

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**B E T W E E N :**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. C. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and  
NOVAR INC.

Applicants

**RESPONDING MOTION RECORD  
(Opposing termination of Directors' Charge, returnable November 10, 2010)**

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Counsel for Morneau Sobeco, administrator of the Executive Plan

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**TAB 1**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
1985, R.S.C. c.C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA INC.  
and NOVAR INC.

Applicants

**AFFIDAVIT OF KEITH B. CARRUTHERS  
(Sworn October 26, 2010)**

I, KEITH B. CARRUTHERS, of the City of London, in the Province of Ontario, MAKE  
OATH AND SAY:

1. I am a former employee of Indalex Division of Indal Limited, which is a predecessor company of Indalex Limited and/or one of its affiliates, (collectively, "Indalex" or the "company") who are the Applicants in these proceedings. I worked for the company for over 27 years.

2. I am a retiree of the company, along with a group of fellow retirees comprised of Leon Kozierok, Richard Benson, John Faveri, Ken Waldron, John (Jack) W. Rooney, Bertram McBride, Max Degen, Eugene D'Iorio, Richard Smith, Robert Leckie, Neil Fraser and Fred Granville (collectively, the "Retirees"). We organized ourselves as a retiree group shortly after the company terminated the payment of supplemental pension benefits on April 9, 2009 after it

obtained protection from its creditors on April 3, 2009. The Retirees and I are all entitled to pension benefits from Indalex which are described in greater detail below.

3. I have previously sworn Affidavits in this matter on June 23, 2009 and August 15, 2009. Copies of those affidavits, without Exhibits, are attached hereto as **Exhibit "A"** and **"B"** respectively.

4. This Affidavit is sworn in opposition to a motion by the Monitor where it seeks a declaration that the claims that we filed in the Directors and Officers ("D&O") Claims Process in this proceeding for our losses due to the company's termination of our supplemental pension benefits and the reductions to our registered pension plan benefits are not claims for which the Applicants are required to indemnify their directors and officers under paragraph 21 of the CCAA Order of May 12, 2009. I am advised by our counsel that the Monitor is also seeking an Order "terminating, discharging and releasing the Director's Charge from the estate of Indalex."

#### ***The Directors of the Applicants***

5. I am advised by our counsel and believe that Indalex Limited is a federally incorporated company and that Tim Stubbs, Patrick Lawlor and David McCallum were at all material times directors of Indalex Limited, Novar Inc., 6326765 Canada Inc., Indalex Holdings (B.C.) Ltd. and Indalex. Attached hereto as **Exhibit "C"** are copies of the corporate searches obtained by our counsel indicating that Messrs, Stubbs, Lawlor and McCallum are directors of Indalex.

#### ***The Directors' Charge***

6. In the Pre-Filing Report to the Court dated April 3, 2009 prepared by FTI Consulting Inc. ("FTI"), the proposed Monitor, it is reported that the Applicants would seek a D&O Charge in the amount of \$3.3 million (US). FTI, (who ultimately became the Monitor) reported to the

Court that it was of the view that the D&O Charge is reasonable in relation to the quantum of the estimated potential liability of the directors. Attached hereto as **Exhibit "D"** is a copy of FTI's Pre-Filing Report to the Court dated April 3, 2009.

7. Further, Mr. Stubbs in his affidavit sworn April 3, 2009 that was filed in support of the company's application for CCAA protection, supported the establishment of a Directors Charge to cover the potential liabilities of directors. At paragraph 74 and 75 of his affidavit, Mr. Stubbs deposes that:

74. In order to carry on business during these proceedings, the Applicants require its directors and officers (together with the Company's former directors and officers, the "directors") to remain committed. Although the Applicants intend to comply with the applicable laws with respect to matters affecting it, including, without limitation, the payment of wages, employee source deductions, vacation pay, GST, provincial sales tax and regulatory deemed trust requirement, the failure to successfully complete a Restructuring Process may result in significant personal liabilities for Directors.

75. As such, the Applicants intend to indemnify the Directors for such potential liabilities, and request a charge ("Directors Charge") in the amount of \$3,300,000.00 to indemnify the Directors in respect of any such liabilities as they may incur in these proceedings.

Attached hereto as **Exhibit "E"** is a copy of the Stubbs April 3, 2009 affidavit without exhibits.

8. On April 3, 2010, Justice Morawetz issued an Initial CCAA Order which included a charge on the property of the Applicants not to exceed \$3.3 million (US) as security for the indemnity provided in paragraph 21 of the Initial Order to the Applicant's directors and officers. Sections 7(a) and 21 of the Initial Order expressly refer to the directors' charge as indemnifying the directors for claims based on the non-payment of *pension benefits*.

***Termination of our Supplemental Plan Benefits post-CCAA***

9. During our employment years with the company, the Retirees and I earned an entitlement to pension benefits from Indalex under the “Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies” (the “Supplemental Plan”) to be paid to us on retirement for our lifetimes. The Supplemental Plan is a defined benefit pension plan sponsored by the company. It does not have a separate pension trust fund. The benefits are required to be paid by the company. Attached hereto as **Exhibit “F”** is a copy of the Supplemental Plan text.

10. By letter dated April 9, 2009, six days after obtaining CCAA protection, the company informed me and the other Retirees that it was immediately stopping payment of our supplemental pension benefits. Attached hereto as **Exhibit “G”** is a copy of the letter sent to me dated April 9, 2009. The same letter was sent to the others in the Retirees group.

11. We subsequently brought a motion to the court requesting an order requiring the company to reinstate payment of our supplemental pension benefits. On July 2, 2009, Justice Morawetz dismissed our motion and released a Endorsement on July 24, 2009. We brought a motion for leave to appeal that decision to the Ontario Court of Appeal. The Ontario Court of Appeal dismissed the motion for leave to appeal. Our Supplemental Plan benefits have been permanently terminated.

***Company assured Retirees that our supplemental benefits were secure and would be paid***

12. During the time I was the President of Indalex Division of Indal Limited, a predecessor of Indalex, concerns were expressed by me and several other employees of Indal Limited (who are now part of our Retirees group) regarding the security of our Supplemental Plan benefits. In

response, I was assured by a letter from the company dated January 13, 2003 that the company was “absolutely committed to meeting all such obligations as they fall due”. The letter also states that “your peace of mind with respect to your future retirement income is important to us”. Attached hereto as **Exhibit “H”** is a copy of the letter that I and, I believe, the other Retirees received from P.G. Selley, the Executive Vice-President, Finance & Administration of Indal Limited of Indal Limited, dated January 13, 1993.

13. Based on that assurance from the company, as well as the terms of the Supplemental Plan, it was certainly my expectation and the expectation of the other Retirees that our Supplemental Plan benefits were secure and would be paid to us during our retirement years.

***Reduction of our Registered Pension Plan Benefits Post-CCAA***

14. The Retirees and I are also entitled to receive pension benefits from a registered pension plan entitled the “Retirement Plan for the Executive Employees of Indalex Limited and Associated Companies” (the “Executive Plan”). The Executive Plan is a defined benefit pension plan sponsored by Indalex. The monthly benefits from the Executive Plan are paid from a separate trust fund for the Plan. The company is responsible and required to adequately contribute to the fund of the Executive Plan so that it will pay the promised benefits to members of the Executive Plan, including the Retirees. Attached hereto as **Exhibit “I”** is a copy of the Executive Plan text.

15. As of January 1, 2008, the Executive Plan was underfunded on a wind-up basis by approximately \$2.9 million. The wind-up deficit has since worsened to approximately \$3.2 million. This means that on the wind-up of the Plan, there are not enough funds to pay all the benefits to the Plan members. Since the company obtained CCAA protection on April 3, 2009,

the company did nothing to address or fund the wind-up deficit in the Executive Plan and abandoned the administration of the Executive Plan.

16. On July 2, 2009, the company moved for an order from the court approving a bidding process for the sale of Indalex's assets and deeming a bid by a company called SAPA A.B. ("SAPA") as the stalking horse bid in that process. The bidding process required any interested parties to submit bids to the Monitor by 10:00 a.m. July 14, 2009. According to the Monitor's 7<sup>th</sup> Report (paras. 18-20) no qualified bids were received. As a result, no auction was held.

17. On July 20, 2009, the company moved for court approval of its sale to SAPA and approval of a distribution of the sale proceeds to the DIP Agent. The Retirees opposed the sale approval because the company was not taking any steps to address or fund the wind-up deficit in the Executive Plan and that the Monitor's liquidation analysis indicated a better recovery for creditors than the proposed sale. We also argued that the statutory deemed trust for unpaid pension plan contributions under the Ontario *Pension Benefits Act* applied to require the amount of the deficit in the Executive Plan be paid to the Executive Plan ahead of any distribution to the DIP Agent or other creditors.

18. On July 20, 2009, Justice Campbell approved the sale to SAPA but directed the Monitor to reserve \$3.2 million in respect of the wind-up deficit in the Executive Plan pending the hearing of the Retirees' deemed trust motion.

19. On July 31, 2009, the sale to SAPA closed. According to the Monitor, a payment of \$17,041,391.80 (US) was made from the Canadian sale proceeds by the Monitor, on behalf of Indalex, to the DIP Agent. This resulted in a shortfall of \$10,751,247.22 (US) in respect of the DIP loan. The DIP Agent then called on the guarantee granted to the DIP Lenders by Indalex

US for the shortfall. Indalex US paid the shortfall amount pursuant to the guarantee. Indalex then sought and continues to seek a distribution from the proceeds being held in reserve by the Monitor and to defeat the Retirees' deemed trust and breach of fiduciary duty claim.

20. On August 28, 2009, our motion proceeded before Justice Campbell. On February 18, 2010 Justice Campbell released a decision dismissing our motion. We moved for leave to appeal the decision to the Ontario Court of Appeal. The Ontario Court of Appeal granted leave to appeal. The appeal is currently scheduled to be heard on November 23 and 24, 2010.

21. According to the affidavit of Keith Cooper, the Chief Restructuring Officer of Indalex, sworn on August 24, 2009 (paragraph 33) all the Indalex directors resigned and obtained jobs with SAPA and Indalex was left as an insolvent shell. Attached hereto as **Exhibit "J"** is a copy of the affidavit of Keith Cooper sworn August 24, 2009. I am advised by our counsel that the directors of Indalex resigned on July 31, 2009 (the day that the sale to SAPA closed) and within a week or so, all three had senior positions with SAPA.

22. On November 5, 2009, the Ontario Superintendent of Financial Services appointed the actuarial firm of Morneau Sobeco Limited Partnership to take over the administration of the Executive Plan because the company was neither administering nor funding the Executive Plan. Attached hereto as **Exhibit "K"** is a copy of the letter from the Ontario Superintendent of Financial Services dated November 5, 2009 appointing Morneau Sobeco as administrator of the Executive Plan.

23. Morneau subsequently reported that it would be winding up the Executive Plan effective as of September 30, 2009. Morneau reported to the Retirees that pension benefits being paid from the Executive Plan would be immediately cut by 35%:

As you may be aware, the [Executive] Plan has been underfunded for several years. Based on the most recent actuarial valuation as of January 1, 2008, prepared by the prior actuary for the Plan, there were insufficient assets to fully satisfy the benefit entitlements of all members and pensioners. We have reviewed the current status of the Plan and have determined that there are only sufficient assets to pay approximately 65% of the benefits for Plan members, and pensioner and beneficiaries.

Attached hereto as **Exhibit "L"** is a copy of the letter from Morneau dated April 5, 2010.

24. With the total loss of our supplemental pension benefits and the 35% reduction of our Executive Plan benefits, the Retirees and I have suffered very substantial losses to our monthly pension benefits during our retirement years. The following chart summarizes our entitlements under the Supplemental Plan and Executive Plan and the amount that we are actually receiving today because of Indalex's failure to properly fund and administer the plans.

Retiree	SERP Entitlement (per month)	Eliminated SERP Payment (current)	Registered Plan Entitlement (per month)	Reduced Registered Plan Payment (per month)	Total Pension Entitlement (per month)	Current Actual Payment (per month)	% of loss of pension benefits
Leon Kozierok	\$4,326.00	0.00	\$3,600.14	\$2,340.09	\$7,926.14	\$2,340.09	70%
Eugene D'Iorio	\$2,249.33	0.00	\$1,583.33	\$1,029.16	\$3,832.66	\$1,029.16	73%
John Faveri	\$329.17	0.00	\$4,158.12	\$2,702.78	\$4,487.29	\$2,702.78	40%
Ken Waldron	\$1,483.12	0.00	\$597.76	\$388.54	\$2,080.88	\$388.54	81%
Neil Fraser	\$2,893.97	0.00	\$1,722.22	\$1,119.44	\$4,616.19	\$1,119.44	76%
Jack Rooney	\$134.42	0.00	\$1,426.56	\$927.26	\$1,560.98	\$927.26	41%
Fred Granville	\$108.00	0.00	\$741.52	\$481.99	\$849.52	\$481.99	43%

Bertram McBride	\$2,082.92	0.00	\$5,833.33	\$3,791.66	\$7,916.25	\$3,791.66	52%
Richard Benson	\$1,466.17	0.00	\$3,248.13	\$2,111.28	\$4,714.30	\$2,111.28	55%
Keith Carruthers	\$3,570.50	0.00	\$3,958.35	\$2,572.93	\$7,528.85	\$2,572.93	67%
Max Degen	\$645.59	0.00	\$3,981.98	\$2,588.29	\$4,627.57	\$2,588.29	44%
Bob Leckie	\$2,394.45	0.00	\$944.45	\$771.76	\$3,338.90	To be commenced	77%
Dick Smith	\$3,831.74	0.00	\$1,364.02	\$886.61	\$5,195.76	\$1,364.02	74%

***Retirees file D&O Claims against directors of Indalex***

25. Pursuant to the Claims Procedure Order dated July 30, 2009, the Monitor solicited claims from creditors against the directors and officers of Indalex with a claims bar date of August 28, 2009. The Retirees through our counsel submitted Proofs of Claim against the directors of the company for the losses we incurred due to the termination of our supplemental benefit payments and the loss of a portion of Executive Plan benefits. Attached hereto as **Exhibit "M"** are copies of the Retirees' Proof of Claim forms that were filed with the Monitor in the D&O claims process.

26. The three directors and officers identified in our Proof of Claim forms are Tim Stubbs, Patrick Lawlor and David McCallen. As noted above, these individuals were identified through corporate searches as directors of Indalex.

27. There was no response from the Monitor nor the company with respect to the Retirees' D&O Proof of Claim forms. I am advised by our counsel, Andrew Hatnay of Koskie Minsky LLP, that since the filing of our Proof of Claim forms in the D&O claims process on August 28,

2009 the Monitor has not issued any Notice of Dispute or Disallowance, nor did the Monitor proceed further with a D&O claims process or an adjudication of our claims.

28. I am also advised by our counsel that he had discussions with counsel to the Monitor after the Monitor announced its intention to bring a motion for an order to terminate the Director's Charge. I am advised by our counsel that he indicated to Monitor's counsel that the Retirees' claims against the directors include claims based on the oppression remedy pursuant to section 241 of the *Canada Business Corporations Act*. I am also advised by our counsel that pursuant to paragraph 21 of the Initial Order, the Applicants indemnified their Director's and Officer's from "all claims...relating to the failure of the Applicant's, after the date of [the Initial Order], to make payments of the nature referred to in subparagraphs 7(a), 9(a), 9(b), 9(c) and 9(d) of the [Initial Order] which [the Directors] sustain or incur by reason of or in relation to their respective capacities as Directors and/or Officers of the Applicants".

29. As noted above, sections 7(a) and 21 of the Initial Order expressly refer to the directors' charge as indemnifying the directors for claims based on the non-payment of *pension benefits*.

30. Under paragraph 21 of the Initial CCAA Order, there are only three exclusions to the D&O indemnity. The three exclusions are where a director or officer "has actively participated in the breach of any related fiduciary duty or has been grossly negligent or guilty of wilful misconduct". There is clearly no exclusion for claims against Directors based on the oppression remedy.

***Indalex directors resign and immediately obtain senior positions with SAPA***

31. Attached hereto is **Exhibit "E"** is a copy of the Affidavit of Tim Stubbs sworn April 3, 2009 that was filed in support of the company's initial application for CCAA protection. Mr.

Stubbs identifies himself as the President and Chief Executive Officer of Indalex Limited and the other Applicants. As noted above, Mr. Stubbs is also a director of the company. At paragraphs 59-66 of his affidavit, Mr. Stubbs describes the company's obligations under the Executive Plan and the Supplemental Plan. Mr. Stubbs notes at paragraph 62 of his affidavit that as of January 1, 2008, there was a wind-up deficiency in the Executive Plan of \$2.9 million. As noted above, the wind-up deficiency has since worsened to \$3.2 million.

32. Based on Mr. Stubbs' statements in his affidavit, it is clear that he was aware from the outset of the CCAA proceedings of the company's obligations to the pension plans and in particular, that the Executive Plan is underfunded.

33. I am advised by our counsel that on July 31, 2009 the directors David J. McCallen, Tim Stubbs and Patrick Lawlor resigned as directors of Indalex.

34. It is my understanding that immediately after the sale to SAPA closed, Tim Stubbs was appointed Business Area President for SAPA Profiles North America. On September 8, 2010, Tim Stubbs was subsequently appointed President and CEO of SAPA. Attached hereto as **Exhibit "N"** is a document from SAPA confirming that Tim Stubbs appointment to CEO of SAPA and that he "has been apart of SAPA's Executive Team since the acquisition of Indalex in August 2009."

35. Dave McCallen, who was also a director of Indalex, is reported to now be a Vice-President of SAPA Extrusions, also being hired by SAPA soon after the sale to SAPA closed. Attached hereto as **Exhibit "O"** is a copy of a SAPA statement dated September 8, 2010.

36. Patrick Lawlor, who was a director as well as the Chief Financial Officer of Indalex, also joined SAPA in a senior role. According to a SAPA statement, "since 2009 [Patrick Lawlor] has

been CFO and General Manager Specialty/Business Integration for SAPA Profiles North America. On September 8, 2010 Patrick Lawlor was appointed Business Area President SAPA Profiles North America reporting to the new SAPA CEO, Tim Stubbs.” Attached hereto as **Exhibit “P”** is a copy of a SAPA statement dated September 8, 2010.

37. In short, all three directors of Indalex obtained senior positions with SAPA immediately following the sale of Indalex assets to SAPA.

38. I have no doubt that the three directors of Indalex profited personally from their appointment as senior managers of SAPA immediately following the sale of Indalex’s assets to SAPA during the company’s CCAA proceedings. In contrast, the Retirees and I have been severely prejudiced. During Indalex’s CCAA proceeding, the same three directors oversaw the termination of payments to us under the Supplemental Plan, and the abandonment of the Executive Plan in a underfunded state with no payments being made to fund the wind-up liability. These acts caused very significant losses to our pension benefits.

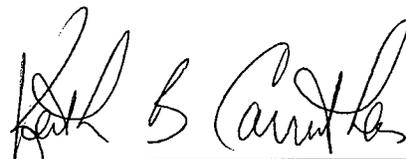
39. The Retirees wish to proceed with the adjudication of our claims against the directors that we filed in the D&O Claims Process.

40. I swear this affidavit in opposition to the motion by the Monitor to terminate the Directors’ Charge and for no improper purpose.

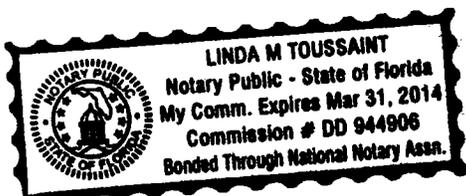
SWORN BEFORE ME at the  
STATE of FLORIDA in the  
Province of SARASOTA CO., on  
October 26 2010.



A Commissioner for Taking Affidavits, etc.



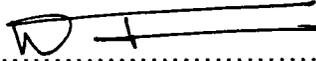
**KEITH B. CARRUTHERS**



This is *Exhibit "A"* referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
26<sup>th</sup> day of October, 2010



.....  
A Commissioner for taking affidavits, etc.

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and NOVAR INC.

Applicants

**AFFIDAVIT OF KEITH B. CARRUTHERS  
(sworn June 23, 2009)**

I, KEITH B. CARRUTHERS, of the City of London, in the Province of Ontario, MAKE  
OATH AND SAY:

1. I am a former executive employee of the Indalex Division of Indal Limited, which is a predecessor company to Indalex Limited and/or one of its affiliated companies, (collectively, "Indalex Canada" or the "company"), who are the Applicants in these proceedings.
2. I am currently 67 years of age. I have been retired for 10 years. When I retired, I was President and CEO of Indalex Division of Caradon Limited.

3. I worked with the Indalex group of companies for over 27 years. As a former employee and current retiree of Indalex Canada, I have knowledge of the matters to which I hereinafter depose, except where stated to be based upon information and belief.

4. This Affidavit is sworn in support of a motion brought by me and fellow retirees Leon Kozierok, Bertram McBride, Max Degen, Eugene D'Iorio, Richard Smith, Robert Leckie and Neil Fraser (members of the Indalex supplemental executive retirement plan or "SERP", referred to collectively herein as the "SERP Group"). We seek an order that the company reinstate the payment of our monthly supplemental pension benefits that we have been receiving and to which we are entitled, that the company terminated immediately after it obtained protection from its creditors under the *Companies' Creditors Arrangement Act* (the "CCAA") on April 3, 2009.

5. By letter dated April 9, 2009, the company sent a letter to me, Mr. Kozierok, Mr. McBride, Mr. Degen, Mr. D'Iorio, Mr. Fraser announcing that the payment of our supplemental pension benefits was being stopped and that we would become "unsecured creditors". Prior to obtaining protection under the CCAA, Indalex Canada was making a total monthly payment of approximately \$15,675 in respect of our supplemental pension benefit payments, in accordance with the terms of the supplemental pension plan arrangement. I, and the other SERP Group members are suddenly not being paid a significant portion of our retirement pension benefits. Attached hereto as **Exhibit A** are copies of the letters sent by Indalex to each of us dated April 9, 2009.

6. The last monthly benefit payment I received from the Supplemental Plan was in March, 2009. No member of the SERP Group has received a monthly supplemental benefit since March, 2009.

7. Two other individuals in the SERP Group, Richard Smith and Robert Leckie, are similarly entitled to receive supplemental pension benefits from Indalex Canada. I am advised that Mr. Smith and Mr. Leckie both have recently applied to receive their pensions, but that their applications are pending with the company. Further, I am advised by Mr. Smith and Mr. Leckie that they have been told by Indalex Canada that they will not be receiving the supplemental portion of their pension to which they are entitled. The monthly supplemental pension benefits owing to Mr. Smith and Mr. Leckie by the company are \$3,832 and approximately \$1,700 respectively, for a total monthly payment of approximately \$5,532.

8. Based on my discussions with the members of the SERP Group, the total monthly supplemental benefit amounts payable by the company to the SERP Group is approximately \$21,207.

#### **Background**

9. I was hired by Indal Limited on September 8, 1972 as Sales Manager for the Toronto operations of Indalex Division of Indal Limited. Prior to my employment with Indalex Canada, I was a salesman for Kaiser Aluminium and had been involved in the aluminium extrusion industry for approximately six years.

10. During my 27 years of service with the company, I became a member of the management team responsible for the company's Canadian operations, and eventually, I became a member of the management team responsible for the company's entire North American operations.

11. I worked as Sales Manager for the Toronto operations for approximately 5 years before moving into positions as General Manager of Toronto, then Vice-President of Eastern Region and then President of Indalex Canada, at which point I became responsible for overseeing all

four plants in Canada. For the last 8 to 10 years of my employment with the company, I was President and Chief Executive Officer of the Indalex Division of Caradon Limited (which the division had been re-named after it was acquired by Caradon Limited).

12. In my position as President and CEO of Indalex Division, I was responsible for all North American extrusion operations, which included seven extrusion operations and one ladder manufacturing plant.

13. During my years as a manager and then as an executive employee of Indalex Division, my team and I worked very hard to build up the company. While I was President and CEO of Indalex Division, the company experienced significant growth in size and in profitability. We built four state-of-the-art manufacturing facilities, making the company one of the most modern aluminium extrusion operations in North America. In 1998, my last year with the company, Indalex Division had sales of approximately USD \$300,000,000 and profits of approximately USD \$30,000,000.

**The SERP Group earned pension benefits during our employment service**

14. During my employment with the company, I was a member of the company's pension plans. Through my 27 years of employment service, I earned an entitlement to pension benefits on my retirement to be paid to me for my lifetime from three sources:

a) the Retirement Plan for the Executive Employees of Indalex Limited and Associated Companies (previously entitled the Retirement from the Retirement Plan for Executive Employees of Caradon Limited and Associated Companies (CRA Registration Number: 0455626), hereinafter the "Executive Plan"). The Executive Plan is a defined benefit pension plan and the benefits are paid from a separate pension trust fund; and

b) the Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Supplemental Plan"). The Supplemental Plan is also a defined benefit pension plan but does not have a separate pension trust fund. It is my understanding that the amount of my pension benefit that can be paid from the Executive Plan is capped by a maximum stipulated by the *Income Tax Act* (Canada) ("ITA"). The Supplemental Plan was established to provide pension benefits in addition to the benefits from the Executive Plan which are limited by the ITA. The Supplemental Plan the benefits are paid by the company.

c) I am entitled to a supplemental pension from the RTZ Supplemental Retirement Plan, which is being paid by a separate company and is not the subject of this motion. This pension benefit is also unfunded and unsecured.

Attached hereto as **Exhibit B** is a copy of the Supplemental Plan and amendments. I have never been provided with a copy of the Supplemental Plan text until yesterday when it was provided to me by my counsel. The other members of the SERP Group also did not have a copy of the Supplemental Plan text.

15. In 1999, I accepted an early retirement package from the company. Under the option that I selected under this package, I became entitled to receive monthly pension benefits of \$3958.35 from the Executive Plan and monthly pension benefits of \$3570.50 from the Supplemental Plan. Attached hereto as **Exhibit C** is a copy of the retirement package documents that I received from the company's actuary (William M. Mercer) dated October 6, 1999, which outlines my pension benefit entitlements and provided me with my Statement of Election Forms.

16. On December 17, 1999, I signed and submitted my pension Election Forms. I chose to receive my pension as a Joint & Survivor 60% (reduced upon first death with survivor benefits paid to my beneficiary). My wife, Margaret Carruthers, is my beneficiary under both the Executive Plan and the Supplemental Plan. On my death, Margaret is entitled to a surviving spouse pension benefit for her lifetime, payable at a reduced amount of 60%. **Exhibit C** includes a copy of my signed Statement of Election and Benefits on Retirement.

17. According to the terms of the Executive Plan and the Supplemental Plan and as reflected in my Statement of Election and Benefits on Retirement from the company's actuary, my wife and I are entitled to receive the above-described pension benefits for our lifetime. My Statement of Election forms for both the base Executive plan and the supplemental plan indicate that I have earned pension benefits which are *payable for my life* and that on my death, a percentage of this amount will be *payable to my spouse for her lifetime*. Accordingly, I am contractually entitled to receive my monthly pension benefits for my lifetime.

**The Executive Plan is underfunded. If wound up, benefits will be reduced**

18. I have reviewed the Affidavit of Timothy J. Stubbs, the current President and Chief Executive Officer of Indalex Limited, sworn on April 3, 2009 in the CCAA proceedings (the "Stubbs Affidavit"). Paragraph 62 of the Stubbs Affidavit states that the Executive Plan is a defined benefit pension plan which was closed by the company to new members, effective September 1, 2005. The Stubbs Affidavit also indicates that there are currently 14 retirees receiving benefits under the Executive Plan. Attached hereto as **Exhibit D** is a copy of the Stubbs Affidavit, without exhibits.

19. According to paragraph 62 of the Stubbs Affidavit, the Executive Plan is underfunded. As of January 1, 2008, the Executive Plan had a funding deficiency on an ongoing basis of \$2,535,100, on a solvency basis of \$1,102,800 and on a wind-up basis of \$2,996,400. Given the recent drop in the bond and equity markets in Canada, I am very concerned that the Executive Plan is now even more underfunded. This means that if the Executive Plan is wound up, which is real possibility given the status of the company, there are insufficient assets in the fund of the plan to pay all the pension benefits to all the retirees, including the members of the SERP Group. It means that the pension benefits paid to me and the SERP Group, as well as all the retirees in the Executive Plan will be reduced. Attached hereto as **Exhibit E** is a copy of the Actuarial Valuation Report of the Executive Plan as of January 1, 2008.

20. We do not have information about the current funded status of the plan, nor do we know whether the company is making the required special payments as set out in the above-noted Valuation Report since commencing its CCAA proceedings. Our counsel Koskie Minsky LLP has requested this information (among other things) from counsel for the Applicants and the Monitor, however, as of my swearing of this affidavit, they have not yet received a response. Attached hereto as **Exhibit F** is a letter from Koskie Minsky LLP to counsel for the Applicants and the Monitor, dated June 17, 2009.

**Supplemental Plan benefits were terminated by the company post CCAA**

21. To my best knowledge, there are only 8 individuals who are members of the Supplemental Plan and who are in the SERP group. As I will discuss further below, I am aware of 6 individuals, including myself, who were in receipt of our benefits from the Supplemental Plan prior to the commencement of the company's CCAA proceedings. Two others, Richard

Smith and Robert Leckie, are also members of the Supplemental Plan. Mr. Smith and Mr. Leckie have requested the commencement of the pension benefits to which they are entitled from both the Executive Plan and the Supplemental Plan. They have not yet started to receive their monthly pension benefits at the date of the commencement of the CCAA proceedings, and have since been told by the company that they will be not receiving any of the benefits from the Supplementary Plan to which they are entitled.

22. According to paragraph 63 of the Stubbs Affidavit, the Applicants' liabilities under the Supplemental Plan totalled \$2,966,244 as at December 31, 2008, based on the present value of the projected future benefit payments.

#### **Indalex Canada's CCAA Proceedings**

23. On April 3, 2009, Indalex Canada obtained protection from its creditors under the CCAA, pursuant to an Order of this Honourable Court (the "CCAA Proceedings"). FTI Consulting Canada was appointed as Monitor.

24. I understand that Indalex Canada's CCAA Proceedings were brought in conjunction with proceedings under Chapter 11 of the United States Bankruptcy Code, commenced by way of voluntary petition filed on March 20, 2009 in the United States Bankruptcy Court for the District of Delaware (the "Chapter 11 Proceedings").

25. The Stubbs Affidavit at paragraphs 6-7 states that Indalex Canada requested relief under the CCAA in order to stabilize the business and seek a strategy that would maximize value for stakeholders and allow the company to identify a viable going concern solution.

26. I have been advised by my counsel Andrea McKinnon of Koskie Minsky LLP that Indalex Canada obtained debtor-in-possession financing in the amount of \$24,360,000. The interim financing facility was later increased to the amount of \$29,500,000. This is reflected in the Monitor's Fourth Report, dated June 11, 2009 and the subsequent Endorsement and Order of the Honourable Justice Morawetz, dated June 12, 2009.

27. Based on my 27 years of experience with Indalex Canada and my 32 years of experience in the aluminium extrusion industry, I am not surprised by the Applicants' liquidity issues during the fourth quarter of 2008 and the first quarter of 2009. Historically, December, January and February are difficult months of operation for Indalex Canada, and its affiliated companies in the United States, due to a decrease in demand for the company's products during these months.

28. In my experience as CEO of Indalex Canada, however, profitability and cash flow tend to improve during the months of April and May. These positive trends typically continue through the summer months and into the beginning of the fourth quarter. I am of the opinion that Indalex Canada's cash flow should continue to improve during 2009, as the company moves into its historically more profitable quarters. This is supported by the memo from Timothy Stubbs dated June 5, 2009 which is attached hereto as **Exhibit G** which states, among other things, that "all our plants made money in May".

**Company assured me and the SERP Group that our supplemental benefits were secure**

29. During the time I was the President of Indalex Division of Indal Limited, concerns were expressed by me and several executive employees of Indal Limited with regard to the security of the pension benefits to be paid to us under the Supplemental Plan. At that time, I (and other members of the SERP Group) were assured by P.G. Selley, the Executive Vice-President,

Finance & Administration of Indal Limited, that the company was "absolutely committed to meeting all such obligations as they fall due". The letter also states to members of the SERP Group that "your peace of mind with respect to your future retirement income is important to us". Attached hereto as **Exhibit H** is a copy of the letter that I received from P.G. Shelley of Indal Limited, dated January 13, 1993

30. The amount of the pension benefit that I am entitled to receive from the Supplemental Plan is approximately \$3,570.50 (gross) or \$2,499.35 (net) per month. The last supplemental pension benefit payment that I received from the Supplemental Plan was in March, 2009. Attached hereto as **Exhibit I** is a copy the monthly Earnings Statement I receive in respect of my pension benefits from the Supplemental Plan, dated January 31, 2009.

#### **Company terminates benefits for all SERP Group Members**

31. After the Applicants commenced proceedings under the CCAA, I contacted other former employees whose monthly supplemental benefits from the Supplemental Plan had also been stopped by the company after it obtained CCAA protection. Their circumstances are set out below.

32. I am advised by Leon Kozierok (former President of Indalloy Division, Indalex Limited), age 67, that he receives a monthly pension benefit from the Executive Plan in the amount of \$3,600.14 and that he is entitled to receive a monthly benefit payment from the Supplemental Plan in the amount of \$4,325.80. The company has stopped paying his supplemental pension benefits. Attached hereto as **Exhibit J** is a copy of Leon Kozierok's Earnings Statement from ADP, dated March 13, 2009. Attached hereto as **Exhibit K** is a copy of Leon Kozierok's Employee Pension Statement for the year 2000, outlining his estimated entitlement in the

Executive Plan and the Supplemental Plan. See also the letter attached at **Exhibit A**, which informs Leon Kozierok that the supplemental pension benefits owing to him from Indalex Canada have been suspended.

33. I am advised by Max Degen (former Vice-President, Manufacturing Services), age 76, that he receives a monthly pension benefit from the Executive Plan in the amount of \$3,981.98 and that he is entitled to receive a monthly benefit payment from the Supplemental Plan in the amount of \$645.59. The company has stopped paying his supplemental pension benefits. Attached hereto as **Exhibit L** is a copy of Max Degen's Earnings Statement from ADP, dated March 13, 2009. Attached hereto as **Exhibit M** is a copy of a letter to the Canadian Imperial Bank of Commerce from Dennis A. Bamber of Indalex Division of Caradon Limited, dated April 25, 1994, outlining Max Degen's entitlement to a supplementary pension benefit from the company. See letter attached at **Exhibit A**, which informs Max Degen that the supplemental pension benefits owing to him from Indalex Canada have been suspended.

34. I am advised by Bertram McBride (former Account Manager, Indalex Limited), age 61, that he is entitled to receive a monthly pension benefit from the Executive Plan in the amount of \$5,833.33 and a monthly benefit payment from the Supplemental Plan in the amount of \$2,082.92. The company has stopped paying his supplemental pension benefits. Attached hereto as **Exhibit N** is a copy of Bertram McBride's Earnings Statement from ADP, dated February 13, 2009. Attached hereto as **Exhibit O** is a copy of Bertram McBride's Statement of Election and Benefits on Retirement from both Executive Plan and the Supplemental Plan, dated November 3, 2008. See letter attached at **Exhibit A**, which informs Bertram McBride that the supplemental pension benefits owing to him from Indalex Canada have been suspended.

35. I am advised by Neil Fraser (former President and CEO of Caradon Windows and Doors Ltd.), age 70, that he is entitled to receive a monthly pension benefit from the Executive Plan in the amount of \$1,722.22 and a monthly benefit payment from the Supplemental Plan in the amount of \$2,800.73. The company has stopped paying his supplemental pension benefits. Attached hereto as **Exhibit P** is a copy of Neil Fraser's Earnings Statement from ADP, dated February 13, 2009. Attached hereto as **Exhibit Q** is a copy of the retirement package that Neil Fraser received from the company's actuarial firm (William M. Mercer) dated October 25, 1999, which outlines his pension benefit entitlements and includes a copy of Mr. Fraser's Statement of Election and Benefit on Retirement. Attached as **Exhibit R** is a copy of the letter from Neil Fraser which confirms the amount of monthly pension benefits payable to Mr. Fraser and his wife that are payable for life. See letter attached at **Exhibit A**, which informs Neil Fraser that the supplemental pension benefits owing to him from Indalex Canada have been suspended..

36. I am advised by Eugene D'Iorio (former President, Indalex South Region of Indalex Limited), age 64, that he is entitled to receive a monthly pension benefit from the Executive Plan in the amount of \$1,583.33 and that he is entitled to receive a monthly benefit payment from the Supplemental Plan in the amount of \$2,249.23. The company has stopped paying his supplemental pension benefits. Attached hereto as **Exhibit S** is a copy of Eugene D'Iorio's Earnings Statement from ADP, dated January 13, 2009. See letter attached at **Exhibit A**, which informs Eugene D'Iorio that the supplemental pension benefits owing to him from Indalex Canada have been suspended.

37. I am advised by Richard Smith (former President of Mideast Aluminium, a division of Caradon), age 59, that he is a member of the Supplemental Plan and will be entitled to receive a monthly supplemental benefit of \$3,831.74 from the Supplemental Plan, as of July 1, 2009. It is

my understanding that Mr. Smith became entitled to receive an unreduced pension and supplemental pension benefit from Indalex Canada as of the date he reached the age of 60, and that these benefits were to become payable starting July 1, 2009. It is also my understanding that when Mr. Smith requested his pension paperwork from Indalex Canada, Mr. Smith was told that he was no longer entitled to receive an unreduced registered pension, and that he would not receive supplemental pension benefits from the Supplemental Plan. Attached hereto as **Exhibit T** is a letter to Richard Smith from the Indalex USA Pension Plan Administration, dated August 14, 2009, which outlines Mr. Smith's entitlements in the Executive Plan and the Supplemental Plan. Attached also at **Exhibit U** is a letter to Richard Smith dated October 23, 2000, which outlines Mr. Smith's termination package and his entitlement to pension benefits from the company.

38. I am advised by Robert Leckie (Vice-President, General Counsel of Indal Limited) age 61, that he is a member of the Supplemental Plan. I am advised by my counsel Andrea McKinnon of Koskie Minsky LLP, that Mr. Leckie is entitled to receive a monthly benefit payment from the Supplemental Plan in the amount of approximately \$1,700. I am advised by my counsel that Mr. Leckie has now reached the age of 60 and is eligible to receive monthly pension benefits from the Executive Plan and the Supplemental Plan. Mr. Leckie has requested to start receiving his monthly pension benefit payments, but has not yet received a monthly pension payment from either the Executive Plan or the Supplemental Plan. I am advised by my counsel that Indalex Canada told Mr. Leckie that he will not be paid the benefits from the company of his monthly benefits from the Supplemental Plan to which he is entitled. Attached hereto as **Exhibit V** is a copy of email correspondence between Robert Leckie and Dale

Tabinowski, of Indalex Limited, which informs Mr. Leckie that he is a member of the Supplemental Plan.

39. As I mentioned before, the aggregate monthly cost to the company of the Supplemental Plan benefits to the eight individuals in the SERP Group is approximately \$21,207. According to the applicable contractual arrangements between the company and the members of the SERP Group, these benefits are payable for our lifetimes, and for the lives of our beneficiaries, unless the survivor benefit has been waived.

#### **Hardship Caused by the Termination of our Supplemental Benefits**

40. I, along with the other members in the SERP Group, are very concerned that the company has suddenly terminated payment of our monthly benefits from the Supplemental Plan. The members of the SERP Group and I were contractually promised that our supplemental pension benefit payments would continue to be paid by the company for our lifetimes, and in some cases with survivor benefits to be paid to our surviving spouses.

41. My wife has no income. My wife and I are entirely reliant on the pension benefits that I earned for the work I performed for Indalex Division. The cessation of these payments has caused a significant and sudden drop in our monthly retirement income and has caused immediate hardship to my family. My wife and I require these benefits in order to cover our living and health expenses.. My wife Margaret is dependent on my supplementary pension benefits and will require these funds to cover her living expenses on my passing. Margaret will have no independent source of income with the exception of a basic pension from the Canada Pension Plan.

42. I am currently 67 years of age. I am too old to find new employment that would compensate me for the termination of my supplemental pension benefits.

43. Further, I and the other members of the SERP Group were reassured verbally and by letter from Indal Limited that the company was "committed to meeting all such obligations" for the payment of our supplemental pension benefits. The company even indicated that my and the others' "peace of mind" regarding our supplemental retirement benefits was of importance to the company.

44. After constant assurance by the company that we would receive these benefits for the remainder of our lifetime, my wife and I believed that my supplemental pension benefits were safe. We relied on these benefits being paid when planning our retirements.

45. Yet, contrary to the company's statements, immediately after obtaining protection from its creditors under the CCAA on April 3, 2009, the company proceeded to terminate the payment of our supplemental benefits.

46. After 27 years of service with the company, I am disappointed and shocked by the company's decision to stop paying our benefits from the Supplemental Plan. At the date of my retirement as President and CEO in 1999, Indalex Division, was a growing and vibrant company, with a bright future. It is my view that the parties responsible for the company's success are now being unfairly penalized and without justification.

47. It is unfair to discriminate against me and the other members of the SERP Group by terminating payment of our supplemental pension benefits while the company continues to make payments to other employee groups. According to paragraph 66 of the Stubbs Affidavit, Indalex

Canada has maintained its obligations for “payroll, source deductions, current pension liabilities and GST, and was not in arrears in respect of these items”. Further, according to paragraphs 64 and 65 of the Stubbs Affidavit, Indalex Canada “is current on all payments” to the Canada-Wide Industrial Plan for its unionized employees and to the Group Registered Retirement Savings Plan for its union employees at the Port Coquitlam facility.

48. Furthermore, membership to the Supplemental Plan is closed. To my best knowledge, the 8 SERP Group members are the only members of the Supplemental Plan. The amount of the company's supplementary benefit payment obligations is finite. The monthly cost of these benefits payments to the company is only \$21,207. This is a negligible amount for the company, yet these benefits provide vital income for me and the SERP Group.

49. The payment of our supplemental benefits would not impede or imperil a restructuring of the company or more likely, a sale of the company.

50. According to the actual cash flow for the month of May 2009 reported by the Monitor in its Fourth Report, Indalex Canada had total disbursements of \$20,591,000, of which \$573,000 were for “benefits” and \$797,000 were for “legal and professional fees” (the latter being more double the forecasted amount). The approximate \$21,207 monthly Supplemental Plan payment for our pension benefits thus is a mere .1 of a percent of the company's monthly total disbursements.

51. In my opinion, Indalex Canada's liability under the Supplemental Plan is finite and readily manageable and the company should be required to continue to pay us the pension benefits to which we are entitled.

52. I am advised by my counsel that very soon after obtaining CCAA protection, the company put itself up for sale and commenced a "Marketing Process". The company is not restructuring, rather, it is selling itself. Cutting the supplemental benefits owing to the SERP Group is not necessary for the sale of the company under the CCAA.

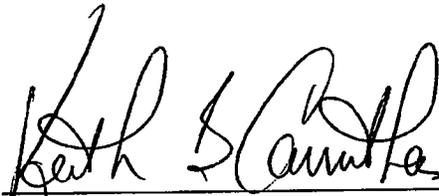
53. I swear this Affidavit in good faith and in support of a motion to reinstate my Supplemental Plan pension benefit payments and those of the SERP Group, retroactive to April 3, 2009 and for no improper purpose.

SWORN BEFORE ME at the  
City of Toronto in the  
Province of Ontario, on June  
23, 2009.



Commissioner for Taking Affidavits  
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ANDREW HATWAY

  
KEITH B. CARRUTHERS

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. C. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and NOVAR  
INC.

Court File No: CV-09-8122-00CL

Applicants

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at **Toronto**

**AFFIDAVIT OF KEITH B CARRUTHERS  
(SWORN JUNE 23, 2009)**

**KOSKIE MINSKY LLP**  
20 Queen Street West  
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**Andrew J. Hatnay (LSUC#: 31885W)**  
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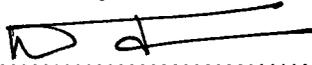
**Andrea McKinnon (LSUC#: 55900A)**  
Email: [amckinnon@kmlaw.ca](mailto:amckinnon@kmlaw.ca)  
Tel: 416-595-2150  
Fax: 416-204-2874

Lawyers for Keith Carruthers, Leon Koziarok,  
Bertram McBride, Max Degen, Eugene D'Iorio,  
Richard Smith, Robert Leckie and Neil Fraser  
(the "SERP Group")

This is **Exhibit "B"** referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
**26<sup>th</sup>** day of October, 2010



.....  
A Commissioner for taking affidavits, etc.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
1985, R.S.C. c.C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA INC.  
and NOVAR INC.

