communication is so delivered, faxed or emailed before 5:00 p.m. (Montréal time) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

#### **8.10 Further Assurances**

MMAC and any other Person named or referred to in the Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the Plan and to give effect to the transactions contemplated herein.

#### **8.11 No Preference**

Sections 38 and 95 to 101 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 shall not apply to this Plan, save and except insofar as they may allow for the preservation or enforcement of (i) any claim brought or that could be brought in the future by the Trustee or MMAC (and only the Trustee, MMAC, their designee, or, to the extent applicable, the Estates) against the Rail World Parties and/or the D&O Parties but only to the extent that there is, or may be, insurance coverage for such claims under any policy of insurance issued by Great American, including, without limitation, the Great American Policy, and (ii) claims by the Trustee or MMAC (and only the Trustee, MMAC, their designee, or, to the extent applicable, the Estates) under applicable bankruptcy and non-bankruptcy law to avoid and/or recover transfers from MMA, MMAC or Montreal, Maine & Atlantic Corporation to the holders of notes and warrants issued pursuant to that certain Note and Warrant Purchase Agreement dated as of January 8, 2003 between MMA and certain noteholders (as amended from time to time) to the extent any such transfers arise from the distribution of proceeds from the sale of certain assets of MMA to the State of Maine, including any claims by or on behalf of the Trustee or the Estates against any of the D&O Parties for any alleged breach of fiduciary duty or any similar claim based upon the D&O Parties' authorization for payment of such notes, but any such breach of fiduciary duty or any similar claim shall be limited to recovery from the insurer under any policy of insurance issued by Great American, including, without limitation, the Great American Policy.

#### **8.12 No Admission**

Notwithstanding anything herein to the contrary, nothing contained in this Plan shall be deemed as an admission by the Released Parties with respect to any matter set forth herein including, without limitation, liability on any Claim.

DATED as of the 31<sup>st</sup> day of March, 2015

**Schedule “A” List of Released Parties**

PLAN OF COMPROMISE AND ARRANGEMENT

concerning, affecting and involving

MONTREAL, MAINE & ATLANTIC CANADA CO.

**SCHEDULE A TO THE PLAN OF COMPROMISE AND ARRANGEMENT OF  
MONTREAL, MAINE & ATLANTIC CANADA CO.  
List of Released Parties**

The list below consists of the parties who have executed settlement agreements with Montreal Maine & Atlantic Canada Co. (“MMAC”) and Robert J. Keach in his capacity as Chapter 11 Trustee of Montreal, Maine & Atlantic Railway Ltd. (the “Trustee”); Nothing in this list shall supersede, effect, modify or amend any such settlement agreement and to the extent of any conflict between the descriptions in this list and any such settlement agreement, the settlement agreement shall govern. All such settlement agreements are subject to court approval and other conditions, and the inclusion of any person or entity on this list does not create or imply the release of such person or entity from any claim; in all respects, the settlement agreements, and the court orders pertaining to the settlement agreements, shall govern. The term “Affiliate” used in this Schedule “A” means with respect to any entity, all other entities directly or indirectly controlling, controlled by, or under direct or indirect common control with such entity. The other capitalized terms used herein have the meaning ascribed to them in the Plan. The Released Parties are as follows:

1. **Devlar Energy Marketing LLC together with their parents Lario Oil & Gas Company and Devo Trading & Consulting Company (collectively “Devlar”)**, as well as their subsidiaries, Affiliates and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys and insurers, (including St. Paul Fire and Marine Insurance Company and its direct and indirect parents, subsidiaries and Affiliates), but only to the extent of coverage afforded to Devlar by such insurers in relation to the Derailment.
2. **Oasis Petroleum Inc. and Oasis Petroleum LLC (jointly, “Oasis”)**, together with their parents, subsidiaries, Affiliates and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys and insurers (including St. Paul Fire and Marine Insurance Company and its direct and indirect parents, subsidiaries and affiliates) but only to the extent of coverage afforded to Oasis by such insurers in relation to the Derailment, as well as the entities identified in

Schedule 2 hereto but strictly as non-operating working interest owners or joint venturers in the specific Oasis-operated wells that produced oil that was provided and supplied by Oasis that was transported in the train involved in the Derailment.

3. **Inland Oil & Gas Corporation, Whiting Petroleum Corporation, Enerplus Resources (USA) Corporation, Halcón Resources Corporation, Tracker Resources, Kodiak Oil & Gas Corp. (now known as Whiting Canadian Holding Company, ULC) and Golden Eye Resources LLC**, together with each of their respective parents, subsidiaries, Affiliates, and each of their former and current respective employees, officers, directors, successors and permitted assignees and attorneys, but strictly as non-operating working interest owners or joint venturers in any wells that produced oil that was provided, supplied and transported in the train involved in the Derailment.
4. **Arrow Midstream Holdings CCC. (“Arrow”)** together with its parents, subsidiaries, Affiliates, successors, officers, directors, principals, employees, attorneys, accountants, representatives, and insurers. For the avoidance of doubt, Arrow shall include its current parent Crestwood Midstream Partners LP; and insurers mean only those insurers who have issued liability insurance policies to or in favor of Arrow actually or potentially providing insurance for Claims against Arrow arising from or relating to the Derailment, including without limitation, Commerce and Industry Insurance Company under policy no. 3023278 and National Union Fire Insurance Company of Pittsburg, Pa. under policy no. 41131539.
5. **Marathon Oil Company (“Marathon”)**, together with its parent, subsidiaries, successors and assigns, Affiliates, officers, directors, principals, employees, attorneys, accountants, representatives, insurers (to the extent strictly limited to coverage afforded to Marathon in relation to the Derailment), as well as the entities identified in schedule 5 attached hereto, but strictly as non-operating working interest owners or joint venturers in the specific Marathon-operated wells that produced and supplied oil that was transported on the train involved in the Derailment. For the avoidance of doubt, insurers, as used in this definition, shall include all insurers that issued liability policies to or for the benefit of Marathon and that actually or potentially provided coverage for Claims relating to or

arising from the Derailment, including, but not limited to, Yorktown Assurance Corporation policy number XSL-7-2013 and Old Maine Assurance Ltd. (reinsurance Agreement).

6. **QEP Resources, Inc. (“QEP”)**, together with its parents, subsidiaries, Affiliates, successors and assigns, officers, directors, principals, employees, attorneys, accountants, representatives, insurers (to the extent strictly limited to coverage afforded to QEP in relation to the Derailment), as well as those entities identified in schedule 6 attached hereto, but strictly as non-operating working interest owners or joint venturers in the specific QEP-operated wells that produced and supplied oil that was transported on the train involved in the Derailment. For the avoidance of doubt, insurers, as used in this definition, shall include all insurers that issued liability policies to or for the benefit of QEP and that actually or potentially provided coverage for Claims relating to or arising from the Derailment, including, but not be limited to, National Union Fire Insurance Company of Pittsburgh, Pa. (policy number 194-99-62); American Guarantee & Liability Insurance Company (policy number UMB6692611-02).
7. **Slawson Exploration Company, Inc. (“Slawson”)**, together with its parents, subsidiaries, Affiliates, successors and assigns, officers, directors, principals, employees, attorneys, accountants, representatives, insurers (to the extent strictly limited to coverage afforded to Slawson in relation to the Derailment), as well as those entities identified on schedule 7 attached hereto, but strictly as non-operating working interest owners in the specific Slawson-operated wells that produced oil that was transported on the train involved in the Derailment. For the avoidance of doubt, insurers, as used in this definition, shall include all insurers that issued liability policies to or for the benefit of Slawson and that actually or potentially provided coverage for Claims relating to or arising from the Derailment, including, but not be limited to, Federal Insurance Company (policy 3579 09 19 and 7981 72 74), Arch Specialty Insurance Company (policy EE00039761 03), and AIG (policy BE031941993).
8. **Indian Harbor Insurance Company, XL Insurance, XL Group plc and their Affiliates** (strictly as insurers of MMA and MMAC).

9. **Edward A. Burkhardt, Larry Parsons, Steven J. Lee, Stephen Archer, Robert C. Grindrod, Joseph C. McGonigle, Gaynor Ryan, Donald Gardner, Jr., Fred Yocum, Yves Bourdon and James Howard, in their capacity as directors and officers of MMA and MMAC, Montreal, Maine & Atlantic Corporation and/or LMS Acquisition Corporation (the “D&O Parties”).**
10. **Hartford Casualty Insurance Company, together with its parents, subsidiaries, Affiliates, officers and directors** (strictly as insurer of Rail World, Inc.).
11. **Chubb & Son, a division of Federal Insurance Company** (strictly as insurers of Rail World, Inc. and Rail World Holdings, LLC).
12. **Rail World Holdings LLC; Rail World, Inc.; Rail World Locomotive Leasing LLC; The San Luis Central R.R. Co.; Pea Vine Corporation; LMS Acquisition Corporation; MMA Corporation; Earlston Associates L.P.,** and each of the shareholders, directors, officers or members or partners of the foregoing, to the extent they are not D&O Parties (the “**Rail World Parties**”). For the avoidance of doubt, (i) Rail World Parties also includes Edward A. Burkhardt, solely in his capacity as director, officer and/shareholder of certain of the Rail World Parties; and (ii) the inclusion of the above entities within the definition of “Rail World Parties”, except for the purpose of the settlement agreement executed with MMAC and the Trustee, shall not be construed to create or acknowledge an affiliation between or among any of the Rail World Parties.
13. **General Electric Railcar Services Corporation, General Electric Company** and each of its and their respective parents, Affiliates, subsidiaries, limited liability companies, special purpose vehicles, partnerships, joint ventures, and other related business entities, and each of its and their respective current or former parents, Affiliates, subsidiaries, limited liability companies, special purpose vehicles, partnerships, joint ventures, other related business entities, principals, partners, shareholders, officers, directors, managers, partners, employees, agents, insurers, attorneys, accountants, financial advisors, investment bankers, consultants, any other professionals, any other representatives or advisors, and any and all persons who control any of these, as well as any predecessors-in-interest of, or any assignors or vendors of any equipment involved in the Derailment



to, any of the foregoing entities and any of the successors and assigns of any of the foregoing entities.

14. **Trinity Industries, Inc., Trinity Industries Leasing Company, Trinity Tank Car, Inc., and Trinity Rail Leasing 2012 LLC, Trinity Rail Group LLC, RIV 2013 Rail Holdings LLC, and Trinity Rail Leasing Warehouse Trust**, inclusive of each of their respective predecessors, agents, servants, employees, shareholders, officers, directors, attorneys, representatives, successors, assigns, parents, subsidiaries, Affiliates, limited liability companies, insurers, and reinsurers (but strictly to the extent of coverage afforded to the such parties by said insurers and reinsurers), including but not limited to whether such entities are in the business of leasing, manufacturing, servicing or administrating rail cars.
15. **Union Tank Car Company, the UTLX International Division of UTCC, The Marmon Group LLC and Procor Limited (the “UTCC Parties”)**, and each of their respective predecessors, servants, employees, owners, members (strictly with respect to The Marmon Group LLC), shareholders, officers, directors, partners, associates, attorneys, representatives, successors, assigns, subsidiaries, Affiliates, and parent companies, insurers, and reinsurers listed in schedule 15 attached hereto, but strictly to the extent of coverage afforded to the UTCC Parties by said insurers and reinsurers, regardless of whether such entities are or were in the business of leasing, manufacturing, servicing, or administering rail car leases or otherwise.
16. **First Union Rail Corporation (“First Union”)**, together with its parents, subsidiaries, Affiliates, officers, directors, predecessors, successors, assigns, servants, employees, shareholders, attorneys, representatives and insurers and reinsurers (strictly to the extent limited to coverage afforded to First Union, and including, but not limited to, Lexington Insurance Company (including pursuant to the Pollution Legal Liability Select Policy no. PL52675034 and Stand Alone Excess Liability Policy no. 018403252) and Superior Guaranty Insurance Company (including pursuant to Excess Liability Policy no. 404-1XSCI13)).

17. **CIT Group, Inc.**, and its Affiliates, Federal Insurance Company solely in its capacity as an insurer of CIT Group, Inc. and its Affiliates and not in any other capacity, and Arch Insurance Group solely in its capacity as an insurer of CIT Group, Inc. and its Affiliates, and not in any other capacity.
18. **ConocoPhillips Company (“ConocoPhillips”)**, together with its subsidiaries, Affiliates, and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys, and insurers (and the insurers direct and indirect parents, subsidiaries and Affiliates), but with regards to such insurers, only to the extent of coverage provided to ConocoPhillips by such insurers in relation to the Derailment, as well as those entities identified in Schedule 18 hereto, but strictly as non-operating working interest owners in the specific ConocoPhillips operated wells that produced and supplied oil that was transported on the train involved in the Derailment.
19. **Shell Oil Company and Shell Trading (US) Company**, together with their subsidiaries, Affiliates, and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys, and insurers (and the insurers’ direct and indirect parents, subsidiaries and Affiliates), but with regards to such insurers, only to the extent of coverage provided to Shell Oil Company and Shell Trading (US) Company, by such insurers in relation to the Derailment.
20. **Incorr Energy Group LLC (“Incorr”)**, together with its subsidiaries, Affiliates and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys and insurers but only with respect to coverage afforded by such insurers to Incorr in relation to the Derailment.
21. **Enserco Energy, LLC**, together with its parent, subsidiaries, Affiliates, and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys, and insurers (and the insurers’ direct and indirect parents, subsidiaries and Affiliates), but with regards to such insurers, only to the extent of coverage provided to Enserco Energy, LLC, by such insurers in relation to the Derailment.

22. **The Attorney General of Canada, the Government of Canada, Her Majesty the Queen in Right of Canada and the departments, crown corporations and agencies including the Canadian Transportation Agency, and including all past, present and future Ministers, officers, employees, representatives, servants, agents, parent, subsidiary and affiliated crown corporations and agencies, and their respective estates, successors and assigns.**
23. **(i) Irving Oil Limited, Irving Oil Company, Limited, Irving Oil Operations General Partner Limited and Irving Oil Commercial G.P.,** (ii) any of their Affiliates (as defined in the settlement agreement), (iii) any predecessors, successors and assigns of any of the foregoing Persons named in clauses (i) and (ii) of this paragraph 23, and (iv) any directors, officers, agents and/or employees of any of the foregoing Persons named in clauses (i), (ii) and (iii) of this paragraph 23 (the “**Irving Parties**”), and the insurers listed in Schedule 23 attached hereto, but only in their respective capacities as insurers of the Irving Parties under the insurance policies listed by policy numbers in said Schedule 23 (the “**Irving Insurers**”). Notwithstanding the foregoing or anything else in this list and the Plan, the claims (including the Claims) and/or other rights that the Irving Parties have (or may have) against their insurers (including but not limited to the Irving Insurers) or any one or more of them under any applicable policies, at law, in equity or otherwise, are fully preserved and said insurers (including but not limited to the Irving Insurers) are not Released Parties in connection with said claims and/or other rights of the Irving Parties.