Applicants

**AFFIDAVIT OF KEITH B. CARRUTHERS  
(sworn August 5, 2009)**

I, KEITH B. CARRUTHERS, of the City of London, in the Province of Ontario, MAKE  
OATH AND SAY:

1. I am a former executive employee of Indalex Division of Indal Limited, which is a predecessor company to Indalex Limited and/or one of its affiliated companies, (collectively, "Indalex Canada" or the "company"), who are the Applicants in these proceedings.
2. I am currently 67 years of age. I worked with the Indalex group of companies for over 27 years. I have been retired for 10 years. When I retired, I was President and CEO of Indalex Division of Caradon Limited. As a former employee and current retiree of Indalex Canada, I

have knowledge of the matters to which I hereinafter depose, except where stated to be based upon information and belief.

3. I am part of a group of pensioners of the Applicants along with Bertram McBride, Leon Kozierok, Max Degen, Eugene D'Iorio, Richard Smith, Robert Leckie, Neil Fraser, Richard Benson, John Faveri, Jack Rooney, Robert Waldron and Fred Granville and Gary Rutledge (the "Pensioners"). We are all pensioners entitled to pension benefits from the Retirement Plan for the Executive Employees of Indalex Limited and Associated Companies (the "Executive Plan").

4. I have previously sworn an affidavit in these proceedings dated June 23, 2009 setting out the situation of myself and the other pensioners of the Executive Plan in the CCAA proceedings of the Applicants and the losses of our pension benefits.

5. This affidavit is sworn in support of a motion by the Pensioners for a declaration that the \$3.2 million owing to the Executive Plan is subject to a deemed trust under section 57(5) of the *Ontario Pension Benefits Act* (the "PBA").

***The Executive Plan will be wound up***

6. The Monitor has stated that the Executive Plan is expected to be wound up. In a letter responding to questions from our counsel regarding the Executive Plan dated July 13, 2009, counsel to the Monitor states:

Following the completion of the asset sale, there will no longer be any active members of the Executive Plan. As discussed at the July 2, 2009 court hearing, it is unlikely that any bidder will elect to absorb obligations owing by Indalex that provides no

corresponding benefit to such bidder. *Accordingly it is expected that the Executive Plan will be fully wound up in accordance with the requirements of the Pension Benefits Act (Ontario).*

7. Attached hereto as **Exhibit A** is a copy of the letter from Ashley Taylor of Stikeman to our counsel dated July 13, 2009.
8. The sale of the Applicants' to SAPA Holdings was approved by this Court on July 20, 2009. One of the terms of the sale was that SAPA would not take on any of the Applicants' liabilities under the Executive Plan nor the Supplemental Pension Plan.
9. The Executive Plan is underfunded. There is an approximately \$3.2 million owing to the plan on its wind up. Due to its underfunding by the Applicants, I am advised by my counsel and believe that our monthly pension benefits from this plan will be reduced by approximately 30-40%. This will be a substantial loss of the Pensioners' monthly pension benefits.
10. This loss is in addition to the loss we have already incurred in respect of our supplemental pension benefits which the Applicants terminated after obtaining CCAA protection. Our motion to have those supplemental benefits reinstated was dismissed by Justice Morawetz. Attached hereto as **Exhibit B** is a copy of Justice Morawetz's endorsement dated July 24, 2009.
11. Based on our years of employment service with the Applicants, the Pensioners are entitled to receive pension benefits from the Executive Plan.
12. The Executive Plan is a registered pension plan. A copy of the plan text with amendments is attached hereto as **Exhibit C**.

13. Article 14 of the Executive Plan text states that upon the wind up of the plan (i.e., termination of the plan) the Company shall make contributions to the fund "as required by the Plan and Applicable Pension Legislation". Article 14 states:

**Article 14 -- Right to Amend or Termination the Plan**

...

**14.3 Termination of the Plan**

...

b) If the Plan is wound up, in whole or in part, the Employer will not make further contributions to the Fund in respect of the Plan or the portion of the Plan being wound up, as applicable, *except for amounts due or that have accrued up to the effective date of the wind-up and which have not been paid into the Fund, as required by the Plan and Applicable Pension Legislation.* [emphasis added]

14. I am advised by my counsel and believe that section 75 of the PBA requires an employer to pay into a pension plan that is being wound up all amounts that are owing to the pension plan.

15. As of January 1, 2008, the Executive Plan had a funding deficiency on an ongoing basis of \$2,535,100, on a solvency basis of \$1,102,800 and on a wind-up basis of \$2,996,400. Attached hereto as **Exhibit D** is a copy of the Actuarial Valuation Report of the Executive Plan as of January 1, 2008.

16. However, the January 1, 2008 actuarial report is 1 ½ years out of date. The Pensioners therefore arranged for a review of the January 1, 2008 actuarial report to be done by Morneau Sobeco, a firm of actuaries who perform pension plan wind up work.

17. Morneau Sobeco has estimated that the current wind up liability of the Executive Plan has worsened since January 1, 2008 and is now \$3.2 million. Attached hereto as **Exhibit E** is a copy of their letter from Morneau Sobeco dated July 16, 2009. The report from Morneau

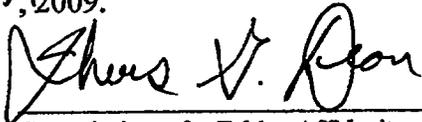
Sobeco is attached as Exhibit G to the affidavit of Andrea MacKinnon sworn July 16, 2009 filed herein.

18. Attached hereto and marked as Exhibit F is a copy of a letter sent by our counsel, Andrew Hatnay, to counsel for Indalex and the Monitor dated June 26, 2009. This letter refers to the underfunded Executive Plan and states that the Pensioners reserve all rights to the deemed trust under section 57(4) of the PBA (as well as the plan administrator's lien and charge in section 57(5)). Section 57(4) states that amounts that an employer who owes contributions to a pension plan on its wind up is deemed to hold in trust for the beneficiaries an amount equivalent to those employer contributions.

19. There was no response or objection received to this letter.

20. I swear this Affidavit in good faith and in support of a motion that \$3.2 million of the company's funds is subject to a deemed trust or administrator's charge under the Pension Benefits Act due to the wind up deficiency of the Executive Plan and for no improper purpose.

SWORN BEFORE ME at the  
City of London in the  
Province of Ontario, on August  
15<sup>th</sup>, 2009.



Commissioner for Taking Affidavits  
L.S.U.-C. 134864  
Thomas G. Dean



KEITH B. CARRUTHERS

This is **Exhibit "C"** referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
26<sup>th</sup> day of October, 2010



.....  
A Commissioner for taking affidavits, etc.



E-mail: [corporationscanada@ic.gc.ca](mailto:corporationscanada@ic.gc.ca)

Fax: (613) 941-0601 or 941-5789

Letter: Attn: Head, Information and Certification Unit  
9th Floor, Jean Edmonds Tower South  
365 Laurier Avenue West  
Ottawa, Ontario K1A 0C8

Please provide contact name, e-mail address, business address, telephone number and fax number.

**Current:** 3 **Last Update Date:** 2009/02/25  
**Min:** 1 **Last Amendment:** 2006/02/02  
**Max:** 10  
**Director(s) name(s):**  
DAVID J. MCCALLEN  
TIM STUBBS  
PATRICK LAWLOR

---

[Top](#) [Directors](#) [AR/AS](#) [Financial](#) [Amalg](#) [Subs/Parent](#) [Bottom](#)

### Annual Return/Annual Summary(AR/AS)

#### NOTICE TO CLIENTS:

Following the transition period resulting from the November 24, 2001 amendments to the Canada Business Corporations Act, the Act now refers to a minimum of 50 shareholders instead of 15

**Distributing:** NO  
**Number of Shareholders:** <= 50 non-distrib  
**Annual Meeting (Last):** 2008/02/04  
**Enforcement Code:**  
**Enforcement Date:**  
**Taxation Year End:**

**AR/AS Filed:**  
Received - with Fee - 2009  
Received - with Fee - 2008  
Received - with Fee - 2007

---

[Top](#) [Directors](#) [AR/AS](#) [Financial](#) [Amalg](#) [Subs/Parent](#) [Bottom](#)

### Financial

Financial reports are only available for distributing corporations

---

[Top](#) [Directors](#) [AR/AS](#) [Financial](#) [Amalg](#) [Subs/Parent](#) [Bottom](#)

**Amalgamations**

Amalgamating Info:

4214269 INDALEX LIMITED 06/02/02

6461948 6461948 CANADA INC. 06/02/02

---

[Top](#) [Directors](#) [AR/AS](#) [Financial](#) [Amalg](#) [Subs/Parent](#) [Bottom](#)

**Parent/Subsidiary**

No parent/subsidiary information for this corporation.

---

[Top](#) [Directors](#) [AR/AS](#) [Financial](#) [Amalg](#) [Subs/Parent](#) [Bottom](#)



► Corporations Canada ► Search for a Federal Corporation

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- Guide to Federal Incorporation
- Online Filing
- Choosing A Name
- Search for a Federal Corporation
- Forms, Policies, Fees and Legislation
- General Information
- FAQ
- Other Related Sites



## Corporation #6326765 BN #

**Corporation Name(s):** 6326765 CANADA INC.

### Old Name(s) and Change Date(s)

**Registered Office Address:** [Latest address on file]  
**Care of:** BORDEN LADNER GERVAIS LLP  
**Street:** 40 KING STREET WEST SUITE 4400 (FSC)  
**City:** TORONTO  
**Province:** Ontario  
**Postal Code:** M5H3Y4  
**Country:** Canada

**Country:** Canada  
**Reg. Off. Eff:** 2004/12/20

<b>Status</b>	<b>Date</b>
Active	2004/12/20

**ACT Name:** Canada Business Corporations Act  
**Incorporation:**  
**Amalgamation:**  
**Continuance:**2004/12/20  
**Anniversary:**2004/12/20  
**Import:** Ontario-2004/12/20  
**Export:** -

**Proxy:**  
**Prospectus:**  
**Take Over:**  
**Revival:**  
**Intent to Dissolve:**  
**Revocation of Intent:**  
**Update:**2009/03/30

[Top](#) [Directors](#) [AR/AS](#) [Financial](#) [Amalg](#) [Subs/Parent](#) [Bottom](#)

## Directors

### NOTICE TO CLIENTS:

Please note that directors residential addresses are no longer available online. The request for this information can be made in writing directly to Corporations Canada by:

E-mail: [corporationscanada@ic.gc.ca](mailto:corporationscanada@ic.gc.ca)

Fax: (613) 941-0601 or 941-5789

Letter: Attn: Head, Information and Certification Unit  
 9th Floor, Jean Edmonds Tower South  
 365 Laurier Avenue West  
 Ottawa, Ontario K1A 0C8

Please provide contact name, e-mail address, business address, telephone number and fax number.

**Current:** 3 **Last Update Date:** 2009/02/25  
**Min:** 1 **Last Amendment:** 2004/12/20  
**Max:** 10  
**Director(s) name(s):**  
 DAVID J MCCALLEN  
 TIM STUBBS  
 PATRICK LAWLOR

---

[Top](#) [Directors](#) [AR/AS](#) [Financial](#) [Amalg](#) [Subs/Parent](#) [Bottom](#)

### Annual Return/Annual Summary(AR/AS)

#### NOTICE TO CLIENTS:

Following the transition period resulting from the November 24, 2001 amendments to the Canada Business Corporations Act, the Act now refers to a minimum of 50 shareholders instead of 15

**Distributing:** NO  
**Number of Shareholders:** <= 50 non-distrib  
**Annual Meeting (Last):**  
**Enforcement Code:**  
**Enforcement Date:**  
**Taxation Year End:** 12/31

#### AR/AS Filed:

Received - with Fee - 2008  
 Received - with Fee - 2007  
 Received - with Fee - 2006

---

[Top](#) [Directors](#) [AR/AS](#) [Financial](#) [Amalg](#) [Subs/Parent](#) [Bottom](#)

### Financial

Financial reports are only available for distributing corporations

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[Top](#) [Directors](#) [AR/AS](#) [Financial](#) [Amalg](#) [Subs/Parent](#) [Bottom](#)

### Amalgamations

No amalgamation information for this corporation.

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[Top](#) [Directors](#) [AR/AS](#) [Financial](#) [Amalg](#) [Subs/Parent](#) [Bottom](#)

### Parent/Subsidiary

No parent/subsidiary information for this corporation.

---

[Top](#) [Directors](#) [AR/AS](#) [Financial](#) [Amalg](#) [Subs/Parent](#) [Bottom](#)

---

## BC Company Summary

For  
**INDALEX HOLDINGS (B.C.) LTD.**

---

**Date and Time of Search:** October 06, 2009 10:54 AM Pacific Time  
**Currency Date:** September 08, 2009

---

### ACTIVE

**Incorporation Number:** BC0389744  
**Name of Company:** INDALEX HOLDINGS (B.C.) LTD.  
**Recognition Date:** Incorporated on June 27, 1990 **In Liquidation:** No  
**Last Annual Report Filed:** June 27, 2008 **Receiver:** No

---

### REGISTERED OFFICE INFORMATION

<b>Mailing Address:</b> 19TH FLOOR, 885 WEST GEORGIA STREET VANCOUVER BC V6C 3H4 CANADA	<b>Delivery Address:</b> 19TH FLOOR, 885 WEST GEORGIA STREET VANCOUVER BC V6C 3H4 CANADA
---	--

---

### RECORDS OFFICE INFORMATION

<b>Mailing Address:</b> 19TH FLOOR, 885 WEST GEORGIA STREET VANCOUVER BC V6C 3H4 CANADA	<b>Delivery Address:</b> 19TH FLOOR, 885 WEST GEORGIA STREET VANCOUVER BC V6C 3H4 CANADA
---	--

---

### DIRECTOR INFORMATION

**Last Name, First Name, Middle Name:**  
LAWLOR, PATRICK

**Mailing Address:**  
75 TRI STATE INTL, SUITE 450  
LINCOLNSHIRE IL 60069  
UNITED STATES

**Delivery Address:**  
75 TRI STATE INTL, SUITE 450  
LINCOLNSHIRE IL 60069  
UNITED STATES

---

**Last Name, First Name, Middle Name:**

MCCALLEN, DAVID

**Mailing Address:**

5675 KENNEDY ROAD  
MISSISSAUGA ON L4Z 2H9  
CANADA

**Delivery Address:**

5675 KENNEDY ROAD  
MISSISSAUGA ON L4Z 2H9  
CANADA

**Last Name, First Name, Middle Name:**

STUBBS, TIM

**Mailing Address:**

75 TRI STATE INTL, SUITE 450  
LINCOLNSHIRE IL 60069  
UNITED STATES

**Delivery Address:**

75 TRI STATE INTL, SUITE 450  
LINCOLNSHIRE IL 60069  
UNITED STATES

---

**OFFICER INFORMATION AS AT June 27, 2008**

**Last Name, First Name, Middle Name:**

LAWLOR, PATRICK

**Office(s) Held:** (CFO, Secretary, Treasurer)

**Mailing Address:**

75 TRI STATE INTL, SUITE 450  
LINCOLNSHIRE IL 60069  
UNITED STATES

**Delivery Address:**

75 TRI STATE INTL, SUITE 450  
LINCOLNSHIRE IL 60069  
UNITED STATES

**Last Name, First Name, Middle Name:**

ROSS, WESLEY D.

**Office(s) Held:** (Other Office(s))

**Mailing Address:**

706 SOUTH STATE STREET  
GIRARD OH 44420  
UNITED STATES

**Delivery Address:**

706 SOUTH STATE STREET  
GIRARD OH 44420  
UNITED STATES

**Last Name, First Name, Middle Name:**

STUBBS, TIM

**Office(s) Held:** (CEO, President)

**Mailing Address:**

75 TRI STATE INTL, SUITE 450  
LINCOLNSHIRE IL 60069  
UNITED STATES

**Delivery Address:**

75 TRI STATE INTL, SUITE 450  
LINCOLNSHIRE IL 60069  
UNITED STATES

# CORPORATION POINT IN TIME REPORT **As of: 2009/03/24**

Ontario Corp Number	Corporation Name	Incorporation Date	
1451895	NOVAR INC.	2000/11/21	
		Jurisdiction	
		ONTARIO	
Corporation Type	Corporation Status	Former Jurisdiction	
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE	
Registered Office Address	Date Amalgamated	Amalgamation Ind.	
3333 UNITY DRIVE	NOT APPLICABLE	NOT APPLICABLE	
	New Amal. Number	Notice Date	
MISSISSAUGA ONTARIO CANADA L5L 3S6	NOT APPLICABLE	NOT APPLICABLE	
	Letter Date	NOT APPLICABLE	
Mailing Address	Revival Date	Continuation Date	
3333 UNITY DRIVE	NOT APPLICABLE	NOT APPLICABLE	
	Transferred Out Date	Cancel/Inactive Date	
MISSISSAUGA ONTARIO CANADA L5L 3S6	NOT APPLICABLE	NOT APPLICABLE	
	EP Licence Eff.Date	EP Licence Term.Date	
	NOT APPLICABLE	NOT APPLICABLE	
	Number of Directors Minimum      Maximum	Date Commenced in Ontario	Date Ceased in Ontario
	00001      00013	NOT APPLICABLE	NOT APPLICABLE
Activity Classification			
NOT AVAILABLE			

# CORPORATION POINT IN TIME REPORT

**As of: 2009/03/24**

**Ontario Corp Number**

1451895

**Corporation Name**

NOVAR INC.

**Corporate Name History**

NOVAR INC.

**Effective Date**

2000/11/21

**Current Business Name(s) Exist:**

NO

**Expired Business Name(s) Exist:**

NO

**Active Administrator:**

**Name (Individual / Corporation)**

PATRICK

LAWLOR

**Address**

75 TRI STATE INTERNATIONAL

Suite # 450  
LINCOLNSHIRE  
ILLINOIS  
UNITED STATES OF AMERICA 60069

**Date Began**

2007/08/24

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

SECRETARY

**Resident Canadian**

# CORPORATION POINT IN TIME REPORT **As of: 2009/03/24**

Ontario Corp Number	Corporation Name
1451895	NOVAR INC.

**Active Administrator:  
Name (Individual / Corporation)**

PATRICK  
LAWLOR

**Address**

75 TRI STATE INTERNATIONAL  
  
Suite # 450  
LINCOLNSHIRE  
ILLINOIS  
UNITED STATES OF AMERICA 60069

**Date Began**  
2007/08/24

**First Director**  
NOT APPLICABLE

Designation	Officer Type
OFFICER	TREASURER

**Resident Canadian**

**Active Administrator:  
Name (Individual / Corporation)**

PATRICK  
LAWLOR

**Address**

75 TRI STATE INTERNATIONAL  
  
Suite # 450  
LINCOLNSHIRE  
ILLINOIS  
UNITED STATES OF AMERICA 60069

**Date Began**  
2007/08/24

**First Director**  
NOT APPLICABLE

Designation	Officer Type
OFFICER	CHIEF FINANCIAL OFFICER

**Resident Canadian**

# CORPORATION POINT IN TIME REPORT

As of: 2009/03/24

Ontario Corp Number	Corporation Name
1451895	NOVAR INC.

**Active Administrator:**  
**Name (Individual / Corporation)**

VICTORIA  
NETO

**Address**

5975 KENNEDY ROAD  
  
MISSISSAUGA  
ONTARIO  
CANADA L4Z 2H9

**Date Began**  
2007/07/18

**First Director**  
NOT APPLICABLE

**Designation**                      **Officer Type**  
DIRECTOR

**Resident Canadian**  
Y

**Active Administrator:**  
**Name (Individual / Corporation)**

TIM  
STUBBS

**Address**

75 TRI STATE INTL.  
  
Suite # 450  
LINCOLNSHIRE  
ILLINOIS  
UNITED STATES OF AMERICA 60069

**Date Began**  
2006/02/02

**First Director**  
NOT APPLICABLE

**Designation**                      **Officer Type**  
DIRECTOR

**Resident Canadian**  
N

# CORPORATION POINT IN TIME REPORT

As of: 2009/03/24

Ontario Corp Number

Corporation Name

1451895

NOVAR INC.

**Active Administrator:**  
Name (Individual / Corporation)

Address

TIM  
STUBBS

75 TRI STATE INTL.  
  
Suite # 450  
LINCOLNSHIRE  
ILLINOIS  
UNITED STATES OF AMERICA 60069

Date Began

First Director

2006/02/02

NOT APPLICABLE

Designation

Officer Type

Resident Canadian

OFFICER

PRESIDENT

N

**Active Administrator:**  
Name (Individual / Corporation)

Address

TIM  
STUBBS

75 TRI STATE INTL.  
  
Suite # 450  
LINCOLNSHIRE  
ILLINOIS  
UNITED STATES OF AMERICA 60069

Date Began

First Director

2006/02/02

NOT APPLICABLE

Designation

Officer Type

Resident Canadian

OFFICER

CHIEF EXECUTIVE OFFICER

# CORPORATION POINT IN TIME REPORT **As of: 2009/03/24**

Ontario Corp Number	Corporation Name
1451895	NOVAR INC.

## Last Document Recorded

Act/Code	Description	Form	Date
CIA	CHANGE NOTICE	1	2008/01/03 (ELECTRONIC FILING)

**THIS REPORT SETS OUT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992 AND RECORDED ON THE ONTARIO BUSINESS INFORMATION SYSTEM UP TO THE "AS OF DATE" INDICATED ON THE REPORT. ALL CURRENT DIRECTORS AND OFFICERS ARE INCLUDED AS ACTIVE ADMINISTRATORS.**

**ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON THE MICROFICHE.**

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

INVOICE

Cyberbahn, a Thomson Reuters business  
60 Adelaide Street East, 5th Floor  
Toronto, Ontario  
M5C 3E4

Invoice#: 2001100700001842

Date: 6/10/2009

Sold To: Koskie Minsky (2)  
900-20 Queen St W, Box 52  
Toronto, Ontario  
M5H 3R3

Attention: Eleonora Ursino  
Client #: 20011007  
Your P.O.: 09/1225  
GST # 89717 6350 RT  
Terms: NET30

RE: NOVAR INC.

Item		Price
ONB100000	ONBIS SEARCH - CYBERBAHN FEE	12.00
DIS280000	GOV'T DISB. - POINT IN TIME REPORT	8.00

GROSS AMOUNT:	\$ 20.00
GST :	\$ 0.60
TOTAL:	\$ 20.60

Please make all cheques payable to Cyberbahn

# CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
1451895	NOVAR INC.	2000/11/21
		Jurisdiction
		ONTARIO
Corporation Type	Corporation Status	Former Jurisdiction
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
Registered Office Address	Date Amalgamated	Amalgamation Ind.
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MISSISSAUGA ONTARIO CANADA L5L 3S6	New Amal. Number	Notice Date
	NOT APPLICABLE	NOT APPLICABLE
Mailing Address	Letter Date	
3333 UNITY DRIVE	NOT APPLICABLE	
MISSISSAUGA ONTARIO CANADA L5L 3S6	Revival Date	Continuation Date
	NOT APPLICABLE	NOT APPLICABLE
	Transferred Out Date	Cancel/Inactive Date
	NOT APPLICABLE	NOT APPLICABLE
	EP Licence Eff.Date	EP Licence Term.Date
	NOT APPLICABLE	NOT APPLICABLE
	Number of Directors Minimum      Maximum	Date Commenced in Ontario
	00001      00013	NOT APPLICABLE
		Date Ceased in Ontario
		NOT APPLICABLE
Activity Classification		
NOT AVAILABLE		

# CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
1451895	NOVAR INC.

Corporate Name History	Effective Date
NOVAR INC.	2000/11/21

Current Business Name(s) Exist:	NO
Expired Business Name(s) Exist:	NO

Administrator: Name (Individual / Corporation)	Address
PATRICK LAWLOR	75 TRI STATE INTERNATIONAL  Suite # 450 LINCOLNSHIRE ILLINOIS UNITED STATES OF AMERICA 60069

Date Began	First Director	
2007/08/24	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
OFFICER	CHIEF FINANCIAL OFFICER	

# CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>
1451895	NOVAR INC.

<b>Administrator: Name (Individual / Corporation)</b>	<b>Address</b>
PATRICK LAWLOR	75 TRI STATE INTERNATIONAL  Suite # 450 LINCOLNSHIRE ILLINOIS UNITED STATES OF AMERICA 60069

<b>Date Began</b>	<b>First Director</b>	
2007/08/24	NOT APPLICABLE	
<b>Designation</b>	<b>Officer Type</b>	<b>Resident Canadian</b>
OFFICER	SECRETARY	

<b>Administrator: Name (Individual / Corporation)</b>	<b>Address</b>
PATRICK LAWLOR	75 TRI STATE INTERNATIONAL  Suite # 450 LINCOLNSHIRE ILLINOIS UNITED STATES OF AMERICA 60069

<b>Date Began</b>	<b>First Director</b>	
2007/08/24	NOT APPLICABLE	
<b>Designation</b>	<b>Officer Type</b>	<b>Resident Canadian</b>
OFFICER	TREASURER	



# CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>
1451895	NOVAR INC.

**Administrator:  
Name (Individual / Corporation)**

**Address**

TIM  
STUBBS

75 TRI STATE INTL.  
  
Suite # 450  
LINCOLNSHIRE  
ILLINOIS  
UNITED STATES OF AMERICA 60069

<b>Date Began</b>	<b>First Director</b>
2006/02/02	NOT APPLICABLE

<b>Designation</b>	<b>Officer Type</b>	<b>Resident Canadian</b>
DIRECTOR		N

**Administrator:  
Name (Individual / Corporation)**

**Address**

TIM  
STUBBS

75 TRI STATE INTL.  
  
Suite # 450  
LINCOLNSHIRE  
ILLINOIS  
UNITED STATES OF AMERICA 60069

<b>Date Began</b>	<b>First Director</b>
2006/02/02	NOT APPLICABLE

<b>Designation</b>	<b>Officer Type</b>	<b>Resident Canadian</b>
OFFICER	PRESIDENT	N

# CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>
1451895	NOVAR INC.

## Last Document Recorded

Act/Code	Description	Form	Date
CIA	CHANGE NOTICE	1	2009/03/25 (ELECTRONIC FILING)

**THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.**

**ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.**

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

INVOICE

Cyberbahn, a Thomson Reuters business  
60 Adelaide Street East, 5th Floor  
Toronto, Ontario  
M5C 3E4

Invoice#: 2001100700001838

Date: 6/10/2009

Sold To: Koskie Minsky (2)  
900-20 Queen St W, Box 52  
Toronto, Ontario  
M5H 3R3

Attention: Eleonora Ursino  
Client #: 20011007  
Your P.O.: 09/1225  
GST # 89717 6350 RT  
Terms: NET30

RE: NOVAR INC.

Item		Price
ONB100000	ONBIS SEARCH - CYBERBAHN FEE	12.00
DIS100000	GOV'T DISB. - PROFILE REPORT	8.00

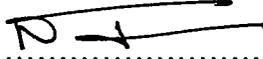
GROSS AMOUNT:	\$ 20.00
GST :	\$ 0.60
TOTAL:	\$ 20.60

Please make all cheques payable to Cyberbahn

This is **Exhibit "D"** referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
20<sup>th</sup> day of October, 2010

A handwritten signature in black ink, appearing to be "D J", is written over a horizontal line.

.....  
A Commissioner for taking affidavits, etc.

Court File No. 09-CL-\_\_\_\_\_

**Indalex Limited  
Indalex Holdings (B.C.) Ltd.  
6326765 Canada Inc. and  
Novar Inc.**

**PRE-FILING REPORT TO COURT SUBMITTED BY  
FTI CONSULTING CANADA ULC, THE PROPOSED MONITOR  
April 3, 2009**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
INDALEX LIMITED  
INDALEX HOLDINGS (B.C.) LTD.  
6326765 CANADA INC. and  
NOVAR INC.

**PRE-FILING REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA ULC  
IN ITS CAPACITY AS PROPOSED MONITOR**

**INTRODUCTION**

1. FTI Consulting Canada ULC (“**FTI Canada**” or the “**Proposed Monitor**”) has been informed that Indalex Limited (“**Indalex**”), Indalex Holdings (B.C.) Ltd. (“**Indalex BC**”), 6326765 Canada Inc. (“**632**”) and Novar Inc. (“**Novar**”) (collectively, the “**Applicants**”) intend to make an application under the *Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended* (the “**CCAA**”) for an initial order (the “**Initial Order**”) granting, *inter alia*, a stay of proceedings against the Applicants until May 1, 2009, (the “**Stay Period**”) and appointing FTI Canada as monitor (the “**Monitor**”). FTI Canada has provided its consent to act as Monitor. The proceedings to be commenced by the Applicants under the CCAA will be referred to herein as the “**CCAA Proceedings**”.
2. The purpose of this report is to inform the Court on the following:

- (a) The proceedings commenced by certain of the Applicants' US affiliates (the "**Ch.11 Proceedings**") under chapter 11 of the *United States Bankruptcy Code* (the "**USBC**") in the United States Bankruptcy Court, District of Delaware (the "**US Court**");
  - (b) The Applicants' efforts to arrange debtor-in-possession financing ("**DIP Financing**");
  - (c) The charge being sought by the Applicants in favour of its directors and officers in the amount of \$3.3 million (the "**D&O Charge**"); and
  - (d) The roles of FTI Consulting, Inc. ("**FTI US**") and FTI Canada.
3. In preparing this report, FTI Canada has relied upon unaudited financial information of the Applicants, the Applicants' books and records, certain financial information prepared by the Applicants and discussions with the Applicants' management. FTI Canada has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information. Accordingly, FTI Canada expresses no opinion or other form of assurance on the information contained in this report or relied on in its preparation. Future oriented financial information reported or relied on in preparing this report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.
4. Unless otherwise stated, all monetary amounts contained herein are expressed in United States Dollars. Capitalized terms not otherwise defined herein have the meanings defined in the affidavit of Timothy R. J. Stubbs, President and Chief Executive Officer of the Applicants, sworn April 2, 2009, and filed in support of the CCAA application (the "**Stubbs Affidavit**").
5. This report should be read in conjunction with the Stubbs Affidavit as certain information contained in the Stubbs Affidavit has not been included herein in order to avoid unnecessary duplication.

## THE CHAPTER 11 PROCEEDINGS

6. A corporate organization chart is attached as Exhibit A to the Stubbs Affidavit. As shown thereon and as described in the Stubbs Affidavit, Indalex's parent is Indalex Holding Corp. ("**Indalex Holding**"), which is a wholly-owned subsidiary of Indalex Holdings Finance, Inc. ("**Indalex Finance**"). Indalex BC, 632 and Novar are wholly owned subsidiaries of Indalex. Collectively, Indalex Finance and its affiliates (the "**Indalex Group**") is the second largest aluminium extruder in North America.
7. On March 20, 2009, Indalex Holding, Indalex Finance, Indalex Inc., Caradon Lebanon, Inc. and Dolton Aluminum Company, Inc. (collectively, the "**US Debtors**") commenced the Ch.11 Proceedings in the US Court. The case has been assigned to Judge Walsh.
8. On March 23, 2009, the following orders (collectively, the "**First Day Orders**") were issued in the Ch.11 Proceedings by Judge Walsh:
  - (a) Order pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure directing joint administration of cases;
  - (b) Order pursuant to 28 USBC §156(c) and Bankruptcy Rule 2002 authorizing employment and retention of Epiq Bankruptcy Solutions, LLC as Claims, Noticing, and Balloting Agent;
  - (c) Order approving the Cash Management System, authorizing use of prepetition bank accounts and business forms and waiving the requirements of 11 USBC § 345(b) on an interim basis;
  - (d) Order pursuant to Sections 507(a), 363(b) and 105(a) of the USBC authorizing payment of wages, compensation and employee benefits and authorizing financial institutions to honour and process cheques and transfers related thereto;

- (e) Order pursuant to Sections 105(a) and 363 of the USBC authorizing Debtors to honour certain prepetition obligations to customers; and
- (f) Order authorizing use of cash collateral and granting adequate protection.

#### **THE APPLICANTS' EFFORTS TO ARRANGE DIP FINANCING**

9. In anticipation of the possibility that the Applicants and the US Debtors may have to commence formal restructuring proceedings, the Indalex Group, assisted by its Investment Bankers, Jefferies & Company, Inc. (“**Jefferies**”), undertook efforts to obtain DIP Financing.
10. Given the capital structure of the US Debtors, which includes approximately \$306 million of secured debt, Jefferies determined that there was no likelihood of obtaining DIP Financing ranking subordinate to the existing secured lenders. The Proposed Monitor concurs with this view.
11. Accordingly, Jefferies approached the following parties that were considered as logical potential candidates to consider providing DIP Financing secured by a priming charge. These groups included:
  - (a) The Senior Secured Lenders;
  - (b) Sun Indalex LLC (“**Sun Indalex**”), which holds \$30 million of secured debt ranking subordinate to the Senior Secured Lenders;
  - (c) The ad hoc committee of holders of the Senior Secured Notes (the “**Noteholders**”); and
  - (d) Two parties not currently providing financing to the Indalex Group.
12. Sun Indalex, the Noteholders and one of the unconnected parties all declined to provide DIP Financing.

13. The Senior Secured Lenders and one of the unconnected parties (“Party A”) indicated that they were prepared to consider providing DIP Financing.
14. After lengthy negotiation, both the Senior Secured Lenders and Party A provided term sheets for DIP Financing. Both Party A and the Senior Secured Lenders stated that they would require that the DIP Financing for the US Debtors and the Applicants be secured by Court-ordered charges and be fully cross-guaranteed.
15. On its face, the term sheet provided by Party A provided better pricing terms. However, it was subject to due diligence conditions, giving rise to closing risk. Furthermore, proceeding with Party A would require the Indalex Group to obtain priming charges ranking in priority to the Senior Secured Lenders, and it was anticipated that the Senior Secured Lenders would strenuously object to any priming charge.
16. Indalex Group was advised by Jefferies and its US legal counsel that because of the “adequate assurance” requirements that would need to be met in the Ch.11 Proceedings in order to obtain a priming charge over the objection of the Senior Secured Lenders, obtaining approval of DIP Financing with Party A would take significantly longer than approval of DIP Financing with the Senior Secured Lenders and there could be no assurance that the application for the priming charge would be successful.
17. Given these risks and the likely destabilising effect a drawn out contested US DIP approval process would have on the business, the Indalex Group, in consultation with Jefferies and its legal and professional advisors, concluded that the additional uncertainty and closing risk associated with proceeding with Party A were not justified and elected to proceed with the Senior Secured Lenders.

18. The Proposed Monitor believes that the decision reached by the Indalex Group and its advisors to select the Senior Secured Lenders as the party with which to attempt to negotiate DIP Financing was reasonable and justified in the circumstances.
19. Unfortunately, despite the efforts of the Applicants and the Senior Secured Lenders, the parties have been unable to conclude negotiations in respect of the DIP Financing before the actions of other creditors forced the Applicants to commence the CCAA Proceedings. However, it appears to the Proposed Monitor that all parties are working diligently to conclude negotiations and it is currently anticipated that an agreement will be reached and that the Applicants will be bringing a motion for the approval of DIP Financing and the DIP Charge, substantially in the form described above, in the very near future.
20. In order to provide for funding of operations in the meantime, the Applicants' have requested an extension of the Forbearance Agreement by the Senior Secured Lenders. Assuming that such extension is granted by the Senior Secured Lenders, the Applicants' forecast (the "**April 2 Forecast**") shows that the Applicants will have sufficient liquidity to fund operations. A copy of the April 2 Forecast is attached hereto as Appendix A.

#### **THE PROPOSED D&O CHARGE**

21. The Applicants are seeking the D&O Charge in the amount of \$3.3 million.
22. The Proposed Monitor has reviewed the underlying calculations upon which the Applicants have based the estimate of the potential liability in respect of directors' statutory obligations and is of the view that the D&O Charge is reasonable in relation to the quantum of the estimated potential liability. The Proposed Monitor notes, however, that the ranking of the DIP Charge in relation to the security of the Senior Secured Lenders has not, as at the time of writing, been agreed between the Applicants and the Senior Secured Lenders.

## **THE ROLES OF FTI US AND FTI CANADA**

23. On February 20, 2009, FTI US was engaged by Holding as financial advisor. Since the week commencing March 9, 2009, FTI Canada personnel have been involved in that mandate, providing advice and assistance in respect of the Canadian aspects of the Indalex Group and its potential restructuring.
24. FTI US will, subject to the approval of the US Court, continue to act as financial advisor to the US Debtors in the Ch.11 Proceeding. In addition, Mr. Keith Cooper, a Senior Managing Director of FTI US, has been appointed as Chief Restructuring Officer of the US Debtors, again subject to the approval of the US Bankruptcy Court. The Proposed Monitor has been informed that FTI US is being compensated based on its hourly rates and that FTI US's mandates as financial advisor to the US Debtors and Chief Restructuring Officer do not carry any form of success-based compensation. Accordingly, FTI US has no economic interest in the outcome of the Ch.11 Proceedings or the CCAA Proceedings.
25. FTI Canada has informed the Ch. 11 Debtors, the Applicants and FTI US of the duties and obligations of the Monitor in any proceedings under the CCAA. The Ch.11 Debtors, the Applicants, FTI US and FTI Canada are all fully cognizant that such duties and obligations are to the Court and the stakeholders of the Applicants. In order to maximize efficiency and minimize costs, it is proposed that FTI Canada be appointed as Monitor of the Applicants in the CCAA Proceedings. FTI Canada has consented to such appointment if made by this Honourable Court.

The Proposed Monitor respectfully submits to the Court this, its Pre-Filing Report.

Dated this 3<sup>rd</sup> day of April, 2009.

FTI Consulting Canada ULC  
The Proposed Monitor of  
Indalex Limited, Indalex Holdings (B.C.) Ltd.,  
6326765 Canada Inc. and Novar Inc.



Nigel D. Meakin  
Senior Managing Director

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# **Appendix A**

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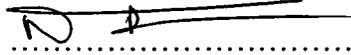
**The April 2 Forecast**

Indalex Limited  
Indalex Holdings (B.C.) Ltd.  
6326765 Canada Inc.  
Novar Inc.

**Consolidated Cash Flow Forecast**

	Week Ending	4/10/2009 US\$000	4/17/2009 US\$000	4/24/2009 US\$000	5/1/2009 US\$000	Total US\$000
<b>Receipts:</b>						
Accounts Receivable		4,372	4,303	4,109	4,605	17,388
Other		64	290	0	0	354
<b>Total Receipts</b>		<b>4,436</b>	<b>4,593</b>	<b>4,109</b>	<b>4,605</b>	<b>17,742</b>
<b>Disbursements:</b>						
Raw Materials - Metals		2,740	2,826	2,826	2,714	11,105
Raw Materials - Other Materials		115	118	118	114	464
Payroll		262	533	262	533	1,589
Benefits		95	194	95	194	578
Operating Expenses		490	490	490	553	2,023
GST		0	0	0	354	354
Capex - Tool & Die		53	53	53	53	211
Capex - Other		0	0	0	0	0
Bank Fees & Interest		0	0	0	0	0
Legal & Professional Fees		210	110	60	110	490
<b>Total Disbursements</b>		<b>3,964</b>	<b>4,324</b>	<b>3,903</b>	<b>4,625</b>	<b>16,816</b>
<b>Excess of Receipts over Disbursements</b>		<b>472</b>	<b>269</b>	<b>205</b>	<b>(20)</b>	<b>926</b>
<b>Cumulative Net Cash Flow</b>		<b>472</b>	<b>741</b>	<b>947</b>	<b>926</b>	<b>926</b>

This is **Exhibit "E"** referred to in the  
affidavit of  
**KEITH B. CARRUTHERS**  
sworn before me, this  
<sup>26<sup>th</sup></sup> day of October, 2010

  
.....

A Commissioner for taking affidavits, etc.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF the *Companies' Creditors  
Arrangement Act*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
of INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA  
INC. and NOVAR INC.

Applicants

**AFFIDAVIT OF TIMOTHY R.J. STUBBS  
(Sworn April 3, 2009)**

I, Timothy R.J. Stubbs, of the City of Lincolnshire, in the State of Illinois, United States of America, **MAKE OATH AND SAY AS FOLLOWS:**

**Introduction**

1. I am the President and Chief Executive Officer of Indalex Limited ("**Indalex Canada**"), Indalex Holdings (B.C.) Ltd. ("**Indalex BC**"), 6326765 Canada Inc. ("**632**"), and Novar Inc. ("**Novar**") (collectively, the "**Applicants**"), and as such have knowledge of the matters deposed to in this affidavit. Where this affidavit is not based on my direct personal knowledge, it is based on information and belief and I verily believe such information to be true.

**Nature of Application and Overview of Relief Sought**

2. This affidavit is sworn in support of the Applicants' application for protection from their creditors under the *Companies' Creditors Arrangement Act* (Canada)

(the “**CCAA**”). As a result of the pervasive decline in the global economy and the decline in the demand for extruded aluminum products, the Applicants’ business, of aluminum extrusion (a process which forms and strengthens aluminum for use by end-users), is facing serious financial challenges and the Applicants are facing a looming liquidity crisis.

3. This Application is brought in conjunction with a parallel proceeding commenced urgently, by way of a voluntary petition filed on March 20, 2009, in the United States Bankruptcy Court for the District of Delaware (the “**U.S. Bankruptcy Court**”) by the Applicants’ U.S. direct and indirect parents, Indalex Holdings Finance, Inc. (“**Indalex Finance**”), and Indalex Holding Corp. (“**Indalex Holding**”), and certain of their U.S. subsidiaries (collectively with Indalex Finance and Indalex Holding, “**Indalex U.S.**”) pursuant to Chapter 11 of the United States Bankruptcy Code (the “**Chapter 11 Proceedings**”).
4. The Applicants require relief under the CCAA in order to stabilize their business and seek a long term strategic solution for their business operations.
5. The relief requested includes a request for:
  - (a) immediate relief in the form of a stay of proceedings; and
  - (b) the appointment of FTI Consulting Canada ULC (“**FTI Canada**”) as Monitor of the Applicants.
6. It is the intention of the Applicants to return to Court within a short period of time to seek approval for debtor in possession financing (“**DIP Financing**”) from the

Applicants' primary secured lenders (the "**DIP Lenders**"), on behalf of whom JP Morgan Chase Bank N.A. ("**JP Morgan**") is acting as the administrative agent (in such capacity, the "**DIP Administrative Agent**") and to seek approval of restructuring powers for the Applicants that will enable them to obtain a going concern solution with the assistance of the Monitor.

7. In the view of the Applicants, these proceedings present the best opportunity for the Applicants to maximize value for their stakeholders and seek a viable going concern solution.

#### **Business Overview**

8. The Applicants comprise, together with Indalex U.S. and their related affiliates (collectively, the "**Indalex Group**"), the second largest aluminum extruder in the United States and Canada.
9. Indalex Canada is a Canadian corporation and the entity through which the Indalex Group operates its Canadian business. It is the parent company of Indalex BC, a British Columbia corporation, 632, a Canadian corporation, and Novar, an Ontario corporation, none of which are operating entities.<sup>1</sup>
10. Indalex Canada is a direct wholly-owned subsidiary of its U.S. parent, Indalex Holding, which is in turn a wholly-owned subsidiary of Indalex Finance.

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<sup>1</sup> Indalex BC owns the property on which Indalex Canada operates in Port Coquitlam, B.C. 632 owns the property on which Indalex Canada operates in Ontario. Novar is a dormant company with no assets or liabilities other than the guarantee of Indalex Canada's indebtedness to JP Morgan.

11. Indalex Finance is beneficially owned by Sun Capital Partners III, L.P., Sun Capital Partners, III QP, LP, Sun Capital Partners IV, LP, Sun Indalex, LLC, as well as certain management co-investors. Attached hereto as Exhibit "A" is a copy of the corporate chart.
12. Approximately 94% of the products of the Indalex Group are customized, made-to-order aluminum extrusions. Aluminum is a durable, light weight metal and can be strengthened through the extrusion process, which involves pushing aluminum through a die and forming it into strips, which can then be customized for a wide array of end-user markets.
13. Indalex Canada produces a portion of the raw material used in the extrusion process, called aluminum extrusion billets, through its casting division, Indalloy, located in Toronto. It also processes the raw extrusion billets into extruded product at its Canadian extrusion plants, for sale to end-users.
14. The end-user markets include transportation, residential building and construction, electrical and cable, commercial building and construction, consumer durables, machinery, and equipment. In addition, the Indalex Group offers a wide array of services, including fabrication, painting, and anodizing.
15. The Indalex Group has in excess of 3,600 customers worldwide, including a broad spectrum of national, regional, and local accounts. In 2008, Indalex Canada accounted for approximately 32% of the Indalex Group's total sales to third parties.

16. Indalex Canada supplies to three major groups of customers:
- (a) finished extruded product to Canadian customers directly (approximately 70% of Indalex Canada's sales in 2008);
  - (b) finished extruded product to U.S. customers directly (approximately 30% of Indalex Canada's sales in 2008); and
  - (c) billets to Indalex U.S. for use in its extrusion processing. In 2008, Indalex Canada supplied Indalex U.S. with 20% of its aluminum extrusion billet requirements.