Notwithstanding the foregoing or anything else in this list, and without implying or providing any limitation, the term “Settling Defendants” as used herein or above does not include, and shall not be deemed to include, any of the following: (a) Canadian Pacific Railway Company, (b) World Fuel Services Corporation, (c) World Fuel Services, Inc., (d) World Fuel Services, Canada, Inc., (e) Petroleum Transport Solutions, LLC, (f) Western Petroleum Co., (g) Strobel Starostka Transfer LLC, (h) Dakota Plains Marketing LLC, (i) Dakota Plains Holdings, Inc., (j) DPTS Marketing Inc., (k) Dakota Plains Transloading LLC, (l) Dakota Petroleum Transport Solution LLC, and (m) SMBC Rail Services, LLC.

**SCHEDULE 2**  
**LIST OF NON-OPERATING WORKING INTEREST OWNERS OR**  
**JOINT VENTURERS IN OASIS OPERATED WELLS**

Whiting Oil And Gas Corporation;  
Hess Corporation;  
Hess Bakken Investments II LLC  
Continental Resources Inc;  
Sinclair Oil And Gas Company;  
Conoco Phillips Company;  
Black Bear Resources, LLLP;  
Castlerock Resources Inc;  
Deep Creek Exploration;  
Enerplus Resources Usa Corporation;  
Fidelity E&P Company;  
Fidelity Exploration & Production Co;  
Inland Oil & Gas Corporation;  
Jake Energy Inc.;  
Kerogen Resources Inc;  
Lilley & Company;  
Lilley And Associates LLC;  
Linn Energy Holdings LLC;  
Lone Rider Trading Company;  
Mayhem Oil And Gas Inc;  
Missouri River Royalty Corp;  
Nj Petroleum LLC;  
Northern Energy Corporation;  
Northern Oil & Gas Inc;  
O.T. Cross Oil LLC;  
Ottetail Land & Permit Services;  
Penroc Oil Corporation;  
Reef 2011 Private Drilling Fund LP;  
Shakti Energy LLC;  
Slawson Exploration Company Inc;  
Statoil Oil & Gas LP;  
WHC Exploration LLC;

**SCHEDULE 5**

**LIST OF NON-OPERATING WORKING INTEREST OWNERS OR JOINT  
VENTURERS IN MARATHON OPERATED WELLS**

ALAMEDA ENERGY INC  
ARTHUR FRANK LONG JR  
BEARTOOTH RIDGE RESOURCES  
CARL W STERUD JR  
CHUGASH EXPLORATION LP  
CONDOR PETROLEUM INC  
CONTINENTAL RESOURCES INC  
DISPUTED STATE-TRIBAL INTEREST  
ENDEAVOR ENERGY RESOURCES LP  
ENERPLUS RESOURCES CORPORATION  
ESTATE OF KARL WILLIAM STERUD  
ESTATE OF WALLACE HICKEL  
EVERTSON ENERGY PARTNERS LLC  
GADECO LLC  
GOLDENEYE RESOURCES LLC  
HALCON WILLISTON I LLC  
HESS BAKKEN INVESTMENTS II LLC  
ILAJEAN REAMS  
JENNIFER BYSTROM  
JOSEPHINE ANN KJONAAS  
KOOTENAI RESOURCE CORP  
LA PETROLEUM INC  
LGFE-M LP  
LINDA ELWOOD  
LOUIS WALTER LONG  
MARCIN PRODUCTION LLC  
MICHAEL HARVEY STERUD  
MISSOURI RIVER ROYALTY CORPORATION  
MONTANA OIL PROPERTIES INC  
MONTE TEDDY LONG  
NATURAL RESOURCE PARTNERS LP  
NORTHERN ENERGY CORP  
NORTHERN OIL AND GAS INC  
PETROGULF CORP  
QEP ENERGY COMPANY  
RAINBOW ENERGY MARKETING CORP  
RONALD KNIGHT  
S REGER FAMILY INC

SLAWSON EXPLORATION COMPANY INC  
SLAWSON RESOURCES COMPANY  
SPOTTED HAWK DEVELOPMENT LLC  
STEWART GEOLOGICAL INC  
TDB RESOURCES LP  
USG PROPERTIES BAKKEN II LLC  
VERSA ENERGY LLC  
VITESSE ENERGY LLC  
VITESSE OIL LLC  
W NORTH FUND II LP  
ZAGOIL COMPANY LLC

**SCHEDULE 6**

**LIST OF NON-OPERATING WORKING INTEREST OWNERS OR JOINT  
VENTURERS IN QEP OPERATED WELLS**

3LAND INC  
ACTION REALTORS INC  
ADELE L. SKODA  
AMERADA HESS CORPORATION  
ANDREW J HORVAT REVOCABLE TRUST  
ARMSTRONG CHILDREN'S TRUST  
ARMSTRONG MINERALS, LLC  
AVALON NORTH LLC  
BADLANDS HOLDING COMPANY  
BANDED ROCK LLC  
BIG PRAIRIE INVESTMENTS, LLC  
BLACK STONE ENERGY COMPANY, LLC  
BORGOIL RESOURCES, LLP  
BRUCE P. IVERSON  
BURLINGTON RESOURCES OIL & GAS  
BXP PARTNERS III, LP  
CHUGASH EXPLORATION LP  
CONTINENTAL RESOURCES INC  
COPPERHEAD CORPORATION  
CRESCENT ENERGY, INC.  
CRS MINERALS LLC  
DAKOTA WEST LLC  
DALE LEASE ACQUISITIONS 2011-B LP  
DAVIS EXPLORATION  
DEBRA KAY TORNBERG  
DEEP CREEK EXPLORATION LLC  
DEVON ENERGY PRODUCTION CO. LP  
DIAMOND EXPLORATION INC  
DORCHESTER MINERALS LP  
DUANE A. IVERSON  
E. W. BOWLES  
ENDEAVOR ENERGY RESOURCES LP  
ENERPLUS RESOURCES (USA)  
ESTATE OF ROBERT J MCCANN JR  
EZ OIL, LLC

FORESTAR PETROLEUM GROUP  
GAEDEKE WILLISTON BASIN HOLDINGS  
GARY LEE MCCORMICK  
GREEN RIVER ENERGY LLC  
HALCON RESOURCES CORP COMPANY  
HESS BAKKEN INVESTMENTS II LLC  
HESS CORPORATION  
INTERNATIONAL PETROLEUM CORPORATION  
INTERNOS, INC.  
J KAMP OIL LLC  
JEFF GARSKE  
JERALDINE BJORNSON  
JJS WORKING INTERESTS LLC  
JOEL ALM  
JOHN B. BJORNSON  
JT ENERGY, LLC  
JTT OIL LLC  
JUNE ANN GREENBERG  
KENNETH STEVENSON  
KODIAK OIL & GAS (USA) INC  
L LOWRY MAYS  
LANDSOUTH PROPERTIES, LLC  
LEE MCCORMICK MARITAL TRUST  
LEGION LAND & EXPLORATION CORP  
LELAND STENEHJEM, JR.  
LGFE-M L.P.  
LINDSEY K MULLENIX  
LMAC, LLC  
LONE RIDER TRADING COMPANY  
LONETREE ENERGY & ASSOCIATES  
M & M ENERGY INC  
MADDOX FAMILY TRUST  
MARATHON OIL COMPANY  
MBI OIL & GAS LLC  
MCBRIDE OIL & GAS CORPORATION  
MILBURN INVESTMENTS, LLC  
MISSOURI RIVER ROYALTY COMPANY  
MUREX PETROLEUM CORPORATION  
NORTHERN ENERGY CORPORATION  
NORTHERN OIL AND GAS, INC.



NORTHLAND ROYALTY CORPORATION  
NOWITZKI OIL & GAS LP  
O. A. HANSON  
OPINOR ANNA PTY KAISER FUND  
PETROGLYPH ENERGY  
PETROVAUGHN INC.  
PHILIP R. BISHOP  
PRADERA DEL NORTE, INC.  
RALPH MADDOX FAMILY TRUST  
RAVEN OIL PROPERTIES INC  
REEF 2011 PRIVATE DRILLING FUND LP  
ROBERT J. MCCORMICK  
ROBERT POST JOHNSON  
SCOTT ENERGY, LLC  
SCOTT K. BJORNSON  
SCOTT WARD  
SIDNEY K. LEACH  
SIERRA RESOURCES INC  
SINCLAIR OIL & GAS COMPANY  
SIXTY NINE OIL & GAS LP  
SKLARCO LLC  
SLAWSON EXPLORATION CO INC  
SM ENERGY COMPANY  
SOUTH FORK EXPLORATION, LLC  
SPOTTED HAWK DEVELOPMENT LLC  
SRP ENTERPRISES, INC.  
STEVEN H HARRIS FAMILY LIMITED  
STUBER MINERAL RESOURCES LLC  
SUNDHEIM OIL CORPORATION  
SUSAN D STENEHJEM  
THE ERICKSON FAMILY TRUST  
THE MILLENNIUM CORPORATION  
THE TRIPLE T INC.  
TIMOTHY J. RITTER  
TL & JH KAISER SUPERANNUATION  
TURMOIL INC  
TWIN CITY TECHNICAL, LLC  
USG PROPERTIES BAKKEN II LLC  
VINNIE CORP  
VINTAGE OIL & GAS, LLC

VIVIAN MCCORMICK WARREN  
WESTERN ENERGY CORPORATION  
WILLIAM G SEAL ESTATE  
WOLF ENERGY LLC  
XTO ENERGY INC  
XTO OFFSHORE INC  
ZACHARY D VANOVER

**SCHEDULE 7**

**LIST OF NON OPERATING WORKING INTEREST OWNERS  
OR JOINT VENTURERS IN SLAWSON OPERATED WELLS**

A.G. Andrikopoulos Resources, Inc.  
Abercrombie Energy, Inc.  
Alameda Energy, Inc.  
Anthony J. Klein  
Bakken HBT II, LP  
Beartooth Ridge Resources, Inc.  
Beck Sherven Legion Post #290  
Benjamin Kirkaldie  
BigSky Oil & Gas, LLC  
Bob Featherer LLC  
Brendall Energy, LLC  
Burlington Northern & Sante Fe  
C King Oil  
Cedar Creek Wolverine, LLC  
Centaur Consulting, LLC  
Chugash Exploration, LP  
Comanche Exploration Company  
Continental Resources, Inc.  
Craig A. Slawson  
D. Sumner Chase, III 2001 Irr. Trust  
David L. Hilleren  
David W. Strickler Trust  
Davis Exploration, LLC  
Deep Blue, LLC  
Dogwood Hill Farms, LLC  
DS&S Chase, LLC  
Enerplus Resources (USA) Corp  
Formation Energy LP  
Frederic Putnam  
Gadeco, LLC

Gaedeke Williston Basin, Ltd.  
Gasco Limited Partnership  
GHG Partners, LLC  
Great Plains Oil Properties, LLC  
Greenhead Energy, Inc.  
Gulfport Energy Corporation  
HRC Energy, LLC  
Huston Energy Corporation  
Icenine Properties, LLC  
Inland Oil and Gas Corporation  
James H Bragg  
John Schell  
Kenneth Lyson and Claudia G. Lyson  
Kodiak Oil & Gas (USA), Inc.  
Kootenai Resources Corporation  
L D Davis & Marilyn Davis, JTS  
Lario Oil and Gas Company  
Linn Energy Holdings, LLC  
Marcin Production, LLC  
Mark Lee  
Marshall & Winston, Inc.  
Mary Newman  
Melbby Gas III, LLC  
Missouri River Royalty Corporation  
Montana Oil Properties, Inc.  
MRG Holdings, LLC  
Mwiley Resources, Inc.  
Nadel and Gussman Bakken, LLC  
Northern Oil and Gas, Inc.  
Oxy USA, Inc.  
Pegasus Group Inc.  
Petro-Huston, LLC  
Petroshale (US) Inc.  
Pine Oil Co.  
Pine Petroleum, Inc.  
Piscato Oil, LLC

Polish Oil & Gas, Inc.  
Raymond Resources Inc.  
Riley Resources, Inc.  
Robert A. Erickson & Cleo  
S. Reger Family, Inc.  
Sheringham Corporation  
Slawson Resources Co.  
Statoil Oil & Gas, LP  
Stewart Geological, Inc.  
Stuart F. Chase  
Stuart F. Chase 2001 Irr. Trust  
Thomas Lambert  
Todd Slawson  
Todd Slawson Trust  
Tracker Resource Development III, LLC  
U S Energy Development Corporation  
USG Properties Bakken II, LLC  
Vitesse Energy, LLC  
Vitesse Oil, LLC  
W B Oil LLC  
Whiting Oil and Gas  
Windsor Dakota, LLC  
Zagoil Company, LLC

## SCHEDULE 15

### LIST OF UTCC'S INSURERS AND REINSURERS

#### Canadian Insurance Companies

ACE INA Insurance

Chartis Insurance Company of Canada (n/k/a AIG Insurance Company of Canada)

Westport Insurance Corporation

#### U.S. Insurance Companies

ACE American Insurance Company

American Zurich Insurance Company

Lexington Insurance Company

North American Capacity Insurance Company

Starr Indemnity & Liability Company

#### Bermudian Insurance Companies

ACE Bermuda Insurance Ltd.

Allied World Assurance Company Ltd.

Argo Re Ltd.

Chartis Excess Limited (n/k/a American International Reinsurance Company Ltd.)

Chubb Atlantic Indemnity Ltd.

Hanseatic Insurance Company (Bermuda) Limited

Iron-Starr Excess Agency Ltd. / Ironshore Insurance Ltd. / Starr Insurance & Reinsurance Limited

Starr Insurance & Reinsurance Limited

XL Insurance (Bermuda) Ltd.

**SCHEDULE 18**

**LIST OF NON-OPERATING INTEREST OWNERS OR JOINT VENTURERS IN  
CONOCOPHILLIPS OPERATED WELLS**

Continental Resources Inc.

Hess Corporation

JAG Oil Limited Partnership

Linn Energy Holdings LLC

Newfield Production Company

Northern Oil & Gas Inc.

Twin City Technical LLC

WM Energy Resources Inc.