#### **Operational Facilities**

17. The Indalex Group operates eleven extrusion facilities and billet cast houses throughout the United States, Canada and China. The United States operations are run primarily out of six facilities, with headquarters located in Lincolnshire, Illinois.
18. Six of the U.S. facilities are operational. The Indalex Group also has five facilities in the U.S. which are not currently operating, due to low demand.
19. The Canadian operations are run out of five Canadian facilities, located in Port Coquitlam, B.C.<sup>2</sup>, Calgary, Alberta<sup>3</sup>, Montreal, Quebec<sup>4</sup>, Toronto, Ontario<sup>5</sup>, and

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<sup>2</sup> 1765 Coast Meridian Road, Port Coquitlam, B.C.

<sup>3</sup> 3016 58<sup>th</sup> Avenue, S.E., Calgary, AB

<sup>4</sup> 325 Rue Avro, Point Claire, Quebec

<sup>5</sup> 7 Alloy Court, Toronto, ON

Mississauga, Ontario<sup>6</sup>, with its headquarters located at 5675 Kennedy Road, Mississauga, Ontario. All of these facilities are currently operating.

20. Indalex Canada's business is not an independent, stand alone operation. It is fully integrated with, and mutually interdependent with, the larger North American enterprise, sharing financial resources, management services, infrastructure, suppliers and customers. This integration allows Indalex Canada to access greater operational support and allows its customers to gain logistics benefits and dual sourcing capability. As noted above, Indalex U.S. is heavily dependent, in turn, on the supply of raw material inventory from Indalex Canada.

#### **Current Status**

21. The Applicants' profitability depends, in large part, on the varying economic and other conditions of the end-user markets they serve. All of the end-user markets the Applicants serve are subject to volatility. The demand for the Applicants' products has declined by approximately 35% since 2006 due to economic conditions which have negatively impacted this demand, the decline in the U.S. housing market, a decline in purchasing and consumer confidence, and an increase in fuel and energy prices and other input prices. This impact has been compounded by a nearly 50% decline in aluminum prices since July of 2008.
22. The lower demand has negatively impacted Indalex Canada's shipment volume and operating profitability. The decline in the price of aluminum has subjected the Indalex Group to margin calls on metal hedging contracts and has restricted

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<sup>6</sup> 5675 Kennedy Road, Mississauga, ON

the ability of Indalex Canada to borrow cash to fund operations through the down-cycle.

23. As a result of difficulties in connection with a decline in demand for its products arising from the pervasive economic crisis impacting Indalex Canada's key customers and a decline in the price of aluminum, Indalex Canada is running out of cash and is facing an immediate liquidity crisis. The Applicants are insolvent.
24. Suppliers have stopped supplying on credit, including Indalex Canada's main supplier of aluminum, Alcan. Certain suppliers have discontinued supply altogether. Indalex Canada's other main supplier of aluminum, Alcoa Inc., commenced legal proceedings against Indalex U.S. in the State of Illinois without notice to collect amounts outstanding and owing to it by Indalex U.S. On February 24, 2009, Alcoa obtained judgment without notice against Indalex U.S. in the amount of approximately U.S.\$6 million. Alcoa then executed on the judgment restricting Indalex U.S.'s ability to make disbursements, including to critical suppliers. This action was a factor precipitating the need to commence the Chapter 11 Proceedings on an emergency basis.
25. Alcoa was also a supplier to Indalex Canada. On March 27, 2009, it issued a demand letter against Indalex Canada for US\$2.6 million alleged to be owing for payment arrears and threatened to commence legal action in Ontario.
26. On March 27, 2009, the provider of Indalex Canada's Group Insurance Policies, Great West Life Assurance Company, issued a termination notice, resulting from

alleged premium arrears in the approximate amount of US\$720,000. The termination notice is effective as of April 6, 2009.

27. The Applicants are also in default to their Revolving Lenders (as defined below), for whom JP Morgan is the administrative agent (in such capacity, the “**Administrative Agent**”). The Applicants have entered into an agreement entitled Amendment No. 2, Waiver and Agreement (the “**Forbearance Agreement**”) with Indalex U.S., the Revolving Lenders, the Term Lender and the Administrative Agent as of March 6, 2009, pursuant to which the Revolving Lenders have agreed to temporarily waive certain conditions to funding set forth in the Amended Credit Agreement (as defined below) and which permits continued use of the Revolving Credit Facility (as defined below) on certain conditions.
28. In summary, the Applicants need relief under the CCAA to prevent any further precipitous creditor action and to give the Applicants the opportunity to secure additional financing and identify a going concern solution. In addition, the integrated nature of the business of the Applicants with Indalex U.S., and the integrated nature of their financing, discussed below, now make the commencement of these proceedings in Canada necessary in order to maintain coordination and stability.
29. With the assistance of FTI Canada, the proposed Monitor, and in coordination with the Chapter 11 Proceedings, the Applicants intend to commence a process to identify a going concern solution, with the goal of preserving the business,

protecting and preserving the livelihood of employees, and maximizing stakeholder value (the “**Restructuring Process**”).

30. It is intended that the Indalex Group will continue operations as a going concern during these CCAA proceedings.

**Financial Position**

31. Copies of Indalex Canada’s interim internal financial statements for the month ended February 2009 and December 2008 are attached hereto as Exhibit “**B**”.

**Assets**

32. The Company’s assets, as disclosed in its interim internal financial statements as of February 28, 2009, consist of the following:

Current Assets:.....	(Canadian dollars in thousands)
Cash and cash equivalents.....	\$ 404
Receivable from affiliates.....	\$ 52,361
Receivables, net.....	\$ 25,013
Inventories, net.....	\$ 10,324
Prepays/Other current assets.....	\$ 2,577
Total current assets.....	<u>\$ 90,679</u>
Capital .....	<u>\$ 98,086</u>
Total assets	<u>\$188,765</u>

The foregoing figures represent book value of the Company’s assets.

33. As noted above, the Applicants own the real property on which their facilities are located, at 5675 Kennedy Road, Mississauga, Ontario, 7 Alloy Court, Toronto,

Ontario, 3016 58<sup>th</sup> Avenue S.E., Calgary, Alberta, 1765 Coast Meridian Road, Port Coquitlam, B.C., and 325 Rue Avro, Point Claire, Quebec.

34. Indalex Canada is the registered owner of some of the intellectual property relating to the manufacturing processes used by the Indalex Group.

#### **Secured Debt of the Company**

35. As of December, 2008, the Indalex Group, collectively, had existing secured indebtedness in the approximate aggregate amount of \$305.8 million pursuant primarily to a certain Revolving Credit Facility, an Initial Term Loan, an Incremental Term Loan, and Senior Secured Notes, discussed below.

#### *Revolving Credit Facility*

36. Credit has been provided by certain secured lenders (the “**Revolving Lenders**”) pursuant to an Amended and Restated Credit Agreement dated May 21, 2008, among the Applicants, Indalex U.S., the Revolving Lenders, Sun Indalex, LLC (the “**Term Lender**”) and the Administrative Agent (the “**Amended Credit Agreement**”). The Amended Credit Agreement amended certain terms to an original credit agreement dated as of February 2, 2006.
37. Pursuant to the Amended Credit Agreement, Indalex Holding had access to a U.S. \$200 million revolving credit facility (the “**Revolving Credit Facility**”). Up to \$80 million of the Revolving Credit Facility was available to Indalex Canada pursuant to a revolving credit sub-facility (the “**Sub-Facility**”).

38. The funds available to Indalex Canada under the Sub-Facility could not exceed a borrowing base comprised of eligible accounts receivable, inventory, machinery and equipment and real property of Indalex Canada and the other Applicants, subject to an aggregate sub-cap of \$80 million and subject to a further aggregate total cap, when taken together with the amounts borrowed by Indalex U.S., of \$200 million.
39. As of March 31, 2009, the total balance due on the Revolving Credit Facility was approximately U.S.\$60 million. The amount owing by the Applicants under the Sub-Facility, as of March 31, 2009 is approximately CDN\$26,700,000.
40. The obligations of Indalex Canada under the Amended Credit Agreement are guaranteed by Indalex Holding (one of the US debtors), and its U.S. subsidiaries, as well as the three other Canadian entities, Indalex BC, 632, and Novar.
41. Prior to entering into the Forbearance Agreement, the obligations of Indalex Finance (the US borrower) under the Amended Credit Agreement were guaranteed by Indalex Holding and any U.S. subsidiary of Indalex Holding, only.
42. Indalex Canada's obligations under the Amended Credit Agreement are secured in Canada by a Security Agreement dated February 2, 2006 (the "**Security Agreement**"), two Deeds of Hypothec dated February 2, 2006, together with certain other debentures, pledge agreements, and security documents securing the personal and real property of the Applicants<sup>7</sup>. The Security Agreement and one of

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<sup>7</sup> including a Canadian Trade Mark Security Agreement, a collateral bond issued in favour of JP Morgan, a Pledge Agreement, a Debenture in the amount of \$200,000,000 in respect of 7 Alloy Court, Toronto,

the Deeds of Hypothec were executed by 6461948 Canada Inc. and Indalex Canada; the other Deed was executed by 6461948 Canada Inc. only. On February 2, 2006, 6461948 Canada Inc. and Indalex Canada amalgamated (as described below). Attached hereto as Exhibit "C" is a copy of the Security Agreement. Attached hereto as Exhibit "D" are copies of the Deeds of Hypothec.

43. The security provided by the Applicants is registered under the relevant personal property security registries in Ontario, Quebec, British Columbia, and Alberta. Attached hereto as Exhibit "E" is a copy of a summary of PPSA registrations against the Applicants for Ontario, British Columbia, Alberta, and Quebec.

*March 6, 2009 Forbearance Agreement*

44. As noted above, on March 6, 2009, Indalex U.S. and the Applicants entered into the Forbearance Agreement with the Administrative Agent, the Term Lender and the Revolving Lenders.
45. The Forbearance Agreement, as amended, as it applies to the Applicants, provides a temporary waiver of certain existing events of default under the Amended Credit Agreement that terminates and expires on April 3, 2009, or on the

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Ontario dated February 2, 2006, a General Assignment of Leases and Rents re 7 Alloy Court, Toronto, Ontario, a trustee and beneficial owner agreement re 7 Alloy Court, Toronto, Ontario, a Debenture in the amount of \$200,000,000 in respect of 5675 Kennedy Road, Mississauga, Ontario dated February 2, 2006, a general assignment of leases and rents re 5675 Kennedy Road, Mississauga, Ontario, a trustee and beneficial owner agreement re 5675 Kennedy Road, Mississauga, Ontario, a Debenture in the amount of \$200,000,000 re 3016 58<sup>th</sup> Avenue S.E. Calgary, Alberta, dated February 2, 2006, an assignment of rents re 3016 58<sup>th</sup> Avenue S.E., Calgary, Alberta, a Mortgage and debenture in the amount of \$200,000,000 re 1765 Coast Meridian Road, Port Coquitlam, B.C. dated February 2, 2006, a general assignment of rents re 1765 Coast Meridian Road, Port Coquitlam, B.C. and a beneficiary authorization and charge agreement re 1765 Coast Meridian Road, Port Coquitlam, B.C.

occurrence of any other default under the Amended Credit Agreement, or on the acceleration or enforcement of the Senior Secured Notes (described below).

46. Under the Forbearance Agreement, the aggregate revolving commitments under the Revolving Credit Facility have been reduced from \$200 million to \$150 million.
47. In consideration for the forbearance arrangements set out in the Forbearance Agreement, the provision of additional borrowings in the amount of U.S.\$1.5 million for Indalex Canada and U.S.\$4.5 million for Indalex U.S., and the continued provision of credit pursuant to the Amended Credit Agreement which has enabled the Applicants to continue in business and honour trade obligations and obligations to employees to date, the Applicants agreed under the Forbearance Agreement to guarantee the obligations of Indalex U.S. under the Amended Credit Agreement (the "**Pre-Filing Guarantee**"). Attached hereto as Exhibit "F" is a copy of the Forbearance Agreement.
48. The Pre-Filing Guarantee was agreed to by Indalex Canada in order to obtain continued support from the Revolving Lenders for Indalex Canada. Without the provision of this support, Indalex Canada was at risk of losing its operating financing and its ability to continue as a going concern.

#### *Term Loans*

49. The Amended Credit Agreement provided for, among other things, the ability of Indalex Holding to borrow \$15 million U.S. from Sun Indalex, LLC (the "**Term**

**Lender**”). the Amended Credit Agreement was then further amended on November 25, 2008 to provide for a further US\$15 million (collectively, the **“Term Loans”**).

50. None of the Applicants are borrowers under the Term Loans and neither of the Term Loans are guaranteed by the Applicants.

*Secured Notes*

51. On February 2, 2006, Indalex Holding issued U.S. \$270 million of 11.5% second priority senior secured notes (the **“Senior Secured Notes”**), which mature in 2014, and are guaranteed by the U.S. subsidiaries. The Senior Secured Notes are not guaranteed by the Applicants.

**Other Secured Creditors**

52. The Applicants have the following secured creditors who have registered security against some or all of them:
- (a) Woodbine Truck Centre Ltd. o/a Woodbine Indealease;
  - (b) NRB Inc.;
  - (c) GE Canada Leasing Services Company;
  - (d) Citicorp Vendor Finance, Ltd.;
  - (e) VFS Canada Inc.;
  - (f) Mr. Forklift;

- (g) De Lage Landen Financial Services Canada Inc.;
- (h) Penske Truck Leasing Canada Inc.;
- (i) DCFS Canada Corp.;
- (j) CIT Financial Ltd.;
- (k) Liftcapital Corporation;
- (l) PHH Vehicle Management Services Inc.; and
- (m) Ikon Office Solutions Inc.

These registrations all appear to relate to specific equipment or vehicles.

#### **Unsecured Liabilities**

53. Indalex Canada has approximately U.S.\$19.8 million of trade liabilities as of March 23, 2009. Approximately U.S. \$9.5 million of this is overdue. As noted above, most trade suppliers are no longer providing credit terms to Indalex Canada and some have suspended supply.
54. Indalex Canada also has an intercompany account with Indalex Inc., a Delaware sister company of Indalex Canada for the supply of goods. As of March 23, 2009, Indalex Canada owed Indalex Inc. the amount of approximately U.S. \$5.3 million and Indalex Inc. owed Indalex Canada for the supply of goods in the amount of approximately U.S. \$39 million.

55. Indalex Canada is also indebted to Indalex Holding pursuant to an amended and restated promissory note issued May 21, 2008, in the amount of \$40,000,000 (the “**Amended and Restated Promissory Note**”).
56. The Amended and Restated Promissory Note relates to financing used for the acquisition of Indalex Canada in 2006. Indalex Canada was acquired by a numbered company, 6461948 Canada Inc., which borrowed funds from Indalex Holding in the amount of approximately \$182 million to finance the purchase. Subsequent to the acquisition, 6461948 Canada Inc. amalgamated with Indalex Canada, and the liability was thereby assumed by Indalex Canada. The original indebtedness has been reduced from time to time with payments to Indalex Holding. The Amended and Restated Promissory Note was amended and restated in 2008 to reflect the remaining balance owing of \$40,000,000. Attached hereto as Exhibit “G” is a copy of the Amended and Restated Promissory Note.

### **Employees of the Business**

57. Indalex Canada has approximately 767 employees, of which 646 are hourly and 121 are salaried. 505 of these employees are currently active. Hourly employees are represented by six different locals of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (the “U.S.W.”) as follows:
- (a) Local 6034: Collective Agreement dated May 1, 2007 to April 20, 2011;

- (b) Local 9042: Collective Agreement dated January 12, 2008 to January 11, 2011;
  - (c) Local 13571-20: Collective Agreement dated December 1, 2005, expired November 30, 2008;
  - (d) Local 7785: Collective Agreement extended to and expired on December 22, 2008;
  - (e) Local 2952: Collective Agreement dated October 1, 2006 to September 30, 2011; and
  - (f) Local 7785-01: Draft Collective Agreement dated July 7, 2008.
58. Indalex Canada's payroll in Canada is approximately \$469,514 per week for hourly employees, \$389,831 bi-weekly for salaried employees and \$19,792 monthly for benefits under the Supplementary Plan (as defined below). Payroll is administered through payroll services provided by ADP. It will have severance and termination obligations to employees in the event that the Applicants are unsuccessful in respect of its Restructuring Process and it is necessary to liquidate the assets of the Applicants for the benefit of creditors.

### **Pension Obligations**

59. Indalex Canada is the sponsor and administrator of two registered pension plans and one non-registered supplemental pension plan. It also contributes to one

multi-employer pension plan and maintains a group registered retirement savings plan and a deferred profit sharing plan.

*Registered Pension Plans*

60. Indalex Canada is the sponsor and administrator of the following two registered pension plans:
- (a) The Retirement Plan for Salaried Employees of Indalex Canada and Associated Companies, registered with the Financial Services Commission of Ontario (“FSCO”) and the Canada Revenue Agency (“CRA”) under Registration No. 0533646 (the “**Salaried Plan**”); and
  - (b) The Retirement Plan for the Executive Employees of Indalex Canada and Associated Companies, registered with FSCO and CRA under Registration No. 0455626 (the “**Executive Plan**”).
61. The Salaried Plan, which consists of defined benefit and defined contribution components, was fully terminated effective December 31, 2006 and thus no current employees will receive benefits under the Salaried Plan. Indalex Canada was continuing to fund the wind-up deficiency under the Salaried Plan which, as at December 31, 2007, was \$2,252,900. There are currently 34 retirees receiving benefits under the Salaried Plan.
62. The Executive Plan is a defined benefit pension plan which was closed to new members effective September 1, 2005. As at January 1, 2008, the Executive Plan had a funding deficiency on an ongoing basis of \$2,535,100; a funding deficiency

on a solvency basis of \$1,082,800; and a funding deficiency on a wind-up basis of \$2,996,400. There is only one current employee on long-term disability entitled to receive benefits under the Executive Plan. There are currently 14 retirees receiving benefits under the Executive Plan.

*Supplemental Pension Plan*

63. Indalex Canada also maintains the Supplementary Retirement Plan for Executive Employees of Indalex Canada and Associated Companies (the “**Supplementary Plan**”), which is an unfunded and non-registered supplemental pension plan for certain members of the Executive Plan. The Supplementary Plan is also closed to new members. Benefits under the Supplementary Plan are paid out of the general revenues of the applicable executive’s employer. As at December 31, 2008, the liabilities under the Supplementary Plan were \$2,966,244, based on the present value of the projected benefit payments.

*Multi-Employer Pension Plan*

64. In respect of its unionized employees, the Indalex Group contributes to the Canada-Wide Industrial Pension Plan (“**CWIPP**”), which is a multi-employer registered pension plan. During 2008, the Indalex Group contributed approximately \$1,121,516 to CWIPP. Indalex Canada is current on all payments to the CWIPP.

*Group Registered Retirement Savings Plan and Deferred Profit Sharing Plan*

65. Indalex Canada maintains a group registered retirement savings plan (“GRRSP”) for its union employees at the Port Coquitlam facility and a deferred profit sharing plan (“DPSP”) for its non-union employees. For 2008, employer contributions to the GRRSP were \$128,107 and employer contributions to the DPSP were \$439,970. Indalex Canada is current on all contributions to the GRRSP and DPSP.

#### **Priority Statutory Liabilities**

66. The Applicants have maintained their obligations for payroll, source deductions, current pension liabilities, and GST, and are not in arrears in respect of these items.

#### **Payments**

67. A projected cash flow for the Applicants has been prepared for the purposes of these proceedings, from the week ending April 10 through the week ending May 1, 2009 (the “Projected Cash Flow”). A copy of the Projected Cash Flow is attached hereto as Exhibit “H”. During the period of the CCAA process, the Applicants intend to make current payments as set out in the draft Initial Order and Projected Cash Flow.

#### **Financing During the Process**

68. On March 23, 2009, Indalex US sought and obtained, with the consent of the Revolving Lenders, approval from the US Bankruptcy Court of an Interim Order Authorizing the Use of Pre-petition Lenders’ Cash Collateral (the “Cash

**Collateral Order**”). The Cash Collateral Order permits Indalex US to operate in reliance on its existing cash receipts, in accordance with a budget negotiated and settled with the Revolving Lenders. Attached hereto as Exhibit “I” is a copy of the Cash Collateral Order.

69. The Indalex Group and the Revolving Lenders have been working diligently since prior to the Chapter 11 filing to negotiate the terms on which DIP Financing will be provided to the Indalex Group to finance its operations through the U.S. proceedings and these proceedings. The DIP Financing negotiations have not been finalized, but all parties continue to work diligently towards finalizing matters expeditiously. In the meantime, the Applicants have requested a further extension of the Forbearance Agreement so that the Applicants will be able to continue to borrow under their existing facilities. It is anticipated the extension of the Forbearance Agreement will be provided in advance of the issuance of the Initial Order. As a condition of and in consideration for the forbearance, the Applicants have agreed to provide that the Revolving Lenders are unaffected by the stay of proceedings under the Initial Order, pending a return to court to seek approval of the proposed DIP Financing.
70. Once matters have stabilized, and the DIP Financing has been negotiated, the Applicants anticipate returning to Court next week to seek the approval of the DIP Financing. Indalex US similarly anticipates seeking approval of DIP Financing in respect of its operations.

**Cash Management System**

71. The Applicants currently have in place a cash management system to facilitate the flow of receivables and disbursements in connection with the Revolving Credit Facility. Indalex Canada is a party to a Blocked Accounts Agreement dated as of May 31, 2006 with JP Morgan and Royal Bank of Canada (“RBC”), which provides for payment of all receivables into a “lock-box” maintained by RBC. At the end of each business day, cash in the lock-box is remitted to collection accounts maintained by JP Morgan. The cash is then re-advanced to the Applicants in accordance with the availability provided for under the Revolving Credit Facility. It is contemplated that this cash management system will continue to remain in place until the DIP Financing negotiations are complete.

**The Monitor**

72. FTI Consulting, Inc. (“FTI U.S.”) was retained by Indalex U.S. on or about February 20, 2009, to assist it with identifying strategies to deal with its liquidity crisis. FTI Canada commenced providing assistance to Indalex Canada during the week commencing March 9, 2009. Subject to obtaining approval of the U.S. Bankruptcy Court, Keith Cooper of FTI U.S. has been appointed by Indalex U.S. as Chief Restructuring Officer of Indalex U.S., and will continue to provide financial and strategic advice to Indalex U.S. subject to approval by the U.S. Court.
73. FTI Canada has agreed to act as Monitor in these proceedings. Due to their familiarity with the operational and financial aspects of the Indalex Group business, FTI Canada is well placed to act as Monitor. I understand that while the

Monitor is able to provide advice and assistance to the Applicants, FTI Canada, once appointed, is an independent officer of, is answerable to, and takes direction from, this Court, and not from the Indalex Group.

### Directors and Officers

74. In order to continue to carry on business during these proceedings, the Applicants require its directors and officers (together with the Company's former directors and officers, the "**Directors**") to remain committed. Although the Applicants intend to comply with applicable laws with respect to matters affecting it, including, without limitation, the payment of wages, employee source deductions, vacation pay, GST, provincial sales tax and regulatory deemed trust requirements, the failure to successfully complete a Restructuring Process may result in significant personal liabilities for Directors.
75. As such, the Applicants intend to indemnify the Directors for such potential liabilities, and request a charge (the "**Directors' Charge**") in the amount of \$3.3 million to indemnify the Directors in respect of any such liabilities as they may incur in these proceedings.

### Administration Charge

76. In order to protect the fees and expenses of the Monitor, counsel to the Monitor, and counsel to the Applicants, the Applicants seek a charge in favour of these professionals to secure payments of their reasonable fees and disbursements incurred both prior to filing and after (the "**Administration Charge**") in the

amount of \$500,000. It is requested that the Administration Charge have first priority against the property of the Company.

**Conclusion**

77. The Applicants are insolvent and are facing an immediate financial crisis which jeopardizes their ability to continue as a going concern enterprise. The Initial Order sought will provide an immediate stay and an opportunity for the Applicants to pursue the Restructuring Process in concert with proceedings in the United States that will hopefully preserve the business for the benefit of all stakeholders. The Applicants intend to return to Court prior to the expiry of the initial stay of proceedings to seek approval of DIP Financing, once these negotiations have been completed.

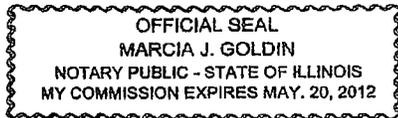
78. This Affidavit is therefore made in support of the Applicants' application for an Order under the CCAA and for no other or improper purpose.

SWORN BEFORE ME at the City of )  
Lincolnshire, in the State of Illinois )  
this 3rd day of April, 2009 )

Marcia J. Goldin )

*Timothy R.J. Stubbs*

TIMOTHY R.J. STUBBS



This is **Exhibit "F"** referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
26<sup>th</sup> day of October, 2010



.....  
A Commissioner for taking affidavits, etc.

**SUPPLEMENTAL RETIREMENT PLAN**  
**FOR**  
**EXECUTIVE EMPLOYEES**  
**OF**  
**INDALEX LIMITED AND ASSOCIATED COMPANIES**

Effective January 1, 2000

October 2001

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## ARTICLE 1 – ESTABLISHMENT OF THE SUPPLEMENTAL RETIREMENT PLAN

---

- 1.1 Indalex Limited (the “Company”) hereby establishes the Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the “Supplemental Retirement Plan”), effective January 1, 2000.
- 1.2 The Supplemental Retirement Plan applies to persons:
- (1) who are members of the Retirement Plan for Executive Employees of Indalex Limited and Associated Companies, as amended from time to time (the “Executive Retirement Plan”);
  - (2) who are actively employed by an Employer on or after January 1, 2000; and
  - (3) whose benefits under the Executive Retirement Plan are limited by the *Income Tax Act*.
- 1.3 The Supplemental Retirement Plan provides benefits, under the terms set out herein, in respect of service with an Employer.

## ARTICLE 2 – DEFINITIONS

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For purposes of the Plan, the following words and phrases shall have the meanings set forth below, unless the context indicates otherwise:

- 2.1 ***Actuarial Equivalent*** means “Actuarial Equivalent” as defined in the Executive Retirement Plan.
- 2.2 ***Actuary*** means the person or firm who is the “Actuary” as defined in the Executive Retirement Plan.
- 2.3 ***Affiliate Company*** means “Affiliate Company” as defined in the Executive Retirement Plan.
- 2.4 ***Beneficiary*** means the person, or persons, designated in accordance with Article 12 of the Executive Retirement Plan.
- 2.5 ***Commuted Value*** means the actuarial present value of a deferred or immediate annuity determined on the basis of assumptions adopted by the Company on the recommendation of the Actuary for the purposes of the Executive Retirement Plan.
- 2.6 ***Company*** means Indalex Limited. Where any reference in the Supplemental Retirement Plan is made to any action to be taken, consent, approval or opinion to be given, discretion or decision to be exercised by the Company, “Company” means Indalex Limited acting through the board of directors of Indalex Limited or any person authorized by that board of directors for purposes of the Supplemental Retirement Plan.

- 2.7 ***Continuous Employment*** means “Continuous Employment” as defined in the Executive Retirement Plan.
- 2.8 ***Early Retirement Date*** means a Member’s retirement date on or after age 55 but before Normal Retirement Date.
- 2.9 ***Earnings*** means “Earnings” as defined in the Executive Retirement Plan.
- 2.10 ***Effective Date*** means January 1, 2000.
- 2.11 ***Employee*** means “Employee” as defined in the Executive Retirement Plan.
- 2.12 ***Employer*** means a corporation which is an “Employer” as defined in the Executive Retirement Plan.
- 2.13 ***Executive Retirement Plan*** means the Retirement Plan for Executive Employees of Indalex Limited and Associated Companies, as amended from time to time, and registered with the Financial Service Commission of Ontario under the *Pension Benefits Act* (Ontario) and the Canada Customs and Revenue Agency under the *Income Tax Act* with Registration Number 0455626.
- 2.14 ***Final Average Earnings***, in respect of a Member, means the Member’s “Final Average Earnings” for purposes of the Executive Retirement Plan.
- 2.15 ***Government Benefit Base***, in respect of a Member, means the Member’s “Government Benefit Base” for purposes of the Executive Retirement Plan.
- 2.16 ***Income Tax Act*** means “*Income Tax Act*” as defined in the Executive Retirement Plan.

- 2.17 **Member** means a person described in Section 3.1(1) and who continues to be entitled to benefits under the Plan.
- 2.18 **Normal Retirement Date** means the first day of the month coincident with or next following the Member's 65th birthday.
- 2.19 **Pension Commencement Date** means the date on which a Member's pension commences under the Executive Retirement Plan.
- 2.20 **Postponed Retirement Date** means the earlier of:
- (1) the first day of the month coincident with or next following the date the Member terminates Continuous Employment after Normal Retirement Date; and
  - (2) the first day of December of the calendar year in which the Member attains age 69 while still employed by the Employer.
- 2.21 **Pensionable Service**, in respect of a Member, means the Member's "Pensionable Service" for purposes of the Executive Retirement Plan including any service as a Member of the Retirement Plan for Salaried Employees of Indalex Limited and Associated Companies.
- 2.22 **Plan Year** means "Plan Year" as defined in the Executive Retirement Plan.
- 2.23 **Prior Supplemental Plan** means "RTZ Supplemental Retirement Plan".
- 2.24 **Special Leave of Absence** has the meaning set out in Article 5 of the Executive Retirement Plan.

2.25 *Spouse* has the following meanings:

- (1) For a Member employed in **Alberta**, “Spouse” means, in relation to the Member,
  - (a) a person who, at the relevant time, was married to the Member and had not been living separate and apart from the Member for 3 or more consecutive years, or
  - (b) if there is no person to whom paragraph (a) applies, a person who had lived with the Member in a marriage-like relationship for the 3-year period immediately preceding the relevant time.
  
- (2) For a Member employed in **British Columbia**, “Spouse” means, in relation to the Member,
  - (a) a person who, at the relevant time, was married to the Member and not living separate and apart from the Member for the 2-year period immediately preceding the relevant time, or
  - (b) if paragraph (a) does not apply,
    - (i) a person who, at the relevant time, lived with that other person as husband and wife for the 2-year period immediately preceding the relevant time, or
    - (ii) a person of the same gender who, at the relevant time, lived in a marriage-like relationship with that other person for the 2-year period immediately preceding the relevant time.

- (3) For a Member employed in **New Brunswick**, “Spouse” means a person of the opposite sex who, at the relevant time:
- (a) is married to the Member;
  - (b) is married to the Member in a marriage that is voidable and has not been voided by a declaration of nullity;
  - (c) has gone through a form of marriage with the Member in good faith that is void and has cohabited with the Member within the preceding year; or
  - (d) not being married to the Member, has cohabited with the Member:
    - (i) continuously for a period of not less than 3 years in a conjugal relationship in which one person has been substantially dependent upon the other for support, or
    - (ii) in a relationship of some permanence where there is a child born of whom the person and the Member are natural parents, andthe person and the Member have cohabited within the preceding year.
- (4) For a Member employed in **Ontario**, “Spouse” means, at the relevant time, a person to whom the Member is:
- (a) legally married, provided the Member is not living separate and apart from that person;

- (b) not legally married, but the Member and that person are and have been cohabiting continuously in a conjugal relationship for at least 3 years; or
  - (c) not legally married, but the Member and that person are cohabiting in a conjugal relationship of some permanence and are jointly the natural or adoptive parents of a child, both as defined in the *Family Law Act* (Ontario).
- (5) For a Member employed in **Québec**, “Spouse” means, at the relevant time, a person who is,
- (a) married to the Member; or
  - (b) has been living in a conjugal relationship with the unmarried Member, whether the person is of the opposite or the same sex, for a period of not less than 3 years, or for a period of not less than 1 year if:
    - (i) at least one child is born, or to be born, of their union;
    - (ii) they have adopted, jointly, at least one child while living together in a conjugal relationship; or
    - (iii) one of them has adopted at least one child who is the child of the other, while living together in a conjugal relationship.
- (6) For a Member employed in **Saskatchewan**, “Spouse” means
- (a) a person who is married to the Member; or

- (b) if the Member is not married, a person with whom the Member is cohabiting in a conjugal relationship at the relevant time and who has been cohabiting continuously with the Member in a conjugal relationship for at least one year prior to the relevant time.

2.26 ***Supplemental Pension*** means the pension payable under the Supplemental Retirement Plan determined in accordance with Article 7 hereof.

2.27 ***Supplemental Retirement Plan*** means the Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies, established effective January 1, 2000, as set out herein and as amended from time to time.

2.28 ***U.S. Plan*** means a pension plan as listed from time to time in Appendix A.

2.29 ***YMPE*** means, in respect of any Plan Year, “YMPE” as defined in the Executive Retirement Plan.

## ARTICLE 3 – ELIGIBILITY AND MEMBERSHIP

---

### 3.1 Conditions of Membership

(1) **Participation**

An Employee shall automatically participate in the Supplemental Retirement Plan on or after the Effective Date; provided that:

- (a) the Employee is a member of the Executive Retirement Plan; and
- (b) the Employee's benefits under the Executive Retirement Plan are limited by the maximum lifetime retirement benefits under the *Income Tax Act*.

(2) **Termination of Participation**

A Member shall cease to accrue benefits under the Supplemental Retirement Plan when:

- (a) the Member ceases to accrue benefits under the Executive Retirement Plan; or
- (b) the Member's benefits under the Executive Retirement Plan are no longer limited by the maximum lifetime retirement benefits under the *Income Tax Act*.

## ARTICLE 4 – UNFUNDED AND UNREGISTERED PLAN

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### 4.1 Status of Plan

(1) **Plan is Not Funded**

The Company is not obligated to fund any of the benefits provided under the Supplemental Retirement Plan. The benefits under the Supplemental Retirement Plan may be paid out of the general revenues of the Employer.

(2) **Plan is Not a Registered Pension Plan Nor a Retirement Compensation Arrangement**

The Supplemental Retirement Plan is neither a registered pension plan nor a retirement compensation arrangement within the meaning of the *Income Tax Act* or the *Pension Benefits Act* (Ontario) or the pension legislation of any other province.

## ARTICLE 5 – ACCRUAL DURING SPECIAL LEAVE OF ABSENCE

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### 5.1 Determination of Supplemental Pension During Special Leave of Absence – Deemed Earnings

#### (1) Pensionable Service During a Special Leave of Absence

For purposes of calculating the Member's Supplemental Pension during a Special Leave of Absence, a Member shall accrue Pensionable Service during a Special Leave of Absence under the terms and conditions set out in Article 5 of the Executive Retirement Plan.

#### (2) Deemed Earnings

For purposes of calculating the Member's Supplemental Pension during a Special Leave of Absence, the Member's Earnings shall be equal to the deemed rate of Earnings under Article 5 of the Executive Pension Plan.

## ARTICLE 6 – TRANSFER OF EMPLOYEES

---

### 6.1 Transfer To the Supplemental Retirement Plan

If an employee of an Employer or Affiliate Company is transferred to a category of employment with an Employer such that the employee becomes a member of the Executive Retirement Plan, such employee shall automatically become a Member of the Supplemental Retirement Plan if the employee's benefits under the Executive Retirement Plan are limited by the maximum lifetime retirement benefits under the *Income Tax Act*.

Any benefit paid from the Supplemental Retirement Plan will be calculated on the basis of the Member's

- (1) Pensionable Service; and
- (2) Final Average Earnings.

### 6.2 Transfers From the Supplemental Retirement Plan

Subject to Section 6.3, if a Member of the Supplemental Retirement Plan is transferred to other employment with an Employer or to an Affiliate Company and as a result of the transfer, under the terms of the Executive Retirement Plan, the Member's accrual of benefits under the Executive Retirement Plan ceases, then the Member's accrual of benefits under the Supplemental Retirement Plan will cease at the same time. No benefit will be payable from the Supplemental Retirement Plan until the Member retires, dies or terminates employment with the Employer or Affiliate

Company. Any benefit paid from the Supplemental Retirement Plan will be calculated on the basis of:

- (1) the Member's Pensionable Service as at the date the Member transfers employment; and
- (2) the Member's deemed Final Average Earnings and deemed Government Benefit Base determined at the Member's subsequent date of retirement, termination of employment with the new Employer or Affiliated Company, or death, which is equal to the Member's Final Average Earnings and Government Benefit Base determined as at the date of the Member's transfer of employment ( as if the Member's Continuous Employment terminated at that date).

### 6.3 Transfers To a U.S. Plan After April 1, 1998

If a Member of the Supplemental Retirement Plan is transferred to other employment with an Employer in the U.S. after April 1, 1998 and, as a result of the transfer, under the terms of the Executive Retirement Plan, the Member's accrual of benefits under the Executive Retirement Plan ceases, then the Member's accrual of benefits under the Supplemental Retirement Plan will cease at the same time.

The Member's benefit will be payable from the Supplemental Retirement Plan at the time the Member retires, dies or terminates employment with the Employer in the U.S. (unless the Member is transferred back to employment with an Employer in Canada). Any benefit paid from the Supplemental Retirement Plan will be calculated on

the basis of:

- (1) the Member's Pensionable Service as at the date the Member transfers employment; and
- (2) the Member's deemed Final Average Earnings and deemed Government Benefit Base determined at the Member's subsequent date of retirement, termination of employment or death which will be equal to the Member's Final Average Earnings and Government Benefit Base determined as at the date the Member transfers employment (as if the Member's Continuous Employment terminated at that date) increased by the percentage of annual increase to the transferred Member's U.S. earnings effective after the transfer.

## ARTICLE 7 – AMOUNT OF SUPPLEMENTAL PENSION BENEFIT

---

### 7.1 Normal Retirement Supplemental Pension

A Member who retires at Normal Retirement Date shall be entitled to receive an annual Supplemental Pension, payable in equal monthly instalments commencing on the Member's Normal Retirement Date in an amount equal to

A minus B

where:

A is:

- (1) 1.25% of the Member's Final Average Earnings up to the Government Benefit Base; plus
- (2) 2% of the Member's Final Average Earnings in excess of the Government Benefit Base,

multiplied by the Member's Pensionable Service; and

B is the annual pension payable to the Member under the Executive Retirement Plan and the Prior Supplemental Plan at the Member's Normal Retirement Date, in the normal form of pension determined under the Executive Retirement Plan.

## 7.2 Early Retirement Supplemental Pension

A Member who retires at an Early Retirement Date shall be entitled to receive an annual Supplemental Pension, payable in equal monthly instalments commencing on the Member's Early Retirement Date, in an amount equal to:

$$A \text{ minus } B$$

where

A is the amount determined under "A" in Section 7.1, based on the Member's Pensionable Service as at the Member's Early Retirement Date, but reduced by either:

- (1) 0.4% for each month by which the Member's Early Retirement Date precedes the Member's Normal Retirement Date; or
- (2) if the Continuous Employment of a Member terminates while employed in Canada after he has attained age 55 and has completed 10 or more years of Continuous Employment, 1/6 of 1% for each month by which the Member's Pension Commencement Date precedes the date on which the Member would have completed 20 years of Continuous Employment and attained age 60 had the Member continued in Continuous Employment; and

B is the annual pension payable to the Member under the Executive Retirement Plan and the Prior Supplemental Plan at the Member's Early Retirement Date, in the normal form of pension determined under the Executive Retirement Plan.

### 7.3 Postponed Retirement Supplemental Pension

A Member who retires at a Postponed Retirement Date shall be entitled to receive an annual Supplemental Pension, payable in equal monthly instalments, equal to one of the following amounts as applicable in accordance with the Member's retirement election under the Executive Retirement Plan:

- (1) If the Member elects the Normal Retirement Date as Pension Commencement Date, the Member's Supplemental Pension shall be determined in accordance with Section 7.1.
- (2) If the Member elects a Postponed Retirement Date as Pension Commencement Date, the Member shall receive a Supplemental Pension commencing on the Member's Pension Commencement Date equal to the pension determined in accordance with Section 7.1, based on the Member's Final Average Earnings at Pension Commencement Date and taking into account the Member's Pensionable Service after Normal Retirement Date.

## ARTICLE 8 – PAYMENT OF SUPPLEMENTAL PENSION

---

### 8.1 Form of Payment

At retirement, a Member is entitled to receive the Member's Supplemental Pension in equal monthly instalments in accordance with the normal, legislated or optional form of pension payment applicable or elected by the Member in accordance with the terms and conditions of the Executive Retirement Plan. Such Supplemental Pension shall be paid to the Member on the first day of every month in accordance with the provisions of the Executive Retirement Plan which would apply if it were being paid under that plan.

The form of pension payment under the Supplemental Retirement Plan and the related conditions of payment shall be the same as the form of pension payment and related conditions of payment applicable to the Member under the Executive Retirement Plan. The amount of payment payable in a form other than the normal form shall be the Actuarial Equivalent of the normal form of pension as described in the Executive Retirement Plan.

### 8.2 Payments made in Error

If at any time the Employer pays a Member, or the Member's Spouse or Beneficiary, an amount in excess of the amount otherwise due and payable under the Supplemental Retirement Plan, the Member, or if applicable, the Member's Spouse or Beneficiary, shall return such amount on the request of the Company. Alternatively, the Company may elect to deduct such amount from any future payment out of the Supplemental Retirement Plan.

## ARTICLE 9 – TERMINATION OF EMPLOYMENT

---

### 9.1 Vested Entitlement

If, at the date the Member's Continuous Employment terminates other than by death or retirement, a Member has attained vested status under Article 11 of the Executive Retirement Plan, the Member may elect to receive:

- (1) an annual deferred vested Supplemental Pension, payable in equal monthly instalments, commencing at the Members' Normal Retirement Date, equal to the amount of the Supplemental Pension determined in accordance with Section 7.1; or
- (2) the Commuted Value of the annual deferred vested Supplemental Pension, determined in accordance with section 7.1, paid to the Member in a lump sum.

For purposes of attaining vested status continuous employment under a U.S. Plan or a plan maintained by an Affiliate Company shall be considered Continuous Employment.

### 9.2 Early Commencement of Deferred Supplemental Pension

Upon proper application to the Company, a Member may elect to have the Member's deferred vested Supplemental Pension commence on an Early Retirement Date, in which case, the amount of the Member's Supplemental Pension shall be as determined in accordance with Section 7.2.

## ARTICLE 10 – DEATH BENEFITS

---

### 10.1 Death Benefits Prior to Supplemental Pension Commencement

(1) **With a Spouse**

If a Member dies after attaining vested status under Article 11 of the Executive Retirement Plan, but prior to Pension Commencement Date, a death benefit in the form of an annuity is payable to the Member's Spouse equal to:

- (a) 100% the Commuted Value of the Member's Supplemental Pension accrued to the date of death for Members employed in **Ontario, Québec and Saskatchewan;**
- (b) 60% of the Commuted Value of the Member's Supplemental Pension accrued to the date of death for Members employed in **British Columbia and New Brunswick;** and
- (c) 60% of the Commuted Value in respect of Continuous Employment prior to January 1, 2000 and 100% of the Commuted Value in respect of Continuous Employment on and after January 1, 2000, of the Member's Supplemental Pension accrued to the date of death for Members employed in **Alberta.**

(2) **Without a Spouse**

If at the date of death, the Member does not have a Spouse, or the death benefit has been waived in accordance with Section 10.2, the Commuted Value of the Member's Supplemental Pension accrued to the date of death shall, at the Company's discretion, be paid to the Member's Beneficiary in a lump sum.

## 10.2 Waiver of Spousal Death Benefits

The Spouse of a Member who is employed in **Ontario** or **Quebec** may waive the Spouse's entitlement to receive a death benefit under Section 10.1 above by completing and filing a waiver with the Company on a form prescribed by the Company prior to the death of the Member. In such event, death benefits payable under the Supplemental Retirement Plan shall be paid to the Member's Beneficiary.

## 10.3 Death After Supplemental Pension Commencement

If a Member dies after payment of the Member's Supplemental Pension has commenced, the determination and payment of any benefits due under the Supplemental Retirement Plan following the Member's death shall be in accordance with the form of pension payment applicable to such Member pursuant to Article 10 of the Executive Retirement Plan.

## ARTICLE 11 – ADMINISTRATION OF SUPPLEMENTAL RETIREMENT PLAN

---

### 11.1 General Administration

- (1) The administrator of the Supplemental Retirement Plan is the Company.
- (2) The Company is entitled to deal conclusively with all matters relating to the administration, interpretation or application of the Supplemental Retirement Plan subject to and consistent with the terms thereof.
- (3) The Company is entitled to rely conclusively on tables, valuations, certificates, opinions and reports furnished by any actuary, accountant, controller, counsel or other persons who may be employed or retained for such purposes.

### 11.2 Employee Disclosure

- (1) **Supplemental Retirement Plan Document**  
A copy of the Supplemental Retirement Plan will be made available to the Members by the Company.
- (2) **Notice of Amendment**  
The Company shall provide notice and written explanation of any amendment to the Supplemental Retirement Plan to a Member, or any other person entitled to a payment from the Supplemental Retirement Plan who is affected by the amendment.