## SCHEDULE 23

### LIST OF IRVING INSURERS

1. ACE INA Insurance
  - CGL 523952
  - XBC 602712
2. Zurich Insurance plc, UK Branch
  - B0509E1149413
  - B0509E1181313
3. Zurich Insurance Company Ltd
  - 8840960
  - 8838799
4. AEGIS, Syndicate AES 1225
  - B0509E1149413
5. Mitsui Sumitomo, Insurance Corporate Capital, Limited as sole member of Syndicate, 3210 at Lloyds
  - B0509E1181113
6. QBE Casualty Syndicate 386
  - B0509E1181113
7. QBE Syndicate 1886
  - B0509E1181113
8. Underwriters at Lloyd's and Lloyd's Syndicates, Subscribing to Policy No. B0509HM231013, including the following
  - AEGIS Syndicate AES 1225
  - Syndicate CNP 4444
  - Syndicate MKL 3000
  - Syndicate HIS 33
  - Syndicate LIB 4472
  - Syndicate ANV 1861
  - Syndicate MFM 2468
  - Syndicate AUW 609
  - Syndicate TUL 1301



- Syndicate SKD 1897
  - Syndicate AML 2001
  - Syndicate NAV 1221
  - Syndicate TRV 5000
9. XL Insurance (Bermuda) Ltd.
- XLUMB-742875
10. Oil Casualty Insurance, Ltd.
- U920303-0313
11. Argo Re Ltd.
- ARGO-CAS-OR-000227.1
12. Chubb Atlantic Indemnity Ltd.
- 3310-17-91
13. Zurich Insurance Company Ltd
- 8838799
14. Iron-Starr Excess Agency Ltd.
- 1S0000822
15. AIG Excess Liability Insurance International Limited
- 1657346
16. ACE Bermuda Insurance Ltd.
- 1OC-1338/5
17. Liberty Mutual Insurance Company
- XSTO-631084-013
18. ACE Underwriting Agencies Limited, as managing agency of Syndicate 2488 at Lloyd's, and  
ACE European Group Limited
- B0509EI181413

**Schedule “D” List of Existing Agreements**

PLAN OF COMPROMISE AND ARRANGEMENT

concerning, affecting and involving

MONTREAL, MAINE & ATLANTIC CANADA CO.

**MONTREAL, MAINE & ATLANTIC CANADA CO.**  
**Schedule D**  
**List of Existing Agreements**

- Rail World Locomotive Leasing, LLC Railroad Locomotive Lease Agreement dated February 10, 2004, as amended.
- Rail World Locomotive Leasing, LLC Railroad Locomotive Lease Agreement dated July 1, 2012.
- Management Agreement dated January 8, 2003, as amended, by and among Montreal Maine & Atlantic Railway, Ltd., Montreal, Maine & Atlantic Canada Co., MM&A Rolling Stock Corporation, LMS Acquisition Corporation and Rail World, Inc.
- Retention Agreement between Montreal, Maine & Atlantic Railway, Ltd. and M. Donald Gardner dated on or about August 5, 2011.
- Retention Agreement between Montreal, Maine & Atlantic Railway, Ltd. and Joseph McGonigle dated on or about August 5, 2011.
- Retention Agreement between Montreal, Maine & Atlantic Railway, Ltd. and Gaynor Ryan dated on or about August 5, 2011.
- Agreement between Montreal Maine & Atlantic Railway, Ltd. and LMS Acquisition Corporation regarding payment of bulk starch transloading costs.
- Letter agreement dated May 31, 2012 between Montreal, Maine & Atlantic Canada and Rail World, Inc. regarding reimbursement payments from Government of Quebec, Minister of Transport.

**Schedule "E" Distribution mechanism with respect to the  
Wrongful Death Claims**

PLAN OF COMPROMISE AND ARRANGEMENT

concerning, affecting and involving

MONTREAL, MAINE & ATLANTIC CANADA CO.

**Montreal Maine & Atlantic Canada Co.  
Schedule E  
Distribution Mechanism with Respect to the Wrongful Death Claims**

<b>Points Allocation Matrix</b>		
<b>Criteria</b>	<b>Points per Criteria</b>	
<b>1. Age of the decedents</b>	<b><u>Age of Decedent</u></b>	<b><u>Points</u></b>
	<ul style="list-style-type: none"> <li>• Less than 18</li> <li>• 18 to less than 26</li> <li>• 26 to less than 60</li> <li>• 60 to less than 66</li> <li>• 66 and greater</li> </ul>	<ul style="list-style-type: none"> <li>• 3</li> <li>• 8</li> <li>• 10</li> <li>• 8</li> <li>• 3</li> </ul>
<b>2. If decedent survived by children</b>	<b><u>Age of Surviving Children</u></b>	<b><u>Points</u></b>
	<ul style="list-style-type: none"> <li>• Less than 21</li> <li>• 21 to less than 31</li> <li>• 31 to less than 51</li> <li>• 51 and greater</li> </ul>	<ul style="list-style-type: none"> <li>• 15</li> <li>• 7</li> <li>• 5</li> <li>• 3</li> </ul>
<b>3. If decedent is survived by a spouse</b>	<b><u>Annual Income of Decedent</u></b>	<b><u>Points</u></b>
	<ul style="list-style-type: none"> <li>• Less than \$20,000</li> <li>• \$20,000 to less than \$50,000</li> <li>• \$50,000 to less than \$75,000</li> <li>• \$75,000 to less than \$100,000</li> <li>• \$100,000 and greater</li> </ul>	<ul style="list-style-type: none"> <li>• 12.50</li> <li>• 15.00</li> <li>• 16.25</li> <li>• 17.50</li> <li>• 18.75</li> </ul>
<b>4. If decedent is survived by a spouse but no children</b>	<ul style="list-style-type: none"> <li>• If parents, 5 additional points</li> <li>• If no parents, but siblings, then 2.5 points per sibling to a maximum of 7.5 points</li> </ul>	
<b>5. If decedent is not survived by a spouse or child and the decedent <u>is a minor</u></b>	<ul style="list-style-type: none"> <li>• 10 points for each surviving parent and</li> <li>• 5 points for each surviving sibling</li> </ul>	
<b>6. If decedent is not survived by a spouse or child and the decedent <u>is not a minor</u></b>	<ul style="list-style-type: none"> <li>• 5 points for each surviving parent and</li> <li>• 2.5 points for each surviving sibling.</li> </ul>	
<b>7. If decedent is survived by a child</b>	<ul style="list-style-type: none"> <li>• Set aside of 5% to parents and siblings with a potential reallocation to ensure a minimum payment of \$25,000 to each parent and sibling</li> </ul>	

**Montreal Maine & Atlantic Canada Co.  
Schedule E  
Distribution Mechanism with Respect to the Wrongful Death Claims**

Victim	Total Points	Allocation %	Estimated Potential Distribution
1	68	4.78%	\$ 3,691,000
2	23	1.63%	1,257,000
3	32	2.27%	1,750,000
4	20	1.42%	1,094,000
5	18	1.24%	957,000
6	20	1.42%	1,094,000
7	6	0.42%	328,000
8	38	2.66%	2,049,000
9	28	1.95%	1,504,000
10	14	0.99%	765,000
11	23	1.63%	1,258,000
12	16	1.13%	875,000
13	20	1.42%	1,094,000
14	28	1.95%	1,504,000
15	40	2.83%	2,187,000
16	52	3.65%	2,816,000
17	28	1.95%	1,504,000
18	25	1.77%	1,367,000
19	23	1.63%	1,257,000
20	40	2.83%	2,187,000
21	17	1.20%	929,000
22	18	1.27%	984,000
23	38	2.66%	2,050,000
24	21	1.45%	1,121,000
25	23	1.63%	1,258,000
26	55	3.90%	3,007,000
27	25	1.77%	1,367,000
28	53	3.72%	2,871,000
29	40	2.83%	2,187,000
30	31	2.16%	1,668,000
31	20	1.42%	1,094,000
32	23	1.63%	1,257,000
33	25	1.77%	1,367,000
34	40	2.83%	2,187,000
35	13	0.92%	711,000
36	13	0.92%	711,000
37	45	3.15%	2,433,000
38	21	1.45%	1,121,000
39	25	1.77%	1,367,000
40	30	2.12%	1,640,000
41	23	1.59%	1,230,000
42	41	2.92%	2,255,000
43	40	2.83%	2,187,000
44	40	2.83%	2,187,000
45	13	0.92%	711,000
46	53	3.72%	2,871,000
47	31	2.21%	1,709,000
48	40	2.83%	2,187,000
	<b>1,412</b>	<b>100.0%</b>	<b>\$ 77,205,000</b>

The above amounts are prior to any fees that may be claimed by the claimants attorneys or the Class Representatives, as applicable.

(all amounts are in Canadian dollars)

**Schedule "F" Distribution mechanism with respect to the Bodily  
Injury and Moral Damages Claims**

PLAN OF COMPROMISE AND ARRANGEMENT

concerning, affecting and involving

MONTREAL, MAINE & ATLANTIC CANADA CO.

Montreal, Maine & Atlantic Canada Co.  
 Schedule F  
 Distribution Mechanism with Respect to the Moral Damage Claims

	<u>Points</u>	<u>Estimated # of claimants</u>	<u>Total points</u>	<u>%</u>	<u>Est. Dist.</u>	<u>Dist. per claim</u>
Trouble & Inconvenience	5.0	3,700	18,500	35.8%	\$ 11,472,000	\$ 3,100
<b>Evacuations</b>						
Per day of displacement	1.0	1,850	10,370	20.1%	6,430,000	620
Maximum	30.0					par jour
Red Zone/Yellow Zone	50.0	140	7,000	13.5%	4,341,000	31,010
Grandparents and grandchildren (note 1)	15.0	50	750	1.5%	465,000	9,300
Post Traumatic Stress - short term (note 2)	50.0	100	5,000	9.7%	3,100,000	31,000
Post Traumatic Stress - long term (note 2)	100.0	100	10,000	19.3%	6,201,000	62,010
Bodily Injury	50.0	2	100	0.2%	62,000	31,000
Buffer (note 3)					2,000,000	
<b>Total (notes 1 &amp; 4)</b>			<b>51,720</b>	<b>100%</b>	<b>\$ 34,071,000</b>	

The above amounts are prior to any fees that may be claimed by the claimants' attorneys or the Class Representatives, as applicable.

Note 1: This is a cumulative calculation, whereby one claimant can fall into more than one category, however wrongful death claimants cannot claim for post traumatic stress.

Note 2: For those who have been given a medical diagnosis of post traumatic stress, a depressive disorder, an anxiety disorder and/or otherwise remain under medical care for mental health issues arising from the disaster and for those who were present in the red zone at the time of the derailment. In order to qualify in this category and to determine if you qualify for short term or long term post traumatic stress further details will be required by the Monitor.

Note 3: To be used for any increase in the post traumatic stress category (if any) and thereafter any unused portion will be distributed to all the other categories of moral damages on a pro rata basis.

Note 4: The final amounts may vary depending on further information received.

(all amounts are in Canadian dollars)



**Schedule “G” Distribution mechanism with respect to the property  
and Economic Damages Claims**

PLAN OF COMPROMISE AND ARRANGEMENT

concerning, affecting and involving

MONTREAL, MAINE & ATLANTIC CANADA CO.

**Montreal, Maine & Atlantic Canada Co.**  
**Schedule G**  
**Distribution Mechanism with Respect to the Property and Economic Damages Claims**

- Property and Economic Damages Claims will be valued pursuant to the Claims Resolution Order.
- The value of the Property and Economic Damages Claims is currently estimated at \$75 million.
- Following the valuation of the Property and Economic Damages Claims pursuant to the Claims Resolution Order, creditors having Proven Claims will be paid on a pro-rata basis.
- In the event that, following the review of these claims pursuant to the Claims Resolution Order, the aggregate value of the Property and Economic Damages Claims is reduced below \$75 million, the difference between the amount of \$75 million and the revised aggregate value of these claims will be allocated on a pro-rata basis to the value of the claims in the other categories described in Sections 4.2 (a) (b) (d) and (e).

**Any distributions made may be subject to fees that may be claimed by the claimants' attorneys or the Class Representatives, as applicable.**

**(all amounts are in Canadian dollars)**

**Schedule “H” XL Settlement Agreement**  
**PLAN OF COMPROMISE AND ARRANGEMENT**  
**concerning, affecting and involving**  
**MONTREAL, MAINE & ATLANTIC CANADA CO.**

EXECUTION COPY

**SETTLEMENT AGREEMENT**

This Agreement is made as of the Execution Date by the XL Companies, the Trustee and MMAC, and shall be effective as of the Approval Date.<sup>1</sup>

**RECITALS**

WHEREAS, MMA and MMAC are insureds under a Railroad Liability Insurance Policy, bearing number RRL003723801 and in effect from April 1, 2013 to April 1, 2014 (subject to any extensions as may be or have been agreed between the parties), issued by Indian Harbor;

WHEREAS, MMA and MMAC are insureds under a Railroad Liability Insurance Policy, bearing the number RLC003808301 and in effect from April 1, 2013 to April 1, 2014 (subject to any extensions as may be or have been agreed between the parties), issued by XL Insurance;

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

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

WHEREAS, Richter Advisory Group Inc. has been appointed as Monitor in connection with the CCAA Proceeding;

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

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

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

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WHEREAS, various claims arising out of the Derailment have been made against MMA, MMAC, and other insureds under the Policies;

WHEREAS, the Parties wish to resolve all Claims that have arisen or could in the future arise relating to the Policies by agreeing to a global settlement relating to Claims and possible Claims against the XL Companies arising out of the Derailment or otherwise under the Policies;

WHEREAS, the Canadian Policy is the applicable policy in respect of any loss, cost or expense arising out of the Derailment, and covered losses arising out of the Derailment will substantially exceed the applicable CAN \$25 million per occurrence limit in the Canadian Policy;

WHEREAS, the Parties recognize that, to the extent applicable, Quebec law provides that the proceeds of the Canadian Policy are property of the victims of the Derailment, and the Parties seek to establish a mechanism for promptly providing those victims with access to those proceeds;

WHEREAS, the parties also seek to achieve a global resolution of any and all other matters relating to the Policies, through a buy-back, by the XL Companies, of the Trustee's and MMAC's remaining interests in the Policies;

WHEREAS, through this Agreement, the Plan and the Approval Orders, the Parties seek to provide the XL Companies with the broadest possible release with respect to the Policies and to provide that the XL Companies shall have no further obligations to any Person for any and all Claims that have been, or could in the future be, asserted against the XL Companies in relation to the Policies and/or the Derailment;

WHEREAS, the XL Companies have sought, and the Trustee, MMAC and the Monitor have agreed, through the negotiations leading to this Agreement, to create a mechanism under

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which all of the Directors, Officers and Employees, and all other Persons that assert any right or interest in the Policies have had reasonable opportunity to become a Settling Defendant and Released Party by entering into an appropriate settlement agreement.

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

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

I. DEFINITIONS

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

1.1. "Agreement" means this Settlement Agreement.

1.2. "Approval Date" means the date on which the U.S. Approval Order and the Canadian Approval Order become Final Orders. If the U.S. Approval Order and the Canadian Approval Order become Final Orders on different dates, the Approval Date is the date on which the later order to become a Final Order becomes a Final Order.

1.3. "Approval Orders" means the U.S. Approval Order and the Canadian Approval Order, collectively.

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

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

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

1.7. "Canadian Approval Order" means an order entered in the CCAA Proceeding, which Order shall be in form and substance acceptable to the XL Companies, and shall, among

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other things, (i) approve, sanction and/or confirm the Canadian Plan, (ii) approve this Agreement; (iii) authorize MMAC to undertake the settlement and the transactions contemplated by this Agreement; (iv) authorize the sale of MMAC's remaining interest, in the Policies, if any, to the extent permitted by law, to the XL Companies free and clear of any and all claims and interests; (v) vest any and all interests in the XL Indemnity Payment; (vi) provide that the XL Companies are good faith purchasers of MMAC's remaining interests in the Policies and, as such, are entitled to all protections provided to a good-faith purchaser; and (vii) provide for the Injunction.

1.8. "Canadian Policy" means the insurance policy issued by XL Insurance, bearing number RLC003808301.

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

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

1.11. "CCAA Court" means the Superior Court, Province of Québec, as presiding over the CCAA Proceeding.

1.12. "CCAA Proceeding" means the case styled *In the Matter of the Plan of Compromise or Arrangement of Montreal, Maine & Atlantic Canada Co.*, Superior Court, Province of Québec, No. 500-11-045094-139.

1.13. "CIT Group" means CIT Group, Inc.

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1.14. "Claim" means past, present and future claims, causes of action, obligations, rights, suits, judgments, remedies, interests, actions, liabilities, demands, duties, injuries, damages, expenses, fees, 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 or otherwise, whether statutory, at common law or in equity, including but not limited to claims for breach of contract, breach of the implied covenant of good faith and fair dealing, statutory or regulatory violations, for indemnity or contribution, or punitive, exemplary or extra-contractual damages of any type, (a) arising out of, based upon, or relating in any way related to, in whole or in part, directly or indirectly, whether through a direct claim, cross-claim, third-party claim, subrogation claim, class action or otherwise, to (i) the Derailment, including any claims for wrongful death, personal injury, emotional distress, property damage, economic loss, or environmental damage, remediation or exposure; (ii) the Policies; (iii) the issuance of the Policies; (iv) insurance coverage under the Policies, reimbursement or payment under the Policies; (v) any act or omission of an insurer of any type for which a Claimant might seek relief in connection with the Policies, or (b) that would otherwise constitute a claim (i) provable in bankruptcy under the Bankruptcy and Insolvency Act, R.S.C. 1985, c.B-3, had MMAC become bankrupt on August 6, 2013; or (ii) within the definition of "claim" set forth in Section 101(5) of the Bankruptcy Code.

1.15. "Claimant" means any Person holding or potentially holding any Claim against (i) MMA, (ii) MMAC, (iii) to the extent applicable, the Estates, (iv) any XL Company, and/or (v) any of the Released Parties.

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



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1.17. "Directors, Officers and Employees" mean any and all persons or entities who qualify as an officer, director, partner, or employee under either of the Policies.

1.18. "Estates" means the MMA bankruptcy estate and, to the extent applicable, the MMAC estate.

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

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

1.21. "Indian Harbor" means Indian Harbor Insurance Company.

1.22. "Injunction" means an order by the CCAA Court and the Bankruptcy Court permanently releasing and enjoining the enforcement, prosecution, continuation or commencement of any (a) Claim that any Person or Claimant holds or asserts or may in the future hold or assert against the XL Companies arising out of, in connection with and/or in any way related to any of the Policies and (b) Claim against any Released Party and/or Settling Defendant arising out of, in connection with and/or in any way related to the Policies or the Derailment. The Injunction order shall provide that all Persons and Claimants, whether or not consensually, shall be deemed to have granted full and complete releases to the XL Companies and the Released Parties and shall be permanently and forever barred, estopped, stayed and enjoined from (i) pursuing any Claim against the XL Companies and the Released Parties, (ii) continuing or commencing any action or other proceeding with respect to any Claim against the XL Companies and the Released Parties, (iii) seeking the enforcement, attachment, collection or

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recovery of any judgment, award, decree, or order against the XL Companies and the Released Parties or property of the XL Companies and the Released Parties with respect to any Claim, (iv) creating, perfecting, or enforcing any encumbrance of any kind against the XL Companies and the Released Parties or the property of the XL Companies and the Released Parties with respect to any Claim, and (v) asserting any right of setoff, subrogation, or recoupment of any kind against any obligations due to the XL Companies and the Released Parties with respect to any Claim, the whole to the extent that any such Claim Arises out of, is in connection with and/or in any way related to the Derailment or the Policies.

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

1.24. "MMAC" means Montreal, Maine and Atlantic Canada Co.

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

1.26. "Other Insurer" means any Person that provided, or claims or is alleged to have provided, any insurance coverage to MMA, MMAC, any of their Directors, Officers and Employees, or affiliates.

1.27. "Parties" means the Trustee (for himself solely as a trustee, for MMA and for its estate), MMAC, and the XL Companies.

1.28. "Person" means and includes a natural person or persons, a group of natural persons acting as individuals, a group of natural individuals acting in collegial capacity (e.g., as a committee, board of directors, etc.), a corporation, partnership, limited liability company or limited partnership, a proprietorship, joint venture, trust, legal representative, or any other unincorporated association, business organization or enterprise, any government entity and any

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successor in interest, heir, executor, administrator, trustee, trustee in bankruptcy, or receiver of any person or entity.

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

1.30. "Policies" mean the U.S. Policy and the Canadian Policy.

1.31. "Proceedings" mean the Bankruptcy Case and the CCAA Proceeding.

1.32. "Rail World" means Rail World, Inc.

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

1.34. "Settlement Amount" means the sum of the XL Indemnity Payment plus the XL Additional Payment, to be paid by the XL Companies pursuant to Section 2.1 of this Agreement.

1.35. "Settling Defendant" has the meaning set forth in Section 1.33 of this Agreement.

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

1.37. "U.S. Approval Order" means (x) an Order entered in the Bankruptcy Case sanctioning, approving and/or confirming the Plan, or (y) an order entered in the Bankruptcy Case pursuant to the applicable sections of chapter 15 of the Bankruptcy Code, which order recognizes and enforces the terms of the Canadian Approval Order. In either case, a "U.S. Approval Order" shall be in form and substance acceptable to the XL Companies, and must,

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among other things, (i) approve this Agreement; (ii) authorize the Trustee to undertake the settlement and the transactions contemplated by this Agreement; (iii) authorize the sale of the MMA estate's remaining interest in the Policies to the XL Companies free and clear of any and all claims and interests; (iv) vest any and all interests in the XL Indemnity Payment; (v) provide that the XL Companies are good faith purchasers of the MMA estate's remaining interests in the Policies and, as such, are entitled to all protections provided to a good-faith purchaser; and (vi) provide for the Injunction.

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

1.39. "U.S. Policy" means the insurance policy issued by Indian Harbor, bearing number RRL003723801.

1.40. "XL Companies" means Indian Harbor, XL Insurance, XL Group plc and their affiliates.

1.41. "XL Additional Payment" is US \$5 million.

1.42. "XL Indemnity Payment" is CDN \$25 million.

1.43. "XL Insurance" means the Canadian Branch of XL Insurance Company SE (formerly XL Insurance Company Limited).

1.44. "XL Policies" means the Canadian Policy and the U.S. Policy.

II. SALE OF THE ESTATES' REMAINING INTERESTS IN THE POLICIES AND  
PAYMENT OF THE SETTLEMENT AMOUNT

2.1. Subject to all of the terms and conditions of this Agreement, in full and final settlement of all responsibilities under and arising out of the Policies, the XL Companies shall

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purchase from the Trustee and MMAC, and the Trustee and MMAC shall sell, convey, transfer and deliver to the XL Companies, after payment of the Settlement Amount, MMA's and the MMAC's remaining interests, if any and to the extent permitted by law, in each of the Policies, free and clear of any and all Interests of any and all Persons. Within five calendar days of payment of the Settlement Amount, and upon request of the XL Companies, the Trustee and MMAC shall execute and deliver to the XL Companies bills of sale, in form and substance acceptable to the XL Companies, evidencing such sales of MMA's and the MMAC estate's remaining interests in the Policies to the XL Companies, which sales shall be effective as of the Approval Date.

2.2. Subject to all of the terms of this Agreement, in full and final settlement of all responsibilities under and arising out of the Policies, including the sale of MMA's and the MMAC estate's remaining interests in the Policies, XL Insurance shall pay the Settlement Amount to the Monitor by no later than the 10th calendar day after Approval Orders become Final Orders. The Trustee (to whom a portion of the Settlement Amount will be remitted by the Monitor for distribution to some of the Claimants, the whole in accordance with the Plan), MMAC and the Monitor covenant and agree that the proceeds of the XL Indemnity Payment shall be distributed in accordance with the Plan. The Trustee and MMAC intend to seek authorization to use the entire amount of the XL Additional Payment for the payment of (i) allowed administrative expenses in the Bankruptcy Case and (ii) the professional fees and disbursements of the Monitor, the Monitor's counsel and MMAC's counsel in the CCAA Proceeding.

2.3. The Parties agree that (i) the Settlement Amount is the total amount the XL Companies are obligated to pay on account of any and all Claims of any kind made under or

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related to the Policies; (ii) under no circumstance will the XL Companies ever be obligated to make any additional payments to MMA, MMAC, the Trustee, the Estates (where applicable), or any other Person in connection with the Policies; (iii) all limits of liability of the Policies, including all per occurrence and aggregate limits, shall be deemed fully and properly exhausted; (iv) the Settlement Amount is the full purchase price of MMAC's and the MMA estate's remaining interests in the Policies, and upon payment of the Settlement Amount, the XL Companies will be deemed to own MMAC's and the MMA estate's remaining interests in the Policies free and clear of any and all claims and interests of any Person, (v) subject to the terms of this Agreement and the occurrence of the Approval Date, the XL Companies shall have no further obligation to MMA, MMAC, the Trustee, the Estates (where applicable), or any other Person or Claimant under or related to the Policies for any Claim; and (vi) the Settlement Amount is at least equal to the fair value of MMAC's and the MMA estate's remaining interests in the Policies.

2.4. Effective immediately upon payment of the Settlement Amount, and without any further action by any of the Parties, all of MMA's and MMAC's rights and the rights of all other Persons under and with respect to the Policies shall be permanently and irrevocably extinguished.

III. BANKRUPTCY AND CCAA RELATED OBLIGATIONS

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

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

3.3. If either of the Approval Orders (or any other orders of the Bankruptcy Court or CCAA Court relating to this Agreement) shall be appealed by any Person (or a petition for certiorari or motion for rehearing or reargument shall be filed with respect thereto), the Trustee and MMAC agree to take all reasonable steps to defend against such appeal, petition or motion, provided, however, that nothing herein shall preclude the Parties from consummating the transactions contemplated herein if the Approval Orders shall have been entered and have not been stayed and the XL Companies, in their sole discretion, waive in writing the requirement that each of the Approval Orders be a Final Order.

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

3.5. The Trustee and MMAC agree to cooperate with the XL Companies and their representatives in connection with seeking approval of the Plans and the Approval Orders. Such cooperation shall include consulting with the XL Companies, at their request, concerning the status of the Proceedings, including the status of the Plans and Approval Orders, and providing the XL Companies with draft copies of requested pleadings, notices, proposed orders and other documents relating to the Proceedings, the Plans, the Approval Orders and/or the service of the

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Plans and Approval Orders as soon as reasonably practicable so as to afford the XL Companies a reasonable opportunity to review and comment on any such documents in advance of filing. The Trustee and MMAC further covenant and agree that they will not submit for approval in the Proceedings any motion, adversary proceeding, filing or other request the approval of which could conflict with, supersede, abrogate, nullify, modify or restrict the terms of the Agreement and the rights of the XL Companies hereunder, or in any way prevent or interfere with the consummation or performance of the transactions contemplated by this Agreement, including any transaction that is contemplated by or approved pursuant to the Plans or the Approval Orders.

3.6. In the event any Person asserts a Claim against any of the XL Companies after the Approval Date, arising out of or related to any matter released by this Agreement, the XL Companies shall notify the Trustee and/or MMAC and the Trustee and/or MMAC shall immediately seek an order from the CCAA Court and/or the Bankruptcy Court enjoining such Claim, as the XL Companies may elect and direct.

3.7. On the same day that MMAC and the Trustee file the Plan, or as soon as practicable thereafter, MMAC (through the Monitor) and the Trustee shall serve copies of the Plan on (i) each Person known to the Trustee, MMAC or the XL Companies to have a Claim against any of them or the Estates through participating in the Proceedings, the filing of a lawsuit, or the filing of a proof of claim or other assertion of a Claim, or otherwise (or to his, her, or its proxy, representative or counsel of record); (ii) any and all Persons known to the Trustee, MMAC or the XL Companies entitled or allegedly entitled to insurance coverage under the Policies, including Rail World, the Directors, Officers and Employees, and any other additional insured (or Persons claiming to be additional insureds) or otherwise claiming to be entitled to



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benefits under the Policies and those Persons falling within a policy definition of "named insured"; (iii) all other Persons who or that have filed timely proofs of claim in the Proceedings; (iv) all Persons on the master service lists maintained in the Proceedings; and (v) all other parties in interest, including any Person who or that filed a notice of appearance and demand for service of papers in the Proceedings. MMAC (through the Monitor) and the Trustee shall also provide appropriate publication notice, and such further or other notice as may be required by the CCAA Court (with respect to MMAC) or the Bankruptcy Court (with respect to the Trustee). As soon as reasonably practical after filing the Plan, the certificates of the service provided by mail and by publication shall be filed by the Monitor in the CCAA Proceedings and by the Trustee in the Bankruptcy Case.