## ARTICLE 12 – RIGHT TO AMEND OR TERMINATE THE SUPPLEMENTAL RETIREMENT PLAN

---

### 12.1 Continuation and Amendment of the Supplemental Retirement Plan

The Company intends to maintain the Supplemental Retirement Plan indefinitely and until all of its obligations thereunder have been discharged, but reserves the sole right to amend, discontinue, segregate or merge the Supplemental Plan in whole or in part at any time.

### 12.2 Termination of the Supplemental Retirement Plan

In the event of the termination of the Supplemental Retirement Plan, benefits accrued to the Member under the Supplemental Retirement Plan to the date of termination shall continue to be provided by the Company in accordance with the terms of the Supplemental Retirement Plan. The Supplemental Pension to which a Member is entitled shall be determined in accordance with the terms of the Supplemental Retirement Plan on the date of termination based on the Member's Pensionable Service and Final Average Earnings at that date. Benefits under the Supplemental Retirement Plan shall be determined assuming that the Executive Retirement Plan is also terminated on the date that the Supplemental Retirement Plan terminated.

### 12.3 Wind-Up or Bankruptcy of the Company

If the Company winds-up or becomes bankrupt, the Supplemental Retirement Plan shall be deemed fully terminated and the provisions of Section 12.2 above shall apply.

Notwithstanding any other provision of the Supplemental Retirement Plan, if at any time the Company is insolvent, there shall be no liability whatsoever on the part of any director or officer of the Company to fund the Supplemental Retirement Plan or otherwise provide for the benefits hereunder.

## ARTICLE 13 – GENERAL PROVISIONS

---

### 13.1 Right to Employment

Membership in the Supplemental Retirement Plan shall not confer upon any Member or Employee the right to be retained in Continuous Employment with the Employer nor will it interfere in any manner with the right of the Employer to discharge any person, nor shall participation in the Supplemental Retirement Plan give a Member, or the Member's Spouse, personal representative, estate or Beneficiary any claim or legal right to any benefit hereunder except as expressly set forth herein.

### 13.2 Non-Alienation of Benefits

No benefit under the Supplemental Retirement Plan is subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge to attachment or legal process for debts of the person entitled to receive a benefit except as provided by statute, nor shall any such benefit be capable of surrender or being given as security, except as provided in the Supplemental Retirement Plan.

### 13.3 Assignment of Benefits on Marriage Breakdown

Notwithstanding Section 13.2, a benefit payable under the Supplemental Retirement Plan is subject to execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in a court of competent jurisdiction in Ontario or another relevant jurisdiction.

### 13.4 Non-Commutation of Benefits

A vested Supplemental Pension or deferred Supplemental Pension payable under the Supplemental Retirement Plan is not capable of being commuted into a lump sum cash settlement except:

- (1) as permitted under Section 9.1; or
- (2) if such commutation is at the option of the Company and with its specific consent, and is in respect of:
  - (a) a death benefit payable to a Spouse or Beneficiary in accordance with Section 10; or
  - (b) shortened life expectancy as described in Section 15.4(d) of the Executive Retirement Plan.

### 13.5 Information to be Provided Before Payment of Benefits

Each Member shall be required to file satisfactory proof of the Member's age and spousal status with the Company and the Supplemental Pension payments shall not commence until such proof of age and spousal status has been received and acknowledged by the Company. A Member who is required to receive the pension under the Executive Retirement Plan in the legislated form of pension pursuant to Article 10 of the Executive Retirement Plan is required to file with the Company satisfactory proof of the age of the Member's joint annuitant. The Company is entitled to rely upon the representations made by a Member in respect to age or other pertinent facts.

### 13.6 Payment to Incompetents

If the Company receives evidence that a person entitled to receive any payment under the Supplemental Retirement Plan is physically, mentally or legally incompetent to receive such payment and to give a valid receipt therefor, the payment may be made to:

- (1) the guardian, committee or other representative of the person; or
- (2) a court or authorized government agency of the jurisdiction to which the pension is subject, for the credit of the person, in accordance with the laws of the jurisdiction governing such payment.

Any such payment will operate as a complete discharge of liability under the Supplemental Retirement Plan.

### 13.7 Severability

If any provision of the Supplemental Retirement Plan is held to be invalid or unenforceable by a court of competent jurisdiction, its invalidity or unenforceability shall not affect any other provision of the Supplemental Retirement Plan and the Supplemental Retirement Plan shall be construed and enforced as if such provision had not been included therein.

### 13.8 Evidence of Survival

The Company shall have the right to require satisfactory evidence that a retired Member, Spouse or Beneficiary under the Supplemental Retirement Plan is living on each day a Supplemental Pension benefit is due to such Member, Spouse or Beneficiary. In the absence of such evidence when required by the Company, the benefits otherwise due shall not be paid until such evidence has been received.

### 13.9 Records

Whenever the records of the Company are used for the purposes of the Supplemental Retirement Plan, such records shall be conclusive of the facts with which they are concerned, unless they are proven to be in error.

### 13.10 Elections and Applications

Any election, option or application in respect of the Supplemental Retirement Plan shall be in such form as the Company shall determine from time to time. Without limiting the generality of the foregoing, any person entitled to any benefit under the Supplemental Retirement Plan shall be responsible for notifying the Company in writing of the person's mailing address and subsequent change of mailing address.

### 13.11 Currency

All payments from the Supplemental Retirement Plan will be made in lawful Canadian currency provided, however, that in the case where a Member's Earnings are paid in other than Canadian currency, the Company may from time to time in its discretion, fix the rate of exchange to be used for the purpose of the Supplemental Retirement Plan in converting to Canadian currency the Member's Earnings and benefits under the Supplemental Retirement Plan.

### 13.12 Construction

The Supplemental Retirement Plan, and all rights thereunder, shall be governed, construed and administered in accordance with the laws of Ontario.

## APPENDIX A

### AFFILIATED UNITED STATES PENSION PLANS

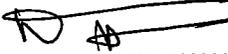
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This is **Exhibit "G"** referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
26<sup>th</sup> day of October, 2010

A handwritten signature, possibly "D. A.", is written over a horizontal line. Below the signature is a dotted line.

.....  
A Commissioner for taking affidavits, etc.

Received  
APRIL 17<sup>th</sup>  
2009



Indalex Limited  
5675 Kennedy Road  
Mississauga, Ontario  
Telephone: 905-890-8821  
Web site: indalex.com

April 9, 2009

K.B. Carruthers  
1270 SandySomerville Drive,  
London, ON  
N6K5R2

**Subject: Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan")**

Dear Mr. Carruthers,

As you may know, Indalex Limited commenced proceedings under the Companies' Creditors Arrangement Act on April 3, 2009 in the Ontario Superior Court of Justice through which we can reorganize our debt under court supervision. While this was a difficult decision, management determined this course is necessary to undertake a restructuring of the Company's indebtedness.

Mr. Carruthers, I must regretfully inform you that with this action benefit payments to participants in the Plan are suspended immediately.

As set forth in Article 4.1 of the Plan document the Plan is unfunded. The rights of Participants and their Surviving Spouses and Beneficiaries shall be solely those of a general unsecured creditor of the Company. As a general unsecured creditor, any claim you may have will be dealt with in the CCAA proceedings. You may obtain more information about the filing by visiting the Company's website at [www.indalex.com](http://www.indalex.com) or [www.cfcanada.fticonsulting.com/indalex..](http://www.cfcanada.fticonsulting.com/indalex..)

On behalf of the Company, let me again express regret that this action became necessary. Should you have questions, please contact me at 847.612.2091.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dale Tabinowski', written in a cursive style.

Dale Tabinowski  
SVP, Human Resources  
Indalex, Inc.



Indalex Limited  
 5675 Kennedy Road  
 Mississauga, Ontario  
 Telephone: 905-890-8821  
 Web site: indalex.com

April 9, 2009

Leon Kozierok  
 260 Heath St West, Suite 1801  
 York, ON  
 M5P3L6

**Subject** Supplemental Retirement Plan for Executive Employees of Indalex Limited and  
 Associated Companies (the "Plan")

Dear Leon,

As you may know, Indalex Limited commenced proceedings under the Companies' Creditors Arrangement Act on April 3, 2009 in the Ontario Superior Court of Justice through which we can reorganize our debt under court supervision. While this was a difficult decision, management determined this course is necessary to undertake a restructuring of the Company's indebtedness.

Leon, I must regretfully inform you that with this action benefit payments to participants in the Plan are suspended immediately.

As set forth in Article 4.1 of the Plan document the Plan is unfunded. The rights of Participants and their Surviving Spouses and Beneficiaries shall be solely those of a general unsecured creditor of the Company. As a general unsecured creditor, any claim you may have will be dealt with in the CCAA proceedings. You may obtain more information about the filing by visiting the Company's website at [www.indalex.com](http://www.indalex.com) or [www.cfcanada.ficconsulting.com/indalex..](http://www.cfcanada.ficconsulting.com/indalex..)

On behalf of the Company, let me again express regret that this action became necessary. Should you have questions, please contact me at 847.612.2091.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dale Tabinowski'.

Dale Tabinowski  
 SVP, Human Resources  
 Indalex, Inc.



Indalex Limited  
 5675 Kennedy Road  
 Mississauga, Ontario  
 Telephone: 905-890-8821  
 Web site: indalex.com

April 9, 2009

Mr. M. Degen  
 3 Rowntree Road, Apt #2311  
 Etobicoke, ON  
 M9V5G8

**Subject: Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan")**

Dear Mr. Degen,

As you may know, Indalex Limited commenced proceedings under the Companies' Creditors Arrangement Act on April 3, 2009 in the Ontario Superior Court of Justice through which we can reorganize our debt under court supervision. While this was a difficult decision, management determined this course is necessary to undertake a restructuring of the Company's indebtedness.

Mr. Degen, I must regretfully inform you that with this action benefit payments to participants in the Plan are suspended immediately.

As set forth in Article 4.1 of the Plan document the Plan is unfunded. The rights of Participants and their Surviving Spouses and Beneficiaries shall be solely those of a general unsecured creditor of the Company. As a general unsecured creditor, any claim you may have will be dealt with in the CCAA proceedings. You may obtain more information about the filing by visiting the Company's website at [www.indalex.com](http://www.indalex.com) or [www.cfcanada.fticonsulting.com/indalex](http://www.cfcanada.fticonsulting.com/indalex).

On behalf of the Company, let me again express regret that this action became necessary. Should you have questions, please contact me at 847.612.2091.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Dale Tabinowski', written in a cursive style.

Dale Tabinowski  
 SVP, Human Resources  
 Indalex, Inc.



Indalex Limited  
5675 Kennedy Road  
Mississauga, Ontario  
Telephone: 905-890-8821  
Web site: [indalex.com](http://indalex.com)

April 9, 2009

Bert McBride  
568 Khyber Lane,  
Venice, FL  
34293

Subject: Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan")

Dear Bert,

As you may know, Indalex Limited commenced proceedings under the Companies' Creditors Arrangement Act on April 3, 2009 in the Ontario Superior Court of Justice through which we can reorganize our debt under court supervision. While this was a difficult decision, management determined this course is necessary to undertake a restructuring of the Company's indebtedness.

Bert, I must regretfully inform you that with this action benefit payments to participants in the Plan are suspended immediately.

As set forth in Article 4.1 of the Plan document the Plan is unfunded. The rights of Participants and their Surviving Spouses and Beneficiaries shall be solely those of a general unsecured creditor of the Company. As a general unsecured creditor, any claim you may have will be dealt with in the CCAA proceedings. You may obtain more information about the filing by visiting the Company's website at [www.indalex.com](http://www.indalex.com) or [www.cfcanada.fticonsulting.com/indalex..](http://www.cfcanada.fticonsulting.com/indalex..)

On behalf of the Company, let me again express regret that this action became necessary. Should you have questions, please contact me at 847.612.2091.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Tabinowski', written over a horizontal line.

Dale Tabinowski  
SVP, Human Resources  
Indalex, Inc.

F13



Indalex Limited  
5675 Kennedy Road  
Mississauga, Ontario  
Telephone: 905-890-8821  
Web site: indalex.com

April 9, 2009

Neil Fraser  
715 Lake Placid Se  
Calgary, AB  
T2J4B9

**Subject: Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan")**

Dear Neil,

As you may know, Indalex Limited commenced proceedings under the Companies' Creditors Arrangement Act on April 3, 2009 in the Ontario Superior Court of Justice through which we can reorganize our debt under court supervision. While this was a difficult decision, management determined this course is necessary to undertake a restructuring of the Company's indebtedness.

Neil, I must regretfully inform you that with this action benefit payments to participants in the Plan are suspended immediately.

As set forth in Article 4.1 of the Plan document the Plan is unfunded. The rights of Participants and their Surviving Spouses and Beneficiaries shall be solely those of a general unsecured creditor of the Company. As a general unsecured creditor, any claim you may have will be dealt with in the CCAA proceedings. You may obtain more information about the filing by visiting the Company's website at [www.indalex.com](http://www.indalex.com) or [www.cfcanada.fticonsulting.com/indalex..](http://www.cfcanada.fticonsulting.com/indalex..)

On behalf of the Company, let me again express regret that this action became necessary. Should you have questions, please contact me at 847.612.2091.

Sincerely,

Dale Tabinowski  
SVP, Human Resources  
Indalex, Inc.

A

Chans

Indalex Limited  
 5675 Kennedy Road  
 Mississauga, Ontario  
 Telephone: 905-890-8821  
 Web site: indalex.com

April 9, 2009

Eugene D'Iorio  
 20 N. Village Dr.  
 Palm Coast, FL  
 32137

**Subject: Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan")**

Dear Eugene,

As you may know, Indalex Limited commenced proceedings under the Companies' Creditors Arrangement Act on April 3, 2009 in the Ontario Superior Court of Justice through which we can reorganize our debt under court supervision. While this was a difficult decision, management determined this course is necessary to undertake a restructuring of the Company's indebtedness.

Eugene, I must regrettably inform you that with this action benefit payments to participants in the Plan are suspended immediately.

As set forth in Article 4.1 of the Plan document the Plan is unfunded. The rights of Participants and their Surviving Spouses and Beneficiaries shall be solely those of a general unsecured creditor of the Company. As a general unsecured creditor, any claim you may have will be dealt with in the CCAA proceedings. You may obtain more information about the filing by visiting the Company's website at [www.indalex.com](http://www.indalex.com) or [www.cfcanada.fitchconsulting.com/indalex](http://www.cfcanada.fitchconsulting.com/indalex).

On behalf of the Company, let me again express regret that this action became necessary. Should you have questions, please contact me at 847.612.2091.

Sincerely,

A handwritten signature in cursive script, appearing to read 'D. Tabinowski'.

Dale Tabinowski  
 SVP, Human Resources  
 Indalex, Inc.

This is Exhibit "H" referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
26 day of October, 2010

~~DA~~

.....  
A Commissioner for taking affidavits, etc.



Indal Limited, 4000 Weston Road, Weston, Ontario, Canada M9L 2W8 Telephone: (416) 743-1400 Facsimile: (416) 746-1311

## **PRIVATE AND CONFIDENTIAL**

January 13, 1993

Mr. K. B. Carruthers  
Divisional V.P., Extrusions  
President  
Indalex Division  
Indal Limited  
5675 Kennedy Road  
Mississauga, Ontario  
L4Z 2H9

Dear Keith:

As you know, you are currently enrolled in the Retirement Plan for Executive Employees of Indal Limited and Associated Companies (The Retirement Plan). In addition, upon your termination of employment, death or retirement, you will also receive benefits from the Supplemental Retirement Income Plan (The Supplemental Plan). This latter Plan exists to provide the retirement income to which you would be entitled under the Retirement Plan, were it not for the maximum limits imposed by Revenue Canada.

I am aware that concerns have been expressed regarding the security of the benefits to be provided under The Supplemental Plan. While it is true that no fund has been established to provide these benefits, we are absolutely committed to meeting all such obligations as they fall due. For your information, these arrangements are not unique: other RTZ companies have unfunded arrangements where local tax laws limit benefits payable from tax-approved pension funds.

With particular reference to The Supplemental Plan:

- our approach is consistent with the great majority of Canadian employers;
- a full accrual for all benefits earned to date has been established for accounting purposes;

- our future cash-flow commitments have been projected by our consulting actuaries to ensure that we can anticipate the corporate payments that will be required.

After reading this letter, if you have any further questions regarding the payment of your Retirement Plan or Supplemental Plan benefits, please let me or Marcel Blais know. As an executive of Indal Limited, your peace of mind with respect to your future retirement income is important to us.

Yours sincerely,



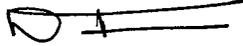
P. G. Selley  
Executive Vice President,  
Finance & Administration

PGS/imc

This is **Exhibit "I"** referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
26<sup>th</sup> day of October, 2010

A handwritten signature in black ink, consisting of a stylized initial 'D' followed by a horizontal line.

.....  
A Commissioner for taking affidavits, etc.

**RETIREMENT PLAN**  
*for*  
**EXECUTIVE EMPLOYEES**  
*of*  
**CARADON LIMITED AND ASSOCIATED COMPANIES**

**(As Amended and Restated at January 1, 1995)**

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## ARTICLE 1 - HISTORY, PURPOSE AND INTERPRETATION

1.
  - 1.1 The Retirement Plan for Executive Employees of Indal Limited and Associated Companies (the "Plan") was established by Indal Limited and Associated Companies (the "Company") on January 1, 1983 for the purpose of providing pensions to its senior executives, corporate employees or operating heads ("Designated Executive").  
  
Prior to January 1, 1983, Designated Executives participated in the Retirement Plan for Salaried Employees of Indal Limited and Associated Companies (the "Former Plan"). The Former Plan superseded the Retirement Plan for Salaried Employees of Indal Limited and Associated Companies which commenced August 1, 1967 and all benefits provided by this plan were paid under the terms of the Former Plan. Effective January 1, 1983, the Plan assumed all liabilities accrued under the Former Plan in respect of the employees and assets were transferred from the Former Plan to this Plan accordingly.
  - 1.2 The Plan was amended and restated effective January 1, 1988 to incorporate amendments up to December 31, 1987 and revisions required by the Pension Benefits Act, Ontario.
  - 1.3 Effective January 1, 1990, the Plan was amended to comply with pension reform legislation in Quebec and Manitoba.
  - 1.4 Effective January 1, 1991, additional retirement incomes were granted to retired Members and Spouses of deceased Members as outlined in Appendix A of this Plan.
  - 1.5 Effective December 31, 1991, the Plan was amended to comply with pension reform legislation in New Brunswick.
  - 1.6 Effective December 31, 1991, there are no members in Manitoba.
  - 1.7 Effective January 1, 1992, the Plan was amended and restated to incorporate amendments up to December 31, 1991 and revisions required under the Income Tax Act.
  - 1.8 Effective September 24, 1993, as a result of a reorganization, Alumiprime Windows Limited and Commercial Aluminum Limited were designated by the Company to participate in the Plan as Employers.
  - 1.9 Effective October 19, 1993, as a result of a reorganization, Fabricated Steel Products, a Division of Indal was incorporated as Fabricated Steel Products Inc. and was designated by the Company to participate in the Plan.
  - 1.10 Effective October 20, 1993, RTZ Canada Inc. sold the shares of Indal Limited to MB Caradon plc.

- 1.11** Effective October 20, 1993, RTZ Canada Inc. established the RTZ Canada Salaried/Executive Plan for Alumiprime Windows Limited, Commercial Aluminum Limited, 1043802 Ontario Limited and Inactives ("RTZ Canada Pension Plan") which Plan assumed liabilities accrued to these executive employees under the Plan. Assets and related surplus were transferred from the Plan to the RTZ Canada Pension Plan.
- 1.12** Effective December 31, 1993, Indal Limited was wound up into its parent company Indal Corporation. Indal Corporation assumed sponsorship of the Plan and all references to Indal Limited throughout the Plan were replaced with Indal Corporation.
- 1.13** Effective March 31, 1994, as a result of a name change, all references to Indal Corporation throughout the Plan were replaced with Caradon Limited. The reference to "Lock-Wood Ltd" in Appendix B was replaced with Caradon Lock-Wood, a division of Caradon Limited.
- 1.14** Effective January 1, 1995, the Plan is hereby amended and restated to incorporate revisions required to comply with pension reform in various provinces.
- 1.15** The terms of the Plan, as amended and restated, will apply to Members who retire, terminate employment or die on and after January 1, 1995, unless stated otherwise. The benefits of Members who retired, terminated or died before this date will be determined by the terms of the Plan in effect at the relevant date.
- 1.16** The Plan, as amended from time to time, will remain in effect subject to the continued registration thereof by:

  - (a) the relevant tax authorities as is necessary to establish that the Employer is entitled to deduct its contributions to this registered pension plan from taxable income before the computation of income tax under the Income Tax Act and any other applicable tax legislation; and
  - (b) the Pension Commission of Ontario in accordance with the Pension Benefits Act of Ontario and any other applicable pension legislation.

## ARTICLE 2 - DEFINITIONS

2. For the purposes of the Plan, the following words and phrases will have the meaning set forth below, unless the context requires otherwise:

2.1 **Actuarial Equivalent** means a pension of an equivalent value using actuarial tables and such other methods and assumptions as may be adopted by the Company on the recommendation of the Actuary, subject to the requirements of Applicable Pension Legislation and the Income Tax Act.

2.2 **Actuary** means a Fellow of the Canadian Institute of Actuaries, or the firm employing such person, appointed by the Company from time to time for the purposes of the Plan.

2.3 **Affiliate Company** means a Canadian or foreign body corporate which is an affiliate of the Company within the meaning of the Business Corporations Act (Ontario), and which has not been designated by the Company for participation in the Plan.

2.4 **Alberta Member** means a Member in Continuous Employment in Alberta.

2.5 **Applicable Date** means, with respect to an Employee in Continuous Employment in:

- (a) British Columbia, January 1, 1993;
- (b) Alberta, January 1, 1987;
- (c) Saskatchewan, July 1, 1981;
- (d) Ontario, January 1, 1988;
- (e) Quebec, January 1, 1990; and
- (f) New Brunswick, December 31, 1991

**Applicable Pension Legislation** means the following statutes and their regulations, as amended or replaced from time to time:

- (a) Pension Benefits Standards Act of British Columbia;
- (b) Employment Pension Plans Act of Alberta;
- (c) Pension Benefits Act of Saskatchewan;
- (d) Pension Benefits Act of Ontario;
- (e) Supplemental Pension Plans Act of Quebec;
- (f) Pension Benefits Act of New Brunswick.

- 2.6 **Beneficiary** means a person designated by a Member under Section 12.1 and includes the Member's estate where there is no designated beneficiary.
- 2.7 **British Columbia Member** means a Member in Continuous Employment in British Columbia.
- 2.8 **Commuted Value** means, in relation to benefits that a person has a present or future entitlement to receive, a lump sum amount which is the actuarial present value of those benefits computed using rates of interest, the actuarial tables and other assumptions as may be adopted by the Company, subject to Applicable Pension Legislation and the Income Tax Act.
- For clarification purposes, when determining Commuted Values, unisex tables must be used for all years of Pensionable Service.
- 2.9 **Company** means Caradon Limited. Where any reference in the Plan is made to any action to be taken, consent, approval or opinion to be given, discretion or decision to be exercised by the Company, "Company" means Caradon Limited acting through the board of directors of Caradon Limited or any person authorized by that board of directors for purposes of the Plan.
- 2.10 **Continuous Employment** means the years and completed months and days of an Employee's uninterrupted period of employment with any Employer since his last date of hire by an Employer, including any period of lay-off (not in excess of 1 year) and any period of temporary suspension of employment. If the Employee terminates employment with an Employer and is subsequently re-employed by an Employer within the 2 year period immediately following his termination of employment, for purposes of determining the Employee's Continuous Employment, the Employee's employment will be deemed to be uninterrupted although that period during which the Employee was not in employment with an Employer will be excluded from the Employee's Continuous Employment.
- 2.11 **Corporate Officer** means an officer of an Employer, who is designated by the Company, from time to time, as a Corporate Officer for the purposes of the Plan.
- 2.12 **Designated Executive** means a Corporate Officer, a Senior Corporate Employee or an Operating Head.
- 2.13 **Earnings** means basic monthly cash compensation paid by the Employer, as applicable, including commissions but excluding:
- (a) overtime bonuses, and
  - (b) other special compensation,
- as determined by the Employer.

- 2.14 Employee** means a person who is employed by an Employer on a salaried basis in Canada.
- 2.15 Employer** means the Company and any subsidiary or affiliate of the Company designated by the Company to participate in the Plan, as set out in Appendix B.
- 2.16 Excess Contributions** means an amount determined under Section 9.7.
- 2.17 Final Average Earnings** means 12 times the average of the Member's Earnings during the 36 consecutive months of Pensionable Service within the 120 month period preceding the Member's retirement, death or termination of Continuous Employment in which the highest average is attained. If the Member has not completed 36 months of Pensionable Service, his Final Average Earnings will be based on 12 times the average of the Member's Earnings during the Member's months of Pensionable Service.
- 2.18 Funding Agent** means a trust company, insurance company authorized to carry on a life insurance business in Canada or a group of at least 3 individuals resident in Canada, at least one of whom is independent of all Employers and includes any combination or successors thereof appointed by the Company from time to time to hold, administer and invest the Fund.
- 2.19 Funding Agreement** means the agreement or agreements entered into between the Company and the Funding Agent for purposes of this Plan.
- 2.20 Fund** means the assets held from time to time by the Funding Agent under the terms of the Funding Agreement.
- 2.21 Government Benefit Base** means the average of the YMPEs for the period used in the determination of the Member's Final Average Earnings.
- 2.22 Income Tax Act** means the Income Tax Act, Statutes of Canada and the Regulations thereunder, as amended or replaced from time to time.
- 2.23 Interest** means interest credited annually on:
- (a) Required Contributions  
a Member's required contributions made to the Prior Plan and transferred to the Plan, at a rate equal to the applicable average of the yields of 5 year personal fixed term chartered bank deposits (CANSIM series B14045), except where Applicable Pension Legislation requires that a different rate be used; and
  - (b) Lump Sum Payments  
lump sum payments out of the Fund:
    - (1) at the rate described in Section 2.22(a), if the refund is attributable to required contributions; and

- (2) in all other cases, at the rate originally used to calculate the Commuted Value, where applicable.

Subject to Applicable Pension Legislation, interest will commence to accrue no later than the first of the month following the month in which the contributions were required to be paid into the Fund and will be credited to the date the Member's Continuous Employment terminates.

Subject to Applicable Pension Legislation, lump sum payments (or transfers) out of the Fund will be credited with interest from the date of determination to the date of payment (or transfer).

- 2.24 Member** means a Designated Executive who has become a Member of the Plan pursuant to Article 3 and who continues to be entitled to benefits under the Plan.
- 2.25 New Brunswick Member** means a Member in Continuous Employment in New Brunswick.
- 2.26 Ontario Member** means a Member in Continuous Employment in Ontario.
- 2.27 Operating Head** means an Employee who is designated by the Employer from time to time as an Operating Head for the purposes of the Plan.
- 2.28 Pension and Benefits Committee** means the Pension and Benefits Committee appointed pursuant to Section 13.1.
- 2.29 Pensionable Service** means the Member's Continuous Employment calculated in exact years, months and days during which the Member participated in the Plan, or made required contributions to the Prior Plan and includes Continuous Employment before joining the Prior Plan, not in excess of one year. Pensionable Service excludes all leaves of absence except in accordance with Article 5.
- 2.30 Plan** means the Retirement Plan for Executive Employees of Caradon Limited and Associated Companies, as amended and restated from time to time.
- 2.31 Plan Year** means the calendar year.
- 2.32 Prior Plan** means the Retirement Plan for Salaried Employees of Caradon Limited and Associated Companies and/or the Pension Plan for Salaried Employees of Fabricated Steel Products Inc. as in effect on the later of December 31, 1982 or the day immediately preceding the Employee's classification as a Designated Executive.
- 2.33 Quebec Member** means a Member in Continuous Employment in Quebec.
- 2.34 Saskatchewan Member** means a Member in Continuous Employment in Saskatchewan.
- 2.35 Senior Corporate Employee** means an Employee who is designated by the Employer,

from time to time, as a Senior Corporate Employee for the purposes of the Plan.

**2.36 Spouse** means, at the time a determination of marital status is required, in relation to:

(a) British Columbia

a British Columbia Member, a person of the opposite sex who:

- (1) is married to the Member and is not living separate and apart from him; or
- (2) has been living with the Member as husband and wife for one year;

(b) Alberta

an Alberta Member, a person of the opposite sex who:

- (1) is married to the Member and is not living separate and apart from him; or
- (2) has been living with the Member for one year and is held out by the Member in the community in which they live as his consort;

(c) Saskatchewan

a Saskatchewan Member, a person of the opposite sex who:

- (1) is married to the Member; or
- (2) is cohabitating with the Member as husband and wife at the relevant time and who has been cohabitating continuously with the Member as his spouse for at least one year prior to the relevant time;

(d) Ontario

an Ontario Member, a person of the opposite sex who:

- (1) is married to the Member and is not living separate and apart from the Member; or
- (2) is not married to the Member but the Member and that person are living together in a conjugal relationship:
  - (A) continuously for a period of not less than one year, or

- (B) in a relationship of some permanence, if they are the natural or adoptive parents of a child, both as defined in the Family Law Act (Ontario);

(e) Quebec

a Quebec Member, a person of the opposite sex who:

- (1) is married to the Member; or
- (2) has been living in a conjugal relationship with an unmarried Member for a period of not less than one year if,
  - (A) at least one child is born, or to be born, of their union,
  - (B) they have adopted, jointly, at least one child while living together in a conjugal relationship, or
  - (C) one of them have adopted at least one child who is the child of the other, while living together in a conjugal relationship; and

(f) New Brunswick

a New Brunswick Member, a person of the opposite sex who:

- (1) is married to the Member;
- (2) is married to the Member by a marriage that is voidable and has not been voided by a declaration of nullity;
- (3) is married to the member in good faith but the marriage is void and the Member and person have been cohabiting within the preceding year; or
- (4) is not married to the Member but the Member and that person have been cohabiting,
  - (A) continuously for a period of not less than one year in a conjugal relationship in which one person has been substantially dependent upon the other for support, or
  - (B) in a relationship of some permanence where there is a child born of whom they are the natural parents,

provided the Member and that person have cohabited within the preceding year.

**2.37 Total Disability means a disability:**

- (a) throughout which the Member is physically or mentally impaired so that he is prevented from engaging in any employment for which he is reasonably suited by virtue of his education, training or experience;
- (b) which is reasonably expected to continue for the remainder of the Member's lifetime;
- (c) which is certified, in writing, by a medical doctor licensed in Canada or where the Member resides; and
- (d) in respect of which the Member is entitled to benefits from the Employer's long term disability program.

**2.38 YMPE** means, in respect of any Plan Year, the year's maximum pensionable earnings as defined under the Canada/Quebec Pension Plan.

In this Plan, unless the context requires otherwise, reference to the male gender will include the female gender and words importing the singular number only include the plural number and vice versa.

**ARTICLE 3 - ELIGIBILITY AND MEMBERSHIP**

**3. 3.1 Existing Members**

Each Designated Executive who was a Member of the Plan on December 31, 1994 will continue to be a Member of the Plan.

**3.2 New Members**

Each Employee hired on and after January 1, 1995 will join the Plan on the later of:

- (a) the first day of the month coincident with or next following the date of hire; or
- (b) the date on which he becomes a Designated Executive.

**3.3 Membership**

A Designated Executive will become a Member by signing the appropriate forms prescribed by the Pension and Benefits Committee.

**3.4 Cessation of Plan Membership**

A Member will cease to accrue benefits hereunder only upon the earliest of:

- (a) termination of Continuous Employment,
- (b) termination of the Plan, or
- (c) transfer in accordance with Section 7.2.

**3.5 Re-employment of Former Employees**

- (a) Subject to Section 3.5(b), if an Employee's Continuous Employment is terminated and he is later re-employed by an Employer as a Designated Executive, he will, for purposes of the Plan, be treated as a new Employee, except that any right to a deferred pension he may have as a result of his prior period of Continuous Employment will not be affected by this provision. For greater certainty:
  - (1) any benefit earned after the date of re-employment will be calculated based on the period of Pensionable Service, membership in the Plan (or Prior Plan, as applicable) and Final Average Earnings after such date; and

~~(2) if such former employee has commenced to receive a pension under the Plan, his pension will cease and, at his subsequent retirement, the pension relating to his prior period of Continuous Employment will be actuarially adjusted to reflect the shorter period during which such pension will be paid.~~

- (b) The previous period of Continuous Employment of a Member described in Section 3.5(a) will be reinstated provided the Member reimburses the Fund an amount, if any, equal to the amount withdrawn from the Fund upon his earlier termination of Continuous Employment, plus Interest, as determined by the Pension and Benefits Committee.

If the Member's benefits have been reinstated under this Section 3.5(b), the benefit payable under the Plan at the Member's subsequent retirement, death or termination of Continuous Employment will be based on:

- (1) all periods of Pensionable Service;
- (2) all periods of membership in the Plan (or Prior Plan, as applicable);
- (3) Final Average Earnings determined at his subsequent retirement, death or termination of Continuous Employment. For this purpose only, "Earnings" means the Member's Earnings received during all periods of Continuous Employment with the Employer; and
- (4) the terms of the Plan in effect at his subsequent retirement, death or termination of Continuous Employment.

If the Member retires, dies or subsequently terminates Continuous Employment with the Employer prior to reimbursing the full amount of the amount withdrawn on his earlier termination of Continuous Employment, plus Interest, benefits payable under the Plan will be reduced in the manner determined by the Actuary.

Any benefits reinstated under this Section 3.5(b) will be subject to the Income Tax Act, including certification of past service pension adjustments (as defined under the Income Tax Act).

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**ARTICLE 4 - CONTRIBUTIONS TO THE PLAN**

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**4. 4.1 Member Required Contributions**

A Member is not required or permitted to contribute to the Plan.

**4.2 Member Required Contributions under the Prior Plan**

Upon becoming a Member of the Plan, the balance, if any, of the Member's required contributions to the Prior Plan, plus Interest, will be transferred to the Plan.

**4.3 Employer Contributions**

(a) Subject to Section 4.3(b) and (c), the Employer will make such contributions to the Fund as are required, based on the advice of the Actuary, to provide:

- (1) the normal cost of the benefits currently accruing to its Members under the Plan; and
- (2) for the proper amortization of any unfunded liability or solvency deficiency,

both in accordance with the requirements of Applicable Pension Legislation, after taking into account the assets of the Fund and all other relevant factors.

(b) The contributions made by the Employer to the Fund in accordance with Section 4.3(a), in any Plan Year, will not exceed such maximum amount as the Employer may deduct in computing its taxable income under the Income Tax Act for such Plan Year.

(c) If at any time while the Plan continues in existence the Actuary certifies that the assets of the Fund exceed the actuarial liabilities of the Plan in respect of benefits defined in the Plan ("surplus"), such surplus assets, or any portion of such assets, may be used by the Employer to reduce its contribution obligations under Section 4.3(a), subject to any limitations prescribed under Applicable Pension Legislation and the Income Tax Act.

**4.4 Overpayment**

Subject to the prior approval of the Superintendent of Pensions of Ontario, any payment by the Employer in a Plan Year in excess of the amount required to be contributed under this Article 4 (or payments made by the Employer that should have been paid out of the Fund) may be returned to the Employer, out of the Fund in order to avoid revocation of the registration of the Plan.

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#### **4.5 Remittance of Contributions to the Fund**

The Employer will remit to the Funding Agent for deposit in the Fund:

- (a) the Employer's contributions in respect of the normal cost of benefits in monthly instalments within 30 days following the month for which the contributions are payable or such other period prescribed by Applicable Pension Legislation; and
- (b) the Employer's contributions in respect of special payments to amortize an unfunded actuarial liability or solvency deficiency, in equal monthly instalments throughout the Plan Year.

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## ARTICLE 5 - ACCRUAL DURING SPECIAL LEAVE OF ABSENCE

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### 5. 5.1 Meaning of Special Leave of Absence

Throughout this Article 5, "Special Leave of Absence" means an unpaid leave of absence attributable to:

- (a) a Total Disability;
- (b) an injury occurring on and after January 2, 1990 in respect of which the Member is entitled to receive benefits under the Workers' Compensation Act ("Job-Related Disability"); or
- (c) a parental leave resulting from the birth or adoption of a child as defined under relevant employment standards legislation ("Parental Leave").

### 5.2 Plan Membership and Pensionable Service During Leave Period

Each year, or part thereof, during the Special Leave of Absence counts as a year, or part thereof, of Plan membership and Pensionable Service for the Member:

- (a) Total Disability  
until the earliest of the Member's date of recovery, termination, death or normal retirement date, if the Special Leave of Absence is attributable to a Total Disability;
- (b) Job-Related Disability  
until the earliest of the expiry of the period prescribed by the relevant workers' compensation legislation, the date the Member returns to active Continuous Employment, death or normal retirement date, if the Special Leave of Absence is attributable to a Job-Related Disability; and
- (c) Parental Leave  
until the earliest of the expiry of the period prescribed by the relevant employment standards legislation, the date the Member returns to active Continuous Employment, death or normal retirement date, if the Special Leave of Absence is attributable to a Parental Leave;

subject to a maximum Pensionable Service accrual for all Special Leaves of Absence (other than a Special Leave of Absence attributable to Total Disability) of 5 years plus one additional year in the case of each Parental Leave (under the Income Tax Act, a period of parenting), further subject to an overall maximum of 8 years of Pensionable Service.

### **5.3 Earnings During Special Leave of Absence**

For the purpose of accruals during a Special Leave of Absence described under Section 5.2:

- (a) subject to Section 5.3(b), the Member's Earnings are deemed to be equal to the rate of Earnings received by the Member immediately before the commencement of the Special Leave of Absence; and
- (b) for a British Columbia Member, an Ontario member and a Quebec Member the Member's Earnings are deemed to be equal to the rate of Earnings the Member would have received had the Member not taken a Special Leave of Absence, if the Special Leave of Absence is attributable to a Parental Leave.

Where applicable, under this Section 5.3, all Earnings will be prescribed pursuant to the Income Tax Act and Regulations.

### **5.4 Leave Ending Before Normal Retirement Date**

If the Member's Special Leave of Absence ends before his normal retirement date and

- (a) the Member returns to active Continuous Employment, his pension will be calculated based on the provisions of the Plan, as modified by Sections 5.2 and 5.3, in effect at the date of his subsequent termination, death or retirement; or
- (b) the Member does not return to active Continuous Employment, he will be deemed to have terminated his Continuous Employment for purposes of the Plan as of the date his Special Leave of Absence ends and his pension will be calculated based on the provisions of the Plan, as modified by Sections 5.2 and 5.3, in effect at the date of his deemed termination.

### **5.5 Leave Continuing Until Normal Retirement Date**

If the Member's Special Leave of Absence continues until his normal retirement date, the Member will be deemed to retire on his normal retirement date and his pension will be calculated based on the provisions of the Plan, as modified by Section 5.2 and 5.3, in effect at the date of his deemed retirement.

### **5.6 Death During Leave Period**

If the Member dies during the Special Leave of Absence, the death benefit paid to such Member's Spouse or Beneficiary will be determined and payable in accordance with Section 12.4, as modified by Sections 5.2 and 5.3.

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**ARTICLE 6 - MANAGEMENT OF THE FUND**

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**6. 6.1 Administration of the Fund**

The Fund will be administered by the Funding Agent in accordance with the Funding Agreement.

**6.2 Investment of the Fund**

The assets of the Fund will be invested in accordance with Applicable Pension Legislation.

**6.3 Expenses**

All normal and reasonable fees and expenses incurred in the operation and administration of the Plan and the Fund will be paid from the Fund. Where the Employer has made payments on account of such expense, the Employer will be entitled to reimbursement by the Funding Agent from assets of the Fund. Fees and expenses of the Employer and its agents are payable from the Fund unless prohibited by Applicable Pension Legislation.

**6.4 Withdrawal of Assets from an Ongoing Plan**

Subject to receiving the prior consent of the relevant regulatory authorities, if, at any time while the Plan continues in existence, the Actuary certifies that the assets of the Fund exceed its liabilities in respect of any or all of the following periods:

- (a) from January 1, 1983 to and including December 31, 1986;
- (b) from January 1, 1987 to and including December 31, 1994; and
- (c) after December 31, 1994,

then all or part of such excess of Plan assets over Plan liabilities may be refunded to the Employer.

## ARTICLE 7 - TRANSFER OF EMPLOYEES

### 7. 7.1 Transfer to the Plan

If an employee of an Employer or an Affiliate Company, as applicable, is transferred to a category of employment such that he becomes a Designated Executive for purposes of the Plan, such Designated Executive will automatically become a Member of the Plan.

If applicable, upon becoming a Member of the Plan, the Designated Executive will cease to be a member of the Prior Plan. The value of benefits accrued under the Prior Plan to the date the Employee is classified as a Designated Executive, as determined by the Actuary, will be transferred to the Plan. Any benefit paid from the Plan will be calculated on the basis of:

- (a) the Member's Pensionable Service;
- (b) the Member's Final Average Earnings determined at his subsequent retirement, death or termination of Continuous Employment; and
- (c) the Member's employment with each Employer and his membership in the Prior Plan will be deemed to be Continuous Employment and membership in the Plan respectively, for vesting and locking-in purposes.

Any benefit accrual under this Section 7.1 will be subject to the Income Tax Act, including certification of past service pension adjustment (as defined under the Income Tax Act).

### 7.2 Transfer Out of the Plan

If a Member of the Plan is transferred to other employment with an Employer, or to an Affiliate Company, and ceases to be a Designated Executive for the purposes of the Plan, the Member's accrual of benefits under the Plan will cease. No benefit will be payable from the Plan until such time as the Member subsequently retires, terminates or dies. Any benefit paid from the Plan will be calculated on the basis of:

- (a) the Member's Pensionable Service determined at his date of transfer;
- (b) the Member's Final Average Earnings determined at his subsequent retirement, death or termination of Continuous Employment;
- (c) the Member's other employment with an Employer or Affiliate Company will be deemed to be Continuous Employment for vesting, locking-in purposes and eligibility to retire early under Sections 8.3 and 8.4; and
- (d) the Member's participation in another registered pension plan sponsored by an Employer or Affiliate Company will be deemed to be membership in the Plan for vesting, locking-in purposes and eligibility to retire early under Sections 8.3 and 8.4.

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## ARTICLE 8 - RETIREMENT DATE

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### 8. 8.1 Normal Retirement Date

For purposes of the Plan, normal retirement date means the first day of the month coincident with or next following the Member's 65th birthday.

### 8.2 Early Retirement Date

If the Continuous Employment of a Member terminates after he has attained age 55 and before his normal retirement date, and Sections 8.3 and 8.4 do not apply,

- (a) the Member will be considered to have retired early for the purposes of the Plan on his early retirement date which is the first day of the month coincident with or next following the date on which the Member's Continuous Employment terminates; and
- (b) the Member will be entitled to receive an early retirement pension.

### 8.3 Special Early Retirement Date

If the Continuous Employment of a Member who has completed 10 or more years of Continuous Employment terminates after he has attained age 55 and before his normal retirement date, and Section 8.4 does not apply,

- (a) the Member will be considered to have retired early for the purposes of the Plan on his special early retirement date which is the first day of the month coincident with or next following the date on which the Member's Continuous Employment terminates, and
- (b) the Member will be entitled to receive a special early retirement pension.

### 8.4 Unreduced Early Retirement Date

If the Continuous Employment of a Member who has completed 20 years of Continuous Employment terminates after he has attained age 60 and before his normal retirement date,

- (a) the Member will be considered to have retired early for the purposes of the Plan on his unreduced early retirement date which is the first day of the month coincident with or next following the date on which the Member's Continuous Employment terminates, and
- (b) the Member will be entitled to receive an unreduced early retirement pension.

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### **8.5 Postponed Retirement Date**

If, under provincial law and the Employer's policy concerning retirement, a Member has remained in Continuous Employment after his normal retirement date, the Member may retire for the purposes of the Plan on the first day of any month after his normal retirement date, which date will be the Member's postponed retirement date.

In no event will a Member's retirement be deferred beyond the end of the calendar year in which the Member attains age 71, provided that with effect from January 1, 1997, a Member shall retire, or be deemed to have retired for the purpose of the Plan, not later than the first day of December of the calendar year in which the member attains age 69, or such other time as is acceptable under the Income Tax Act.

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## ARTICLE 9 - AMOUNT OF PENSION BENEFIT

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### 9. 9.1 Normal Retirement Pension

A Member who retires on his normal retirement date will receive an annual pension, commencing on his normal retirement date, in an amount equal to (a) plus (b) as follows:

- (a) 1.25% of the Member's Final Average Earnings up to the Government Benefit Base; plus
- (b) 2% of the Member's Final Average Earnings in excess of the Government Benefit Base;

multiplied by the Member's Pensionable Service.

In no event will the benefit accrued in the Plan Year under this Section 9.1 result in an amount that is a pension adjustment (as defined in the Income Tax Act), or any other amount determined under the Income Tax Act, being inappropriate having regard to the provisions of the Income Tax Act and the purposes for which the amount is determined.