IV. RELEASE

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

(a) MMAC and the Trustee, on behalf of themselves and, to the extent applicable, the Estates, hereby fully, finally, and completely remise, release, acquit and forever discharge the XL Companies from any and all Claims whether actual or alleged, known or unknown, accrued or unaccrued, existing or potential, suspected or unsuspected with respect to, relating to, or in any way arising out of the Policies. The release of the XL Companies under this Section 4.1 of the Agreement shall include, but shall not be limited to, any and all Claims for coverage with respect to, relating to, or in any way arising out of the Policies whether for property damage, bodily injury, personal injury, advertising injury, or any other form of loss, expense, or other benefits, covered or potentially covered, under the Policies. In addition, MMAC and the Trustee, on behalf of themselves and, to the extent applicable, the Estates, hereby withdraw any and all requests, demands, or tenders for defense or indemnity previously

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submitted to the XL Companies under the Policies and further surrender, relinquish, and release any further right to tender or present any Claims whatsoever to the XL Companies under the Policies. Furthermore, by virtue of the foregoing releases and the Approval Orders, XL Companies shall have no duty to defend or indemnify MMA, MMAC, the Trustee and any other insured under the Policies, on behalf of themselves and the Estates, with respect to any past, present, or future Claim, nor shall XL Companies have any other duty or obligation whatsoever to any other Person with respect to any and all Claims arising out of, in connection with, and relating to the Policies.

(b) The XL Companies hereby fully, finally, and completely remise, release, acquit and forever discharge MMA, MMAC, the Trustee, the Estates and all the Released Parties from any and all Claims whether actual or alleged, known or unknown, accrued or unaccrued, existing or potential, suspected or unsuspected with respect to, relating to, or in any way arising out of the Policies. The XL Companies also waive any and all rights, at law or contractual, of subrogation, indemnification, and/or contribution that they have, or may have, against any Person as a result of or on account of the payment of the Settlement Amount, including without limitation any rights based on any "Other Insurance" clause in the Policies.

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

4.3. Changes In Fact Or Law. The Parties acknowledge that there may be changes in the law with respect to interpretation of coverage under the Policies or otherwise and/or that the Parties may hereafter discover facts different from, or in addition to, those which they now

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believe to be true with respect to any and all of the claims herein released. Nevertheless, the Parties hereby agree that the releases set forth above, and in the Plan and the Approval Orders, shall be and remain effective in all respects, notwithstanding any changes in the law and/or the discovery of such additional or different facts. Moreover, the Trustee and MMAC understand that Claims that have been or may be asserted may increase or decrease in amount or in severity over time, that Claims that have been or may be asserted may include progressive, cumulative, unknown, and/or unforeseen elements, and that there may be hidden, unknown, and unknowable damages, defense expenses, or other costs related to such Claims. Nevertheless, the Parties irrevocably and knowingly agree that the releases contained in Section 4.1 of this Agreement include a full and complete and irrevocable release and discharge from all known and unknown rights or Claims or interest arising out of, in connection with, and/or relating to, in any manner or fashion, the Policies.

4.4. General Release. In furtherance of their express intent to fully, finally, and irrevocably release and discharge each other for all Claims, known and unknown, as set forth in this Section 4 of the Agreement, and in the Plan and the Approval Orders, each of the Parties expressly waives any and all rights it may have under any contract, statute, code, regulation, ordinance, or the common law, which may limit or restrict the effect of a general release as to Claims released herein, arising out of, in connection with, and/or relating to the Policies.

4.5. Reinsurance. The releases set forth in this Section 4 of the Agreement shall not apply to or have any effect on the XL Companies' right to any claim for reinsurance in connection with the Policies; nor shall any matter related to the XL Companies' assertion of any claim to reinsurance affect the XL Companies' obligations under this Agreement.

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

4.7. No Assignment Of Claims. The Trustee on behalf of himself, MMA and the MMA estate, and MMAC, on behalf of itself and, to the extent applicable, the MMAC estate, warrant and represent that they have not sold, assigned, transferred, conveyed, or otherwise disposed of any Claims that they are releasing in this Agreement. Moreover, Trustee on behalf of himself, MMA and the MMA estate, and MMAC, on behalf of itself and the MMAC estate, represent, warrant, and agree that they will not in any way assist any Person in the establishment of any Claim against the XL Companies that arises out of, results from, or in any way relates to, the XL Companies' investigation, handling, defense, or settlement by the XL Companies of Claims released under this Agreement.

V. REPRESENTATIONS AND WARRANTIES OF THE PARTIES.

Each of the Parties separately represents and warrants as follows:

- (a) Subject to the entry of the Approval Orders, it has the requisite power and authority to enter into this Agreement and to perform the obligations imposed on it or him by this Agreement;
- (b) Subject to the Approval Date, the execution and delivery of, and the performance of the obligations contemplated by this Agreement have been approved by duly authorized representatives of the Party, and by all other necessary actions of the Party;
- (c) Each Party has expressly authorized its or his undersigned representative to execute this Agreement on the Party's behalf as its or his duly authorized agent;

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

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

VI. MISCELLANEOUS PROVISIONS

6.1. Conditions Precedent. This agreement is conditioned on the Approval Orders becoming Final Orders, the form and substance of which shall be acceptable to the XL Companies to the extent of any provision affecting the XL Companies and/or the rights thereof, after all parties, known by the Trustee or MMAC to be insured or to claim to be insured under the XL Policies, receive notice of the Plans and Approval Orders and have an opportunity to be heard thereon.

6.2. Termination Rights. If the Bankruptcy Court or the CCAA Court declines to enter either of the Approval Orders, or if the Approval Orders are vacated or modified in a way that is not acceptable to the XL Companies, or are reversed on appeal such that they do not become Final Orders, the XL Companies, may terminate this Agreement by delivering written notice of such termination to the Trustee and MMAC. In the event that this Agreement is terminated, (i) the Agreement shall be deemed null and void; (ii) the XL Companies shall not be obligated to pay the Settlement Amount pursuant to this Agreement; (iii) the XL Companies, MMAC and the Trustee shall have all of the rights, defenses and obligations under or with respect to any and all Policies that they would have had absent this Agreement; and (iv) any and all otherwise applicable statutes of limitations or repose, or other time-related limitations, shall be deemed to have been tolled for the period from the Execution Date through the date that the Agreement becomes null and void pursuant to the terms of this Agreement.

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

6.4. No Precedential Value. The settlement reflected in this Agreement shall be without precedential value, and it is not intended to be, nor shall it be construed as, an interpretation of any insurance policies. It shall not be used as evidence, or in any other manner, in any court or other dispute resolution proceeding, to create, prove, or interpret the obligations of the XL Companies under any insurance policies issued to MMA, MMAC, or to any other Person, provided, however, that subject to the provisions of Section 6.15 of this Agreement, this Agreement may be used as evidence in any defense of the XL Companies of any obligation arising under the Policies.

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

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

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6.7. No Admission of Liability. The Parties agree that this Agreement is the result of a compromise of disputed issues of coverage, and that the execution and delivery of this Agreement by any of the Parties shall not constitute or be construed as an admission of any liability, a course of performance, or wrongdoing on the part of any of them. The Parties acknowledge that this Agreement is not, and cannot be construed as, any admission by the XL Companies that any defense, indemnity, or other coverage obligation exists under the Policies, or that XL Companies have any other obligation of any nature whatsoever with respect to the Policies. By entering into this Agreement, the Trustee, MMAC, and the XL Companies have not waived nor will be deemed to have waived any right, obligation, privilege, defense or position it may have asserted or might assert in connection with any claim, matter, Person, or insurance policy outside the scope of this Agreement. No Person other than the Parties hereto shall have any legally enforceable rights or benefits under this Agreement except as specifically set forth in Section 4.6 of this Agreement.

6.8. Attorneys' Fees, Costs, And Expenses. Each of the Parties shall bear its own costs, attorneys' fees, and expenses in connection with the negotiations for and preparation of this Agreement. Additionally, the attorneys' fees, expenses, and costs incurred by the XL Companies for the investigation and defense of any claims prior to the Approval Date shall be the sole responsibility of the XL Companies. Notwithstanding the foregoing, the XL Companies acknowledge that the Trustee and MMAC intend to seek authorization to use the entire amount of the XL Additional Payment for the payment of (i) allowed administrative expenses in the Bankruptcy Case and (ii) the fees and disbursements of the Monitor, the Monitor's counsel and MMAC's counsel in the CCAA Proceeding.

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

6.10. No Third Party Beneficiaries. Except as set forth in Section 4.6 of this Agreement, nothing in this Agreement is intended or shall be construed to give any Person, other than the XL Companies, MMAC, and the Trustee (on behalf of himself as trustee, MMA, and the MMA estate) and their respective successors and permitted assigns, any legal or equitable right, remedy, or claim under or in respect to this Agreement or any provisions contained herein; this Agreement and any conditions and provisions hereof being and intended to be for the sole and exclusive benefit of the XL Companies, MMAC and the Trustee (on behalf of himself as a trustee, MMA, and the MMA estate) as well as each of their successors and permitted assigns, and for the benefit of no other Person. Notwithstanding the foregoing, neither this Agreement nor the rights and obligations set forth herein shall be assigned without the prior written consent of the other Party, except that this Section shall not prohibit any assignment by the XL Companies (a) made by merger, consolidation, or operation of law or (b) to a Person who succeeds to all or substantially all of such Party's assets.

6.11. Severability. If any provisions of this Agreement, or the application thereof, shall for any reason or to any extent be construed by a court of competent jurisdiction to be invalid or



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unenforceable, the remainder of this Agreement, and application of such provisions to other circumstances, shall remain in effect and be interpreted so as best to reasonably effect the intent of the Parties. Notwithstanding the foregoing, all of the conditions precedent in this Agreement will remain in full force and effect following any determination that any other provisions of this Agreement are invalid or unenforceable.

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

- (a) As to the XL Companies:

Anthony Vidovich  
General Counsel – Global Claims  
XL Group – Insurance  
100 Constitution Plaza  
Hartford, CT 06103  
anthony.vidovich@xlgroup.com

- (b) As to the Trustee:

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

- (c) As to MMAC:

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

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With a simultaneous copy to the Monitor:

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

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

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

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

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

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

6.18. Cross-Border Insolvency Protocol. Each of the Parties hereby acknowledges and agrees that the Cross-Border Insolvency Protocol attached as Schedule C to this Agreement shall apply for purposes of any action, suit or proceeding arising out of or relating to this Agreement or any of the transactions contemplated hereby.

6.19. This Agreement may be executed in two or more counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

6.20. This Agreement constitutes the Parties' entire agreement and supersedes and replaces all prior written and oral agreements regarding the subject matter of this Agreement. Each Party acknowledges that no other Party or agent or attorney of any other Party has made any promise, representation or warranty, express or implied, which is not expressly contained in this Agreement.

6.21. Rules of Construction. As used in this Agreement, the singular and masculine gender shall mean also the plural and feminine or neuter, as may be appropriate, "it" shall include "he" and "she"; and "each" and "all" includes "each" and "every." Unless the context of this Agreement otherwise requires, (i) words using the singular or plural number also include the plural or singular number, respectively; (ii) the terms "hereof," "herein," "hereby" and

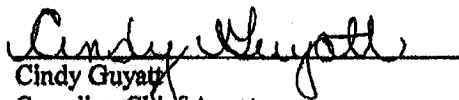
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derivative or similar words refer to this entire Agreement; (iii) the words "include," "includes" or "including" shall be deemed to be followed by the words "without limitation," and (iv) the word "or" shall be disjunctive but not exclusive. References to this Agreement and other documents shall be deemed to include all subsequent amendments and other modification thereto.

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

**XL Insurance:**

**Chapter 11 Trustee:**

  
Cindy Guyatt  
Canadian Chief Agent  
XL Insurance Company SE

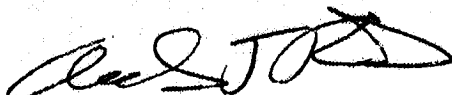
\_\_\_\_\_  
Robert J. Keach  
Chapter 11 Trustee  
*In re Montreal, Main & Atlantic Railway, Ltd.,*  
Bankr. D. Me. 13-10670

Dated: March 4, 2015

Dated: March \_\_, 2015

**Indian Harbor Insurance Company:**

**Montreal, Maine and Atlantic Canada Co.:**

  
\_\_\_\_\_  
Andrew J. Pinkes  
Director and Executive Vice President

\_\_\_\_\_  
Robert J. Keach  
Sole Shareholder, in capacity as Chapter 11  
Trustee, *In re Montreal, Main & Atlantic*  
*Railway, Ltd.,* Bankr. D. Me. 13-10670

Dated: March 4, 2015

Dated: March \_\_, 2015

EXECUTION COPY

derivative or similar words refer to this entire Agreement; (iii) the words "include," "includes" or "including" shall be deemed to be followed by the words "without limitation," and (iv) the word "or" shall be disjunctive but not exclusive. References to this Agreement and other documents shall be deemed to include all subsequent amendments and other modification thereto.

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

**XL Insurance:**

\_\_\_\_\_  
Cindy Guyatt  
Canadian Chief Agent  
XL Insurance Company SE

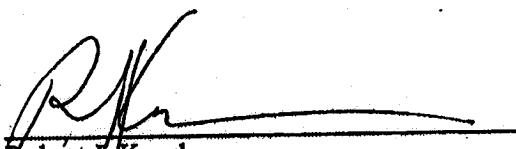
Dated: March \_\_, 2015

**Indian Harbor Insurance Company:**

\_\_\_\_\_  
Andrew J. Pinkes  
Director and Executive Vice President

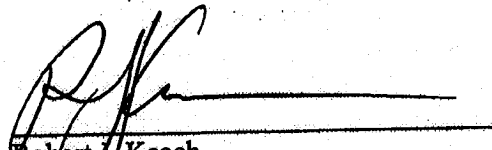
Dated: March \_\_, 2015

**Chapter 11 Trustee:**

  
\_\_\_\_\_  
Robert J. Keach  
Chapter 11 Trustee  
*In re Montreal, Main & Atlantic Railway, Ltd.,*  
Bankr. D. Me. 13-10670

Dated: March 23, 2015

**Montreal, Maine and Atlantic Canada Co.:**

  
\_\_\_\_\_  
Robert J. Keach  
Sole Shareholder, in capacity as Chapter 11  
Trustee, *In re Montreal, Main & Atlantic*  
*Railway, Ltd., Bankr. D. Me. 13-10670*

Dated: March \_\_, 2015

**SCHEDULE A TO THE DISCLOSURE STATEMENT FOR THE TRUSTEE'S  
PLAN OF LIQUIDATION DATED MARCH 31, 2015**

**List of Released Parties**

The list below consists of the parties who have executed settlement agreements with Montreal Maine & Atlantic Canada Co. ("MMAC") and Robert J. Keach in his capacity as Chapter 11 Trustee of Montreal, Maine & Atlantic Railway Ltd. (the "Trustee"). Nothing in this list shall supersede, effect, modify or amend any such settlement agreement and to the extent of any conflict between the descriptions in this list and any such settlement agreement, the settlement agreement shall govern. All such settlement agreements are subject to court approval and other conditions, and the inclusion of any person or entity on this list does not create or imply the release of such person or entity from any claim; in all respects, the settlement agreements, and the court orders pertaining to the settlement agreements, shall govern. Unless otherwise defined in any of the settlement agreements, the term "Affiliate" used in this Schedule "A" means with respect to any entity, all other entities directly or indirectly controlling, controlled by, or under direct or indirect common control with such entity. The other capitalized terms used herein have the meaning ascribed to them in the Plan. The parties who have executed settlement agreements with MMAC and the Trustee are as follows (collectively, the "Settling Defendants"):

1. **Devlar Energy Marketing LLC together with their parents Lario Oil & Gas Company and Devo Trading & Consulting Company (collectively "Devlar")**, as well as their subsidiaries, Affiliates and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys and insurers, (including St. Paul Fire and Marine Insurance Company and its direct and indirect parents, subsidiaries and Affiliates), but only to the extent of coverage afforded to Devlar by such insurers in relation to the Derailment.
2. **Oasis Petroleum Inc. and Oasis Petroleum LLC (jointly, "Oasis")**, together with their parents, subsidiaries, Affiliates and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys and insurers (including St. Paul Fire and Marine Insurance Company and its direct and

indirect parents, subsidiaries and affiliates) but only to the extent of coverage afforded to Oasis by such insurers in relation to the Derailment, as well as the entities identified in Schedule 2 hereto but strictly as non-operating working interest owners or joint venturers in the specific Oasis-operated wells that produced oil that was provided and supplied by Oasis that was transported in the train involved in the Derailment.

3. **Inland Oil & Gas Corporation, Whiting Petroleum Corporation, Enerplus Resources (USA) Corporation, Halcón Resources Corporation, Tracker Resources, Kodiak Oil & Gas Corp. (now known as Whiting Canadian Holding Company, ULC) and Golden Eye Resources LLC**, together with each of their respective parents, subsidiaries, Affiliates, and each of their former and current respective employees, officers, directors, successors and permitted assignees and attorneys, but strictly as non-operating working interest owners or joint venturers in any wells that produced oil that was provided, supplied and transported in the train involved in the Derailment.
4. **Arrow Midstream Holdings CCC. (“Arrow”)** together with its parents, subsidiaries, Affiliates, successors, officers, directors, principals, employees, attorneys, accountants, representatives, and insurers. For the avoidance of doubt, Arrow shall include its current parent Crestwood Midstream Partners LP; and insurers mean only those insurers who have issued liability insurance policies to or in favor of Arrow actually or potentially providing insurance for Claims against Arrow arising from or relating to the Derailment, including without limitation, Commerce and Industry Insurance Company under policy no. 3023278 and National Union Fire Insurance Company of Pittsburg, Pa. under policy no. 41131539.
5. **Marathon Oil Company (“Marathon”)**, together with its parent, subsidiaries, successors and assigns, Affiliates, officers, directors, principals, employees, attorneys, accountants, representatives, insurers (to the extent strictly limited to coverage afforded to Marathon in relation to the Derailment), as well as the entities identified in schedule 5 attached hereto, but strictly as non-operating working interest owners or joint venturers in the specific Marathon-operated wells that produced and supplied oil that was transported on the train involved in the Derailment. For the avoidance of doubt, insurers, as used in

this definition, shall include all insurers that issued liability policies to or for the benefit of Marathon and that actually or potentially provided coverage for Claims relating to or arising from the Derailment, including, but not limited to, Yorktown Assurance Corporation policy number XSL-7-2013 and Old Maine Assurance Ltd. (reinsurance Agreement).

6. **QEP Resources, Inc. (“QEP”)**, together with its parents, subsidiaries, Affiliates, successors and assigns, officers, directors, principals, employees, attorneys, accountants, representatives, insurers (to the extent strictly limited to coverage afforded to QEP in relation to the Derailment), as well as those entities identified in schedule 6 attached hereto, but strictly as non-operating working interest owners or joint venturers in the specific QEP-operated wells that produced and supplied oil that was transported on the train involved in the Derailment. For the avoidance of doubt, insurers, as used in this definition, shall include all insurers that issued liability policies to or for the benefit of QEP and that actually or potentially provided coverage for Claims relating to or arising from the Derailment, including, but not be limited to, National Union Fire Insurance Company of Pittsburgh, Pa. (policy number 194-99-62); American Guarantee & Liability Insurance Company (policy number UMB6692611-02).
  
7. **Slawson Exploration Company, Inc. (“Slawson”)**, together with its parents, subsidiaries, Affiliates, successors and assigns, officers, directors, principals, employees, attorneys, accountants, representatives, insurers (to the extent strictly limited to coverage afforded to Slawson in relation to the Derailment), as well as those entities identified on schedule 7 attached hereto, but strictly as non-operating working interest owners in the specific Slawson-operated wells that produced oil that was transported on the train involved in the Derailment. For the avoidance of doubt, insurers, as used in this definition, shall include all insurers that issued liability policies to or for the benefit of Slawson and that actually or potentially provided coverage for Claims relating to or arising from the Derailment, including, but not be limited to, Federal Insurance Company (policy 3579 09 19 and 7981 72 74), Arch Specialty Insurance Company (policy EE00039761 03), and AIG (policy BE031941993).



8. **Indian Harbor Insurance Company, XL Insurance, XL Group plc and their Affiliates** (strictly as insurers of MMA and MMAC).
9. **Edward A. Burkhardt, Larry Parsons, Steven J. Lee, Stephen Archer, Robert C. Grindrod, Joseph C. McGonigle, Gaynor Ryan, Donald Gardner, Jr., Fred Yocum, Yves Bourdon and James Howard, in their capacity as directors and officers of MMA and MMAC, Montreal, Maine & Atlantic Corporation and/or LMS Acquisition Corporation (the “D&O Parties”)**.
10. **Hartford Casualty Insurance Company, together with its parents, subsidiaries, Affiliates, officers and directors** (strictly as insurer of Rail World, Inc.).
11. **Chubb & Son, a division of Federal Insurance Company** (strictly as insurers of Rail World, Inc. and Rail World Holdings, LLC).
12. **Rail World Holdings LLC; Rail World, Inc.; Rail World Locomotive Leasing LLC; The San Luis Central R.R. Co.; Pea Vine Corporation; LMS Acquisition Corporation; MMA Corporation; Earlston Associates L.P.**, and each of the shareholders, directors, officers or members or partners of the foregoing, to the extent they are not D&O Parties (the “Rail World Parties”). For the avoidance of doubt, (i) Rail World Parties also includes Edward A. Burkhardt, solely in his capacity as director, officer and/shareholder of certain of the Rail World Parties; and (ii) the inclusion of the above entities within the definition of “Rail World Parties”, except for the purpose of the settlement agreement executed with MMAC and the Trustee, shall not be construed to create or acknowledge an affiliation between or among any of the Rail World Parties.
13. **General Electric Railcar Services Corporation, General Electric Company** and each of its and their respective parents, Affiliates, subsidiaries, limited liability companies, special purpose vehicles, partnerships, joint ventures, and other related business entities, and each of its and their respective current or former parents, Affiliates, subsidiaries, limited liability companies, special purpose vehicles, partnerships, joint ventures, other related business entities, principals, partners, shareholders, officers, directors, managers, partners, employees, agents, insurers, attorneys, accountants, financial advisors,

investment bankers, consultants, any other professionals, any other representatives or advisors, and any and all persons who control any of these, as well as any predecessors-in-interest of, or any assignors or vendors of any equipment involved in the Derailment to, any of the foregoing entities and any of the successors and assigns of any of the foregoing entities.

14. **Trinity Industries, Inc., Trinity Industries Leasing Company, Trinity Tank Car, Inc., and Trinity Rail Leasing 2012 LLC, Trinity Rail Group LLC, RIV 2013 Rail Holdings LLC, and Trinity Rail Leasing Warehouse Trust**, inclusive of each of their respective predecessors, agents, servants, employees, shareholders, officers, directors, attorneys, representatives, successors, assigns, parents, subsidiaries, Affiliates, limited liability companies, insurers, and reinsurers (but strictly to the extent of coverage afforded to the such parties by said insurers and reinsurers), including but not limited to whether such entities are in the business of leasing, manufacturing, servicing or administrating rail cars.
15. **Union Tank Car Company, the UTLX International Division of UTCC, The Marmon Group LLC and Procor Limited (the “UTCC Parties”)**, and each of their respective predecessors, servants, employees, owners, members (strictly with respect to The Marmon Group LLC), shareholders, officers, directors, partners, associates, attorneys, representatives, successors, assigns, subsidiaries, Affiliates, and parent companies, insurers, and reinsurers listed in schedule 15 attached hereto, but strictly to the extent of coverage afforded to the UTCC Parties by said insurers and reinsurers, regardless of whether such entities are or were in the business of leasing, manufacturing, servicing, or administering rail car leases or otherwise.
16. **First Union Rail Corporation (“First Union”)**, together with its parents, subsidiaries, Affiliates, officers, directors, predecessors, successors, assigns, servants, employees, shareholders, attorneys, representatives and insurers and reinsurers (strictly to the extent limited to coverage afforded to First Union, and including, but not limited to, Lexington Insurance Company (including pursuant to the Pollution Legal Liability Select Policy no. PL52675034 and Stand Alone Excess Liability Policy no. 018403252) and Superior

Guaranty Insurance Company (including pursuant to Excess Liability Policy no. 404-1XSC113)).

17. **CIT Group, Inc.**, and its Affiliates, Federal Insurance Company solely in its capacity as an insurer of CIT Group, Inc. and its Affiliates and not in any other capacity, and Arch Insurance Group solely in its capacity as an insurer of CIT Group, Inc. and its Affiliates, and not in any other capacity.
18. **ConocoPhillips Company (“ConocoPhillips”)**, together with its subsidiaries, Affiliates, and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys, and insurers (and the insurers direct and indirect parents, subsidiaries and Affiliates), but with regards to such insurers, only to the extent of coverage provided to ConocoPhillips by such insurers in relation to the Derailment, as well as those entities identified in Schedule 18 hereto, but strictly as non-operating working interest owners in the specific ConocoPhillips operated wells that produced and supplied oil that was transported on the train involved in the Derailment.
19. **Shell Oil Company and Shell Trading (US) Company**, together with their subsidiaries, Affiliates, and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys, and insurers (and the insurers’ direct and indirect parents, subsidiaries and Affiliates), but with regards to such insurers, only to the extent of coverage provided to Shell Oil Company and Shell Trading (US) Company, by such insurers in relation to the Derailment.
20. **Incorr Energy Group LLC (“Incorr”)**, together with its subsidiaries, Affiliates and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys and insurers but only with respect to coverage afforded by such insurers to Incorr in relation to the Derailment.
21. **Enserco Energy, LLC**, together with its parent, subsidiaries, Affiliates, and each of their former and current respective employees, officers and directors, successors and permitted assignees, attorneys, and insurers (and the insurers’ direct and indirect parents, subsidiaries and Affiliates), but with regards to such insurers, only to the extent of

coverage provided to Enserco Energy, LLC, by such insurers in relation to the Derailment.

22. **The Attorney General of Canada, the Government of Canada, Her Majesty the Queen in Right of Canada and the departments, crown corporations and agencies including the Canadian Transportation Agency, and including all past, present and future Ministers, officers, employees, representatives, servants, agents, parent, subsidiary and affiliated crown corporations and agencies, and their respective estates, successors and assigns.**
23. (i) **Irving Oil Limited, Irving Oil Company, Limited, Irving Oil Operations General Partner Limited and Irving Oil Commercial G.P.**, (ii) any of their Affiliates (as defined in the settlement agreement), (iii) any predecessors, successors and assigns of any of the foregoing Persons named in clauses (i) and (ii) of this paragraph 23, and (iv) any directors, officers, agents and/or employees of any of the foregoing Persons named in clauses (i), (ii) and (iii) of this paragraph 23 (the “Irving Parties”), and the insurers listed in Schedule 23 attached hereto, but only in their respective capacities as insurers of the Irving Parties under the insurance policies listed by policy numbers in said Schedule 23 (the “Irving Insurers”). Notwithstanding the foregoing or anything else in this list and the Plan, the claims (including the Claims, as defined in the settlement agreement) and/or other rights that the Irving Parties have (or may have) against their insurers (including, but not limited to, the Irving Insurers) or anyone or more of them under any applicable policies, at law, in equity or otherwise, are fully preserved and said insurers (including, but not limited to, the Irving Insurers) are not Released Parties in connection with said claims and/or other rights of the Irving Parties.

Notwithstanding the foregoing or anything else in this list, and without implying or providing any limitation, the term “Settling Defendants” as used herein or above does not include, and shall not be deemed to include, any of the following: (a) Canadian Pacific Railway Company, (b) World Fuel Services Corporation, (c) World Fuel Services, Inc., (d) World Fuel Services, Canada, Inc., (e) Petroleum Transport Solutions, LLC, (f) Western Petroleum Co., (g)

Strobel Starostka Transfer LLC, (h) Dakota Plains Marketing LLC, (i) Dakota Plains Holdings, Inc., (j) DPTS Marketing Inc., (k) Dakota Plains Transloading LLC, (l) Dakota Petroleum Transport Solution LLC, and (m) SMBC Rail Services, LLC.