### 9.2 Early Retirement Pension

A Member who retires early under Section 8.2 may elect either:

- (a) a pension, commencing on the first day of any month on or following his early retirement date up to the Member's normal retirement date, calculated according to the formula in Section 9.1. The pension payable under this Section 9.2(a) will be reduced by 0.4% for each month by which the Member's pension commencement date precedes the date at which the Member would have been eligible for an unreduced pension under Section 8.4 had the Member remained in Continuous Employment; or
- (b) a deferred pension, commencing at normal retirement date, calculated according to the formula in Section 9.1,

based on the Member's Pensionable Service at his early retirement date.

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### **9.3 Special Early Retirement Pension**

A Member who retires early in accordance with Section 8.3 will receive a pension, commencing on the Member's special early retirement date, equal to the pension calculated according to the formula in Section 9.1 based on the Member's Pensionable Service at his special early retirement date. The pension payable under this Section 9.3 will be reduced by 1/6 of 1% for each month by which the Member's pension commencement date precedes the date at which the Member would have been entitled to an unreduced pension under Section 8.4 had the Member remained in Continuous Employment, subject to any minimum reduction required by the Income Tax Act and its regulations.

### **9.4 Unreduced Early Retirement Pension**

A Member who retires early in accordance with Section 8.4 will receive a pension, commencing on the Member's unreduced early retirement date, equal to the pension calculated according to the formula in Section 9.1 based on the Member's Pensionable Service at his unreduced early retirement date.

### **9.5 Postponed Pension Benefit**

Subject to Section 9.6, a Member who remains in Continuous Employment after his normal retirement date in accordance with Section 8.5 will receive a pension, commencing on the Member's postponed retirement date, equal to the pension calculated according to the formula in Section 9.1 based on Earnings, Final Average Earnings and Pensionable Service at the Member's postponed retirement date.

### **9.6 Postponed Pension Benefit - Quebec Members**

- (a) Subject to Section 9.6(b), each Quebec Member who elects to remain in Continuous Employment after his normal retirement date under Section 8.5 will continue to accrue benefits to his postponed retirement date. At such Member's postponed retirement date, he will receive an annual pension, commencing on his postponed retirement date, calculated in accordance with Section 9.5.

Such pension will, however, not be less than the minimum required under Applicable Pension Legislation.

- (b) Each Quebec Member who postpones his retirement under Section 8.5 may elect to commence receiving the whole, or any portion, of his pension on or after his normal retirement date, to the extent necessary to compensate him for a permanent reduction in his Earnings from the level in effect preceding his normal retirement date.

If the Quebec Member elects to commence receipt of all, or any portion of, his pension under this Section 9.6(b), the Quebec Member will receive on his postponed retirement date the balance of his annual pension, as determined in accordance with Section 9.6(a) but adjusted to reflect the amount of payments made to him under this Section 9.6(b).

The Quebec Member may make an election under this Section 9.6(b) not more frequently than once every 12 months.

## 9.7 Minimum Benefit With Respect to Required Contributions

### (a) British Columbia

If a British Columbia Member retires, dies or terminates Continuous Employment on or after January 1, 1993, the Commuted Value of such Member's pension payable under this Article 9 and accrued to December 31, 1992, will be at least equal to the Member's required contributions made to the Prior Plan before January 1, 1993, plus interest.

If a British Columbia Member retires, dies or terminates Continuous Employment on or after January 1, 1993, such Member, his Spouse or Beneficiary, as applicable, will be entitled to the amount ("Excess Contribution") equal to (1) less (2) as follows:

- (1) the Member's required contributions made to the Prior Plan on and after January 1, 1993, plus interest; and
- (2) 50% of the Commuted Value of the Member's pension accrued or otherwise granted on and after January 1, 1993.

The Excess Contribution will be paid in accordance with Section 9.8.

### (b) Alberta

If an Alberta Member retires, dies or terminates Continuous Employment on or after January 1, 1987, the Commuted Value of a Member's pension payable under this Article 9 and accrued to December 31, 1986 will be at least equal to the Member's required contributions made to the Prior Plan before January 1, 1987, plus Interest.

If an Alberta Member retires, dies or terminates Continuous Employment on or after January 1, 1987, the Member or his Spouse, as applicable, will be entitled to an amount ("Excess Contribution") equal to (1) less (2) as follows:

- (1) the Member's required contributions made to the Prior Plan on and after January 1, 1987, plus Interest; and

- (2) 50% of the Commuted Value of the Member's pension accrued or otherwise granted on and after January 1, 1987.

Notwithstanding the foregoing, no Excess Contribution is payable if the Alberta Member dies in Continuous Employment (or after he terminates Continuous Employment having elected to leave his Excess Contribution in the Plan) and, at the time of his death, he has no Spouse. Where payable, the Excess Contribution will be paid in accordance with Section 9.8.

(c) Saskatchewan

If a Saskatchewan Member retires or terminates Continuous Employment on or after July 1, 1981, the Commuted Value of such Member's pension payable under this Article 9 and accrued to January 1, 1969 will be at least equal to the Member's required contributions made to the Prior Plan before January 1, 1969, plus Interest.

If a Saskatchewan Member retires or terminates Continuous Employment on or after July 1, 1981, the Member, his Spouse or Beneficiary, as applicable, will be entitled to an amount ("Excess Contribution") equal to (1) less (2) as follows:

- (1) the Member's required contributions made to the Prior Plan on and after January 1, 1969 plus Interest; and
- (2) 50% of the Commuted Value of the Member's pension accrued or otherwise granted on and after January 1, 1969.

The Excess Contribution will be paid in accordance with Section 9.8.

(d) Ontario

If an Ontario Member retires, dies or terminates Continuous Employment on or after January 1, 1988, the Commuted Value of such Member's pension payable under this Article 9 and accrued to December 31, 1986 will be at least equal to the Member's required contributions made to the Prior Plan before January 1, 1987, plus Interest.

If an Ontario Member retires, dies or terminates Continuous Employment on or after January 1, 1988, such Member, his Spouse or Beneficiary, as applicable, will be entitled to an amount ("Excess Contribution") equal to (1) less (2) as follows:

- (1) the Member's required contributions made to the Prior Plan on and after January 1, 1987, plus Interest; and

- (2) ~~50% of the Commuted Value of the Member's pension accrued or otherwise granted on and after January 1, 1987.~~

The Excess Contribution will be paid in accordance with Section 9.8.

(e) Quebec

If a Quebec Member retires, dies or terminates Continuous Employment on or after January 1, 1990, the Commuted Value of such Member's pension payable under this Article 9 and accrued to December 31, 1989 will be at least equal to the Member's required contributions made to the Prior Plan before January 1, 1990, plus Interest.

If a Quebec Member retires, dies or terminates Continuous Employment on or after January 1, 1990, such Member, his Spouse or Beneficiary, as applicable, will be entitled to an amount ("Excess Contribution") equal to (1) less (2) as follows:

- (1) the Member's required contributions made to the Prior Plan on and after January 1, 1990 (excluding such contributions made on and after his normal retirement date), plus Interest; and
- (2) 50% of the Commuted Value of the Member's pension accrued or otherwise granted on and after January 1, 1990 (excluding pension accrued on and after his normal retirement date).

The Excess Contribution will be paid in accordance with Section 9.8.

(f) New Brunswick

If a New Brunswick Member retires, dies or terminates Continuous Employment, such Member, his Spouse or Beneficiary, as applicable, will be entitled to an amount ("Excess Contribution") equal to (1) less (2) as follows:

- (1) the Member's required contributions made to the Prior Plan, plus Interest; and
- (2) 100% of the Commuted Value of the Member's pension.

The Excess Contribution will be paid in accordance with Section 9.8.

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## 9.8 Excess Contribution Payment Options

### (a) British Columbia

The Excess Contribution relating to a British Columbia Member is payable to the Member, his Spouse or his Beneficiary, as applicable, in a lump sum unless the Member or his Spouse, as applicable, elects the Excess Contribution be:

- (1) transferred to another registered pension plan, if and to what extent that plan permits the transfer;
- (2) transferred to a prescribed retirement savings arrangement;
- (3) transferred to an insurance company or prescribed savings institution to purchase a deferred pension or other prescribed retirement income fund;  
or
- (4) used to increase the amount of the pension if and to the extent that the Plan so provides.

Provided that any transfer shall be in accordance with the Income Tax Act.

### (b) Alberta

The Excess Contribution relating to an Alberta Member is payable to the Member, his Spouse or his Beneficiary, as applicable, in a lump sum unless the Member or his Spouse, as applicable, elects the Excess Contribution be:

- (1) used to increase the pension accrued to the Member, as determined by the Actuary;
- (2) transferred to an insurance company to purchase an immediate or deferred life annuity;
- (3) transferred to another registered pension plan, if that plan permits the transfer; or
- (4) transferred to a prescribed retirement savings arrangement.

Provided that any transfer shall be in accordance with the Income Tax Act.

### (c) Saskatchewan

The Excess Contribution relating to a Saskatchewan Member will, at the election of the Member, his Spouse or Beneficiary, as applicable be:

- (1) returned to the Member;

- (2) transferred to another registered pension plan if and to the extent that the plan permits the transfer;
- (3) transferred to a prescribed retirement savings arrangement;
- (4) transferred to an insurance company to purchase a deferred pension; or
- (5) used to increase the pension accrued to the Member, if and to the extent that the plan permits the increase.

Provided that any transfer shall be in accordance with the Income Tax Act.

(d) Ontario

The Excess Contribution relating to an Ontario Member will be payable to the Member, his Spouse or Beneficiary, as applicable, in accordance with the Pension Benefits Act and the Income Tax Act.

(e) Quebec

The Excess Contribution relating to a Quebec Member will, at the Member's election, be:

- (1) transferred to another registered pension plan or locked-in retirement account, if the transferee agrees to administer the amount transferred as an annuity contract not capable of commutation and governed by the Supplemental Pension Plans Act of Quebec and its Regulations and provided that the transfer is in accordance with the Income Tax Act; or
- (2) used to increase the pension accrued to the Member, as determined by the Actuary.

Where such Excess Contribution is payable to the Member's Spouse or Beneficiary, it will be paid in a lump sum, or as a transfer to a prescribed retirement savings arrangement in accordance with the Income Tax Act.

(f) New Brunswick

The Excess Contribution relating to a New Brunswick Member is payable to such Member, his Spouse or Beneficiary, as applicable, in a lump sum, or as a transfer to a prescribed retirement savings arrangement in accordance with the Income Tax Act.

The payment of Excess Contributions under this Section 9.8 will only be permitted where required by Applicable Pension Legislation.

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## **9.9 Small Benefit Commutation**

Where the annual pension payable on the Member's normal retirement date is not more than such amount as is prescribed under Applicable Pension Legislation, the Employer will pay the Member a lump sum payment equal to the Commuted Value of his pension or deferred pension in full discharge of all obligations under the Plan.

## **9.10 Maximum Pension Benefit**

Notwithstanding anything in the Plan to the contrary, the annual pension provided under the Plan, including benefits payable to a Spouse under Section 15.3, at retirement, death, termination of Continuous Employment or termination of the Plan will not exceed the lesser of:

- (a) \$1,722.22 multiplied by the Member's years of Pensionable Service, excluding that portion of the Member's pre-1992 Pensionable Service in excess of 35 years; and
- (b) 2% of the average of the best 3 consecutive years of Earnings multiplied by the Member's years of Pensionable Service, excluding that portion of the Member's pre-1992 Pensionable Service in excess of 35 years,

or such other maximum pension as permitted under the Income Tax Act, from time to time.

The foregoing does not apply to benefits derived from the minimum benefit with respect to required contributions determined under Section 9.7.

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**ARTICLE 10 - NORMAL AND OPTIONAL FORMS**

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**10. 10.1 Normal Form of Pension Benefit - No Spouse**

For a Member who has no Spouse on the date the Member terminates Continuous Employment the normal form of pension payable under the Plan is an annuity payable in monthly instalments for the life of the Member and, in any event, for a period of not less than 120 months. If the Member dies before receiving 120 payments, his Beneficiary will receive the balance of the remaining payments. At the Beneficiary's election, the Commuted Value of the remaining payments will be paid in a lump sum.

**10.2 Normal Form of Pension Benefit - With a Spouse**

Subject to Section 10.3, for a Member who has a Spouse on the date pension payments commence, the normal form of pension payable under the Plan is a joint and survivor annuity payable in monthly instalments for the life of the Member. After the Member's death, 50% of such annuity is payable to the Member's Spouse for his life. If, however, the Spouse is more than 10 years younger than the Member, the Spouse's annuity will be reduced by 1% of the Member's annuity for each complete year in excess of 10 years.

**10.3 Legislated Form of Pension Benefit**

(a) British Columbia, Alberta, Ontario, New Brunswick

Subject to Section 10.3(b), on and after the Applicable Date, for a Member who has a Spouse on the date on which pension payments commence, the legislated form of pension is a joint and survivor annuity which is:

- (1) payable in monthly instalments of a reduced amount while both the Member and the Spouse are alive and payable after the death of either the Member or the Spouse, to the survivor for his life in monthly instalments equal to 60% of the amount of each monthly instalment paid while both the Member and Spouse are alive; and
- (2) the Actuarial Equivalent of a pension in the form described in Section 10.1 or 10.2, whichever is greater.

(b) Saskatchewan and Quebec

On and after July 1, 1981, for a Saskatchewan Member who has a Spouse on the date on which pension payments commence, the legislated form of pension is a joint and survivor annuity which is:

- (1) payable in monthly instalments of a reduced amount for the life of the Member and payable, after the Member's death, to the Member's Spouse for his life in monthly instalments equal to 60% of the amount of each monthly instalment paid during the life of the Member; and
- (2) the Actuarial Equivalent of a pension in the form described in Section 10.1.

or 10.2, as applicable.

#### **10.4 Waiver of Spousal Joint and Survivor Pension**

A Member may elect to receive a pension in a form that provides for less monthly payments to continue to the Spouse than the legislated amount specified in Section 10.3, if:

- (a) the Member delivers to the Pension and Benefits Committee, within the time periods prescribed under Applicable Pension Legislation, the written waiver of the Spouse (and the Member, if required by Applicable Pension Legislation); and
- (b) this waiver is not revoked before the commencement of the Member's pension.

#### **10.5 Termination of Right of Quebec Member's Spouse**

The right of a Quebec Member's Spouse to a benefit under Section 10.2 or 10.3 is terminated by separation from bed and board, divorce or annulment of marriage or cessation of conjugal relationship, except where:

- (a) partition of the Member's benefits under Section 15.3 was not effected; and
- (b) the Quebec Member notified the Pension and Benefits Committee, in writing, to make payment of the pension to the Spouse despite such dissolution of marriage or separation.

#### **10.6 Optional Forms Available**

Subject to Section 10.4, and in lieu of the normal form of pension described in Section 10.1 and 10.2 (or the legislated form of pension payable under Section 10.3), a Member may elect, before pension payments commence, one of the following optional forms of pension.

The form of payment elected will be the Actuarial Equivalent of the normal form of pension described in Section 10.1 or 10.2 as applicable.

(1) Life Only

Under the life only option, the Member will receive a monthly pension payable for life.

(2) Joint and Last Survivor

Under the joint and last survivor option, the Member receives an adjusted monthly pension payable for life and, after the Member's death, 75% or 100%, as elected by the Member, of the monthly pension will continue to the Member's Spouse for life.

For pensions commencing on or after January 1, 1992, the Member may only designate a Spouse or former Spouse as a joint annuitant.

(3) Level Income Option

Under the level income option, the Member receives increased amounts of monthly pension until age 65 and a reduced pension thereafter, in order to provide a level pension income from all sources throughout retirement.

(4) Life With a Guarantee

Under the life with a guarantee option, the Member receives a monthly pension payable for life and, in any event, for a period of not less than 5 or 15 years. If the Member dies before receiving 60 or 180 payments, as applicable, the Member's Beneficiary will receive the value of the remaining payments in a lump sum. The maximum guarantee period permitted under this option is 15 years.

## ARTICLE 11 - TERMINATION OF EMPLOYMENT

### 11. 11.1 Vested Status

(a) British Columbia, Alberta, New Brunswick

If a British Columbia Member, an Alberta Member or a New Brunswick Member terminates Continuous Employment for any reason other than retirement or death, the benefits accrued to him will vest upon 5 years of Continuous Employment.

(b) Saskatchewan

If a Saskatchewan Member terminates Continuous Employment for any reason other than retirement or death on or after July 1, 1981,

- (1) the benefits accrued to him before January 1, 1994 will vest upon the completion of both
  - (A) 1 year of Continuous Employment (or membership in the Plan and Prior Plan); and
  - (B) the sum of his age and Continuous Employment (or membership in the Plan and Prior Plan) equal 45 or more;
- (2) benefits accrued to him on and after January 1, 1994 (or otherwise granted by an amendment to the Plan on and after January 1, 1994 in respect of Pensionable Service before January 1, 1994) will vest upon 2 years of Continuous Employment.

(c) Ontario

If an Ontario Member terminates Continuous Employment for any reason other than death on or after January 1, 1988,

- (1) the benefits accrued to him before January 1, 1987 will vest upon completion of 5 years of Continuous Employment; and
- (2) benefits accrued to him on and after January 1, 1987 (or otherwise granted by an amendment made to the Plan on and after January 1, 1988 in respect of Pensionable Service before January 1, 1987) will vest upon the completion of 2 years of membership in the Plan and Prior Plan.

(d) Quebec

If a Quebec Member terminates Continuous Employment for any reason other than death on or after January 1, 1990,

- (1) the benefits accrued to him before January 1, 1990 will vest upon completion of 5 years of Continuous Employment;
- (2) benefits accrued to him on and after January 1, 1990 (or otherwise granted by an amendment made to the Plan on and after January 1, 1990 in respect of Pensionable Service before January 1, 1990) will vest upon the completion of 2 years of membership in the Plan and Prior Plan.

**11.2 Locked-In Status**

(a) British Columbia

If a British Columbia Member terminates Continuous Employment for any reason other than retirement or death on or after January 1, 1993,

- (1) the benefits accrued to him before January 1, 1993, will vest if the Member has both completed 10 years of Continuous Employment (or membership in the Plan and Prior Plan) and attained age 45;
- (2) benefits accrued to him on and after January 1, 1993 (or otherwise granted by an amendment made to the Plan on and after January 1, 1993 in respect of Pensionable Service before January 1, 1993) will vest upon the completion of 5 years of Continuous Employment.

(b) Alberta

If an Alberta Member terminates Continuous Employment for any reason other than death on or after January 1, 1987,

- (1) the benefits accrued to him before January 1, 1987 will be locked-in if the Member has both completed 10 years of Continuous Employment (or membership in the Plan and Prior Plan) and attained age 45; and
- (2) benefits accrued to him on and after January 1, 1987 (or otherwise granted by an amendment made to the Plan on and after January 1, 1987 in respect of Pensionable Service before January 1, 1987) will be locked-in, if the Member has completed 5 years of Continuous Employment.

(c) Saskatchewan

If a Saskatchewan Member terminates Continuous Employment for any reason other than death on or after July 1, 1981,

(1) benefits accrued to him before January 1, 1994 will be locked in upon the completion of both:

(A) 1 year of Continuous Employment (or membership in the Plan and Prior Plan); and

(B) the sum of his age and Continuous Employment (or membership in the Plan and Prior Plan) equal 45 or more.

(2) benefits accrued to him on and after January 1, 1994 will be locked-in upon the completion of 2 years of Continuous Employment,

(d) Ontario

If an Ontario Member terminates Continuous Employment for any reason other than death on or after January 1, 1988,

(1) the benefits accrued to him before January 1, 1987 will be locked-in, if the Member has both completed 10 years of Continuous Employment (or membership in the Plan and Prior Plan) and attained age 45; and

(2) the benefits accrued to him on and after January 1, 1987 (or otherwise granted by an amendment made to the Plan on and after January 1, 1987 in respect of Pensionable Service before January 1, 1987) will be locked-in, if the Member has completed 2 years of membership in the Plan and Prior Plan.

(e) Quebec

If a Quebec Member terminates Continuous Employment for any reason other than death on or after January 1, 1990,

(1) the benefits accrued to him before January 1, 1990 will be locked-in, if the Member has both completed 10 years of Continuous Employment (or membership in the Plan and Prior Plan) and attained age 45, and

(2) benefits accrued to him on and after January 1, 1990 (or otherwise granted by an amendment made to the Plan on and after January 1, 1990 in respect of Pensionable Service before January 1, 1990) will be locked-in, if the Member has completed 2 years of membership in the Plan and Prior Plan.

(f) New Brunswick

If a New Brunswick Member terminates Continuous Employment for any reason other than death, and at such termination, the Member is not eligible to retire under Article 8, benefits accrued to him will be locked-in, if the Member has completed 5 years of Continuous Employment.

**11.3 Termination: Not Vested**

If a Member's Continuous Employment terminates for any reason other than retirement or death and the Member is not vested under Section 11.1 in all of his benefits, the Member will receive a lump sum refund equal to his required contributions to the Prior Plan, plus Interest, which relate to that period of Pensionable Service in which he is not vested.

**11.4 Termination: Vested But Not Locked-In**

Subject to Section 11.5, if a Member's Continuous Employment terminates for any reason other than death, and the Member is vested under Section 11.1 in any portion of his benefits but not locked-in, the Member may elect either:

- (a) a lump sum refund equal to his required contributions made to the Prior Plan, plus Interest; or
- (b) a deferred pension, commencing on his normal retirement date, calculated according to the formula in Section 9.1,

which relate to that period of Pensionable Service in which he is vested.

**11.5 Termination: Vested And Locked-In**

Subject to Section 11.6, if a Member's Continuous Employment terminates for any reason other than death, and the Member is locked-in under Section 11.2 with respect to any of his benefits, the Member is not permitted to withdraw his required contributions made to the Prior Plan relating to the period of Pensionable Service in which he is locked-in. In lieu thereof, the Member will receive a deferred pension, commencing on his normal retirement date (or if applicable, his postponed retirement date), calculated according to the formula in Section 9.1.

**11.6 Partial Commutation: 25%**

(a) British Columbia

If, upon a British Columbia Member's termination of Continuous Employment for any reason other than death, the Member is locked-in under Section 11.2(a), such Member may receive, in partial discharge of his rights under Section 11.5, 25% of the Commuted Value of the deferred pension. If this lump sum payment is made, the remaining benefits payable to the Member will be adjusted on an Actuarial Equivalent basis.

(b) Alberta

If, upon an Alberta Member's termination of Continuous Employment for any reason other than death, the Member is locked-in under Section 11.2(b)(1), such Member may receive, in partial discharge of his rights under Section 11.5, 25% of the Commuted Value of the deferred pension accrued before January 1, 1987.

If this lump sum payment is made, the remaining benefits payable to the Member will be adjusted on an Actuarial Equivalent basis.

(c) Saskatchewan

If, upon a Saskatchewan Member's termination of Continuous Employment for any reason other than death, the Member is locked-in under Section 11.2(c), such Member may receive, in partial discharge of his rights under Section 11.5, a lump sum payment not exceeding 50% of the sum of his required contributions made to the Prior Plan prior to January 1, 1994, plus Interest.

(d) Ontario

If, upon an Ontario Member's termination of Continuous Employment for any reason other than death, the Member is locked-in under Section 11.2(d)(1), such Member may receive, in partial discharge of his rights under Section 11.5, 25% of the Commuted Value of the deferred pension accrued before January 1, 1987.

If this lump sum payment is made, the remaining benefits payable to the Member will be adjusted on an Actuarial Equivalent basis.

(e) Quebec

If, upon a Quebec Member's termination of Continuous Employment for any reason other than death, the Member is locked-in under Section 11.2(e)(1), such Member is not permitted to receive any lump sum payment in lieu of his benefit entitlement except as provided in Section 11.9.

### **11.7 Early Commencement of Deferred Pension**

A Member who terminates Continuous Employment before attaining age 55 and who is entitled to receive a deferred pension under this Article 11 may elect to commence receiving this pension on the first day of any month on or following the attainment of age 55 up to his normal retirement date. The Member's pension will be reduced by 0.4% for each month by which the Member's pension commencement date precedes his normal retirement date.

### **11.8 Portability**

- (a) A Member who terminates Continuous Employment or ceases to be a Member of the Plan may elect to have the Commuted Value of the deferred pension to which the Member is entitled under this Article 11, plus Interest:
  - (1) transferred to another pension plan, if the administrator of that pension plan agrees to accept the transfer;
  - (2) transferred to a prescribed retirement savings arrangement, as prescribed in Applicable Pension Legislation; or
  - (3) applied to purchase a deferred life annuity from an insurance company licensed to transact business in Canada, provided payment of the annuity will not commence before the earliest date on which the Member was entitled to retire under the Plan.
- (b) The Employer will not permit a transfer or purchase under Section 11.8(a) unless the Employer is satisfied that the transfer or purchase is in accordance with Applicable Pension Legislation and that any restrictions in Applicable Pension Legislation, with regard to the solvency of the Plan, have been met.
- (c) After December 31, 1990, if the Commuted Value of a Member's pension exceeds such maximum amount prescribed under the Income Tax Act, the amount transferred in accordance with Section 11.8(a) will not exceed the prescribed maximum amount and the excess of the Commuted Value, plus Interest, over the amount transferred will be paid to the Member in a lump sum, unless the Member is in Ontario in which case the amount must be transferred to a Registered Retirement Savings Plan or a Registered Retirement Income Fund.
- (d) A Member who is entitled to a refund of contributions under this Article 11 may elect to transfer the refunded amount to a prescribed retirement savings arrangement.

Upon such a transfer or purchase, the Member will cease to be a Member and will have no further entitlement under the Plan.

### **11.9 Small Benefit Commutation**

If the Member's Continuous Employment terminates and the annual pension payable on the Member's normal retirement date is not more than such amount as is prescribed under Applicable Pension Legislation, the Employer will pay the Member a lump sum payment equal to the Commuted Value of his pension or deferred pension in full discharge of all obligations under the Plan.

### **11.10 Excess Contributions**

In addition to any other termination benefits payable under this Article 11, a Member whose Continuous Employment is terminated for any reason other than death or retirement will receive his Excess Contributions, calculated in accordance with Section 9.7, and payable in accordance with Section 9.8.

## ARTICLE 12- DESIGNATION OF BENEFICIARY AND DEATH BENEFITS

### 12. 12.1 Beneficiary Designation

Subject to Sections 12.4 and 12.5, a Member may designate, by written notice delivered to the Pension and Benefits Committee, a Beneficiary to receive any benefits payable on the death of the Member. A Member may revoke or amend such designation in the same manner at any time, subject to any applicable laws governing the designation of beneficiaries.

### 12.2 No Beneficiary

Subject to Sections 12.4 and 12.5, if a Member fails to validly designate a Beneficiary, or if the Beneficiary predeceases the Member, any benefits payable to the Member's Beneficiary will be paid in a lump sum to the estate of the Member.

### 12.3 Death of Beneficiary

Subject to Sections 12.4 and 12.5, if a Beneficiary, as a result of a Member's death, is entitled to payments under the Plan and the Beneficiary dies before receiving any or all of the payments due to him, the Commuted Value of the remainder of the payments will be paid in a lump sum to the estate of the Beneficiary.

### 12.4 Death Before Pension Commencement - Before Normal Retirement Date

#### (a) Without a Spouse

##### (1) British Columbia, Alberta and Saskatchewan

If a British Columbia Member, Alberta Member or Saskatchewan Member dies before pension payments have commenced under the Plan and before the Member's normal retirement date and, at the date of his death, the Member has no surviving Spouse, a death benefit is payable to the Member's Beneficiary equal to the Member's required contributions made to the Prior Plan, plus Interest.

##### (2) Ontario

If an Ontario Member dies before pension payments have commenced under the Plan and before the Member's normal retirement date and, at the date of his death, the Member has no surviving Spouse, a death benefit equal to (A) plus (B) or (C) as follows:

- (A) the Member's required contributions made to the Prior Plan before January 1, 1987, plus Interest, is payable to the Member's Beneficiary; plus

- (B) the Member's required contributions made to the Prior Plan on and after January 1, 1987, plus Interest, is payable to the Member's Beneficiary, if the Member was not vested in accordance with Section 11.1 at the date of his death; or
- (C) the Commuted Value of the pension accrued to the Member in respect of Pensionable Service on and after January 1, 1987 (or otherwise granted by an amendment made to the Plan on and after January 1, 1987, in respect of Pensionable Service before January 1, 1987) is payable to the Member's Beneficiary, if the Member was vested in accordance with Section 11.1 at the date of his death.

(3) Quebec

If a Quebec member dies before pension payments have commenced under the Plan and before the Member's normal retirement date and, at the date of his death, the Member has no surviving Spouse, a death benefit equal to (A) plus (B) or (C) as follows:

- (A) the Member's required contributions made to the Prior Plan before January 1, 1990, plus Interest, is payable to the Member's Beneficiary; plus
- (B) the Member's required contributions made to the Prior Plan on and after January 1, 1990, plus Interest, is payable to the Member's Beneficiary, if the Member was not vested in accordance with Section 11.1 at the date of this death; or
- (C) the Commuted Value of the pension accrued to the Member in respect of Pensionable Service on and after January 1, 1990 (or otherwise granted by an amendment made to the Plan on and after January 1, 1990 in respect of Pensionable Service before January 1, 1990), is payable to the Member's Beneficiary, if the Member was vested in accordance with Section 11.1 at the date of this death.

(4) New Brunswick

If a New Brunswick Member dies before pension payments have commenced under the Plan and before the Member's normal retirement date and, at the date of his death, the Member has no surviving Spouse, a death benefit equal to (A) plus (B) as follows:

- (A) the Member's required contributions made to the Prior Plan, plus Interest, is payable to the Member's Beneficiary, if the Member was not vested in accordance with Section 11.1 at the date of his death; or
- (B) the greater of:

- (i) 60% of the Commuted Value of the pension accrued to the Member in respect of Pensionable Service; and
- (ii) the Member's required contributions made to the Prior Plan, plus Interest,

is payable to the Member's Beneficiary, if the Member was vested in accordance with Section 11.1 at the date of his death.

(b) With a Spouse

(1) British Columbia

If a British Columbia Member or former Member dies before pension payments have commenced under the Plan and before his normal retirement date and, at the date of his death, the Member has a Spouse, a death benefit is payable to the Spouse equal to A plus B as follows:

- (A) the value of the deceased's contributions to the Prior Plan made before January 1, 1993, plus Interest, and
- (B) the greater of (i) or (ii) as follows:
  - (i) the deceased's contributions to the Prior Plan made on and after January 1, 1993, plus Interest and
  - (ii) 60% of the Commuted Value of the pension accrued to the Member in respect of Pensionable Service on and after January 1, 1993, (or the pension in respect to the deceased's membership on and after January 1, 1993, if the Plan has been terminated).

(2) Alberta

If an Alberta Member dies before pension payments have commenced under the Plan and before his normal retirement date and, at the date of his death, the Member has a Spouse, a death benefit is payable to the Spouse equal to (A) plus (B) as follows:

- (A) the Member's required contributions made to the Prior Plan before January, 1987, plus Interest; plus
- (B) the greater of (i) or (ii) as follows:
  - (i) the Member's required contributions made to the Prior Plan on and after January 1, 1987, plus Interest; and
  - (ii) 60% of the Commuted Value of the benefit accrued to the

Member in respect of Pensionable Service on and after January 1, 1987 (or otherwise granted to him by an amendment made to the Plan on and after January 1, 1987, in respect of Pensionable Service before January 1, 1987).

(3) Saskatchewan

If a Saskatchewan Member dies before pension payments have commenced under the Plan and before the Member's normal retirement date and, at the date of his death the Member has a Spouse, a death benefit equal to the greater of (A) or (B) as follows:

- (A) the Member's required contributions made to the Prior Plan plus Interest; and
- (B) 100% of the Commuted Value of the benefit accrued to the Member.

(4) Ontario

If an Ontario Member dies before pension payments have commenced under the Plan and before the Member's normal retirement date and, at the date of his death, the Member has a Spouse, a death benefit equal to (A) plus (B) or (C) as follows:

- (A) the Member's required contributions made to the Prior Plan before January 1, 1987, plus Interest is payable to the Member's Spouse; plus
- (B) the Member's required contributions made to the Prior Plan on and after January 1, 1987, plus Interest, is payable to the Member's Spouse, if the Member was not vested in accordance with Section 11.1 at the date of his death; or
- (C) the Commuted Value of the benefit accrued to the Member in respect of Pensionable Service on and after January 1, 1987 (or otherwise granted to him by an amendment made to the Plan on and after January 1, 1987, in respect of Pensionable Service before January 1, 1987) is payable to the Member's Spouse, if the Member is vested in accordance with Section 11.1 at the date of his death.

(5) Quebec

If a Quebec Member dies before pension payments have commenced under the Plan and before the Member's normal retirement date and, at the date of his death, the Member has a Spouse, a death benefit equal to (A) plus (B) or (C) as follows:

- (A) the Member's required contributions made to the Prior Plan before January, 1990, plus Interest, is payable to the Member's Beneficiary; plus
- (B) the Member's required contributions made to the Prior Plan on and after January 1, 1990, plus Interest, is payable to the Member's Beneficiary, if the Member was not vested in accordance with Section 11.1 at the date of his death; or
- (C) the Commuted Value of the benefit accrued to the Member in respect of Pensionable Service on and after January 1, 1990 (or otherwise granted to him by an amendment made to the Plan on and after January 1, 1990, in respect of Pensionable Service before January 1, 1990) is payable to the Member's Spouse, if the Member is vested in accordance with Section 11.1 at the date of his death.

(6) New Brunswick

If a New Brunswick Member dies before pension payments have commenced under the Plan and before his normal retirement date and, at the date of his death, the Member has a Spouse, a death benefit equal to the greater of (A) or (B) as follows:

- (A) the Member's required contributions made to the Prior Plan, plus Interest; and
- (B) 60% of the Commuted Value of the benefit accrued to the Member,

is payable to the Member's Spouse, if the Member is vested in accordance with Section 11.1 at the date of his death.

## 12.5 Death Before Pension Commencement - After Normal Retirement Date

(a) British Columbia, Alberta, Saskatchewan, Ontario, New Brunswick

If a British Columbia Member, an Alberta Member, a Saskatchewan Member, an Ontario Member or a New Brunswick Member dies before pension payments have commenced while in Continuous Employment and after his normal retirement date, the value of any death benefit payable under this Article 12 will not be less than the benefit that would have been payable had the Member retired the day before his death.

(b) Quebec

If a Quebec Member dies before pension payments have commenced while in Continuous Employment and after his normal retirement date, the value of any death benefit payable under this Article 12 will not be less than the greater of (1) or (2) as follows:

- (1) the benefit that would have been payable under Section 10.1, 10.2, or 10.3(a), as applicable, had the Member retired the day before his death; or
- (2) either (A) or (B) as follows:
  - (A) the benefit determined in accordance with Section 12.4, if the Member has no surviving Spouse at the date of his death; and
  - (B) (i) plus (ii) as follows:
    - (i) the Member's required contributions made to the Prior Plan before January 1, 1990, plus Interest; plus
    - (ii) the benefit accrued to the Member in respect of Pensionable Service on and after January 1, 1990 (or otherwise granted to the Member by an amendment to the Plan made on or after January 1, 1990, with respect to Pensionable Service before January 1, 1990) up to his normal retirement date plus the Member's required contributions made to the Prior Plan on and after January 1, 1990, and on and after his normal retirement date, plus Interest, if the Member has a Spouse at the date of his death.

## 12.6 Settlement Option

### (a) British Columbia, Alberta, Saskatchewan

If the Spouse of a British Columbia Member, a Saskatchewan Member or an Alberta Member is entitled to benefits under Section 12.4 or 12.5, the Spouse may elect to receive such benefits as an annuity payable for the Spouse's lifetime commencing either immediately or before the Spouse's 71st birthday or, if later, within one year after the death of the Member. The annuity may be guaranteed for a period not exceeding 15 years. Notwithstanding the foregoing, with effect from January 1, 1997, the words "Spouse's 71st birthday" in this Section 12.6(a) shall read as "Spouse's 69th birthday or such other time as is acceptable under the Income Tax Act".

Benefits payable to the Member's Beneficiary under Section 12.4 or 12.5 are payable in a lump sum.

### (b) Ontario, Quebec, New Brunswick

If the Spouse of an Ontario, a Quebec or a New Brunswick Member is entitled to benefits under Section 12.4 or 12.5, the Spouse may elect to receive such benefits:

- (1) as a lump sum; or
- (2) as an annuity payable for the Spouse's lifetime commencing either immediately or before the Spouse's 71st birthday or, if later, within one year after the death of the Member. The annuity may be guaranteed for a period not exceeding 15 years. Notwithstanding the foregoing, with effect from January 1, 1997, the words "Spouse's 71st birthday" in this Section 12.6(b)(2) shall be read as "Spouse's 69th birthday or such other time as is acceptable under the Income Tax Act".

If the Spouse does not make an election under this Section 12.6(b) within 90 days of being advised on the entitlement under this Section, the Spouse will be deemed to have elected the immediate annuity described in Section 12.6(b)(2).

Benefits payable to the Member's Beneficiary under Section 12.4 or 12.5 are payable in a lump sum.

## 12.7 Spousal Waivers

A Member and his Spouse may waive the Spouse's entitlements under this Article 12 in the manner and in the form prescribed by Applicable Pension Legislation.

### **12.8 Death after Pension Commencement**

Any death benefit payable on the death of a Member who has commenced to receive his pension is determined in accordance with the form of the pension being paid to the Member under Article 10.

### **12.9 Excess Contributions**

In addition to any other death benefits payable under this Article 12, a Member who dies prior to receiving a benefit in respect of his Excess Contributions will have such contributions, calculated in accordance with Section 9.7, and payable in accordance with Section 9.8.

## ARTICLE 13 - ADMINISTRATION

### 13. 13.1 Administration

The administrator of the Plan will be the Company. The Management Committee of the Board of Directors of the Company will appoint a Pension and Benefits Committee to act on behalf of the Company in its capacity as administrator of the Plan. The Pension and Benefits Committee will decide conclusively all matters relating to the operation, interpretation and application of the Plan.

### 13.2 Duties of the Pension and Benefits Committee

The Pension and Benefits Committee will:

- (a) be responsible for the performance of all administrative functions not performed by the Funding Agent, the Actuary or any group annuity contract issuer;
- (b) enact rules and regulations relevant to the operation of the Plan and amend or revoke such rules and regulations from time to time;
- (c) recommend amendments to the Plan;
- (d) interpret the terms and provisions of the Plan and determine any and all questions arising thereunder or in connection with the administration thereof, including the right to remedy possible ambiguities, inconsistencies or omissions, and in so doing, it will act in a way such as not to discriminate unfairly in favour of any Employee or Member;
- (e) appoint an agent who will:
  - (1) maintain, or cause to be maintained, records of the Members;
  - (2) maintain such data as may be required for the actuarial valuation of the liabilities of the Plan; and
  - (3) decide all questions relating to service, eligibility, membership, early retirement, pension benefits and the amount of any Employee's Earnings for the purpose of the Plan.

### 13.3 Employee Disclosure

The Pension and Benefits Committee will provide each Member with a written explanation of the terms and conditions of the Plan and amendments thereto applicable to him, together with an explanation of the rights and duties of the Member with reference to the benefits available to him under the terms of the Plan. The Pension and Benefits Committee will also provide the Member, Employee, Spouse or any other authorized individual with such other information as may be prescribed under Applicable Pension Legislation.

A copy of the Funding Agreement and other documents prescribed under Applicable Pension Legislation may be examined by any Member of the Plan (or by any other individual with an interest in the Plan that is recognized under Applicable Pension Legislation) at any reasonable time at the head office of the Employer or such other location as may be prescribed under Applicable Pension Legislation.

#### **13.4 Indemnification of Delegates**

If the Employer delegates all or some of its powers of administration to an employee or employees, the Management Committee and the Pension and Benefits Committee ("Delegates"), the Employer will defend, save harmless and fully indemnify such Delegates, their heirs, executors, administrators, successors and legal representatives, at all times from and against all claims and demands of every nature and kind and all proceedings in respect thereof which may be made or brought against them, or any one of them, by any Member for himself, his Spouse, his heirs, executors, administrators and beneficiaries. This indemnification includes all costs, disbursements, legal fees and all other expenses reasonably incurred or occasioned in connection therewith, save and except for any claims, demands and proceedings arising from any act or omission which is due to wilful misconduct, fraud or lack of good faith by the Delegates, or any one of them.

## ARTICLE 14 - RIGHT TO AMEND OR TERMINATE THE PLAN

### 14. 14.1 Continuation of the Plan

The Employer intends to maintain the Plan indefinitely but reserves the right to amend or discontinue the Plan either in whole or in part at any time.

### 14.2 Amendment to the Plan

- (a) No amendment will operate to reduce the pension benefits which have accrued to any Member before the date of such amendment based on Earnings at that date.
- (b) Where an amendment results in a certifiable past service pension adjustment (as defined under the Income Tax Act) in respect of a Member, the amendment will not apply to such Member before certification of the past service pension adjustment in accordance with the Income Tax Act.

### 14.3 Termination of the Plan

- (a) If the Plan is wound up, in whole or in part, the assets of the Fund will first be allocated for provision of benefits in accordance with the terms of the Plan, Applicable Pension Legislation, the Income Tax Act and any other applicable legislation.
- (b) If the Plan is wound up, in whole or in part, the Employer will not make further contributions to the Fund in respect of the Plan or the portion of the Plan being wound up, as applicable, except for amounts due or that have accrued up to the effective date of the wind-up and which have not been paid into the Fund, as required by the Plan and Applicable Pension Legislation.
- (c) Subject to the application of the Pension Benefits Guarantee Fund (Ontario), if the Plan is wound up, in whole or in part, and the assets in the Fund are not sufficient to pay all the benefits under the Plan or the portion of the Plan being wound up, as applicable, the benefits payable will be reduced in the manner prescribed by Applicable Pension Legislation.

### 14.4 Wind-Up Surplus

If after provision for benefits payable to or in respect of Members on the wind-up, in whole or in part, of the Plan, assets remain in the Fund or the part of the Fund affected by the partial wind-up, such assets will be refunded to the Employer, provided the Employer complies with the requirements of Applicable Pension Legislation and the Income Tax Act.

## ARTICLE 15 - GENERAL PROVISIONS

### 15. 15.1 Right to Employment

Nothing contained in the Plan will confer upon any Member or Employee the right to be retained in the Continuous Employment of the Employer nor will it interfere in any manner with the right of the Employer to discharge any person.

### 15.2 Non Alienation of Benefits

Except as specified in Section 15.3, money payable under the Plan is subject to the following restrictions:

(a) Void Transactions

any transaction that purports to assign, charge, anticipate, surrender or give as security money payable under the Plan is void; and

(b) Exemption From Seizure

money payable under the Plan is exempt from execution, seizure or attachment.

### 15.3 Marital Breakdown

(a) Support Obligations

Payments under the Plan are subject to execution, seizure or attachment in satisfaction of a decree, order or judgement of a competent tribunal (or written domestic contract) for support or maintenance enforceable in Ontario or another relevant jurisdiction, in accordance with Applicable Pension Legislation and the Income Tax Act.

(b) Division of Property

The benefits of a Member may be partitioned between the Member and his Spouse or former Spouse, in accordance with a decree, order or judgement of a competent tribunal (or written domestic contract), within the limits imposed by Applicable Pension Legislation and the Income Tax Act.

(c) Where all or part of a Member's pension or other benefits are distributed to a Spouse or former Spouse, the Commuted Value of a Member's pension or other benefits payable to the Member and Spouse or former Spouse after the distribution, will not exceed the Commuted Value of the pension and other benefits that would have been payable in respect of the Member, had the distribution not occurred.

#### **15.4 Non-Commutation of Pensions**

A pension or deferred pension payable under this Plan will not be capable of being commuted, except as follows:

- (a) as permitted under Section 9.9;
- (b) as permitted under Section 11.6;
- (c) as permitted under Section 11.9; or
- (d) as permitted in accordance with Applicable Pension Legislation, in the event that the life expectancy of the Member is likely to be considerably shortened by reason of his mental or physical disability.

#### **15.5 Information to be Provided Before Employer Pays Benefits**

Payment of benefits will not be made until the person entitled to payment of the benefit delivers to the Employer:

- (a) satisfactory proof of age of the person and other persons who may become entitled to payment of the pension and such other information as may be required to calculate and pay the benefit; and
- (b) if the benefit is payable to a Member or Spouse, a signed declaration of marital status.

#### **15.6 Payment to Minors and Physically or Mentally Handicapped**

If, when a benefit becomes payable, the Employer finds that the person entitled to receive the benefit under the Plan is a minor, or is otherwise incapable of giving a valid receipt and release thereof, the payment may be made to:

- (1) the guardian, committee or other legal representative of the person; or
- (2) a court or authorized government agency of the jurisdiction to which the pension is subject, for the credit of the person, in accordance with the laws of the jurisdiction governing such payment.

Any such payment will operate as a complete discharge of liability under this Plan.