**SCHEDULE 2**  
**LIST OF NON-OPERATING WORKING INTEREST OWNERS OR**  
**JOINT VENTURERS IN OASIS OPERATED WELLS**

Whiting Oil And Gas Corporation;  
Hess Corporation;  
Hess Bakken Investments II LLC  
Continental Resources Inc;  
Sinclair Oil And Gas Company;  
Conoco Phillips Company;  
Black Bear Resources, LLLP;  
Castlerock Resources Inc;  
Deep Creek Exploration;  
Enerplus Resources Usa Corporation;  
Fidelity E&P Company;  
Fidelity Exploration & Production Co;  
Inland Oil & Gas Corporation;  
Jake Energy Inc.;  
Kerogen Resources Inc;  
Lilley & Company;  
Lilley And Associates LLC;  
Linn Energy Holdings LLC;  
Lone Rider Trading Company;  
Mayhem Oil And Gas Inc;  
Missouri River Royalty Corp;  
Nj Petroleum LLC;  
Northern Energy Corporation;  
Northern Oil & Gas Inc;  
O.T. Cross Oil LLC;  
Ottetail Land & Permit Services;  
Penroc Oil Corporation;  
Reef 2011 Private Drilling Fund LP;  
Shakti Energy LLC;  
Slawson Exploration Company Inc;  
Statoil Oil & Gas LP;  
WHC Exploration LLC;

**SCHEDULE 5**

**LIST OF NON-OPERATING WORKING INTEREST OWNERS OR JOINT  
VENTURERS IN MARATHON OPERATED WELLS**

ALAMEDA ENERGY INC  
ARTHUR FRANK LONG JR  
BEARTOOTH RIDGE RESOURCES  
CARL W STERUD JR  
CHUGASH EXPLORATION LP  
CONDOR PETROLEUM INC  
CONTINENTAL RESOURCES INC  
DISPUTED STATE-TRIBAL INTEREST  
ENDEAVOR ENERGY RESOURCES LP  
ENERPLUS RESOURCES CORPORATION  
ESTATE OF KARL WILLIAM STERUD  
ESTATE OF WALLACE HICKEL  
EVERTSON ENERGY PARTNERS LLC  
GADECO LLC  
GOLDENEYE RESOURCES LLC  
HALCON WILLISTON I LLC  
HESS BAKKEN INVESTMENTS II LLC  
ILAJEAN REAMS  
JENNIFER BYSTROM  
JOSEPHINE ANN KJONAAS  
KOOTENAI RESOURCE CORP  
LA PETROLEUM INC  
LGFE-M LP  
LINDA ELWOOD  
LOUIS WALTER LONG  
MARCIN PRODUCTION LLC  
MICHAEL HARVEY STERUD  
MISSOURI RIVER ROYALTY CORPORATION  
MONTANA OIL PROPERTIES INC  
MONTE TEDDY LONG  
NATURAL RESOURCE PARTNERS LP  
NORTHERN ENERGY CORP  
NORTHERN OIL AND GAS INC  
PETROGULF CORP  
QEP ENERGY COMPANY  
RAINBOW ENERGY MARKETING CORP  
RONALD KNIGHT  
S REGER FAMILY INC

SLAWSON EXPLORATION COMPANY INC  
SLAWSON RESOURCES COMPANY  
SPOTTED HAWK DEVELOPMENT LLC  
STEWART GEOLOGICAL INC  
TDB RESOURCES LP  
USG PROPERTIES BAKKEN II LLC  
VERSA ENERGY LLC  
VITESSE ENERGY LLC  
VITESSE OIL LLC  
W NORTH FUND II LP  
ZAGOIL COMPANY LLC



**SCHEDULE 6**

**LIST OF NON-OPERATING WORKING INTEREST OWNERS OR JOINT  
VENTURERS IN QEP OPERATED WELLS**

3LAND INC  
ACTION REALTORS INC  
ADELE L. SKODA  
AMERADA HESS CORPORATION  
ANDREW J HORVAT REVOCABLE TRUST  
ARMSTRONG CHILDREN'S TRUST  
ARMSTRONG MINERALS, LLC  
AVALON NORTH LLC  
BADLANDS HOLDING COMPANY  
BANDED ROCK LLC  
BIG PRAIRIE INVESTMENTS, LLC  
BLACK STONE ENERGY COMPANY, LLC  
BORGOIL RESOURCES, LLP  
BRUCE P. IVERSON  
BURLINGTON RESOURCES OIL & GAS  
BXP PARTNERS III, LP  
CHUGASH EXPLORATION LP  
CONTINENTAL RESOURCES INC  
COPPERHEAD CORPORATION  
CRESCENT ENERGY, INC.  
CRS MINERALS LLC  
DAKOTA WEST LLC  
DALE LEASE ACQUISITIONS 2011-B LP  
DAVIS EXPLORATION  
DEBRA KAY TORNBERG  
DEEP CREEK EXPLORATION LLC  
DEVON ENERGY PRODUCTION CO. LP  
DIAMOND EXPLORATION INC  
DORCHESTER MINERALS LP  
DUANE A. IVERSON  
E. W. BOWLES  
ENDEAVOR ENERGY RESOURCES LP  
ENERPLUS RESOURCES (USA)  
ESTATE OF ROBERT J MCCANN JR  
EZ OIL, LLC

FORESTAR PETROLEUM GROUP  
GAEDEKE WILLISTON BASIN HOLDINGS  
GARY LEE MCCORMICK  
GREEN RIVER ENERGY LLC  
HALCON RESOURCES CORP COMPANY  
HESS BAKKEN INVESTMENTS II LLC  
HESS CORPORATION  
INTERNATIONAL PETROLEUM CORPORATION  
INTERNOS, INC.  
J KAMP OIL LLC  
JEFF GARSKE  
JERALDINE BJORNSON  
JJS WORKING INTERESTS LLC  
JOEL ALM  
JOHN B. BJORNSON  
JT ENERGY, LLC  
JTT OIL LLC  
JUNE ANN GREENBERG  
KENNETH STEVENSON  
KODIAK OIL & GAS (USA) INC  
L LOWRY MAYS  
LANDSOUTH PROPERTIES, LLC  
LEE MCCORMICK MARITAL TRUST  
LEGION LAND & EXPLORATION CORP  
LELAND STENEHJEM, JR.  
LGFE-M L.P.  
LINDSEY K MULLENIX  
LMAC, LLC  
LONE RIDER TRADING COMPANY  
LONETREE ENERGY & ASSOCIATES  
M & M ENERGY INC  
MADDOX FAMILY TRUST  
MARATHON OIL COMPANY  
MBI OIL & GAS LLC  
MCBRIDE OIL & GAS CORPORATION  
MILBURN INVESTMENTS, LLC  
MISSOURI RIVER ROYALTY COMPANY  
MUREX PETROLEUM CORPORATION  
NORTHERN ENERGY CORPORATION  
NORTHERN OIL AND GAS, INC.

NORTHLAND ROYALTY CORPORATION  
NOWITZKI OIL & GAS LP  
O. A. HANSON  
OPINOR ANNA PTY KAISER FUND  
PETROGLYPH ENERGY  
PETROVAUGHN INC.  
PHILIP R. BISHOP  
PRADERA DEL NORTE, INC.  
RALPH MADDOX FAMILY TRUST  
RAVEN OIL PROPERTIES INC  
REEF 2011 PRIVATE DRILLING FUND LP  
ROBERT J. MCCORMICK  
ROBERT POST JOHNSON  
SCOTT ENERGY, LLC  
SCOTT K. BJORNSON  
SCOTT WARD  
SIDNEY K. LEACH  
SIERRA RESOURCES INC  
SINCLAIR OIL & GAS COMPANY  
SIXTY NINE OIL & GAS LP  
SKLARCO LLC  
SLAWSON EXPLORATION CO INC  
SM ENERGY COMPANY  
SOUTH FORK EXPLORATION, LLC  
SPOTTED HAWK DEVELOPMENT LLC  
SRP ENTERPRISES, INC.  
STEVEN H HARRIS FAMILY LIMITED  
STUBER MINERAL RESOURCES LLC  
SUNDHEIM OIL CORPORATION  
SUSAN D STENEHJEM  
THE ERICKSON FAMILY TRUST  
THE MILLENNIUM CORPORATION  
THE TRIPLE T INC.  
TIMOTHY J. RITTER  
TL & JH KAISER SUPERANNUATION  
TURMOIL INC  
TWIN CITY TECHNICAL, LLC  
USG PROPERTIES BAKKEN II LLC  
VINNIE CORP  
VINTAGE OIL & GAS, LLC

VIVIAN MCCORMICK WARREN  
WESTERN ENERGY CORPORATION  
WILLIAM G SEAL ESTATE  
WOLF ENERGY LLC  
XTO ENERGY INC  
XTO OFFSHORE INC  
ZACHARY D VANOVER

**SCHEDULE 7**

**LIST OF NON OPERATING WORKING INTEREST OWNERS  
OR JOINT VENTURERS IN SLAWSON OPERATED WELLS**

A.G. Andrikopoulos Resources, Inc.  
Abercrombie Energy, Inc.  
Alameda Energy, Inc.  
Anthony J. Klein  
Bakken HBT II, LP  
Beartooth Ridge Resources, Inc.  
Beck Sherven Legion Post #290  
Benjamin Kirkaldie  
BigSky Oil & Gas, LLC  
Bob Featherer LLC  
Brendall Energy, LLC  
Burlington Northern & Sante Fe  
C King Oil  
Cedar Creek Wolverine, LLC  
Centaur Consulting, LLC  
Chugash Exploration, LP  
Comanche Exploration Company  
Continental Resources, Inc.  
Craig A. Slawson  
D. Sumner Chase, III 2001 Irr. Trust  
David L. Hilleren  
David W. Strickler Trust  
Davis Exploration, LLC  
Deep Blue, LLC  
Dogwood Hill Farms, LLC  
DS&S Chase, LLC  
Enerplus Resources (USA) Corp  
Formation Energy LP  
Frederic Putnam  
Gadeco, LLC

Gaedeke Williston Basin, Ltd.  
Gasco Limited Partnership  
GHG Partners, LLC  
Great Plains Oil Properties, LLC  
Greenhead Energy, Inc.  
Gulfport Energy Corporation  
HRC Energy, LLC  
Huston Energy Corporation  
Icenine Properties, LLC  
Inland Oil and Gas Corporation  
James H Bragg  
John Schell  
Kenneth Lyson and Claudia G. Lyson  
Kodiak Oil & Gas (USA), Inc.  
Kootenai Resources Corporation  
L D Davis & Marilyn Davis, JTS  
Lario Oil and Gas Company  
Linn Energy Holdings, LLC  
Marcin Production, LLC  
Mark Lee  
Marshall & Winston, Inc.  
Mary Newman  
Melbby Gas III, LLC  
Missouri River Royalty Corporation  
Montana Oil Properties, Inc.  
MRG Holdings, LLC  
Mwiley Resources, Inc.  
Nadel and Gussman Bakken, LLC  
Northern Oil and Gas, Inc.  
Oxy USA, Inc.  
Pegasus Group Inc.  
Petro-Huston, LLC  
Petroshale (US) Inc.  
Pine Oil Co.  
Pine Petroleum, Inc.  
Piscato Oil, LLC

Polish Oil & Gas, Inc.  
Raymond Resources Inc.  
Riley Resources, Inc.  
Robert A. Erickson & Cleo  
S. Reger Family, Inc.  
Sheringham Corporation  
Slawson Resources Co.  
Statoil Oil & Gas, LP  
Stewart Geological, Inc.  
Stuart F. Chase  
Stuart F. Chase 2001 Irr. Trust  
Thomas Lambert  
Todd Slawson  
Todd Slawson Trust  
Tracker Resource Development III, LLC  
U S Energy Development Corporation  
USG Properties Bakken II, LLC  
Vitesse Energy, LLC  
Vitesse Oil, LLC  
W B Oil LLC  
Whiting Oil and Gas  
Windsor Dakota, LLC  
Zagoil Company, LLC

**SCHEDULE 15**

**LIST OF UTCC'S INSURERS AND REINSURERS**

Canadian Insurance Companies

ACE INA Insurance

Chartis Insurance Company of Canada (n/k/a AIG Insurance Company of Canada)

Westport Insurance Corporation

U.S. Insurance Companies

ACE American Insurance Company

American Zurich Insurance Company

Lexington Insurance Company

North American Capacity Insurance Company

Starr Indemnity & Liability Company

Bermudian Insurance Companies

ACE Bermuda Insurance Ltd.

Allied World Assurance Company Ltd.

Argo Re Ltd.

Chartis Excess Limited (n/k/a American International Reinsurance Company Ltd.)

Chubb Atlantic Indemnity Ltd.

Hanseatic Insurance Company (Bermuda) Limited

Iron-Starr Excess Agency Ltd. / Ironshore Insurance Ltd. / Starr Insurance & Reinsurance Limited

Starr Insurance & Reinsurance Limited

XL Insurance (Bermuda) Ltd.



**SCHEDULE 18**

**LIST OF NON-OPERATING INTEREST OWNERS OR JOINT VENTURERS IN  
CONOCOPHILLIPS OPERATED WELLS**

Continental Resources Inc.

Hess Corporation

JAG Oil Limited Partnership

Linn Energy Holdings LLC

Newfield Production Company

Northern Oil & Gas Inc.

Twin City Technical LLC

WM Energy Resources Inc.

**SCHEDULE 23**

**LIST OF IRVING INSURERS**

1. ACE INA Insurance
  - CGL 523952
  - XBC 602712
2. Zurich Insurance plc, UK Branch
  - B0509E1149413
  - B0509E1181313
3. Zurich Insurance Company Ltd
  - 8840960
  - 8838799
4. AEGIS, Syndicate AES 1225
  - B0509E1149413
5. Mitsui Sumitomo, Insurance Corporate Capital, Limited as sole member of Syndicate, 3210 at Lloyds
  - B0509E1181113
6. QBE Casualty Syndicate 386
  - B0509E1181113
7. QBE Syndicate 1886
  - B0509E1181113
8. Underwriters at Lloyd's and Lloyd's Syndicates, Subscribing to Policy No. B0509HM231013, including the following
  - AEGIS Syndicate AES 1225
  - Syndicate CNP 4444
  - Syndicate MKL 3000
  - Syndicate HIS 33
  - Syndicate LIB 4472
  - Syndicate ANV 1861
  - Syndicate MFM 2468
  - Syndicate AUW 609
  - Syndicate TUL 1301

- Syndicate SKD 1897
  - Syndicate AML 2001
  - Syndicate NAV 1221
  - Syndicate TRV 5000
9. XL Insurance (Bermuda) Ltd.
- XLUMB-742875
10. Oil Casualty Insurance, Ltd.
- U920303-0313
11. Argo Re Ltd.
- ARGO-CAS-OR-000227.1
12. Chubb Atlantic Indemnity Ltd.
- 3310-17-91
13. Zurich Insurance Company Ltd
- 8838799
14. Iron-Starr Excess Agency Ltd.
- 1S0000822
15. AIG Excess Liability Insurance International Limited
- 1657346
16. ACE Bermuda Insurance Ltd.
- 1OC-1338/5
17. Liberty Mutual Insurance Company
- XSTO-631084-013
18. ACE Underwriting Agencies Limited, as managing agency of Syndicate 2488 at Lloyd's, and  
ACE European Group Limited
- B0509EI181413

**SCHEDULE B TO THE DISCLOSURE STATEMENT FOR THE  
TRUSTEE'S PLAN OF LIQUIDATION DATED MARCH 31, 2015**

**Distribution Mechanism with Respect to the Wrongful Death Claims**

<b>Points Allocation Matrix</b>		
<b>Criteria</b>	<b>Points per Criteria</b>	
<b>1. Age of the decedents</b>	<u><b>Age of Decedent</b></u> <ul style="list-style-type: none"> <li>• Less than 18</li> <li>• 18 to less than 26</li> <li>• 26 to less than 60</li> <li>• 60 to less than 66</li> <li>• 66 and greater</li> </ul>	<u><b>Points</b></u> <ul style="list-style-type: none"> <li>• 3</li> <li>• 8</li> <li>• 10</li> <li>• 8</li> <li>• 3</li> </ul>
<b>2. If decedent survived by children</b>	<u><b>Age of Surviving Children</b></u> <ul style="list-style-type: none"> <li>• Less than 21</li> <li>• 21 to less than 31</li> <li>• 31 to less than 51</li> <li>• 51 and greater</li> </ul>	<u><b>Points</b></u> <ul style="list-style-type: none"> <li>• 15</li> <li>• 7</li> <li>• 5</li> <li>• 3</li> </ul>
<b>3. If decedent is survived by a spouse</b>	<u><b>Annual Income of Decedent</b></u> <ul style="list-style-type: none"> <li>• Less than \$20,000</li> <li>• \$20,000 to less than \$50,000</li> <li>• \$50,000 to less than \$75,000</li> <li>• \$75,000 to less than \$100,000</li> <li>• \$100,000 and greater</li> </ul>	<u><b>Points</b></u> <ul style="list-style-type: none"> <li>• 12.50</li> <li>• 15.00</li> <li>• 16.25</li> <li>• 17.50</li> <li>• 18.75</li> </ul>
<b>4. If decedent is survived by a spouse but no children</b>	<ul style="list-style-type: none"> <li>• If parents, 5 additional points</li> <li>• If no parents, but siblings, then 2.5 points per sibling to a maximum of 7.5 points</li> </ul>	
<b>5. If decedent is not survived by a spouse or child and the decedent <u>is a minor</u></b>	<ul style="list-style-type: none"> <li>• 10 points for each surviving parent and</li> <li>• 5 points for each surviving sibling</li> </ul>	
<b>6. If decedent is not survived by a spouse or child and the decedent <u>is not a minor</u></b>	<ul style="list-style-type: none"> <li>• 5 points for each surviving parent and</li> <li>• 2.5 points for each surviving sibling</li> </ul>	
<b>7. If decedent is survived by a child</b>	<ul style="list-style-type: none"> <li>• Set aside of 5% to parents and siblings with a potential reallocation to ensure a minimum payment of \$25,000 to each parent and sibling</li> </ul>	

Victim	Total Points	Allocation %	Estimated Potential Distribution
1	68	4.78%	\$3,691,000
2	23	1.63%	1,258,000
3	32	2.27%	1,750,000
4	20	1.42%	1,094,000
5	18	1.24%	957,000
6	20	1.42%	1,094,000
7	6	0.42%	328,000
8	38	2.66%	2,050,000
9	28	1.95%	1,504,000
10	14	0.99%	766,000
11	23	1.63%	1,258,000
12	16	1.13%	875,000
13	20	1.42%	1,094,000
14	28	1.95%	1,504,000
15	40	2.83%	2,187,000
16	52	3.65%	2,816,000
17	28	1.95%	1,504,000
18	25	1.77%	1,367,000
19	23	1.63%	1,258,000
20	40	2.83%	2,187,000
21	17	1.20%	930,000
22	18	1.27%	984,000
23	38	2.66%	2,050,000
24	21	1.45%	1,121,000
25	23	1.63%	1,258,000
26	55	3.90%	3,007,000
27	25	1.77%	1,367,000
28	53	3.72%	2,871,000
29	40	2.83%	2,187,000
30	31	2.16%	1,668,000
31	20	1.42%	1,094,000
32	23	1.63%	1,258,000
33	25	1.77%	1,367,000
34	40	2.83%	2,187,000
35	13	0.92%	711,000
36	13	0.92%	711,000
37	45	3.15%	2,433,000
38	21	1.45%	1,121,000
39	25	1.77%	1,367,000
40	30	2.12%	1,640,000
41	23	1.59%	1,230,000
42	41	2.92%	2,255,000
43	40	2.83%	2,187,000
44	40	2.83%	2,187,000
45	13	0.92%	711,000
46	53	3.72%	2,871,000
47	31	2.21%	1,709,000
48	40	2.83%	2,187,000
<b>1,412</b>	<b>100.00%</b>	<b>\$77,205,000</b>	

The amounts above are prior to any fees that may be claimed by the claimants' attorneys or the Class Representatives, as applicable.

(all amounts are in Canadian dollars)

Distribution Mechanism with Respect to the Moral Damage Claims

	<u>Points</u>	<u>Estimated # of claimants</u>	<u>Total points</u>	<u>%</u>	<u>Est. Dist.</u>	<u>Dist. per claim</u>
Trouble & Inconvenience	5.0	3,700	18,500	35.8%	\$11,472,000	\$3,100
<u>Evacuations</u>						
Per day of displacement	1.0	1,850	10,370	20.1%	6,430,000	620
Maximum	30.0					per day
Red Zone/Yellow Zone	50.0	140	7,000	13.5%	4,341,000	31,010
Grandparents and grandchildren (note 1)	15.0	50	750	1.5%	465,000	9,300
Post Traumatic Stress - short term (note 2)	50.0	100	5,000	9.7%	3,100,000	31,000
Post Traumatic Stress - long term (note 2)	100.0	100	10,000	19.3%	6,201,000	62,010
Bodily Injury	50.0	2	100	0.2%	62,000	31,000
Buffer (note 3)					2,000,000	
<b>Total (notes 1 &amp; 4)</b>			<b>51,720</b>	<b>100%</b>	<b>\$34,071,000</b>	

Note 1: This is a cumulative calculation, whereby one claimant can fall into more than one category, however wrongful death claimants and grandparents and grandchildren cannot claim for post traumatic stress.

Note 2: For those who have been given a medical diagnosis of post traumatic stress, a depressive disorder, an anxiety disorder and/or otherwise remain under medical care for mental health issues arising from the disaster and for those who were present in the red zone at the time of the derailment. In order to qualify in this category and to determine if you qualify for short term or long term post traumatic stress, further details will be required by the Monitor.

Note 3: To be used for any increase in the post traumatic stress category (if any) and thereafter any unused portion will be distributed to all the other categories of moral damages on a pro rata basis.

Note 4: The final amounts may vary depending on further information received.

(all amounts are in Canadian dollars)

**Schedule D to the Disclosure Statement for the  
Trustee's Plan of Liquidation Dated March 31, 2015**

**Distribution Mechanism with Respect to the  
Property and Economic Damages Claims**

- Property and Economic Damages Claims will be valued pursuant to the Claims Resolution Order.
- The value of the Property and Economic Damages Claims is currently estimated at \$75 million.
- Following the valuation of the Property and Economic Damages Claims pursuant to the Claims Resolution Order, creditors having Proven Claims will be paid on a pro-rata basis.
- In the event that, following the review of these claims pursuant to the Claims Resolution Order, the aggregate value of the Property and Economic Damages Claims is reduced below \$75 million, the difference between the amount of \$75 million and the revised aggregate value of these claims will be allocated on a pro-rata basis to the value of the claims in the other categories described in Sections 4.2 (a) (b) (d) and (e).

**Any distributions made may be subject to fees that may be claimed by the claimants' attorneys or the Class Representatives, as applicable.**

**(all amounts are in Canadian dollars)**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**ORDER (I) APPROVING THE TRUSTEE'S DISCLOSURE STATEMENT; (II)  
SETTING A DATE FOR A HEARING ON CONFIRMATION OF THE TRUSTEE'S  
PLAN OF REORGANIZATION; AND (III) SETTING RELATED DEADLINES**

Upon the filing of the *Disclosure Statement for the Trustee's Plan of Liquidation Dated March 31, 2015* (the "Disclosure Statement")<sup>1</sup> and the *Trustee's Plan of Liquidation Dated March 31, 2015* (the "Plan"), and the Court having reviewed the Disclosure Statement and the responses thereto, if any; and the Court having found that it has jurisdiction to consider the Disclosure Statement in accordance with 28 U.S.C §§ 157 and 1334; and the Court having found that consideration of the Disclosure Statement is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue is proper before this district pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the Trustee gave adequate and appropriate notice of the Disclosure Statement under the circumstances; and the Court having found and determined that approval of the Disclosure Statement is in the best interests of the Debtor's estate, its creditors and other parties in interest; and any objections to the Disclosure Statement having been withdrawn or overruled on the merits, and upon the evidence presented, and the Court finding that the Disclosure Statement contains adequate information as required by 11 U.S.C. § 1125, the Disclosure Statement is hereby approved in all respects. The Court further

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Disclosure Statement.



orders the following:

**I. SERVICE OF THIS ORDER AND NOTICE**

1. On or before \_\_\_\_\_, the Trustee shall serve a copy of this Order, as well as a copy of the Plan and Disclosure Statement on each creditor or holder of an interest listed on the Debtor's matrix, whether or not such creditor or holder of an interest is entitled to vote to accept or reject the Plan. In addition, the Trustee shall serve on all such creditors and holders of interest a notice of Confirmation Hearing (as defined below), instructing such creditors and holders of interests that their rights will be affected by confirmation of the Plan and that they will be bound by the Plan if confirmed, and informing such creditors and holders of interest of their right to object by the date indicated below in this Order. Any such creditor or holder of an interest entitled to vote shall be so informed and shall also be served with a ballot.

**II. CONFIRMATION HEARING**

2. Pursuant to section 1128 of the Bankruptcy Code, a hearing to consider confirmation of the Plan (the "Confirmation Hearing") shall be held on \_\_\_\_\_ at \_\_\_\_\_ before the Honorable Peter G. Cary at the United States Bankruptcy Court for the District of Maine, 537 Congress Street, Portland, Maine. The Confirmation Hearing may be continued from time to time by announcement of such continuances in open court and the Plan may be modified under 11 U.S.C. § 1127 before, during, or as a result of the Confirmation Hearing, all without further notice to parties-in-interest other than notice in open court at the Confirmation Hearing.

**III. DEADLINE AND PROCEDURES FOR OBJECTIONS TO CONFIRMATION**

3. The deadline for filing and serving written objections to confirmation of the Plan shall be \_\_\_\_\_ (the “Objection Deadline”).

4. Objections to confirmation of the Plan (or proposed modifications to the Plan, if any) must be both (a) filed with the Clerk of the Bankruptcy Court and (b) served in accordance with Rule 3020(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and this paragraph. Specially, to be considered, objections must be (a) in writing, (b) state the name and address of the objecting party and the amount and nature of the claim or interest of such party, (c) state with particularity the basis and nature of any objection to the confirmation of the Plan, and (d) filed not later than the Objection Deadline with the Clerk of the United States Bankruptcy Court for the District of Maine, 537 Congress Street, Portland, Maine 04101; and served so it is actually received no later than the Objection Deadline by:

Robert J. Keach, Esq.  
Bernstein, Shur, Sawyer & Nelson, P.A.  
100 Middle Street, P.O. Box 9729  
Portland, Maine 04104

Objections that are not in accordance with this paragraph and this Order shall not be considered by the Court, and shall be overruled.

**IV. DEADLINE FOR TEMPORARY ALLOWANCE  
OF CLAIMS FOR VOTING PURPOSES**

5. Except as otherwise noted in this paragraph, the deadline for filing and serving any motion under Bankruptcy Rule 3018(a) (“Rule 3018(a) Motions”) seeking temporary allowance of a claim for the purpose of accepting or rejecting the Plan, shall be \_\_\_\_\_ (the “Rule 3018(a) Date”). A hearing to consider and determine all Rule 3018(a) Motions shall be held on \_\_\_\_\_ at \_\_\_\_\_ before this Court. All Rule

3018(a) Motions must be in writing and must be served so they are actually received no later than the Rule 3018(a) Date by the parties listed in paragraph 4 of this Order.

6. Rule 3018(a) Motions not timely filed and served in accordance with this Order shall not be considered, and the claims referred to in such improperly or untimely filed Rule 3018(a) Motions shall not be counted in determining whether the Plan has been accepted or rejected.

**V. DEADLINE FOR RECEIPT OF BALLOTS**

7. To be counted, ballots for accepting or rejecting the Plan must be received by Trustee's counsel, Bernstein, Shur, Sawyer & Nelson, P.A., 100 Middle Street, P.O. Box 9729, Portland, Maine 04104, c/o Robert J. Keach, Esq., **no later than** **at** **5:00 p.m** (the "Voting Deadline").

8. Submission of ballots by fax or by e-mail is not permitted.

9. **BALLOTS NOT RECEIVED BY THE VOTING DEADLINE SHALL NOT BE COUNTED FOR OR AGAINST CONFIRMATION OF THE PLAN.**

**VI. COPIES AND REVIEW OF DOCUMENTS**

10. Any party-in-interest wishing to obtain an additional copy or copies of the Disclosure Statement, the Plan, any exhibits to those documents, or a replacement ballot, may request such copies from:

Robert J. Keach, Esq.  
Bernstein, Shur, Sawyer & Nelson, P.A.  
100 Middle Street, P.O. Box 9729  
Portland, Maine 04104  
Fax: (207) 774-1127  
Email: rkeach@bernsteinshur.com

All such copies shall be at the expense of the party requesting the documents unless otherwise specifically required by Bankruptcy Rule 3017(d). All documents that are filed with

the Bankruptcy Court may be reviewed during regular business hours, 8:30 a.m. to 4:30 p.m. weekdays (excluding legal holidays), at the United States Bankruptcy Court for the District of Maine, 537 Congress Street, Portland, Maine 04101. Persons wishing to obtain information about the procedure for voting their claims or the pack of materials they may have received in conjunction with this Order may contact:

Robert J. Keach, Esq.  
Bernstein, Shur, Sawyer & Nelson, P.A.  
100 Middle Street, P.O. Box 9729  
Portland, Maine 04104  
Email: rkeach@bernsteinshur.com

11. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated:

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THE HONORABLE PETER G. CARY  
UNITED STATES BANKRUPTCY JUDGE