#### **15.7 Service in More than One Province**

If the Member has been in Continuous Employment in more than one province, the Member's benefit payable under the Plan on his retirement in respect of all years of Pensionable Service will be determined in accordance with the provisions of the most generous Applicable Pension Legislation in force in any of the provinces in which he has Continuous Employment.

### **15.8 Currency**

All contributions to the Plan and all benefits payable from the Plan will be made in lawful Canadian currency, provided that in case of any Member being paid his Earnings with some other currency, the Company may, from time to time in its discretion, fix the rate of exchange to be used for the purpose of the Plan in converting to Canadian currency his Earnings and benefits under the Plan.

### **15.9 Severability**

If any provision of the Plan is held to be invalid or unenforceable by a court of competent jurisdiction, its invalidity or unenforceability will not affect any other provision of the Plan and the Plan will be construed and enforced as if such provision had not been included in the Plan.

### **15.10 Construction**

The Plan will be governed and construed in accordance with the laws of Ontario. Any provision of the Funding Agreement that is inconsistent with the terms of the Plan will, to the extent of the inconsistency, be of no force or effect.

## APPENDIX A

1. Additional Annual Retirement Income

Each Member and each Spouse in receipt of a retirement income in accordance with the applicable provisions of Articles 9 and 10 of the Plan will be entitled to an additional annual retirement income to the extent set out below.

2. Manner Payable

The additional annual retirement income will be payable in the same manner and form as the retirement income otherwise being paid.

3. Additional Annual Retirement Income Effective January 1, 1987

The additional annual retirement income payable to a Member or the Spouse of a deceased Member whose retirement income commenced prior to January 1, 1987 will be the product of:

(a) the annual amount of retirement income otherwise being paid as at December 31, 1986; and

(b) a percentage addition determined as follows:

<u>YEAR OF COMMENCEMENT OF RETIREMENT INCOME</u>	<u>PERCENTAGE ADDITION</u>
1983 and earlier	7.15%
1984	5.85%
1985	3.35%
1986	1.00%

In the event the Member was under 60 years of age on January 1, 1987, the additional retirement income will not commence until his 60th birthday, unless the Member had retired on account of inability to continue employment due to Total Disability or failure to keep up with technological advancement. For the purposes of this paragraph 3, "Total Disability" means Total Disability as defined in Section 2.37(a) and (b).

4. Additional Annual Retirement Income effective January 1, 1991

The additional annual retirement income payable to a Member or the Spouse of a deceased Member whose retirement income commenced prior to January 1, 1991 will be the product of:

(a) the annual amount of retirement income otherwise being paid as at December 31, 1990; and

(b) a percentage addition determined as follows:

<u>YEAR OF COMMENCEMENT OF RETIREMENT INCOME</u>	<u>PERCENTAGE ADDITION</u>
1986 and earlier	10.01%
1987	8.57%
1988	6.37%
1989	3.50%
1990	1.30%

In the event the Member is under 60 years of age on January 1, 1991, the additional retirement income will not commence until his 60th birthday, unless the Member had retired on account of inability to continue employment due to Total Disability or failure to keep up with technological advancement. For the purposes of this paragraph 4, "Total Disability" means Total Disability as defined in Section 2.37(a) and (b).

5. Limitation

The additional retirement income payable at and after age 60 under this Appendix A, will be warranted by increases in the Consumer Price Index.

**APPENDIX B**

**SUBSIDIARY OR AFFILIATED COMPANIES**

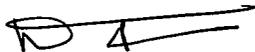
**PARTICIPATING IN THE PLAN**

Caradon Limited  
Indal Technologies Inc.  
Caradon Lock-Wood, a division of Caradon Limited  
Brampton Foundries Ltd.

This is **Exhibit "J"** referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
26<sup>th</sup> day of October, 2010



.....  
A Commissioner for taking affidavits, etc.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF the *Companies' Creditors  
Arrangement Act*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
of INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA  
INC. and NOVAR INC.

(the "Applicants")

**AFFIDAVIT OF KEITH COOPER**

(Sworn August 24, 2009)

I, Keith Cooper, of the City of Atlanta, in the State of Georgia, United States of  
America, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Senior Managing Director with FTI Consulting Inc. On March 19, 2009, I was appointed as Chief Restructuring Officer of each of the Applicants' U.S. based affiliates, Indalex Holdings Finance, Inc., Indalex Holding Corp. ("Indalex Holding"), Indalex Inc., Caradon Lebanon, Inc., and Dolton Aluminium Company, Inc. (collectively "Indalex US" and together with the Applicants, "Indalex").
2. Indalex is an interdependent enterprise. Although I did not engage in the day to day management of the Applicants, throughout the course of these proceedings, I have worked closely and cooperatively with the Applicants and the Monitor, in order to achieve a going concern solution for Indalex's business. Accordingly, I have knowledge of the matters deposed to in this affidavit. Where this affidavit is

not based on my direct personal knowledge, it is based on information and belief and I verily believe such information to be true.

3. This affidavit is sworn in support of the Applicants' motion for an order lifting the stay of proceedings for the purposes of allowing the Applicants to file a voluntary assignment in bankruptcy. It is also sworn supplementary to the affidavit of Bob Kavanaugh sworn August 12, 2009 and in response to the motion of the Retired Executives and the USW (as both terms are defined herein) in connection with their motion requesting, *inter alia*, a declaration that the proceeds from the sale of the Applicants' business is subject to a deemed trust for the benefit of beneficiaries to certain pension plans administered by the Applicants.

### **BACKGROUND**

4. On March 20, 2009, Indalex US commenced reorganization proceedings under Chapter 11 of Title 11 of the United States Code (the "Chapter 11 Cases") before the United States Bankruptcy Court for the District of Delaware.
5. On April 3, 2009, the Applicants commenced parallel proceedings and filed for and obtained protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), pursuant to an order (the "Initial Order") of the Honourable Mr. Justice Morawetz.
6. Pursuant to the Initial Order, FTI Consulting Canada ULC was appointed as Monitor of the Applicants.
7. On April 8, 2009, the Initial Order was amended and restated (the "Amended and Restated Initial Order") to, *inter alia*, authorize the Applicants to exercise certain restructuring powers and authorize Indalex Limited to borrow funds (the "DIP Borrowings") pursuant to a debtor-in-possession credit agreement (as amended, the "DIP Credit Agreement") among Indalex US, the Applicants and a syndicate of lenders (the "DIP Lenders") for which JPMorgan Chase Bank, N.A. is administrative agent (the "DIP Agent").

8. Pursuant to the terms of the Amended and Restated Initial Order, the Applicants' obligation to repay the DIP Borrowings were secured by a Court-ordered charge in priority to all liens and encumbrances, including deemed trusts and statutory liens, other than the "Administration Charge" and the "Directors' Charge".
9. DIP Borrowings were used to fund the working capital needs of the Applicants, including payment of employee wages and benefits, payment of post-filing goods and services and payment of regular course contributions to the Applicants' registered pension plans, among other cost and expenses necessary for the preservation of the Applicants' business and assets. The DIP Credit Agreement contemplated that the DIP Borrowings would be repaid from the proceeds derived from a going concern sale of Indalex's assets, on or before August 1, 2009.
10. The Applicants obligation to repay the DIP Borrowings was guaranteed by Indalex US. The guarantee by Indalex US was a condition to the extension of credit by the DIP Lenders to the Applicants. The DIP Credit Agreement providing for this guarantee was approved by the Court.
11. On April 22, 2009, the Court granted an order which, *inter alia*, extended the stay of proceedings to June 26, 2009, and approved a marketing process (the "Marketing Process") to identify a stalking horse bidder for the assets of the Applicants'. Indalex's assets were marketed in a single, consolidated process.
12. By order dated May 12, 2009, the Court further amended the Amended and Restated Initial Order (now the "Amended Amended and Restated Initial Order"). The Amended Amended and Restated Initial Order is attached hereto as **Exhibit "A"**.
13. By Order dated July 2, 2009, (the "Stalking Horse Order") SAPA Holding AB (including any assignees, "SAPA") was designated as the stalking horse bidder in accordance with the Marketing Process. The Stalking Horse Order also approved bidding procedures to solicit higher and better offers for the Applicants' assets (the "Bidding Procedures"). The asset purchase agreement (the "APA") between

Indalex and SAPA was also designated as a “Qualifying Bid” pursuant to the terms of the Bidding Procedures.

14. The Stalking Horse Order was issued over the objection of a group of eight former executives of Indalex Limited (collectively, the “Former Executives”). The endorsement of Mr. Justice Morawetz issued in connection with the granting of the Stalking Horse Order and the dismissal of the Former Executives’ objection is attached hereto as **Exhibit “B”**.
15. The same day of the hearing of the motion seeking the issuance of the Approval and Vesting Order, the Former Executives brought a motion seeking the reinstatement of payments owing to them by Indalex Limited pursuant to a Supplemental Executive Retirement Plan (“SERP”), which payments were suspended by the Applicants immediately following the commencement of the CCAA proceedings. The Former Executives’ motion was dismissed by the Court. The endorsement of Mr. Justice Morawetz issued in connection with the dismissal of the Former Executives’ motion is attached hereto as **Exhibit “C”**. The Former Executives have sought leave to appeal this decision.
16. As no “Qualifying Bids” were received in accordance with the Bidding Procedures, by Order dated July 20, 2009 (the “Approval and Vesting Order”), the Court approved the sale of the Applicants’ assets as a going concern to SAPA, and ordered that upon closing of the SAPA transaction, the proceeds of sale (the “Canadian Sale Proceeds”) were to be paid to the Monitor.
17. The Former Executives objected to the granting of the Approval and Vesting Order. The objection was dismissed by the Court.
18. Pursuant to the Approval and Vesting Order, the Monitor was ordered and directed to make a distribution to the DIP Lenders, from the Canadian Sale Proceeds, in satisfaction of the Applicants’ obligations to the DIP Lenders, subject to a reserve that the Monitor considered to be appropriate in the circumstances (the “Undistributed Proceeds”).

19. At the hearing, the Former Executives, through counsel, advised that they intended to bring a motion before the Court to assert a deemed trust claim over the Canadian Sale Proceeds in respect of the underfunded deficiency owing by Indalex Limited to the Executive Pension Plan, from which the Former Executives receive benefits. The Former Executives requested that an amount of \$3.25 million representing their estimate of the underfunded deficiency be included in the amount retained by the Monitor as Undistributed Proceeds. The Monitor agreed to include such amount, in addition to the other amounts retained.
20. The Executive Plan was not at the time of the issuance of the Approval and Vesting Order wound up and it has not been wound up as of the date hereof.
21. The United Steel Workers (“USW”), which represented the Applicants unionized workforce supported the Approval and Vesting Order. The SAPA transaction provided for the assumption of the USW collective agreements by SAPA and the continuation of employment with SAPA of all USW members employed by the Applicants. The USW, however, through counsel, reserved its rights with respect to any deemed trust claim it may have with respect to the Salaried Plan, in which certain USW members participate. I am advised by Bob Kavanaugh, the former Vice-President, Corporate Controller of Indalex Limited, that the Salaried Plan is in the process of being fully wound up with an effective date of December 31, 2006.
22. As a result of the USW’s reservation of rights, the Monitor also retained the amount of \$3.5 million as part of the Undistributed Proceeds, in addition to other amounts reserved by the Monitor. The total amount retained by the Monitor includes not only amounts relating to the asserted deemed trust claims, but also for amounts relating to the payment of cure costs (provided for under the APA) other costs associated with the completion of the SAPA transaction, legal and professional fees and amounts owing under the DIP Lenders Charge. Of this, \$6.75 million represents the amount related to the deemed trust claims. Pursuant to the endorsement of the Honourable Mr. Justice Campbell dated July 20, 2009,

there is no obligation for the Monitor to hold this amount in a separate account, and accordingly, the Monitor has advised that this amount is being held in a general account, commingled with other funds of the estate. The funds in the account will be distributed in accordance with existing and future orders of the Court.

23. The DIP Agent advised Indalex US that to the extent the effect of the Monitor retaining the Undistributed Proceeds was that the Applicants could not repay the DIP Borrowings in full at the closing of the SAPA transaction, the DIP Agent would call on the guarantee granted by Indalex US to satisfy the deficiency.
24. On July 31, 2009, the sale of Indalex's assets to SAPA closed. A total payment of US\$17,041,391.80 was made from the Canadian Sale Proceeds by the Monitor, on behalf of the Applicants, to the DIP Agent. As this resulted in a deficiency of US\$10,751,247.22, the DIP Agent called on the guarantee granted to the DIP Lenders by Indalex US for the amount of the deficiency (the "Guarantee Payment") and Indalex US has satisfied the obligation of the Applicants.
25. Pursuant to paragraph 14 of the Approval and Vesting Order, Indalex US is fully subrogated to the rights of the DIP Lenders under the DIP Lenders Charge for the amount of the Guarantee Payment.
26. By Order dated July 30, 2009, the Court implemented a claims procedure (the "Claims Procedure") that called for claims against the Applicants and directors of the Applicants, in order to facilitate a determination of entitlement to the Canadian Sale Proceeds.

#### DEEMED TRUST CLAIM

27. August 28, 2009 was scheduled for the hearing of the deemed trust motion and the Former Executives served and filed their motion record on August 5, 2009, asserting a deemed trust claim over the underfunded deficiency of the Executive Plan.

28. On or about August 5, 2009, the USW filed its motion seeking a deemed trust over the underfunded deficiency of the Salaried Plan.
29. Indalex US has considered its options in light of the allegations and positions set out in the motion records filed by these parties.

#### **VOLUNTARY ASSIGNMENT IN BANKRUPTCY**

30. The Applicants and Indalex US strongly dispute the validity of the deemed trust claim, and are of the view that the wind-up liability is an unsecured claim, and any deemed trust, even if it were valid, does not rank in priority to the DIP Lenders Charge.
31. I understand that any purported priority claimed by the USW and the Former Executives (which priority is disputed by the Applicants) is extinguished on bankruptcy. In order to provide conclusive certainty that any purported deemed trust claim does not rank in priority to the DIP Lenders Charge, pursuant to a unanimous shareholder declaration executed by Indalex Limited's immediate parent, Indalex Holding, dated as of July 31, 2009, Indalex Holding has instructed the Applicants to seek approval of the Court to file a voluntary assignment in bankruptcy to ensure that the priority regime set out in the *Bankruptcy and Insolvency Act* (Canada) applies to the distribution of the Canadian Sale Proceeds.
32. While the Claims Procedure was commenced in the within proceedings, at no point in time did the Applicants rule out an eventual filing of a voluntary assignment in bankruptcy.

#### **CORPORATE GOVERNANCE**

33. The Applicants are no longer carrying on business, have no active employees and no tangible assets, other than cash (including sale proceeds) and certain tax refunds. The board of directors of the Applicants has resigned and the former directors are all currently employed by SAPA. The Applicants are insolvent shells.

- 34. The only material obligation remaining by Indalex under the APA is the completion of the post-closing working capital adjustment. \$2.75 million is currently being held in escrow by the Monitor, to ensure any adjustment in favour of SAPA will be satisfied with any balance to ultimately be made available to the Applicants' creditors, in accordance with their entitlement and priority.
  
- 35. For the reasons set out above, including that the Applicants are insolvent shells and no longer carrying on business, an assignment in bankruptcy is appropriate in the circumstances.

SWORN BEFORE ME at the City of )  
Atlanta, in the State of Georgia )  
 this 24<sup>th</sup> day of August, 2009 )

Mandy Ann Williams )  
 A NOTARY PUBLIC )

Keith Cooper  
 KEITH COOPER

Exhibit "A"

This is Exhibit "A" referred to in  
the Affidavit of  
Keith Cooper  
Sworn before me this 24th day of  
August, 2009.  
Mandy Ann Williams  
A COMMISSIONER, ETC.

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

THE HONOURABLE MR. ) TUESDAY, THE  
JUSTICE MORAWETZ ) 12<sup>th</sup> DAY OF MAY, 2009



IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF INDALEX LIMITED, INDALEX  
HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and  
NOVAR INC. (the "Applicants")

**AMENDED AMENDED AND RESTATED INITIAL ORDER**

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCA") was heard this day at 330 University Avenue, Toronto, Ontario.

WHEREAS AN INITIAL ORDER in this matter was issued on April 3, 2009, which order was subsequently amended and restated by an order dated April 8, 2009, and such order is hereby further amended and restated.

ON READING the affidavit of Timothy R.J. Stubbs sworn April 3, 2009 and the Exhibits thereto, the supplemental affidavit of Patrick Lawlor sworn April 8, 2009 and the Exhibits thereto, (the "Supplemental Affidavit"), the affidavit of Michelle Schwartzberg sworn May 6, 2009 and the Exhibits thereto, the pre-filing report of FTI Consulting Canada ULC ("FTI Canada" or the "Monitor") in its capacity as proposed Monitor and the First Report of the Monitor for the Applicants, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, and counsel for the DIP Agent, JPMorgan Chase Bank, N.A. ("JPM")

under the Prepetition Credit Agreement (in such capacity, the "Prepetition Agent") and as administrative agent for the proposed DIP Lenders (in such capacity, the "DIP Agent"), and on reading the consent of FTI Canada to act as the Monitor,

### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged so that this Application is properly returnable today and hereby dispenses with further service thereof.

### **APPLICATION**

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies.

### **PLAN OF ARRANGEMENT**

3. THIS COURT ORDERS that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court one or more plans of compromise or arrangement with respect to one or more of the Applicants (hereinafter referred to as the "Plan") between, *inter alia*, the Applicants and one or more classes of their secured and/or unsecured creditors as they deem appropriate.

### **POSSESSION OF PROPERTY AND OPERATIONS**

4. THIS COURT ORDERS that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"): Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their businesses (the "Business") and Property. The Applicants shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicants are authorized and directed to remit to the DIP Agent immediately upon the Applicants' receipt thereof or otherwise in accordance with the Applicants' current practices all cash, monies and collection of account receivables and other book debts (collectively, "Cash Collateral") in its possession or control and all Cash Collateral so remitted shall be applied in accordance with the DIP Documents. The DIP Agent is hereby authorized, as of the Effective Date (as defined in the DIP Credit Agreement, as defined below), to (i) send a notice to each Receivables Account Bank (as defined in the Canadian Security Agreement referred to in the DIP Credit Agreement) to commence a period during which the applicable Receivables Account Bank shall cease complying with any instructions originated by any applicable Applicant and shall comply with instructions originated by the DIP Agent directing dispositions of funds, without further consent of the applicable Applicant, and (ii) apply (and allocate) the funds in each Receivables Account (as defined in the Canadian Security Agreement referred to in the DIP Credit Agreement) pursuant to sections 2.09(d) of the DIP Credit Agreement without further order or approval of this Court. Each Receivables Account Bank is hereby authorized to comply with any instructions originated by the DIP Agent on or after the Effective Date directing disposition of funds, without further consent of the applicable Applicant or further order or approval of this Court, and is further authorized to comply with any instructions delivered by the DIP Agent or JPM in its capacity as Prepetition Agent under that certain Credit Agreement among, *inter alia*, the Applicants, dated May 21, 2008 as amended from time to time (the "Prepetition Credit Agreement") to such Receivables Account Bank prior to the Effective Date directing disposition of funds, without further consent of the applicable Applicant or further order or approval of this Court. As of the Effective Date, each "Deposit Account Control Agreement" and "Receivables Account Control Agreement" (as each such term is defined in the Domestic Security Agreement or the Canadian Security Agreement referred to in the Prepetition Credit Agreement) will continue and remain in full force and effect, in each case substituting the Prepetition Agent as the secured party thereunder with the DIP Agent. The Applicants shall maintain their cash management and accounts receivable collection system (the "Cash Management System") in existence prior to the date of this Order, including the Collateral Accounts (as defined below) associated therewith. Each Receivable Account Bank shall not be under any obligation whatsoever to inquire into the propriety validity, or legality of any transfer, payment, collection, or other action taken under this paragraph, or as to the use or application by

the Applicants of funds transferred, paid, collected, or otherwise dealt with in accordance with this paragraph, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of this paragraph or any documentation applicable to the Cash Management System, and shall be, in its capacity as a Receivable Account Bank, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. [RESERVED]

7. THIS COURT ORDERS that subject to the terms of the DIP Documents (as defined below), the Applicants shall be entitled to but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages and salaries (for greater certainty wages and salaries shall not include severance or termination pay), employee and pension benefits, current service contributions to pension plans (which for greater certainty shall not include special payments) vacation pay, bonuses and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges;

8. THIS COURT ORDERS that, except as otherwise provided to the contrary herein and pursuant to the terms and conditions of the DIP Documents, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services;

- (b) payment for goods or services actually supplied to the Applicants following the date of this Order; and
- (c) with the consent of the Monitor, in consultation with the DIP Lenders or their financial advisors, costs and expenses incurred prior to the date of this Order, up to the maximum amount approved by the DIP Lenders pursuant to the DIP Credit Agreement, where in the opinion of the Applicants and the Monitor such payments (i) are necessary to preserve the Property, Business and/or ongoing operations of the Applicants and (ii) can be made on such terms and conditions as will provide a material benefit to the Applicants and their stakeholders as a whole.

9. THIS COURT ORDERS that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) current service ("normal cost") contributions to pension plans when due (which, for greater certainty, shall not include special payments);
- (c) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (d) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured

creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

10. THIS COURT ORDERS that until such time as an Applicant delivers a notice in writing to repudiate a real property lease in accordance with paragraph 12(c) of this Order (a "Notice of Repudiation"), the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any arrears relating to the period commencing from and including the date of this Order shall also be paid. Upon delivery of a Notice of Repudiation, the Applicant shall pay all Rent due for the notice period stipulated in paragraph 12(c) of this Order, to the extent that Rent for such period has not already been paid.

11. THIS COURT ORDERS that, except as specifically permitted herein and the DIP Documents or with the consent of the Monitor and the DIP Agent, the Applicants are hereby directed, until further Order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; provided, however, that the Applicants shall make all such payments under the Prepetition Credit Agreement as required pursuant to the terms of the DIP Documents and contemplated in the Applicants' cash flow projections and budget approved by the DIP Agent;
- (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and
- (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## RESTRUCTURING

12. THIS COURT ORDERS that the Applicants shall, subject to such covenants as may be contained in the DIP Documents (as hereinafter defined), have the right to:

- (a) with the consent of the Monitor and the DIP Agent, permanently or temporarily cease, downsize or shut down any of its business or operations and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$1,000,000 in the aggregate, subject to paragraph 12(c) if applicable;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate on such terms as may be agreed upon between the Applicant and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;
- (c) in accordance with paragraphs 13 and 14, vacate, abandon or quit the whole but not part of any leased premises and/or repudiate any real property lease and any ancillary agreements relating to any leased premises, on not less than seven (7) days notice in writing to the relevant landlord on such terms as may be agreed upon between the Applicant and such landlord, or failing such agreement, to deal with the consequences thereof in the Plan;
- (d) repudiate such of its arrangements or agreements of any nature whatsoever, whether oral or written, other than collective agreements, as the Applicant deems appropriate on such terms as may be agreed upon between the Applicant and such counter-parties, or failing such agreement, to deal with the consequences thereof in the Plan; and
- (e) pursue all avenues of refinancing and offers for material parts of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing or any sale (except as permitted by subparagraph (a), above),

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the "Restructuring").

13. THIS COURT ORDERS that each Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant repudiates the lease governing such leased premises in accordance with paragraph 12(c) of this Order, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in paragraph 12(c) of this Order), and the repudiation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

14. THIS COURT ORDERS that if a Notice of Repudiation is delivered, then (a) during the notice period prior to the effective time of the repudiation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the applicable Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the repudiation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY**

15. THIS COURT ORDERS that until and including May 1, 2009, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written

consent of the applicable Applicant, the Monitor and the DIP Agent, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

16. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the applicable Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (b) exempt the Applicants from compliance with statutory or regulatory provisions relating to health, safety or the environment, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

17. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the relevant Applicant and the Monitor, or leave of this Court.

#### **CONTINUATION OF SERVICES**

18. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with an Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, employee benefits, transportation, services, utility or other services to the Business or an Applicant (including, where a notice of termination may have been given with an effective date after the date of this Order), are hereby restrained until further Order of this Court from discontinuing, altering,

interfering with or terminating the supply of such goods or services as may be required by an Applicant, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

19. THIS COURT ORDERS that, notwithstanding anything else contained herein, no creditor of the Applicants shall be under any obligation after the making of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

20. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.5(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of an Applicant with respect to any claim against the directors or officers that arose before or after the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed in respect of the Applicant, is sanctioned by this Court or is refused by the relevant creditors or this Court.

#### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

21. THIS COURT ORDERS that the Applicants shall indemnify their respective directors and officers from all claims, costs, charges and expenses relating to the failure of the Applicants, after the date hereof, to make payments of the nature referred to in subparagraphs 7(a), 9(a), 9(b), 9(c) and 9(d) of this Order which they sustain or incur by reason of or in relation to their respective capacities as directors and/or officers of the Applicants except to the extent that, with

respect to any officer or director, such officer or director has actively participated in the breach of any related fiduciary duties or has been grossly negligent or guilty of wilful misconduct.

22. THIS COURT ORDERS that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of U.S.\$3,300,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 42 and 45 herein.

23. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order, or the insurer fails to fund defence costs on a timely basis; provided, however, any defence costs paid in respect of the same claim by the insurer shall first be used to reimburse the amounts paid under this paragraph to fund such costs.

#### **APPOINTMENT OF MONITOR**

24. THIS COURT ORDERS that FTI Canada is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property and the Applicants' conduct of the Business with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their respective shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations.

25. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;

- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Agent and its counsel on a periodic basis of financial and other information as agreed to between the Applicants and the DIP Agent which may be used in these proceedings including reporting on a basis to be agreed with the DIP Agent;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and any reporting required by the DIP Agent, which information shall be reviewed with the Monitor and delivered to the DIP Agent and its counsel on a periodic basis, as agreed to by the DIP Agent;
- (e) advise the Applicants in their development of any one or more Plans and any amendments to such Plan or Plans;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on any Plan or Plans;
- (g) have full and complete access to the books, records and management, employees and advisors of the Applicants and to the Business and the Property to the extent required to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order, including being at liberty to retain and utilize the services of entities related to the Monitor as may be necessary to perform its duties hereunder;
- (i) be at liberty to act as a Foreign Representative in any foreign proceedings in respect of the Applicants;

- (j) consider, and if deemed advisable by the Monitor, prepare a report and assessment on the Plan;
- (k) advise and assist the Applicants, as requested in its negotiations with suppliers, customers, creditors and other stakeholders; and
- (l) perform such other duties as are required by this Order or by this Court from time to time.

26. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

27. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

28. THIS COURT ORDERS that the Monitor shall provide the DIP Agent and any other creditor of an Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor

shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by an Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the relevant Applicant may agree.

29. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

30. THIS COURT ORDERS that the Monitor, counsel to the Monitor, counsel to the Applicants and counsel for the Applicants' directors and officers shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicants, retainers in the amounts of \$50,000, each, respectively, and a retainer to counsel for the Applicants' directors and officers in the amount of \$20,000, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

31. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

32. THIS COURT ORDERS that the Monitor, counsel to the Monitor, the Applicants' counsel and counsel for the Applicants' directors and officers shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of U.S.\$500,000 as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both

before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 42 and 45 hereof.

### **DIP FINANCING**

33. THIS COURT ORDERS that the Canadian Subsidiary Borrower (as defined in the DIP Credit Agreement) is hereby authorized and empowered to obtain, borrow and repay under a credit facility pursuant to an agreement, substantially in the form of Exhibit "D" to the Supplemental Affidavit (subject to such non-material amendments thereto as may be consented to in advance to the Monitor) (the "DIP Credit Agreement") among the Applicants, Indalex Holdings Finance, Inc., Indalex Holding Corp., the non-Applicant affiliates party thereto, the lenders party thereto (the "DIP Lenders") and the DIP Agent as administrative agent for the purposes set out in the DIP Credit Agreement provided that the aggregate principal amount of the borrowings by the Applicants under such credit facility outstanding at any time shall not exceed a sub-facility in the amount of U.S. \$24,360,000 and shall be made in accordance with the terms of the DIP Loan Documents.

34. THIS COURT ORDERS that the Applicants other than Indalex Limited are hereby authorized and empowered to guarantee to and in favour of the DIP Agent and the DIP Lenders the Canadian Obligations under the DIP Credit Agreement (as those are defined in the DIP Credit Agreement).

35. [RESERVED]

36. THIS COURT ORDERS that the Applicants are hereby authorized and empowered to guarantee to and in favour of the DIP Agent and the DIP Lenders the "Secured Obligations" subject to and in accordance with the DIP Credit Agreement (as those terms are defined in the DIP Credit Agreement).

37. THIS COURT ORDERS that notwithstanding paragraph 36, the guarantee by the Applicants of the Secured Obligations under the DIP Credit Agreement in an amount equal to the amount of any reduction of the U.S. Revolving Exposure (as defined in the Prepetition Credit Agreement) plus the amount of the Swap Obligations (as defined in the DIP Credit Agreement) after the Effective Date shall not be enforceable only to the extent that this Court issues an order

declaring that any guarantee given by the Applicants and any security granted by the Applicants related to such guarantee in respect of the U.S. Guaranteed Obligations under the Prepetition Credit Agreement is voidable or not valid, not binding or not enforceable, provided, however, that the guarantee granted by the Applicants under the DIP Credit Agreement as to all other amounts constituting Secured Obligations under the DIP Credit Agreement is hereby deemed to be fully enforceable as against the Applicants and third parties, including any trustee in bankruptcy appointed in respect of any of the Applicants.

38. THIS COURT ORDERS that the Applicants are hereby authorized and empowered to execute and deliver the DIP Credit Agreement and such commitment letters, fee letters, credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "DIP Documents"), as are contemplated by the DIP Credit Documents or as may be reasonably required by the DIP Agent and the DIP Lenders pursuant to the terms thereof, and subject to paragraph 37, the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lenders and the DIP Agent under and pursuant to the DIP Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

39. THIS COURT ORDERS that the DIP Agent and the DIP Lenders shall be entitled to the benefit of and is hereby granted a charge (the "DIP Lenders Charge") on the Property, which charge shall not exceed the aggregate amount owed to the DIP Lenders under the DIP Documents. The DIP Lenders Charge shall have the priority set out in paragraphs 42 and 45 hereof.

40. THIS COURT ORDERS that, notwithstanding any other provision of this Order, but subject to paragraph 37:

- (a) the DIP Agent and the DIP Lenders may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Agent and the DIP Lenders Charge or any of the DIP Documents;
- (b) upon the occurrence of an event of default under the DIP Documents or the DIP Lenders Charge, the DIP Agent, on behalf of the DIP Lenders, upon three business

days notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to DIP Documents and the DIP Lenders Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lenders to the Applicants against the obligations of the Applicants to the DIP Lenders under the DIP Documents or the DIP Lenders Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for bankruptcy orders against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants, and upon the occurrence of an event of default under the terms of the DIP Documents, the DIP Lenders, upon three business days notice to the Applicants and the Monitor, shall be entitled to seize and retain proceeds from the sale of the Property and the cash flow of the Applicants to repay amounts owing to the DIP Lenders in accordance with the DIP Documents and the DIP Lenders Charge, but subject to the priorities as set out in paragraphs 42 and 45 of this Order; and

- (c) the foregoing rights and remedies of the DIP Agent and the DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

41. THIS COURT ORDERS AND DECLARES that, unless otherwise agreed, the DIP Agent and the DIP Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the DIP Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

42. THIS COURT ORDERS that the priorities of the Administration Charge, the Directors' Charge and the DIP Lenders Charge, as among them, shall be as follows:

First – Administration Charge;

Second – Directors' Charge (up to a maximum amount of U.S.\$1.0 million);

Third – DIP Lenders Charge; and

Fourth – Directors Charge (for the balance thereof, being U.S.\$2.3 million).

43. THIS COURT ORDERS that any distribution in respect of the DIP Lenders Charge as amongst the beneficiaries thereto shall be governed by the DIP Documents.

44. THIS COURT ORDERS that the filing, registration or perfection of the Administration Charge, the Directors' Charge or the DIP Lenders Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

45. THIS COURT ORDERS that each of the Administration Charge, the Directors' Charge and the DIP Lenders Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, statutory or otherwise (collectively, "Encumbrances") in favour of any Person.

46. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge the Administration Charge or the DIP Lenders Charge, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Agent and the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

47. THIS COURT ORDERS that subject to paragraph 37, the Directors' Charge, the Administration Charge, the DIP Documents and the DIP Lenders Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") and/or the DIP Lenders thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any

assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicants, or any of them, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Documents shall create or be deemed to constitute a breach by any of the Applicants of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Credit Agreement, the creation of the Charges, or the execution, delivery or performance of the DIP Documents; and
- (c) the payments made by the Applicants pursuant to this Order or the DIP Documents, and the granting of the Charges, do not and will not constitute fraudulent preferences, fraudulent conveyances, oppressive conduct, settlements or other challengeable, voidable or reviewable transactions under any applicable law.

48. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the relevant Applicant's interest in such real property leases.

#### SERVICE AND NOTICE

49. THIS COURT ORDERS that the Applicants shall, within ten (10) business days of the date of entry of this Order, send notice of this Order to their known creditors, other than employees and creditors to which the Applicants owe less than \$5000, at their addresses as they appear on the Applicants' records, advising that such creditor may obtain a copy of this Order on the internet at the website of the Monitor, <http://cfcanada.fticonsulting.com/indalex> (the "Website") and, if such creditor is unable to obtain it by that means, such creditor may obtain a copy from the Monitor. The Monitor shall promptly send a copy of this Order to any interested

Person requesting a copy of this Order, and the Monitor is relieved of its obligation under Section 11(5) of the CCAA to provide similar notice, other than to supervise this process.

50. THIS COURT ORDERS that the Applicants and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

51. THIS COURT ORDERS that the Applicants, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, in accordance with the E-filing protocol of the Commercial List to the extent practicable, and the Monitor may post a copy of any or all such materials on the Website.

#### **GENERAL**

52. THIS COURT ORDERS that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

53. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

54. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding,

or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

55. THIS COURT ORDERS that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

56. THIS COURT ORDERS that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order; provided however, the DIP Agent and the DIP Lenders shall be entitled to rely on this Order as issued for all advances made under the DIP Credit Agreement up to and including the date this Order may be varied or amended.

57. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Daylight Time on the date of this Order.



ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

MAY 12 2009

PER / PAR: 

THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c.C-36, AS AMENDED

Court File No. CV-09-8122-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and NOVAR INC. (the Applicants)

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AMENDED AMENDED AND RESTATED INITIAL  
ORDER**

**BLAKE, CASSELS & GRAYDON LLP**  
Barristers and Solicitors  
199 Bay Street, Suite 2800  
Box 25, Commerce Court West  
Toronto, Ontario M5L 1A9

**Linc Rogers** LSUC No.: 43562N  
Tel: (416) 863-4168

**Katherine McEachern** LSUC No.: 38345M  
Tel: (416) 863-2566  
Fax: (416) 863-2653

**Jackie Moher** LSUC No.: 53166V  
Tel: (416) 863-3174  
Fax: (416) 863-2653

Lawyers for the Applicants

# Exhibit "B"

This is Exhibit "B" referred to in  
the Affidavit of  
Keith Cooper  
Sworn before me this 24th day of  
August, 2009  
Marilyn Ann Williams  
A COMMISSIONER, ETC.

COURT FILE NO.: CV-09-8122-00CL

**SUPERIOR COURT OF JUSTICE -- ONTARIO  
(COMMERCIAL LIST)**

**RE: IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C., c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF INDALEX LIMITED, INDALEX HOLDINGS  
(B.C.) LTD., 6326765 CANADIAN INC. AND NOVAR INC.**

**Applicants**

**BEFORE: MORAWETZ J.**

**COUNSEL: Linc Rogers, Katherine McEachern and Jackie Moher, for the Applicants**

**Ashley Taylor and Lesley Mercer, for FTI Consulting Canada ULC,  
Monitor**

**Paul Macdonald and Jeff Levine, for JPMorgan (DIP Lender)**

**Kenneth D. Kraft, for SAPA Holding AB**

**Andrew Hatnay and Demetrios Yiokaris and Andrew Mckinnon, for  
Keith Carruthers and SERP Retirees**

**Brian Empey, for Sun Indalex**

**John D. Leslie, for the U.S. Unsecured Creditors' Committee**

**G. Finlayson, for U.S. Bank as Trustee for the Noteholders**

**HEARD: JULY 2, 2009**

**ENDORSEMENT**

Page: 2

[1] The Applicants seek an Order approving the Bidding Procedures as well as an Order deeming the Stalking Horse Bid to be a Qualified Bid pursuant to the Bidding Procedures as well as approval of the Breakup Fee.

[2] The Monitor recommends that the relief be granted. No party, with the exception of Mr. Carruthers and the SERP Retirees, is opposed.

[3] This motion stems directly from the Marketing Process which was approved by the Court on April 22, 2009. The conduct of the Marketing Process is set out both in the Affidavit of Mr. Fazio and in the Monitor's Reports. The Stalking Horse Bid of SAPA Holdings was executed on June 16, 2009. The Notice of Motion was served on June 17, 2009.

[4] The Marketing Process was conducted in both U.S. and Canada. Mr. Rogers advised that the Bidding Procedures were approved, with minor modification, by the U.S. Bankruptcy Court earlier today.

[5] It is also noted that it is a condition precedent to the performance of the Stalking Horse Bidder that the Bidding Procedures be Court approved by today.

[6] Mr. Rogers expressed the view that the Stalking Horse Bid is a worst-case scenario – but that it does represent a “bird in the hand”.

[7] This is not a motion to approve the transaction. This issue will be addressed at a future time.

[8] The approval of the Bidding Procedures is opposed by Mr. Hatnay on behalf of certain retirees. Mr. Hatnay requests a 7-day adjournment. That request is problematic in view of the aforementioned condition precedent. The main concern of the retirees is that their position and views have not been considered in this process. The Stalking Horse Bidder is not assuming the pension liabilities. Further, Mr. Hatnay submits that there are a number of unanswered questions relating to both the Executive Pension and the Supplementary Pension.

[9] The position facing the retirees is unfortunate. The retirees are currently not receiving what they bargained for. However, reality cannot be ignored and the nature of the Applicants' insolvency is such that there are insufficient assets to meet its liabilities. The retirees are not alone in this respect. The objective of these proceedings is to achieve the best possible outcome for the stakeholders. In addressing this objective, the Applicants put forth a process – the Marketing Process – which has already been Court approved. No party objected to the previous approval. In my view, the Applicants have adhered to the Court approved process and there is no basis to either delay the consideration of this motion or to give effect to the objection raised by the retirees. To hold otherwise would be to jeopardize the Stalking Horse Bid.

[10] In my view, the issues raised by the retirees do not have any impact on the Bidding Procedures. The issues can be raised by the retirees on any application to approve a transaction – but that is for another day. The *Soundair* principles raised by Mr. Hatnay are more applicable, in my view, to any sale approval motion. For today's motion, the process that is relevant is the Marketing Process as approved on April 22, 2009 which the Applicants have followed.

Page: 3

[11] The Bidding Procedures are therefore approved. The Stalking Horse Bid is deemed to be a Qualifying Bid and the Breakup Fee is approved.

[12] The Monitor filed a Supplement to the Sixth Report. In my view, this document contains confidential information the release of which could be prejudicial to the interests of the Applicants and stakeholders. In my view, it is appropriate to grant a sealing order with respect to this Supplement. The document is to be sealed pending further order.



MORAWETZ J. ✓

DATE: July 2, 2009

Typed Version Released: July 16, 2009

Exhibit "C"

This is Exhibit "C" referred to in  
the Affidavit of  
Keith Cooper  
Sworn before me this 24<sup>th</sup> day of  
August, 2009.  
Mandy Ann Williams  
A COMMISSIONER, ETC.

COURT FILE NO.: CV-09-8122-00CL  
DATE: 20090724

**SUPERIOR COURT OF JUSTICE - ONTARIO  
(COMMERCIAL LIST)**

**RE: IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C., c. C-36, AS AMENDED**  
  
**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF INDALEX LIMITED, INDALEX HOLDINGS  
(B.C.) LTD., 6326765 CANADIAN INC. AND NOVAR INC.**

**Applicants**

**BEFORE: MORAWETZ J.**

**COUNSEL: Linc Rogers, Katherine McEachern and Jackie Moher, for the Applicants**

**Ashley Taylor and Lesley Mercer, for FTI Consulting Canada ULC,  
Monitor**

**Paul Macdonald and Jeff Levine, for JPMorgan (DIP Lender)**

**Kenneth D. Kraft, for SAPA Holding AB**

**Andrew Hatnay and Demetrios Yiokaris and Andrew Mckinnon, for  
Keith Carruthers and SERP Retirees**

**B. Empey, for Sun Indalex Finance LLC**

**John D. Leslie, for the U.S. Unsecured Creditors' Committee**

**G. Finlayson, for U.S. Bank as Trustee for the Notcholders**

**HEARD &  
DECIDED: JULY 2, 2009**

**ENDORSEMENT**

Page: 2

[1] I heard argument in this matter on July 2, 2009 at the conclusion of which I dismissed the motion with reasons to follow. These are those reasons.

[2] Members of the Indalex Supplemental Executive Retirement Plan or "SERP", (referred to collectively as the "SERP Group") brought this motion for an order requiring the Indalex Applicants to reinstate payment of supplemental pension benefits retroactive to April 2009.

[3] The motion is opposed by the Indalex Applicants, the Noteholders and by the DIP Lender. Counsel to the DIP Lender submits that if these payments are made, they would constitute an event of default under the DIP Agreement. Such payments would need the consent or waiver from the DIP Lender which counsel submits, is not forthcoming.

[4] The SERP Group have a contractual entitlement to pension benefits under the Supplemental Retirement Plan for executive employees of Indalex Limited and associated companies (the "Supplemental Plan").

[5] The Supplemental Plan is an unfunded and non-registered supplemental pension plan. Benefits under the Supplemental Plan are paid out of the general revenues of the Indalex Applicants.

[6] Immediately after filing for CCAA protection on April 3, 2009, the Indalex Applicants informed the SERP Group that their supplemental pension benefits were being stopped.

[7] The situation confronting members of the SERP Group is very similar to that faced by certain former employees of Nortel Networks ("Former Nortel Employees") who recently brought a motion requesting an order requiring the Applicants in Nortel's CCAA proceedings (the "Nortel Applicants") to make payments which the Nortel Applicants were contractually obligated to pay to Former Nortel Employees, relating to the Transitional Retirement Allowance and any pension benefit payments Former Nortel Employees were entitled to receive in excess of the pension plan. The motion was dismissed. (See *Nortel Networks Corp., Re 2009 CarswellOnt. 3583*).

[8] The reasons provided for the dismissal of the motion of the Former Nortel Employees are applicable to this case.

[9] SERP payments are based on services provided to Indalex prior to April 2009. These obligations are, in my view, pre-filing unsecured obligations. A breach of the SERP payment obligations gives rise to an unsecured claim of the SERP Group against the Indalex Applicants. The SERP Group is stayed from enforcing these payment obligations.

[10] The SERP Group has not established that they are entitled to any priority with respect to their SERP benefits and there is, in my view, no basis in principle, to treat the SERP Group differently than any other unsecured creditors of the Indalex Applicants. The reinstatement of the SERP payments would, in my view, represent an improper re-ordering of the existing priority regime.

Page: 3

[11] The Amended and Restated Order authorizes the Indalex Applicants to pay all reasonable expenses incurred by the Indalex Applicants in carrying on their business in the ordinary course. SERP payments are not, in my view, payments required to carry on the business and, accordingly, the Indalex Applicants are not authorized to pay the monthly SERP payments.

[12] In certain CCAA proceedings, the court has granted relief to permit payment of pre-filing unsecured debt. However, in these cases, such payments have for the most part, been considered to be crucial to the ongoing business of the debtor company. In this case, the Indalex Applicants are seeking a going concern solution for the benefit of all stakeholders and their resources should be used for such purposes. I have not been persuaded that the SERP payments are crucial to the ongoing business of the Indalex Applicants and such payments offer no apparent benefit to the Indalex Applicants. (*Re Nortel, supra*, at paragraphs 80 and 86.)

[13] The SERP Group submits that there are hardship issues that should be taken into account. In Nortel, a hardship exception was made. However, the Nortel exception was predicated, in part, on the reasonable expectation that there will be a meaningful distribution to unsecured creditors, including the Former Nortel Employees. The Nortel hardship exception recognizes that any distribution would represent an advance on the general distribution. The situation facing the Indalex Applicants is different. The Indalex Applicants have significant secured creditors and unlike the situation in Nortel, it is premature to comment on the prospects of any meaningful distribution to unsecured creditors.

[14] Counsel to SERP Group also submitted that CCAA protection in this case had been obtained for a company that was liquidating its assets. Counsel for the SERP Group submitted that Indalex had put itself up for sale and commenced a "marketing process" and as such it was not restructuring, rather, it was selling itself. This led to the submission that the cutting of benefits payable to the SERP Group was not necessary or justified for the sale of the company under the CCAA.

[15] I fail to see the relevance of this submission. At the present time, the Applicants are properly under CCAA protection. No motion has been brought to challenge the appropriateness of the CCAA proceedings and, in my view, nothing in the CCAA precludes the ability of a debtor applicant to sell its assets. See *Re Nortel Networks Corporation* - endorsement released July 23, 2009 on this point.

[16] Finally, counsel to SERP Group placed emphasis on the fact that the amount required to satisfy the obligations to SERP Group is not significant. While this submission may be attractive on the surface, to give effect to this argument would violate a fundamental tenet of insolvency law, namely, that all unsecured creditors receive equal treatment. In my view, there is no basis to prefer the SERP Group or, indeed, any retired executive who is entitled to SERP payments in priority to other unsecured creditors.

[17] Counsel to SERP Group also relied upon *Doman Industries et al* (2004) B.C.S.C. 7333 for the proposition that, the fact that a company can reduce its costs if it can terminate contracts, is not sufficient for a CCAA court to authorize the termination of the contract. In *Doman, supra*, the point at issue concerned licences under the *Forest Act* which created the concept of

Page: 4

replaceable contracts. Doman held certain licences. As noted by Tysoe J. (as he then was), at paragraph 7, a replaceable contract is a form of evergreen contract which contains statutorily mandated provisions, the most important of which is that the licence holder must offer a new or replacement contract to the contractor upon each expiry of the term of the contract as long as the contractor is not in default under the contract. That is not the situation in this case. The contractual situation in *Doman, supra*, is not, in my view, comparable to this case. *Doman* is clearly distinguishable on the facts.

[18] For the forgoing reasons, the motion of SERP Group for reinstatement of SERP benefits is dismissed.

  
MORAWETZ J.

**Heard and Decided:** July 2, 2009

**Typed Version Released:** July 24, 2009

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
INDALEX LIMITED et al.

Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AFFIDAVIT OF KEITH COOPER  
(Sworn August 24, 2009)**

**BLAKE, CASSELS & GRAYDON LLP**  
Box 25, Commerce Court West  
Toronto, Ontario M5L 1A9

**Linc Rogers** LSUC# 43562N  
Tel: (416) 863-4168

**Katherine McEachern** LSUC#: 38345M  
Tel: (416) 863-2566

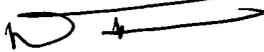
**Jackie Moher** LSUC#: 53166V  
Tel: (416) 863-3174  
Fax: (416) 863-2653

Lawyers for the Applicants

This is **Exhibit "K"** referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
26<sup>th</sup> day of October, 2010

A handwritten signature in black ink, appearing to be "D. A.", written over a horizontal line.

.....  
A Commissioner for taking affidavits, etc.

**Financial Services  
Commission  
of Ontario**

Pension Plans Branch  
5160 Yonge Street, 4<sup>th</sup> Floor  
P.O. Box 85  
Toronto ON M2N 6L9

Telephone: (416) 226-7776  
Facsimile: (416) 228-7777

**Commission des  
services financiers  
de l'Ontario**

Direction des régimes de retraite  
5160 rue Yonge, 4<sup>e</sup> étage  
Boîte 85  
Toronto ON M2N 6L9

Téléphone: (416) 226-7776  
Télécopieur: (416) 226-7777



November 5, 2009

Registration Number: 0455626

Al Kiel, Partner  
Morneau Sobeco Limited Partnership  
895 Don Mills Road, Suite 700  
One Morneau Sobeco Centre  
Toronto, ON M3C 1W3

Dear Mr. Kiel:

**Re: Administrator Appointment Confirmation  
Retirement Plan for Executive Employees of Indalex Limited and Associated  
Companies**

---

This is to confirm we have appointed Morneau Sobeco Limited Partnership as the administrator of the referenced pension plan pursuant to ss. 71(1) of the *Pension Benefits Act*. You will find enclosed a copy of the signed Service Agreement. You may now inform all interested parties of your appointment.

Within 90 days of the date of this letter, we ask that you submit the Administrator Cost Summary (ACS) outlining the cost and time estimates, including a list of assumptions concerning any potentially significant issues or events upon which the ACS is based, to wind up the referenced plan. We will then acknowledge the ACS within 30 days of receipt.

If you have any questions, please contact me directly at (416) 226-7799.

Yours Truly,

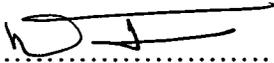
A handwritten signature in black ink, appearing to read "Jai J. Persaud".

Jai J. Persaud  
Insolvency Coordinator

This is **Exhibit "L"** referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
<sup>26<sup>th</sup></sup> day of October, 2010



.....  
A Commissioner for taking affidavits, etc.



HUMAN RESOURCE CONSULTING AND ADMINISTRATIVE SOLUTIONS  
Calgary • Fredericton • Halifax • Kitchener • London • Montreal • Ottawa • Pittsburgh • Québec • St. John's • Toronto • Vancouver  
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895 Don Mills Road, Suite 700  
One Morneau Sobeco Centre  
Toronto ON M3C 1W3  
tel.: 416.445.2700 • fax: 416.445.7989

INDEX.0002

April 5, 2010

Mr. Eugene D'Iorio  
20 North Village Dr  
Palm Coast FL 32137  
USA

Dear Mr. D'Iorio:

**Re: Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan"), Registration No 0455626**

Further to our letter, dated February 4, 2010, advising you of the appointment of Morneau Sobeco Limited Partnership ("Morneau Sobeco") as Administrator of the Plan, we have received the Notice of Proposal to wind up the Plan, effective September 30, 2009, from the Superintendent of the Financial Services (the "Superintendent"). We are now writing to advise you of an important issue regarding your pension from the Plan.

As you may be aware, the Plan has been underfunded for several years. Based on the most recent actuarial valuation as at January 1, 2008, prepared by the prior actuary for the Plan, there were insufficient assets to fully satisfy the benefit entitlements of all members and pensioners. We have reviewed the current funded status of the Plan and have determined that there are only sufficient assets to pay out approximately 65% of the benefits for Plan members, pensioners and beneficiaries.

In order to protect the pension benefits of all Plan members and pensioners, the Administrator must reduce payments from the Plan to all pensioners. We have reviewed the Plan records for all retired members who were put into pay prior to our appointment and have recalculated these monthly pension entitlements to reflect the estimated funded ratio of 65%.

Based on our review, your current monthly pension payment will be revised as follows, effective on the **June 1, 2010** payment:

	Total Monthly Pension
Current Monthly Pension	\$1,583.33
Revised Monthly Pension	\$1,029.16

Since benefits to retirees have been paid at 100% since the proposed wind up date of September 30, 2009, all pensioners have received more pension than they are entitled to due to the underfunded position of the Plan. Any overpayment will be taken into account when pension benefits are settled upon completion of the wind up process.

We regret that pension reductions are necessary. However, as a result of the Plan's underfunding, the Administrator is responsible for ensuring that the pensions of all members and pensioners of the Plan are dealt with in a fair and equitable manner and in accordance with applicable legislation. The pension regulatory authority, which appointed the Administrator, has been notified of this issue and is aware of the underfunded position of the Plan and the required reduction in pension payments.

We will be preparing a Wind Up Report that will be filed with the Superintendent. At the settlement date, your pension will be readjusted to reflect the actual amount payable to you, based on the final funded ratio of the Plan. If a revision is necessary to the actual amount payable to you as a result of any underpayments or overpayments, we will notify you in writing and an adjustment will be made.

Should you have any questions regarding this matter, please contact Heidi Pietila at (416) 445-2700 extension 3438 or Ntumba Tshiteya at extension 3312. We also provide a toll-free telephone number of 1-888-667-6328 for members/former members in Canada, but outside the Metropolitan Toronto area.

Yours truly,

**MORNEAU SOBECO LIMITED PARTNERSHIP**

In its capacity as Administrator for the  
Retirement Plan for Executive Employees of  
Indalex Limited and Associated Companies  
and not in its personal capacity.



per: Heidi Pietila  
Senior Regulatory Analyst



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www.morneausobeco.com

895 Don Mills Road, Suite 700  
One Morneau Sobeco Centre  
Toronto ON M3C 1W3  
tel: 416.445.2700 • fax: 416.445.7989

INDEX.0002

April 5, 2010

Mr. Fred Granville  
1317 Inglehart Dr  
Burlington ON L7M 4X6

Dear Mr. Granville:

**Re: Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan"), Registration No 0455626**

Further to our letter, dated February 4, 2010, advising you of the appointment of Morneau Sobeco Limited Partnership ("Morneau Sobeco") as Administrator of the Plan, we have received the Notice of Proposal to wind up the Plan, effective September 30, 2009, from the Superintendent of the Financial Services (the "Superintendent"). We are now writing to advise you of an important issue regarding your pension from the Plan.

As you may be aware, the Plan has been underfunded for several years. Based on the most recent actuarial valuation as at January 1, 2008, prepared by the prior actuary for the Plan, there were insufficient assets to fully satisfy the benefit entitlements of all members and pensioners. We have reviewed the current funded status of the Plan and have determined that there are only sufficient assets to pay out approximately 65% of the benefits for Plan members, pensioners and beneficiaries.

In order to protect the pension benefits of all Plan members and pensioners, the Administrator must reduce payments from the Plan to all pensioners. We have reviewed the Plan records for all retired members who were put into pay prior to our appointment and have recalculated these monthly pension entitlements to reflect the estimated funded ratio of 65%.

Based on our review, your current monthly pension payment will be revised as follows, effective on the **June 1, 2010** payment:

	Total Monthly Pension
Current Monthly Pension	\$741.52
Revised Monthly Pension	<b>\$481.99</b>

Since benefits to retirees have been paid at 100% since the proposed wind up date of September 30, 2009, all pensioners have received more pension than they are entitled to due to the underfunded position of the Plan. Any overpayment will be taken into account when pension benefits are settled upon completion of the wind up process.

We regret that pension reductions are necessary. However, as a result of the Plan's underfunding, the Administrator is responsible for ensuring that the pensions of all members and pensioners of the Plan are dealt with in a fair and equitable manner and in accordance with applicable legislation. The pension regulatory authority, which appointed the Administrator, has been notified of this issue and is aware of the underfunded position of the Plan and the required reduction in pension payments.

We will be preparing a Wind Up Report that will be filed with the Superintendent. At the settlement date, your pension will be readjusted to reflect the actual amount payable to you, based on the final funded ratio of the Plan. If a revision is necessary to the actual amount payable to you as a result of any underpayments or overpayments, we will notify you in writing and an adjustment will be made.

Should you have any questions regarding this matter, please contact Heidi Pietila at (416) 445-2700 extension 3438 or Ntumba Tshiteya at extension 3312. We also provide a toll-free telephone number of 1-888-667-6328 for members/former members in Canada, but outside the Metropolitan Toronto area.

Yours truly,

**MORNEAU SOBECO LIMITED PARTNERSHIP**

In its capacity as Administrator for the  
Retirement Plan for Executive Employees of  
Indalex Limited and Associated Companies  
and not in its personal capacity.



per: Heidi Pietila  
Senior Regulatory Analyst



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One Morneau Sobeco Centre  
Toronto ON M3C 1W3  
tel.: 416.445.2700 • fax: 416.445.7989

INDEX.0002

April 5, 2010

Mr. John E. Faveri  
3 Clementview Court  
Etobicoke ON M9R 3H3

Dear Mr. Faveri:

**Re: Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan"), Registration No 0455626**

Further to our letter, dated February 4, 2010, advising you of the appointment of Morneau Sobeco Limited Partnership ("Morneau Sobeco") as Administrator of the Plan, we have received the Notice of Proposal to wind up the Plan, effective September 30, 2009, from the Superintendent of the Financial Services (the "Superintendent"). We are now writing to advise you of an important issue regarding your pension from the Plan.

As you may be aware, the Plan has been underfunded for several years. Based on the most recent actuarial valuation as at January 1, 2008, prepared by the prior actuary for the Plan, there were insufficient assets to fully satisfy the benefit entitlements of all members and pensioners. We have reviewed the current funded status of the Plan and have determined that there are only sufficient assets to pay out approximately 65% of the benefits for Plan members, pensioners and beneficiaries.

In order to protect the pension benefits of all Plan members and pensioners, the Administrator must reduce payments from the Plan to all pensioners. We have reviewed the Plan records for all retired members who were put into pay prior to our appointment and have recalculated these monthly pension entitlements to reflect the estimated funded ratio of 65%.

Based on our review, your current monthly pension payment will be revised as follows, effective on the **June 1, 2010** payment:

	Total Monthly Pension
Current Monthly Pension	\$4,158.12
Revised Monthly Pension	\$2,702.78

Since benefits to retirees have been paid at 100% since the proposed wind up date of September 30, 2009, all pensioners have received more pension than they are entitled to due to the underfunded position of the Plan. Any overpayment will be taken into account when pension benefits are settled upon completion of the wind up process.

We regret that pension reductions are necessary. However, as a result of the Plan's underfunding, the Administrator is responsible for ensuring that the pensions of all members and pensioners of the Plan are dealt with in a fair and equitable manner and in accordance with applicable legislation. The pension regulatory authority, which appointed the Administrator, has been notified of this issue and is aware of the underfunded position of the Plan and the required reduction in pension payments.

We will be preparing a Wind Up Report that will be filed with the Superintendent. At the settlement date, your pension will be readjusted to reflect the actual amount payable to you, based on the final funded ratio of the Plan. If a revision is necessary to the actual amount payable to you as a result of any underpayments or overpayments, we will notify you in writing and an adjustment will be made.

Should you have any questions regarding this matter, please contact Heidi Pietila at (416) 445-2700 extension 3438 or Ntumba Tshiteya at extension 3312. We also provide a toll-free telephone number of 1-888-667-6328 for members/former members in Canada, but outside the Metropolitan Toronto area.

Yours truly,

**MORNEAU SOBECO LIMITED PARTNERSHIP**

In its capacity as Administrator for the Retirement Plan for Executive Employees of Indalex Limited and Associated Companies and not in its personal capacity.



per: Heidi Pietila  
Senior Regulatory Analyst



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INDEX.0002

April 5, 2010

Mr. Keith Carruthers  
1270 Sandysomerville Dr  
London ON N6K 5R2

Dear Mr. Carruthers:

**Re: Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan"), Registration No 0455626**

Further to our letter, dated February 4, 2010, advising you of the appointment of Morneau Sobeco Limited Partnership ("Morneau Sobeco") as Administrator of the Plan, we have received the Notice of Proposal to wind up the Plan, effective September 30, 2009, from the Superintendent of the Financial Services (the "Superintendent"). We are now writing to advise you of an important issue regarding your pension from the Plan.

As you may be aware, the Plan has been underfunded for several years. Based on the most recent actuarial valuation as at January 1, 2008, prepared by the prior actuary for the Plan, there were insufficient assets to fully satisfy the benefit entitlements of all members and pensioners. We have reviewed the current funded status of the Plan and have determined that there are only sufficient assets to pay out approximately 65% of the benefits for Plan members, pensioners and beneficiaries.

In order to protect the pension benefits of all Plan members and pensioners, the Administrator must reduce payments from the Plan to all pensioners. We have reviewed the Plan records for all retired members who were put into pay prior to our appointment and have recalculated these monthly pension entitlements to reflect the estimated funded ratio of 65%.

Based on our review, your current monthly pension payment will be revised as follows, effective on the **June 1, 2010** payment:

	Total Monthly Pension
Current Monthly Pension	\$3,958.35
Revised Monthly Pension	\$2,572.93

Since benefits to retirees have been paid at 100% since the proposed wind up date of September 30, 2009, all pensioners have received more pension than they are entitled to due to the underfunded position of the Plan. Any overpayment will be taken into account when pension benefits are settled upon completion of the wind up process.

We regret that pension reductions are necessary. However, as a result of the Plan's underfunding, the Administrator is responsible for ensuring that the pensions of all members and pensioners of the Plan are dealt with in a fair and equitable manner and in accordance with applicable legislation. The pension regulatory authority, which appointed the Administrator, has been notified of this issue and is aware of the underfunded position of the Plan and the required reduction in pension payments.

We will be preparing a Wind Up Report that will be filed with the Superintendent. At the settlement date, your pension will be readjusted to reflect the actual amount payable to you, based on the final funded ratio of the Plan. If a revision is necessary to the actual amount payable to you as a result of any underpayments or overpayments, we will notify you in writing and an adjustment will be made.

Should you have any questions regarding this matter, please contact Heidi Pietila at (416) 445-2700 extension 3438 or Ntumba Tshiteya at extension 3312. We also provide a toll-free telephone number of 1-888-667-6328 for members/former members in Canada, but outside the Metropolitan Toronto area.

Yours truly,

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In its capacity as Administrator for the  
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and not in its personal capacity.



per: Heidi Pietila  
Senior Regulatory Analyst



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INDEX.0002

April 5, 2010

Mr. Robert Waldron  
64 White Oak Drive  
Batesville IN 47006  
USA

Dear Mr. Waldron:

**Re: Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan"), Registration No 0455626**

Further to our letter, dated February 4, 2010, advising you of the appointment of Morneau Sobeco Limited Partnership ("Morneau Sobeco") as Administrator of the Plan, we have received the Notice of Proposal to wind up the Plan, effective September 30, 2009, from the Superintendent of the Financial Services (the "Superintendent"). We are now writing to advise you of an important issue regarding your pension from the Plan.

As you may be aware, the Plan has been underfunded for several years. Based on the most recent actuarial valuation as at January 1, 2008, prepared by the prior actuary for the Plan, there were insufficient assets to fully satisfy the benefit entitlements of all members and pensioners. We have reviewed the current funded status of the Plan and have determined that there are only sufficient assets to pay out approximately 65% of the benefits for Plan members, pensioners and beneficiaries.

In order to protect the pension benefits of all Plan members and pensioners, the Administrator must reduce payments from the Plan to all pensioners. We have reviewed the Plan records for all retired members who were put into pay prior to our appointment and have recalculated these monthly pension entitlements to reflect the estimated funded ratio of 65%.

Based on our review, your current monthly pension payment will be revised as follows, effective on the **June 1, 2010** payment:

	Total Monthly Pension
Current Monthly Pension	\$597.76
Revised Monthly Pension	\$388.54

Since benefits to retirees have been paid at 100% since the proposed wind up date of September 30, 2009, all pensioners have received more pension than they are entitled to due to the underfunded position of the Plan. Any overpayment will be taken into account when pension benefits are settled upon completion of the wind up process.

We regret that pension reductions are necessary. However, as a result of the Plan's underfunding, the Administrator is responsible for ensuring that the pensions of all members and pensioners of the Plan are dealt with in a fair and equitable manner and in accordance with applicable legislation. The pension regulatory authority, which appointed the Administrator, has been notified of this issue and is aware of the underfunded position of the Plan and the required reduction in pension payments.

We will be preparing a Wind Up Report that will be filed with the Superintendent. At the settlement date, your pension will be readjusted to reflect the actual amount payable to you, based on the final funded ratio of the Plan. If a revision is necessary to the actual amount payable to you as a result of any underpayments or overpayments, we will notify you in writing and an adjustment will be made.

Should you have any questions regarding this matter, please contact Heidi Pietila at (416) 445-2700 extension 3438 or Ntumba Tshiteya at extension 3312. We also provide a toll-free telephone number of 1-888-667-6328 for members/former members in Canada, but outside the Metropolitan Toronto area.

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per: Heidi Pietila  
Senior Regulatory Analyst



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INDEX.0002

April 5, 2010

Mr. Leon Kozierok  
260 Heath St W Suite 1801  
Toronto ON M5P 3L6

Dear Mr. Kozierok:

**Re: Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan"), Registration No 0455626**

Further to our letter, dated February 4, 2010, advising you of the appointment of Morneau Sobeco Limited Partnership ("Morneau Sobeco") as Administrator of the Plan, we have received the Notice of Proposal to wind up the Plan, effective September 30, 2009, from the Superintendent of the Financial Services (the "Superintendent"). We are now writing to advise you of an important issue regarding your pension from the Plan.

As you may be aware, the Plan has been underfunded for several years. Based on the most recent actuarial valuation as at January 1, 2008, prepared by the prior actuary for the Plan, there were insufficient assets to fully satisfy the benefit entitlements of all members and pensioners. We have reviewed the current funded status of the Plan and have determined that there are only sufficient assets to pay out approximately 65% of the benefits for Plan members, pensioners and beneficiaries.

In order to protect the pension benefits of all Plan members and pensioners, the Administrator must reduce payments from the Plan to all pensioners. We have reviewed the Plan records for all retired members who were put into pay prior to our appointment and have recalculated these monthly pension entitlements to reflect the estimated funded ratio of 65%.

Based on our review, your current monthly pension payment will be revised as follows, effective on the **June 1, 2010** payment:

	Total Monthly Pension
Current Monthly Pension	\$3,600.14
Revised Monthly Pension	\$2,340.09

Since benefits to retirees have been paid at 100% since the proposed wind up date of September 30, 2009, all pensioners have received more pension than they are entitled to due to the underfunded position of the Plan. Any overpayment will be taken into account when pension benefits are settled upon completion of the wind up process.

We regret that pension reductions are necessary. However, as a result of the Plan's underfunding, the Administrator is responsible for ensuring that the pensions of all members and pensioners of the Plan are dealt with in a fair and equitable manner and in accordance with applicable legislation. The pension regulatory authority, which appointed the Administrator, has been notified of this issue and is aware of the underfunded position of the Plan and the required reduction in pension payments.

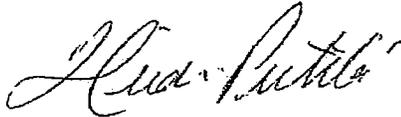
We will be preparing a Wind Up Report that will be filed with the Superintendent. At the settlement date, your pension will be readjusted to reflect the actual amount payable to you, based on the final funded ratio of the Plan. If a revision is necessary to the actual amount payable to you as a result of any underpayments or overpayments, we will notify you in writing and an adjustment will be made.

Should you have any questions regarding this matter, please contact Heidi Pietila at (416) 445-2700 extension 3438 or Ntumba Tshiteya at extension 3312. We also provide a toll-free telephone number of 1-888-667-6328 for members/former members in Canada, but outside the Metropolitan Toronto area.

Yours truly,

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per: Heidi Pietila  
Senior Regulatory Analyst

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INDEX.0002

April 5, 2010

Mr. Max Degan  
2311-3 Rowntree Rd  
Etobicoke ON M9V 5G8

Dear Mr. Degan:

**Re: Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan"), Registration No 0455626**

Further to our letter, dated February 4, 2010, advising you of the appointment of Morneau Sobeco Limited Partnership ("Morneau Sobeco") as Administrator of the Plan, we have received the Notice of Proposal to wind up the Plan, effective September 30, 2009, from the Superintendent of the Financial Services (the "Superintendent"). We are now writing to advise you of an important issue regarding your pension from the Plan.

As you may be aware, the Plan has been underfunded for several years. Based on the most recent actuarial valuation as at January 1, 2008, prepared by the prior actuary for the Plan, there were insufficient assets to fully satisfy the benefit entitlements of all members and pensioners. We have reviewed the current funded status of the Plan and have determined that there are only sufficient assets to pay out approximately 65% of the benefits for Plan members, pensioners and beneficiaries.

In order to protect the pension benefits of all Plan members and pensioners, the Administrator must reduce payments from the Plan to all pensioners. We have reviewed the Plan records for all retired members who were put into pay prior to our appointment and have recalculated these monthly pension entitlements to reflect the estimated funded ratio of 65%.

Based on our review, your current monthly pension payment will be revised as follows, effective on the **June 1, 2010** payment:

	Total Monthly Pension
Current Monthly Pension	\$3,981.98
Revised Monthly Pension	\$2,588.29

Since benefits to retirees have been paid at 100% since the proposed wind up date of September 30, 2009, all pensioners have received more pension than they are entitled to due to the underfunded position of the Plan. Any overpayment will be taken into account when pension benefits are settled upon completion of the wind up process.

We regret that pension reductions are necessary. However, as a result of the Plan's underfunding, the Administrator is responsible for ensuring that the pensions of all members and pensioners of the Plan are dealt with in a fair and equitable manner and in accordance with applicable legislation. The pension regulatory authority, which appointed the Administrator, has been notified of this issue and is aware of the underfunded position of the Plan and the required reduction in pension payments.

We will be preparing a Wind Up Report that will be filed with the Superintendent. At the settlement date, your pension will be readjusted to reflect the actual amount payable to you, based on the final funded ratio of the Plan. If a revision is necessary to the actual amount payable to you as a result of any underpayments or overpayments, we will notify you in writing and an adjustment will be made.

Should you have any questions regarding this matter, please contact Heidi Pietila at (416) 445-2700 extension 3438 or Ntumba Tshiteya at extension 3312. We also provide a toll-free telephone number of 1-888-667-6328 for members/former members in Canada, but outside the Metropolitan Toronto area.

Yours truly,

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per: Heidi Pietila  
Senior Regulatory Analyst



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INDEX.0002

April 5, 2010

Mr. Richard Benson  
6986 Penticton Street  
Powell River BC V8A 5M2

Dear Mr. Benson:

**Re: Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan"), Registration No 0455626**

Further to our letter, dated February 4, 2010, advising you of the appointment of Morneau Sobeco Limited Partnership ("Morneau Sobeco") as Administrator of the Plan, we have received the Notice of Proposal to wind up the Plan, effective September 30, 2009, from the Superintendent of the Financial Services (the "Superintendent"). We are now writing to advise you of an important issue regarding your pension from the Plan.

As you may be aware, the Plan has been underfunded for several years. Based on the most recent actuarial valuation as at January 1, 2008, prepared by the prior actuary for the Plan, there were insufficient assets to fully satisfy the benefit entitlements of all members and pensioners. We have reviewed the current funded status of the Plan and have determined that there are only sufficient assets to pay out approximately 65% of the benefits for Plan members, pensioners and beneficiaries.

In order to protect the pension benefits of all Plan members and pensioners, the Administrator must reduce payments from the Plan to all pensioners. We have reviewed the Plan records for all retired members who were put into pay prior to our appointment and have recalculated these monthly pension entitlements to reflect the estimated funded ratio of 65%.

Based on our review, your current monthly pension payment will be revised as follows, effective on the **June 1, 2010** payment:

	Total Monthly Pension
Current Monthly Pension	\$3,248.13
Revised Monthly Pension	\$2,111.28

Since benefits to retirees have been paid at 100% since the proposed wind up date of September 30, 2009, all pensioners have received more pension than they are entitled to due to the underfunded position of the Plan. Any overpayment will be taken into account when pension benefits are settled upon completion of the wind up process.

We regret that pension reductions are necessary. However, as a result of the Plan's underfunding, the Administrator is responsible for ensuring that the pensions of all members and pensioners of the Plan are dealt with in a fair and equitable manner and in accordance with applicable legislation. The pension regulatory authority, which appointed the Administrator, has been notified of this issue and is aware of the underfunded position of the Plan and the required reduction in pension payments.

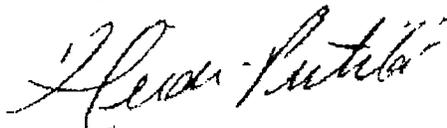
We will be preparing a Wind Up Report that will be filed with the Superintendent. At the settlement date, your pension will be readjusted to reflect the actual amount payable to you, based on the final funded ratio of the Plan. If a revision is necessary to the actual amount payable to you as a result of any underpayments or overpayments, we will notify you in writing and an adjustment will be made.

Should you have any questions regarding this matter, please contact Heidi Pietila at (416) 445-2700 extension 3438 or Ntumba Tshiteya at extension 3312. We also provide a toll-free telephone number of 1-888-667-6328 for members/former members in Canada, but outside the Metropolitan Toronto area.

Yours truly,

**MORNEAU SOBECO LIMITED PARTNERSHIP**

In its capacity as Administrator for the  
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per: Heidi Pietila  
Senior Regulatory Analyst



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INDEX.0002

April 5, 2010

Mr. Bertram McBride  
568 Khyber Lane  
Venice FL 34293  
USA

Dear Mr. McBride:

**Re: Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan"), Registration No 0455626**

Further to our letter, dated February 4, 2010, advising you of the appointment of Morneau Sobeco Limited Partnership ("Morneau Sobeco") as Administrator of the Plan, we have received the Notice of Proposal to wind up the Plan, effective September 30, 2009, from the Superintendent of the Financial Services (the "Superintendent"). We are now writing to advise you of an important issue regarding your pension from the Plan.

As you may be aware, the Plan has been underfunded for several years. Based on the most recent actuarial valuation as at January 1, 2008, prepared by the prior actuary for the Plan, there were insufficient assets to fully satisfy the benefit entitlements of all members and pensioners. We have reviewed the current funded status of the Plan and have determined that there are only sufficient assets to pay out approximately 65% of the benefits for Plan members, pensioners and beneficiaries.

In order to protect the pension benefits of all Plan members and pensioners, the Administrator must reduce payments from the Plan to all pensioners. We have reviewed the Plan records for all retired members who were put into pay prior to our appointment and have recalculated these monthly pension entitlements to reflect the estimated funded ratio of 65%.

Based on our review, your current monthly pension payment will be revised as follows, effective on the **June 1, 2010** payment:

	Total Monthly Pension
Current Monthly Pension	\$5,833.33
Revised Monthly Pension	\$3,791.66

Since benefits to retirees have been paid at 100% since the proposed wind up date of September 30, 2009, all pensioners have received more pension than they are entitled to due to the underfunded position of the Plan. Any overpayment will be taken into account when pension benefits are settled upon completion of the wind up process.

We regret that pension reductions are necessary. However, as a result of the Plan's underfunding, the Administrator is responsible for ensuring that the pensions of all members and pensioners of the Plan are dealt with in a fair and equitable manner and in accordance with applicable legislation. The pension regulatory authority, which appointed the Administrator, has been notified of this issue and is aware of the underfunded position of the Plan and the required reduction in pension payments.

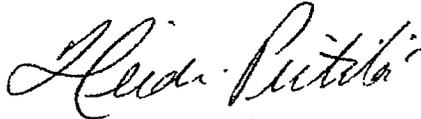
We will be preparing a Wind Up Report that will be filed with the Superintendent. At the settlement date, your pension will be readjusted to reflect the actual amount payable to you, based on the final funded ratio of the Plan. If a revision is necessary to the actual amount payable to you as a result of any underpayments or overpayments, we will notify you in writing and an adjustment will be made.

Should you have any questions regarding this matter, please contact Heidi Pietila at (416) 445-2700 extension 3438 or Ntumba Tshiteya at extension 3312. We also provide a toll-free telephone number of 1-888-667-6328 for members/former members in Canada, but outside the Metropolitan Toronto area.

Yours truly,

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per: Heidi Pietila  
Senior Regulatory Analyst



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INDEX.0002

April 5, 2010

Mr. Neil Fraser  
715 Lake Placid Dr SE  
Calgary AB T2J 4B9

Dear Mr. Fraser:

**Re: Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan"), Registration No 0455626**

Further to our letter, dated February 4, 2010, advising you of the appointment of Morneau Sobeco Limited Partnership ("Morneau Sobeco") as Administrator of the Plan, we have received the Notice of Proposal to wind up the Plan, effective September 30, 2009, from the Superintendent of the Financial Services (the "Superintendent"). We are now writing to advise you of an important issue regarding your pension from the Plan.

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In order to protect the pension benefits of all Plan members and pensioners, the Administrator must reduce payments from the Plan to all pensioners. We have reviewed the Plan records for all retired members who were put into pay prior to our appointment and have recalculated these monthly pension entitlements to reflect the estimated funded ratio of 65%.

Based on our review, your current monthly pension payment will be revised as follows, effective on the **June 1, 2010** payment:

	Total Monthly Pension
Current Monthly Pension	\$1,722.22
Revised Monthly Pension	\$1,119.44

Since benefits to retirees have been paid at 100% since the proposed wind up date of September 30, 2009, all pensioners have received more pension than they are entitled to due to the underfunded position of the Plan. Any overpayment will be taken into account when pension benefits are settled upon completion of the wind up process.

We regret that pension reductions are necessary. However, as a result of the Plan's underfunding, the Administrator is responsible for ensuring that the pensions of all members and pensioners of the Plan are dealt with in a fair and equitable manner and in accordance with applicable legislation. The pension regulatory authority, which appointed the Administrator, has been notified of this issue and is aware of the underfunded position of the Plan and the required reduction in pension payments.

We will be preparing a Wind Up Report that will be filed with the Superintendent. At the settlement date, your pension will be readjusted to reflect the actual amount payable to you, based on the final funded ratio of the Plan. If a revision is necessary to the actual amount payable to you as a result of any underpayments or overpayments, we will notify you in writing and an adjustment will be made.

Should you have any questions regarding this matter, please contact Heidi Pietila at (416) 445-2700 extension 3438 or Ntumba Tshiteya at extension 3312. We also provide a toll-free telephone number of 1-888-667-6328 for members/former members in Canada, but outside the Metropolitan Toronto area.

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per: Heidi Pietila  
Senior Regulatory Analyst



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INDEX.0002

April 5, 2010

Mr. Jack Rooney  
52 Sandstone Ridge Cres  
Okotoks AB T1S 1P9

Dear Mr. Rooney:

**Re: Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan"), Registration No 0455626**

Further to our letter, dated February 4, 2010, advising you of the appointment of Morneau Sobeco Limited Partnership ("Morneau Sobeco") as Administrator of the Plan, we have received the Notice of Proposal to wind up the Plan, effective September 30, 2009, from the Superintendent of the Financial Services (the "Superintendent"). We are now writing to advise you of an important issue regarding your pension from the Plan.

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In order to protect the pension benefits of all Plan members and pensioners, the Administrator must reduce payments from the Plan to all pensioners. We have reviewed the Plan records for all retired members who were put into pay prior to our appointment and have recalculated these monthly pension entitlements to reflect the estimated funded ratio of 65%.

Based on our review, your current monthly pension payment will be revised as follows, effective on the **June 1, 2010** payment:

	Total Monthly Pension
Current Monthly Pension	\$1,426.56
Revised Monthly Pension	\$927.26

Since benefits to retirees have been paid at 100% since the proposed wind up date of September 30, 2009, all pensioners have received more pension than they are entitled to due to the underfunded position of the Plan. Any overpayment will be taken into account when pension benefits are settled upon completion of the wind up process.

We regret that pension reductions are necessary. However, as a result of the Plan's underfunding, the Administrator is responsible for ensuring that the pensions of all members and pensioners of the Plan are dealt with in a fair and equitable manner and in accordance with applicable legislation. The pension regulatory authority, which appointed the Administrator, has been notified of this issue and is aware of the underfunded position of the Plan and the required reduction in pension payments.

We will be preparing a Wind Up Report that will be filed with the Superintendent. At the settlement date, your pension will be readjusted to reflect the actual amount payable to you, based on the final funded ratio of the Plan. If a revision is necessary to the actual amount payable to you as a result of any underpayments or overpayments, we will notify you in writing and an adjustment will be made.

Should you have any questions regarding this matter, please contact Heidi Pietila at (416) 445-2700 extension 3438 or Ntumba Tshiteya at extension 3312. We also provide a toll-free telephone number of 1-888-667-6328 for members/former members in Canada, but outside the Metropolitan Toronto area.

Yours truly,

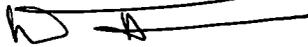
**MORNEAU SOBECO LIMITED PARTNERSHIP**

In its capacity as Administrator for the Retirement Plan for Executive Employees of Indalex Limited and Associated Companies and not in its personal capacity.



per: Heidi Pietila  
Senior Regulatory Analyst

This is **Exhibit "M"** referred to in the  
affidavit of  
**KEITH B. CARRUTHERS**  
sworn before me, this  
26<sup>th</sup> day of October, 2010



.....  
A Commissioner for taking affidavits, etc.

Schedule "5"

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PROOF OF D&O CLAIM

---

IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

---

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,

R.S.C. 1985, c., C-36, as amended

---

A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: FREDERICK JOHN GRANVILLE (the "Creditor").  
*(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of D&O Claim by division of the same Creditor.)*
2. Full Mailing Address of the Creditor:  
C/O KOSKIE MINISKY LLP  
20 QUEEN ST. W. SUITE 900, BOX 52  
TORONTO, ON (CANADA) M5H 3R3
3. Telephone Number of Creditor: 416. 595. 2150 1
4. Facsimile Number of Creditor: 416. 204. 2874 Error! Bookmark not defined.
5. Attention (Contact Person): ANDREA MCKINNON Error! Bookmark not defined.

---

<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: amckinnon@kelan.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
Yes \_\_\_ No X (If yes please complete section D)

B. PROOF OF D&O CLAIM:

I, Koskie Minsky LLP (on behalf of Frederick John Grant) [Name of Creditor or Representative of the Creditor], do hereby certify:

A) that I am (please check one):  
X the Creditor; or  
\_\_\_ hold the following position of \_\_\_\_\_ of the Creditor

and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:

Secured D&O Claim \$2,000.00 <sup>priority charge</sup> Cdn on a secured basis,  
I have valued my security at \$2,000.00 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)

Unsecured D&O Claim <sup>1</sup> \$20,422.00 Cdn on an unsecured basis <sup>2</sup> TBD by actuary

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056). (See below)

C. PARTICULARS OF D&O CLAIM:

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured
<input checked="" type="checkbox"/> David McCallen	<u>\$2,000.00</u>	<u>\$20,422.00</u> <sup>2</sup> TBD by actuary
<input checked="" type="checkbox"/> Timothy Stubbs	<u>\$2,000.00</u>	<u>\$20,422.00</u> <sup>2</sup> TBD by actuary
<input checked="" type="checkbox"/> Patricia Lawlor	<u>\$2,000.00</u>	<u>\$20,422.00</u> <sup>2</sup> TBD by actuary
<input type="checkbox"/>	\$ _____	\$ _____

Description of transaction, agreement or event giving rise or relating to the D&O Claim:

- 1) Ceased supplemental pension benefit payments.
- 2) Underfunded registered pension to be wound up in deficit.

If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

*A reduction to monthly pension benefits will occur due to the wind-up of the Indalex registered pension plan in its step 1 of deficit. An actuarial calculation of this will be prepared once loss is finalized.*

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

*Pension/wage superpriority charge.*

Estimated value of security outlined above as at the date of the D&O Claim:

*\$2,000.00*

**IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS**

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

**D. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

\_\_\_\_\_  
(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$ \_\_\_\_\_

Amount of Total D&O Claim Not Assigned \$ \_\_\_\_\_

Total Amount of D&O Claim \$ \_\_\_\_\_  
(should equal "Total D&O Claim" as entered on Section B)

2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
4. Facsimile Number of Assignee(s): \_\_\_\_\_  
5. Email address of Assignee(s): \_\_\_\_\_  
6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

**Address of Monitor:**

Indalex Limited and/or  
Indalex Holdings (B.C.) Ltd. and/or  
6326765 Canada Inc. and/or  
Novar Inc.  
c/o FTI Consulting Canada ULC,  
TD Canada Trust Tower  
161 Bay Street, 27<sup>th</sup> Floor  
Toronto, Ontario M5J 2S1

Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
Facsimile: (416)-572-4068  
E-mail: rachel.gillespie@fticonsulting.com

DATED at TORONTO this 28 day of August, 2009.

\_\_\_\_\_  
(Signature of Witness)

\_\_\_\_\_  
(Please print name)

AMY  
(Signature of individual completing this form)

ANDREA McLENNON  
(Please print name)

## Schedule "5"

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### PROOF OF D&O CLAIM

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IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

---

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,

R.S.C. 1985, c., C-36, as amended

---

#### A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: NEIL EDWARD FRASER (the "Creditor").  
(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of D&O Claim by division of the same Creditor.)
2. Full Mailing Address of the Creditor:  
C/O KOSKIE MINSKY LLP  
20 QUEEN ST. W. SUITE 900, BOX 50  
TORONTO, ON, CANADA, M5H 3R3
3. Telephone Number of Creditor: 416.595.2150 1
4. Facsimile Number of Creditor: 416.204.2874 Error! Bookmark not defined.
5. Attention (Contact Person): ANDREA MCKINNON Error! Bookmark not defined.

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<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: amckinnon@lcmlaw.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
Yes \_\_\_ No X (If yes please complete section D)

B. PROOF OF D&O CLAIM:

I, Koskie Minsley LLP On behalf of Neil Edward Fraser [Name of Creditor or Representative of the Creditor], do hereby certify:

A) that I am (please check one):

X the Creditor; or  
\_\_\_ hold the following position of \_\_\_\_\_ of the Creditor

and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:

Secured D&O Claim \$ 2,000.00 Cdn on a secured basis, priority charge  
I have valued my security at \$ 2,000.00 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)

Unsecured D&O Claim ① \$ 505,879.00 Cdn on an unsecured basis

② TBD by actual

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056). (see below)

C. PARTICULARS OF D&O CLAIM:

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured
<input checked="" type="checkbox"/> David McCallen	<u>① \$ 2,000.00</u>	<u>\$ 505,879.00</u> <u>② TBD by actual</u>
<input checked="" type="checkbox"/> Timothy Stubbs	<u>① \$ 2,000.00</u>	<u>\$ 505,879.00</u> <u>② TBD by actual</u>
<input checked="" type="checkbox"/> Patrick Lankov	<u>① \$ 2,000.00</u>	<u>\$ 505,879.00</u> <u>② TBD by actual</u>
<input type="checkbox"/>	\$ _____	\$ _____

Description of transaction, agreement or event giving rise or relating to the D&O Claim:

- (1) Ceased supplemental pension benefit payments
- (2) Underfunded registered pension to be wound up in deficit.

If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

A reduction to monthly pension benefits will occur due to the wind up of the Indalex registered pension plan in its state of deficit. An actuarial calculation of this loss will be prepared once the loss is finalized.

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

Pension/wage superpriority.

Estimated value of security outlined above as at the date of the D&O Claim:

\$ 2,500,000.

**IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS**

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

**D. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

\_\_\_\_\_  
(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$ \_\_\_\_\_

Amount of Total D&O Claim Not Assigned \$ \_\_\_\_\_

Total Amount of D&O Claim \$ \_\_\_\_\_

(should equal "Total D&O Claim" as entered on Section B)

2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
4. Facsimile Number of Assignee(s): \_\_\_\_\_  
5. Email address of Assignee(s): \_\_\_\_\_  
6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

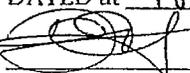
This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

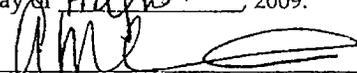
**Address of Monitor:**

Indalex Limited and/or  
Indalex Holdings (B.C.) Ltd. and/or  
6326765 Canada Inc. and/or  
Novar Inc.  
c/o FTI Consulting Canada ULC,  
TD Canada Trust Tower  
161 Bay Street, 27<sup>th</sup> Floor  
Toronto, Ontario M5J 2S1

Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
Facsimile: (416)-572-4068  
E-mail: rachel.gillespie@fticonsulting.com

DATED at Toronto this 28 day of August, 2009.  
  
(Signature of Witness)  
Desi SKOKLOVA  
(Please print name)

  
(Signature of individual completing this form)  
Andrea McKinnon  
(Please print name)

Schedule "5"

---

PROOF OF D&O CLAIM

---

IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

---

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,

R.S.C. 1985, c., C-36, as amended

---

A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: ROBERT KENNETH WALDRAN (the "Creditor").  
*(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of D&O Claim by division of the same Creditor.)*
2. Full Mailing Address of the Creditor:  
CID KOSKIE MINSKY LLP  
20 QUEEN ST. W. SUITE 900, BOX 52  
TORONTO, ON, CANADA M5H 3R3
3. Telephone Number of Creditor: 416.595.2150 1
4. Facsimile Number of Creditor: 416.204.2874 Error! Bookmark not defined.
5. Attention (Contact Person): ANDREA MCKINNON Error! Bookmark not defined.

---

<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: amelkinnon@kmlaw.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
Yes \_\_\_ No X (If yes please complete section D)

B. PROOF OF D&O CLAIM:

I, Kaskie Minsky LLP (on behalf of Robert Kenneth Waldron) [Name of Creditor or Representative of the Creditor], do hereby certify:

A) that I am (please check one):

X the Creditor; or  
\_\_\_ hold the following position of \_\_\_\_\_ of the Creditor

and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:

Secured D&O Claim \$ 2,000.00 Cdn on a secured basis, priority charge  
I have valued my security at \$ 2,000.00 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)

Unsecured D&O Claim \$ 357,138.00 Cdn on an unsecured basis

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056).

(2) TBD by actuary - see below

C. PARTICULARS OF D&O CLAIM:

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured	
<input checked="" type="checkbox"/> David McLallen	<u>(1) \$ 2,000.00</u>	<u>\$ 357,138.00</u>	<u>(2) TBD by actuary</u>
<input checked="" type="checkbox"/> Timothy Stebbins	<u>(1) \$ 4,000.00</u>	<u>\$ 357,138.00</u>	<u>(2) TBD by actuary</u>
<input checked="" type="checkbox"/> Patrick Lawlor	<u>\$ 2,000.00</u>	<u>\$ 357,138.00</u>	<u>(2) TBD by actuary</u>
<input type="checkbox"/>	\$ _____	\$ _____	

Description of transaction, agreement or event giving rise or relating to the D&O Claim:

- (1) Ceased supplemental pension benefit payments.
- (2) Underfunded registered pension to be wound up in deficit.

If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

A reduction in monthly pension benefits will occur due to the wind up of the Instate registered pension plan in its state of deficit. An actuarial calculation of this loss will be prepared once the loss is finalized.

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

Pension/wage superpriority charge

Estimated value of security outlined above as at the date of the D&O Claim:

\$ 2,000.00

**IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS**

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

**D. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

\_\_\_\_\_  
(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$ \_\_\_\_\_

Amount of Total D&O Claim Not Assigned \$ \_\_\_\_\_

Total Amount of D&O Claim \$ \_\_\_\_\_  
(should equal "Total D&O Claim" as entered on Section B)

2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
4. Facsimile Number of Assignee(s): \_\_\_\_\_  
5. Email address of Assignee(s): \_\_\_\_\_  
6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

**Address of Monitor:**

Indalex Limited and/or  
Indalex Holdings (B.C.) Ltd. and/or  
6326765 Canada Inc. and/or  
Novar Inc.  
c/o FTI Consulting Canada ULC,  
TD Canada Trust Tower  
161 Bay Street, 27<sup>th</sup> Floor  
Toronto, Ontario M5J 2S1

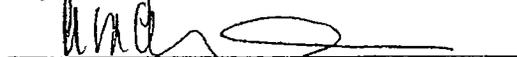
Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
Facsimile: (416)-572-4068  
E-mail: rachel.gillespie@fticonsulting.com

DATED at Toronto this 28 day of August, 2009.

  
\_\_\_\_\_  
(Signature of Witness)

Desi Skoklova  
\_\_\_\_\_  
(Please print name)

  
\_\_\_\_\_  
(Signature of individual completing this form)

Andrea McKinnon  
\_\_\_\_\_  
(Please print name)

Schedule "5"

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PROOF OF D&O CLAIM

---

IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

---

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,

R.S.C. 1985, c., C-36, as amended

---

A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: JOHN EUGENE FAVERI (the "Creditor").  
*(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of D&O Claim by division of the same Creditor.)*
2. Full Mailing Address of the Creditor:  
C/O KOSKIE MINSKY LLP  
20 QUEEN ST. W. SUITE 900, BOX 50  
TORONTO, ON CANADA M5H 3R3
3. Telephone Number of Creditor: 416. 595. 2150 |
4. Facsimile Number of Creditor: 416. 204. 2874 Error! Bookmark not defined.
5. Attention (Contact Person): ANDREA MCKINNON Error! Bookmark not defined.

---

<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: amckiano@kulan.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
Yes \_\_\_ No X (If yes please complete section D)

B. PROOF OF D&O CLAIM:

I, Koska Minskylp <sup>(on behalf of John Eugene Hayes)</sup> Name of Creditor or Representative of the Creditor], do hereby certify:

A) that I am (please check one):

X the Creditor; or  
\_\_\_ hold the following position of \_\_\_\_\_ of the Creditor

and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:

Secured D&O Claim \$ 2000.00 <sup>priority charge</sup> Cdn on a secured basis,  
I have valued my security at \$ 2,000.00 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)

Unsecured D&O Claim <sup>1</sup> \$ 51,114.00 Cdn on an unsecured basis

<sup>2</sup> TRS by actuary  
(see below)

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056).

C. PARTICULARS OF D&O CLAIM:

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured
<input checked="" type="checkbox"/> David McCallen	\$ <u>2,000.00</u>	\$ <u>51,114.00</u> <sup>2</sup> TRS by actuary
<input checked="" type="checkbox"/> Timothy Stubbs	\$ <u>2,000.00</u>	\$ <u>51,114.00</u> <sup>2</sup> TRS by actuary
<input checked="" type="checkbox"/> Patricia Lawlor	\$ <u>2,000.00</u>	\$ <u>51,114.00</u> <sup>2</sup> TRS by actuary
<input type="checkbox"/>	\$ _____	\$ _____

Description of transaction, agreement or event giving rise or relating to the D&O Claim:

1) Ceased supplemental pension benefit payments  
2) Underfunded registered pension to be wound up in deficit.

If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

*A reduction to monthly pension benefits will occur due to the winding up of the Indalex registered pension plan in its state of deficit. An actuary calculation of this loss will be prepared once loss is finalized*

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

*Pension/wage superpriority claim*

Estimated value of security outlined above as at the date of the D&O Claim:

*\$2,000.00*

**IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS**

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

**D. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

\_\_\_\_\_  
(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$ \_\_\_\_\_

Amount of Total D&O Claim Not Assigned \$ \_\_\_\_\_

Total Amount of D&O Claim \$ \_\_\_\_\_

(should equal "Total D&O Claim" as entered on Section B)

2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
4. Facsimile Number of Assignee(s): \_\_\_\_\_  
5. Email address of Assignee(s): \_\_\_\_\_  
6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

**Address of Monitor:**

Indalex Limited and/or  
Indalex Holdings (B.C.) Ltd. and/or  
6326765 Canada Inc. and/or  
Novar Inc.  
c/o FTI Consulting Canada ULC,  
TD Canada Trust Tower  
161 Bay Street, 27<sup>th</sup> Floor  
Toronto, Ontario M5J 2S1

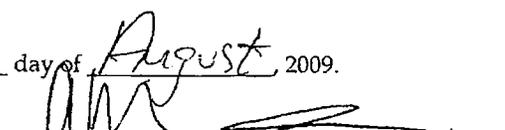
Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
Facsimile: (416)-572-4068  
E-mail: rachel.gillespie@fticonsulting.com

DATED at Toronto this 28 day of August, 2009.

  
\_\_\_\_\_  
(Signature of Witness)

Desi Skokleva  
\_\_\_\_\_  
(Please print name)

  
\_\_\_\_\_  
(Signature of individual completing this form)

ANDREA MCKINNON  
\_\_\_\_\_  
(Please print name)

## Schedule "5"

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### PROOF OF D&O CLAIM

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IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

---

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,

R.S.C. 1985, c., C-36, as amended

---

#### A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: RICHARD DONALD SMITH (the "Creditor").  
(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of D&O Claim by division of the same Creditor.)
2. Full Mailing Address of the Creditor:  
C/O KOSKIE MINSKY LLP  
20 QUEEN ST. W. SUITE 900, BOX 52  
TORONTO, ON, CANADA M5H 3R3
3. Telephone Number of Creditor: 416. 595. 2150 <sup>1</sup>
4. Facsimile Number of Creditor: 416. 204. 2874 Error! Bookmark not defined.
5. Attention (Contact Person): ANDREA MCKINNAN Error! Bookmark not defined.

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<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: amckinnon@kmlaw.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
Yes \_\_\_ No X (If yes please complete section D)

B. PROOF OF D&O CLAIM:

I, V. S. E. Minsky LLP (on behalf of RICHARD DONALD SMITH) [Name of Creditor or Representative of the Creditor], do hereby certify:

A) that I am (please check one):

X the Creditor; or  
\_\_\_ hold the following position of \_\_\_\_\_ of the Creditor

and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:

Secured D&O Claim \$2,000,000 Cdn on a secured basis,  
I have valued my security at \$2,000,000 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)

Unsecured D&O Claim \$1,367,409.00 Cdn on an unsecured basis (2) TRD by actuary

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of (See below) the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056).

C. PARTICULARS OF D&O CLAIM:

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured
<input checked="" type="checkbox"/> David McCallen	<u>\$2,000,000</u>	<u>\$1,367,409.00 (2) TRD by actuary</u>
<input checked="" type="checkbox"/> Timothy Stubbs	<u>\$2,000,000</u>	<u>\$1,367,409.00 (2) TRD by actuary</u>
<input checked="" type="checkbox"/> Patricia Lawlor	<u>\$2,000,000</u>	<u>\$1,367,409.00 (2) TRD by actuary</u>
<input type="checkbox"/>	\$ _____	\$ _____

Description of transaction, agreement or event giving rise or relating to the D&O Claim:

1) Ceased supplemental pension benefit payments  
2) Underfunded

If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

*A reduction to monthly pension benefits will occur due to the wind-up of the Indalex registered pension plan in its state of deficit. An actuarial calculation of this loss will be prepared once loss is finalized.*

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

*Pension / wage superpriority.*

Estimated value of security outlined above as at the date of the D&O Claim:

*\$ 2,000,000.*

**IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS**

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

**D. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

\_\_\_\_\_  
(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$ \_\_\_\_\_

Amount of Total D&O Claim Not Assigned \$ \_\_\_\_\_

Total Amount of D&O Claim \$ \_\_\_\_\_  
(should equal "Total D&O Claim" as entered on Section B)

2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
4. Facsimile Number of Assignee(s): \_\_\_\_\_  
5. Email address of Assignee(s): \_\_\_\_\_  
6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

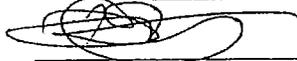
**Address of Monitor:**

Indalex Limited and/or  
Indalex Holdings (B.C.) Ltd. and/or  
6326765 Canada Inc. and/or  
Novar Inc.  
c/o FTI Consulting Canada ULC,  
TD Canada Trust Tower  
161 Bay Street, 27<sup>th</sup> Floor  
Toronto, Ontario M5J 2S1

Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
Facsimile: (416)-572-4068  
E-mail: rachel.gillespie@fticonsulting.com

DATED at Toronto this 28 day of August, 2009.



(Signature of Witness)

Desi Skokleva

(Please print name)

(Signature of individual completing this form)

Andree McKinnon

(Please print name)

Schedule "5"

PROOF OF D&O CLAIM

IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,

R.S.C. 1985, c., C-36, as amended

A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: EUGENE JOHN D'ORIO JR (the "Creditor").  
(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of D&O Claim by division of the same Creditor.)
2. Full Mailing Address of the Creditor:  
C/O KOSKIE MINSKY LLP  
20 QUEEN ST. W. SUITE 900, BOX 52  
TORONTO, ON CANADA M5H 3R3
3. Telephone Number of Creditor: 416 595-2150 1
4. Facsimile Number of Creditor: 416-204-2874 Error! Bookmark not defined.
5. Attention (Contact Person): ANDREA MCKINNAJ Error! Bookmark not defined.

<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: amckinnon@kmlaw.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
 Yes \_\_\_ No X (If yes please complete section D)

B. PROOF OF D&O CLAIM:

I, Koskie Minsky LLP (on behalf of Eugene John D'Amico Jr.)  
 [Name of Creditor or Representative of the Creditor],  
 do hereby certify:

A) that I am (please check one):

X the Creditor; or  
 \_\_\_ hold the following position of \_\_\_\_\_ of the Creditor

and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:

Secured D&O Claim \$ 2,000.00 Cdn on a secured basis,  
 I have valued my security at \$ 2,000.00 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)

Unsecured D&O Claim 1 \$ 490,696.00 Cdn on an unsecured basis 2 TBD by actua (see below).

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056).

C. PARTICULARS OF D&O CLAIM:

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured	
<input checked="" type="checkbox"/> David McCallen	<u>1</u> \$ <u>2,000.00</u>	\$ <u>490,696.00</u>	<u>2</u> TBD by actua
<input checked="" type="checkbox"/> Timothy Stubbs	<u>1</u> \$ <u>2,000.00</u>	\$ <u>490,696.00</u>	<u>2</u> TBD by actua
<input checked="" type="checkbox"/> Patrick Lawlor	<u>1</u> \$ <u>2,000.00</u>	\$ <u>490,696.00</u>	<u>2</u> TBD by actua
<input type="checkbox"/>		\$ <u>490,696.00</u>	

Description of transaction, agreement or event giving rise or relating to the D&O Claim:

- (1) Ceased supplemental pension benefit payments.  
 (2) Underfunded registered pension to be wound up in deficit.

If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

A reduction to monthly pension benefits will occur due to the wind up of the Indalex Registered Pension Plan in its state of deficit. An actuarial calculation of this loss will be prepared once loss is finalized.

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

Pension/wage superpriority charge

Estimated value of security outlined above as at the date of the D&O Claim:

\$2,000.00

**IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS**

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

**D. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$ \_\_\_\_\_

Amount of Total D&O Claim Not Assigned \$ \_\_\_\_\_

Total Amount of D&O Claim \$ \_\_\_\_\_  
(should equal "Total D&O Claim" as entered on Section B)

2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
4. Facsimile Number of Assignee(s): \_\_\_\_\_  
5. Email address of Assignee(s): \_\_\_\_\_  
6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

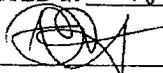
**Address of Monitor:**

Indalex Limited and/or  
Indalex Holdings (B.C.) Ltd. and/or  
6326765 Canada Inc. and/or  
Novar Inc.  
c/o FII Consulting Canada ULC,  
TD Canada Trust Tower  
161 Bay Street, 27<sup>th</sup> Floor  
Toronto, Ontario M5J 2S1

Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
Facsimile: (416)-572-4068  
E-mail: rachel.gillespie@fticonsulting.com

DATED at Toronto this 28 day of August, 2009.

  
(Signature of Witness)  
Desi Skokcic  
(Please print name)

  
(Signature of individual completing this form)  
Andrea McKinnon  
(Please print name)

Schedule "5"

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PROOF OF D&O CLAIM

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IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

---

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c., C-36, as amended

---

A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: JOHN WILLIAM ROONEY (the "Creditor").  
*(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of D&O Claim by division of the same Creditor.)*
2. Full Mailing Address of the Creditor:  
C/O KOSCIE MINSEY LLP  
20 QUEEN ST. W., SUITE 900, BOX 52  
TORONTO, ON, CANADA M5H 3R3
3. Telephone Number of Creditor: 416. 595. 2150 1
4. Facsimile Number of Creditor: 416. 204. 2374 Error! Bookmark not defined.
5. Attention (Contact Person): ANDREA MCKINNIN Error! Bookmark not defined.

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<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: amckinnon@uklaw.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
Yes \_\_\_ No X (If yes please complete section D)

B. PROOF OF D&O CLAIM:

*(on behalf of John)*  
I, VASKIE MINSKYER William Roney [Name of Creditor or Representative of the Creditor], do hereby certify:

A) that I am (please check one):

X the Creditor; or  
\_\_\_ hold the following position of \_\_\_\_\_ of the Creditor

and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:

Secured D&O Claim \$ 2,000.00 Cdn on a secured basis, *priority charge.*  
I have valued my security at \$ 2,000.00 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)

Unsecured D&O Claim <sup>Ⓟ</sup> \$ 22,933.00 Cdn on an unsecured basis <sup>Ⓟ</sup> *TBD by actuary*

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056). *(See below)*

C. PARTICULARS OF D&O CLAIM:

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured
<input checked="" type="checkbox"/> David McCallen	\$ <u>2,000.00</u>	\$ <u>22,933.00</u> <sup>Ⓟ</sup> <i>TBD by actuary</i>
<input checked="" type="checkbox"/> Timothy Stubbs	\$ <u>2,000.00</u>	\$ <u>22,933.00</u> <sup>Ⓟ</sup> <i>TBD by actuary</i>
<input checked="" type="checkbox"/> Patricia Lawlor	\$ <u>2,000.00</u>	\$ <u>22,933.00</u> <sup>Ⓟ</sup> <i>TBD by actuary</i>
<input type="checkbox"/>	\$ _____	\$ _____

Description of transaction, agreement or event giving rise or relating to the D&O Claim:

- 1) Ceased supplemental pension benefit payments.
- 2) Underfunded registered pension to be wound up in deficit.

If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

A reduction to monthly pension benefits will occur due to the wind-up of the Indalex registered pension plan in its state of deficit. An actuarial calculation of this will be prepared once loss is finalized.

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

Pension/wage superpriority charge

Estimated value of security outlined above as at the date of the D&O Claim:

\$ 5,000.00

IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

D. PARTICULARS OF ASSIGNEE(S) (IF ANY):

- 1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$

Amount of Total D&O Claim Not Assigned \$

Total Amount of D&O Claim \$

(should equal "Total D&O Claim" as entered on Section B)

- 2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
 4. Facsimile Number of Assignee(s): \_\_\_\_\_  
 5. Email address of Assignee(s): \_\_\_\_\_  
 6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

**Address of Monitor:**

Indalex Limited and/or  
 Indalex Holdings (B.C.) Ltd. and/or  
 6326765 Canada Inc. and/or  
 Novar Inc.  
 c/o FTI Consulting Canada ULC,  
 TD Canada Trust Tower  
 161 Bay Street, 27<sup>th</sup> Floor  
 Toronto, Ontario M5J 2S1

Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
 Facsimile: (416)-572-4068  
 E-mail: rachel.gillespie@fticonsulting.com

DATED at Toronto this 28 day of August, 2009.

(Signature of Witness)

Desi SESCOLOVA

(Please print name)

(Signature of individual completing this form)

ANDREA McKINNA

(Please print name)

## Schedule "5"

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### PROOF OF D&O CLAIM

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IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

---

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c., C-36, as amended

---

#### A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: RICHARD NELSON BENSON (the "Creditor").  
*(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of D&O Claim by division of the same Creditor.)*
2. Full Mailing Address of the Creditor:  
C/O KOSKIE MINSKY LLP  
20 QUEEN ST. W. SUITE 900, BOX 50  
TORONTO, ON CANADA M5H 3R3
3. Telephone Number of Creditor: 416.595.2150 |
4. Facsimile Number of Creditor: 416.204.2874 | Error! Bookmark not defined.
5. Attention (Contact Person): ANDREA MCKENJAN | Error! Bookmark not defined.

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<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: amckinnon@kimlaw.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
Yes \_\_\_ No X (If yes please complete section D)

B. PROOF OF D&O CLAIM:

(on behalf of Richard Nelson Benson)

I, Koskie Minsky LLP [Name of Creditor or Representative of the Creditor], do hereby certify:

A) that I am (please check one):

X the Creditor; or  
\_\_\_ hold the following position of \_\_\_\_\_ of the Creditor

and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:

Secured D&O Claim \$ 2,000.00 Cdn on a secured basis, <sup>priority charge</sup>  
I have valued my security at \$ 2,000.00 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)

Unsecured D&O Claim 1 \$ 283,787.00 Cdn on an unsecured basis

2 TBD by actua (see below).

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056).

C. PARTICULARS OF D&O CLAIM:

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured
<input checked="" type="checkbox"/> David McCallen	<u>1</u> \$ <u>2,000.00</u>	\$ <u>283,787.00</u> <u>2</u> TBD by actua
<input checked="" type="checkbox"/> Timothy Stubbs	<u>1</u> \$ <u>2,000.00</u>	\$ <u>283,787.00</u> <u>2</u> TBD by actua
<input checked="" type="checkbox"/> Patrick Lawlor	<u>1</u> \$ <u>2,000.00</u>	\$ <u>283,787.00</u> <u>2</u> TBD by actua
<input type="checkbox"/>	\$ _____	\$ _____

Description of transaction, agreement or event giving rise or relating to the D&O Claim:

(1) Ceased supplemental pension benefit payments.  
(2) Underfunded registered pension to be wound up in deficit.

If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

A reduction in monthly pension benefit will occur due to the wind up of the Indalex registered pension plan in its state of default. An actuarial calculation of this loss will be prepared once the loss is finalized.

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

Pension / wage superannuation charge

Estimated value of security outlined above as at the date of the D&O Claim:

\$4000.00

**IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS**

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

**D. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$ \_\_\_\_\_

Amount of Total D&O Claim Not Assigned \$ \_\_\_\_\_

Total Amount of D&O Claim \$ \_\_\_\_\_  
(should equal "Total D&O Claim" as entered on Section B)

2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
4. Facsimile Number of Assignee(s): \_\_\_\_\_  
5. Email address of Assignee(s): \_\_\_\_\_  
6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

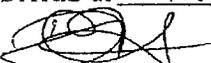
Address of Monitor:

Indalex Limited and/or  
Indalex Holdings (B.C.) Ltd. and/or  
6326765 Canada Inc. and/or  
Novar Inc.  
c/o FTI Consulting Canada ULC,  
TD Canada Trust Tower  
161 Bay Street, 27<sup>th</sup> Floor  
Toronto, Ontario M5J 2S1

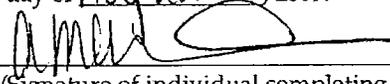
Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
Facsimile: (416)-572-4068  
E-mail: rachel.gillespie@fticonsulting.com

DATED at Toronto this 28 day of August, 2009.

  
\_\_\_\_\_  
(Signature of Witness)

Desi SKOKLEVA  
\_\_\_\_\_  
(Please print name)

  
\_\_\_\_\_  
(Signature of individual completing this form)

Andrea McKinnon  
\_\_\_\_\_  
(Please print name)

## Schedule "5"

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### PROOF OF D&O CLAIM

---

IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

---

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,

R.S.C. 1985, c., C-36, as amended

---

#### A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: LEON KOZIEROK (the "Creditor").  
*(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of D&O Claim by division of the same Creditor.)*
2. Full Mailing Address of the Creditor:  
C/O KOSKIE, MINSKY LLP  
20 QUEEN ST. W. SUITE 900, BOX 52  
TORONTO, ON, CANADA M5H 3E3
3. Telephone Number of Creditor: 416.595.2150 1
4. Facsimile Number of Creditor: 416.204.2874 Error! Bookmark not defined.
5. Attention (Contact Person): ANDREA MCKENNON Error! Bookmark not defined.

---

<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: amckinnon@kmlaw.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
Yes \_\_\_ No X (If yes please complete section D)

B. PROOF OF D&O CLAIM:

(on behalf of Leon Kozienski)

I, Koskie Minsky LLP [Name of Creditor or Representative of the Creditor], do hereby certify:

A) that I am (please check one):

X the Creditor; or  
\_\_\_ hold the following position of \_\_\_\_\_ of the Creditor

and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:

Secured D&O Claim \$ 2,000.00 <sup>priority charge</sup> Cdn on a secured basis,  
I have valued my security at \$ 2,000.00 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)

Unsecured D&O Claim ① \$ 984,869.00 Cdn on an unsecured basis ② TBD by actualy (see be)

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056).

C. PARTICULARS OF D&O CLAIM:

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured	
<input checked="" type="checkbox"/> David McCullen	① \$ <u>2,000.00</u>	\$ <u>984,869.00</u>	② TBD by actualy
<input checked="" type="checkbox"/> Timothy Stubbs	① \$ <u>2,000.00</u>	\$ <u>984,869.00</u>	② TBD by actualy
<input checked="" type="checkbox"/> Patrick Lawlor	① \$ <u>2,000.00</u>	\$ <u>984,869.00</u>	② TBD by actualy
<input type="checkbox"/>	\$ _____	\$ _____	② TBD by actualy

Description of transaction, agreement or event giving rise or relating to the D&O Claim:

- (1) Ceased supplemental pension benefit payments.
- (2) Underfunded registered pension to be monad up. in deficit.

If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

A reduction in monthly pension benefits will occur due to the wind up of the Indiana registered pension plan in its state of deficit. An actuarial calculation of this loss will be prepared once the loss is finalized.

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

Pension/wage superpriority charge

Estimated value of security outlined above as at the date of the D&O Claim:

\$ 2,000.00

**IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS**

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

**D. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

\_\_\_\_\_  
(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$ \_\_\_\_\_

Amount of Total D&O Claim Not Assigned \$ \_\_\_\_\_

Total Amount of D&O Claim \$ \_\_\_\_\_

(should equal "Total D&O Claim" as entered on Section B)

2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
 4. Facsimile Number of Assignee(s): \_\_\_\_\_  
 5. Email address of Assignee(s): \_\_\_\_\_  
 6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

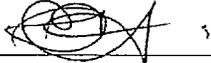
**Address of Monitor:**

Indalex Limited and/or  
 Indalex Holdings (B.C.) Ltd. and/or  
 6326765 Canada Inc. and/or  
 Novar Inc.  
 c/o FTI Consulting Canada ULC,  
 TD Canada Trust Tower  
 161 Bay Street, 27<sup>th</sup> Floor  
 Toronto, Ontario M5J 2S1

Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
 Facsimile: (416)-572-4068  
 E-mail: rachel.gillespie@fticonsulting.com

DATED at Toronto this 28 day of August, 2009.

  
 \_\_\_\_\_  
 (Signature of Witness)

Desi' SKOKLOVA  
 \_\_\_\_\_  
 (Please print name)

  
 \_\_\_\_\_  
 (Signature of individual completing this form)

Andrea McKinnon  
 \_\_\_\_\_  
 (Please print name)

## Schedule "5"

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### PROOF OF D&O CLAIM

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IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

---

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,

R.S.C. 1985, c., C-36, as amended

---

#### A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: KEITH BURTON CARRUTHERS (the "Creditor").  
(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of D&O Claim by division of the same Creditor.)
2. Full Mailing Address of the Creditor:  
C/O KOSKIE MINSKY LLP  
20 QUEEN ST. W. SUITE 900, BOX 52  
TORONTO, ON, CANADA M5H 3R3
3. Telephone Number of Creditor: 416. 595. 2150 <sup>1</sup>
4. Facsimile Number of Creditor: 416. 204. 2874 Error! Bookmark not defined.
5. Attention (Contact Person): ANDREA MCKINNON Error! Bookmark not defined.

---

<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: amckinnon@kmlaw.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
Yes \_\_\_ No X (If yes please complete section D)

B. PROOF OF D&O CLAIM:

I, Koskie Minsky LLP [Name of Creditor or Representative of the Creditor], do hereby certify:

A) that I am (please check one):

X the Creditor; or  
\_\_\_ hold the following position of \_\_\_\_\_ of the Creditor

and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:

Secured D&O Claim \$ 2,000.00 Cdn on a secured basis,  
I have valued my security at \$ 2,000.00 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)

Unsecured D&O Claim 1 \$ 707,521.00 Cdn on an unsecured basis

2 TBD by actuary - see below

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056).

C. PARTICULARS OF D&O CLAIM:

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured
<input checked="" type="checkbox"/> Danzi McAllen	<u>1</u> \$ <u>2,000.00</u>	\$ <u>707,521.00</u> <u>2</u> TBD by actuary
<input checked="" type="checkbox"/> Timothy Stubbs	<u>1</u> \$ <u>2,000.00</u>	\$ <u>707,521.00</u> <u>2</u> TBD by actuary
<input checked="" type="checkbox"/> Patrick Lawlor	<u>1</u> \$ <u>2,000.00</u>	\$ <u>707,521.00</u> <u>2</u> TBD by actuary
<input type="checkbox"/>	\$ _____	\$ _____

Description of transaction, agreement or event giving rise or relating to the D&O Claim:

(1) leased supplemental pension benefit payment  
(2) Underfunded registered pension to be wound up - in deficit

\_\_\_\_\_  
If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

A reduction in monthly pension benefits will occur due to the wind up of the Indalex pension plan (registered) in its state of default. An actuarial calculation of this loss will be prepared once the loss is finalized.

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

Pension/wage super priority charge.

Estimated value of security outlined above as at the date of the D&O Claim:

\$ 2,671,000

**IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS**

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

**D. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

\_\_\_\_\_  
(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$ \_\_\_\_\_

Amount of Total D&O Claim Not Assigned \$ \_\_\_\_\_

Total Amount of D&O Claim \$ \_\_\_\_\_

(should equal "Total D&O Claim" as entered on Section B)

2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
4. Facsimile Number of Assignee(s): \_\_\_\_\_  
5. Email address of Assignee(s): \_\_\_\_\_  
6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

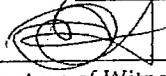
**Address of Monitor:**

Indalex Limited and/or  
Indalex Holdings (B.C.) Ltd. and/or  
6326765 Canada Inc. and/or  
Novar Inc.  
c/o FTI Consulting Canada ULC,  
TD Canada Trust Tower  
161 Bay Street, 27<sup>th</sup> Floor  
Toronto, Ontario M5J 2S1

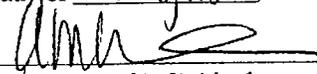
Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
Facsimile: (416)-572-4068  
E-mail: rachel.gillespie@fticonsulting.com

DATED at Toronto this 28 day of August, 2009.

  
\_\_\_\_\_  
(Signature of Witness)

Desi SKOKLOVA  
\_\_\_\_\_  
(Please print name)

  
\_\_\_\_\_  
(Signature of individual completing this form)

Andrea McKinnon  
\_\_\_\_\_  
(Please print name)

Schedule "5"

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PROOF OF D&O CLAIM

---

IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

---

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,

R.S.C. 1985, c., C-36, as amended

---

A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: ROBERT B. LECKIE (the "Creditor").  
*(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of D&O Claim by division of the same Creditor.)*
2. Full Mailing Address of the Creditor:  
C/O KOSKIE MINSKY LLP  
20 QUEEN ST. W. SUITE 900, BOX 52  
TORONTO, ON, CANADA M5H 3R3
3. Telephone Number of Creditor: 416. 595. 2150 1
4. Facsimile Number of Creditor: 416. 204. 2874 Error! Bookmark not defined.
5. Attention (Contact Person): ANDREA MCKINNON Error! Bookmark not defined.

---

<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: AMCKINNON@KHLaw.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
Yes \_\_\_ No X (If yes please complete section D)

B. PROOF OF D&O CLAIM: (on behalf of Robert I. Koskie Minsky LLP B. Leckie) [Name of Creditor or Representative of the Creditor], do hereby certify:

A) that I am (please check one):

X the Creditor; or  
\_\_\_ hold the following position of \_\_\_\_\_ of the Creditor

and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:

Secured D&O Claim \$2,000.00 <sup>r priority charge</sup> Cdn on a secured basis,  
I have valued my security at \$2,000.00 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)

Unsecured D&O Claim \$371,638.00 <sup>1</sup> Cdn on an unsecured basis 2 TBO by actuary

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056). <sup>(See below)</sup>

C. PARTICULARS OF D&O CLAIM:

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured
<input checked="" type="checkbox"/> David McCallen	<u>\$2,000.00</u>	<u>\$371,638.00</u> <sup>2</sup> TBO by actuary
<input checked="" type="checkbox"/> Timothy Stubbs	<u>\$2,000.00</u>	<u>\$371,638.00</u> <sup>2</sup> TBO by actuary
<input checked="" type="checkbox"/> Patricia Lawlor	<u>\$2,000.00</u>	<u>\$371,638.00</u> <sup>2</sup> TBO by actuary
<input type="checkbox"/>	\$ _____	\$ _____

Description of transaction, agreement or event giving rise or relating to the D&O Claim:

1) Ceased supplemental pension benefit payments.  
2) Underfunded registered pension to be wound up in deficit.

If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

A reduction to monthly pension benefits will occur due to its wind-up of the Indalex registered pension plan or its state of deficit. An actuarial calculation of this loss will be prepared once loss is finalized.

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

Pension/wage superpriority charge.

Estimated value of security outlined above as at the date of the D&O Claim:

\$ 2,000,000

IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

D. PARTICULARS OF ASSIGNEE(S) (IF ANY):

- 1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$ \_\_\_\_\_

Amount of Total D&O Claim Not Assigned \$ \_\_\_\_\_

Total Amount of D&O Claim \$ \_\_\_\_\_

(should equal "Total D&O Claim" as entered on Section B)

- 2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
4. Facsimile Number of Assignee(s): \_\_\_\_\_  
5. Email address of Assignee(s): \_\_\_\_\_  
6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

Address of Monitor:

Indalex Limited and/or  
Indalex Holdings (B.C.) Ltd. and/or  
6326765 Canada Inc. and/or  
Novar Inc.  
c/o FTI Consulting Canada ULC,  
TD Canada Trust Tower  
161 Bay Street, 27<sup>th</sup> Floor  
Toronto, Ontario M5J 2S1

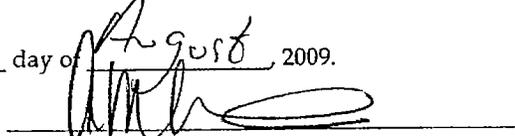
Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
Facsimile: (416)-572-4068  
E-mail: rachel.gillespie@fticonsulting.com

DATED at Toronto this \_\_\_\_\_ day of August, 2009.

  
\_\_\_\_\_  
(Signature of Witness)

Desi Skokleva  
\_\_\_\_\_  
(Please print name)

  
\_\_\_\_\_  
(Signature of individual completing this form)

Andrea McKinnon  
\_\_\_\_\_  
(Please print name)

Schedule "5"

---

PROOF OF D&O CLAIM

---

IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

---

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,

R.S.C. 1985, c., C-36, as amended

---

A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: MAX DEGGN (the "Creditor").  
*(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of D&O Claim by division of the same Creditor.)*
2. Full Mailing Address of the Creditor:  
C/O KOSKIE MINSKY LLP  
20 QUEEN ST. W., SUITE 900, BOX 52  
TORONTO, ON, CANADA M5H 3R3
3. Telephone Number of Creditor: 416. 595. 2150 1
4. Facsimile Number of Creditor: 416. 204. 2874 Error! Bookmark not defined.
5. Attention (Contact Person): ANDREA MCCLENNAN Error! Bookmark not defined.

---

<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: amckinnon@kmlaw.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
 Yes \_\_\_ No X (If yes please complete section D)

**B. PROOF OF D&O CLAIM:**

I, Kirkie Minsky LLP Com beh alf of Max Degen [Name of Creditor or Representative of the Creditor], do hereby certify:

A) that I am (please check one):  
 the Creditor; or  
 hold the following position of \_\_\_\_\_ of the Creditor

and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:

Secured D&O Claim \$ 2,000.00 Cdn on a secured basis, priority change  
 I have valued my security at \$ 2,000.00 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)

Unsecured D&O Claim \$ 109,161.00 Cdn on an unsecured basis

(2) TBD - by actuary (see below)

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056).

**C. PARTICULARS OF D&O CLAIM:**

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured	
<input checked="" type="checkbox"/> David McCallen	<u>\$ 2,000.00</u>	<u>\$ 109,161.00</u>	<u>(2) TBD by actuary</u>
<input checked="" type="checkbox"/> Timothy Stubbs	<u>\$ 2,000.00</u>	<u>\$ 109,161.00</u>	<u>(2) TBD by actuary</u>
<input checked="" type="checkbox"/> Patrick Lawlor	<u>\$ 2,000.00</u>	<u>\$ 109,161.00</u>	<u>(2) TBD by actuary</u>
<input type="checkbox"/>	\$ _____	\$ _____	

Description of transaction, agreement or event giving rise or relating to the D&O Claim:

- (1) Ceased supplemental pension benefit payments.
- (2) Underfunded registered pension to be wound up in deficit.

If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

A reduction to monthly pension benefits will occur due to the wind up of the Indalex registered pension plan in its state of deficit. An actuarial calculation of this loss will be prepared once loss is finalized.

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

Pension / wage superpriority charge.

Estimated value of security outlined above as at the date of the D&O Claim:

\$2,000.00

**IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS**

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

**D. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

- 1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$ \_\_\_\_\_

Amount of Total D&O Claim Not Assigned \$ \_\_\_\_\_

Total Amount of D&O Claim \$ \_\_\_\_\_

(should equal "Total D&O Claim" as entered on Section B)

- 2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
4. Facsimile Number of Assignee(s): \_\_\_\_\_  
5. Email address of Assignee(s): \_\_\_\_\_  
6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

**Address of Monitor:**

Indalex Limited and/or  
Indalex Holdings (B.C.) Ltd. and/or  
6326765 Canada Inc. and/or  
Novar Inc.  
c/o FTI Consulting Canada ULC,  
TD Canada Trust Tower  
161 Bay Street, 27<sup>th</sup> Floor  
Toronto, Ontario M5J 2S1

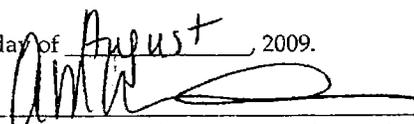
Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
Facsimile: (416)-572-4068  
E-mail: rachel.gillespie@fticonsulting.com

DATED at Toronto this 28 day of August, 2009.

  
\_\_\_\_\_  
(Signature of Witness)

Desi Skokjeva  
\_\_\_\_\_  
(Please print name)

  
\_\_\_\_\_  
(Signature of individual completing this form)

Andrea McKinnon  
\_\_\_\_\_  
(Please print name)

## Schedule "5"

---

### PROOF OF D&O CLAIM

---

IN RESPECT OF CLAIMS AGAINST  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD.,

6326765 CANADA INC. AND NOVAR INC.  
(collectively, the "Applicants")

and

CURRENT AND FORMER DIRECTORS AND OFFICERS OF THE APPLICANTS  
(collectively, the "Directors and Officers")

---

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c., C-36, as amended

---

#### A. PARTICULARS OF D&O CREDITOR

1. Full Legal Name of D&O Creditor: BERTRAM GERALD ARTINE MCBRIDE the  
"Creditor").  
(Full legal or Corporate name should be the name of the original Creditor. Do not file separate  
Proofs of D&O Claim by division of the same Creditor.)
2. Full Mailing Address of the Creditor:  
C/O KOSKIE MINESKY LLP  
20 QUEEN ST. W., SUITE 900, BOX 52  
TORONTO, ON, CANADA M5H 3R3
3. Telephone Number of Creditor: 416. 595. 2150 1
4. Facsimile Number of Creditor: 416. 204. 2874 Error! Bookmark not  
defined.
5. Attention (Contact Person): ANDREA MCKINNON Error! Bookmark not  
defined.

---

<sup>1</sup> IN ORDER TO ENSURE ALL CLAIMS ARE PROCESSED IN AN EXPEDITED MANNER YOU MUST PROVIDE  
ONE (1) OR MORE OF YOUR TELEPHONE NUMBER, FAX NUMBER OR EMAIL ADDRESS.

6. Email address: amekinnon@kmtkw.ca Error! Bookmark not defined.

7. Has the D&O Claim been sold or assigned by Creditor to another party?  
Yes \_\_\_ No X (If yes please complete section D)

B. PROOF OF D&O CLAIM: *(on behalf of Bertram Gerald Arthur McBride)*  
I, Koskie Minsky up Arthur McBride Name of Creditor or Representative of the Creditor], do hereby certify:

A) that I am (please check one):  
X the Creditor; or  
\_\_\_ hold the following position of \_\_\_\_\_ of the Creditor  
and have personal knowledge of all the circumstances connected with the D&O Claim described herein;

B) The Creditor is owed as follows:  
priority charge amount  
Secured D&O Claim \$ 2,000.00 Cdn on a secured basis,  
I have valued my security at \$ 2,000.00 (this will be the amount at which you value your secured claim, the difference between the secured claim amount and the value of your security will be the amount of your unsecured claim)  
Unsecured D&O Claim ① 482,905.00 Cdn on an unsecured basis ② TBD - by actuar

Note: Claims in a foreign currency are to be converted to Canadian dollars at the exchange rate of (see below, the Bank of Canada as at the Filing Date, April 3, 2009. For example, the U.S. to Canadian Dollar exchange rate conversion on such date was U.S.\$1 = CDN\$0.8056).

C. PARTICULARS OF D&O CLAIM:

Name of the Director and the amount for each Director which owes the amount claimed:

Director	Secured	Unsecured	
<input checked="" type="checkbox"/> David McCallen	<u>① \$2,000.00</u>	<u>\$482,905.00</u>	<u>② TBD by actuar</u>
<input checked="" type="checkbox"/> Timothy Stubbs	<u>① \$2,000.00</u>	<u>\$482,905.00</u>	<u>③ TBD by actua</u>
<input checked="" type="checkbox"/> Patrick Lawlor	<u>① \$2,000.00</u>	<u>\$482,905.00</u>	<u>③ TBD by actua</u>
<input type="checkbox"/>	\$ _____	\$ _____	

Description of transaction, agreement or event giving rise or relating to the D&O Claim:  
1) Cessed supplemental pension benefit payments  
2) Underfunded registered pension to be wound up in deficit

If the D&O Claim is contingent or unliquidated, state the basis and provide evidence upon which the D&O Claim has been valued:

*A reduction of monthly pension benefits will occur due to the wind-up of the Indalex registered pension plan in its state of deficit. An actuarial calculation of this loss will be prepared once loss is finalised.*

Description of security, if any, granted to the Creditor or assigned by Creditor in respect of the D&O Claim:

*Pension / wage superpriority charge.*

Estimated value of security outlined above as at the date of the D&O Claim:

*\$ 2,000.00*

**IF CLAIMANTS REQUIRE ADDITIONAL SPACE THEN PROVIDED HEREIN, PLEASE ATTACH A SCHEDULE HERETO. CLAIMANTS SHOULD ALSO PROVIDE COPIES OF ALL RELEVANT AGREEMENTS**

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF D&O CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC., TO WHICH THE APPLICANTS ARE ENTITLED.

**D. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

1. Full Legal Name of Assignee(s) of D&O Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

\_\_\_\_\_  
(the "Assignee(s)")

Amount of Total D&O Claim Assigned \$ \_\_\_\_\_

Amount of Total D&O Claim Not Assigned \$ \_\_\_\_\_

Total Amount of D&O Claim \$ \_\_\_\_\_  
(should equal "Total D&O Claim" as entered on Section B)

2. Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number of Assignee(s): \_\_\_\_\_  
 4. Facsimile Number of Assignee(s): \_\_\_\_\_  
 5. Email address of Assignee(s): \_\_\_\_\_  
 6. Attention (Contact Person): \_\_\_\_\_

**E. FILING OF D&O CLAIMS:**

The duly completed Proof of D&O Claim together with supporting documentation must be returned and received by the Monitor, no later than 5:00 pm (Eastern Daylight Savings Time) on August 28, 2009, to the following address or facsimile:

Failure to file your Proof of D&O Claim by such date will result in your claim being forever extinguished and barred and you will be prohibited from making or enforcing a D&O Claim against the Applicants.

This Proof of D&O Claim must be delivered by email, facsimile transmission, personal delivery, courier or prepaid mail at the following address:

Address of Monitor:

Indalex Limited and/or  
 Indalex Holdings (B.C.) Ltd. and/or  
 6326765 Canada Inc. and/or  
 Novar Inc.  
 c/o FTI Consulting Canada ULC,  
 TD Canada Trust Tower  
 161 Bay Street, 27<sup>th</sup> Floor  
 Toronto, Ontario M5J 2S1

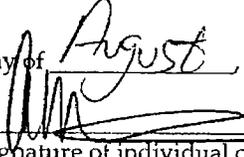
Attention: Ms. Rachel Gillespie

Telephone: (416)-572-2476  
 Facsimile: (416)-572-4068  
 E-mail: rachel.gillespie@fticonsulting.com

DATED at TORONTO this 28 day of August, 2009.

  
 (Signature of Witness)

Desi Stokic  
 (Please print name)

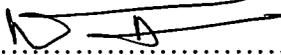
  
 (Signature of individual completing this form)

Andrea McKinnon  
 (Please print name)

This is **Exhibit "N"** referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
*26<sup>th</sup>* day of October, 2010

A handwritten signature in black ink, appearing to be "D. A.", written over a dotted line.

.....  
A Commissioner for taking affidavits, etc.

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## Shutdown of Sapa in Morris, IL

Sapa Profiles North America announces the shutdown of its plant in Morris, IL in an effort to better serve its customers with the latest and best extrusion technology.

The Morris plant has been running on low volumes and low profitability for the last several quarters due to historically low demand in the markets it serves. During this time, Morris has successfully developed and launched unique customer solutions in several markets. Sapa can now provide customers with even better service and extrusion solutions from other facilities available as a result of its recent acquisition of Indalex.

Tim Stubbs, Business Area President Sapa Profiles North America, said, "While this was a difficult decision, and we realize change is never easy for our employees or our customers, we are convinced that we can enhance our product and service offerings to customers currently being served out of Morris."

Charlie Straface, the General Manager for Sapa Industrial Extrusions said, "We will begin working with our customers immediately to quickly communicate the best fit for their product and service needs. Our team will be partnering with our customers to source their material at our other facilities."

The Morris plant closure is expected to occur on or about November 1, 2009 and will affect all of the 79 employees who work there.

*For further information, please contact Charlie Straface, General Manager of Sapa Industrial Extrusions at +1 773-380-7696 or Robert J. Rubicky, Director of Human Resources / Sapa Profiles North America at +1 412-299-2291.*

Sapa is the largest aluminium profiles producer in the world. The Sapa Group develops, manufactures and markets value-added profiles, profile-based building systems and heat exchanger strip in the light-weight material aluminium. Sapa is divided in the business areas Sapa Profiles, Sapa Building System and Sapa Heat Transfer and is represented in Europe, North America and Asia. The business concept is built on close cooperation with customers. Sapa is the leading company in its field of operation and have customers in the building, transport-, engineering, telecom and home and office industry. The Sapa Group has combined net sales of 32,500 MSEK and 12,000 employees. Sapa is part of Norwegian Orkla ASA.

Updated: 2009-08-12

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Email: [info@sapagroup.com](mailto:info@sapagroup.com) |

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## Sapa to strengthen North American business – in process to acquire Indalex

Today Sapa entered into an asset purchase agreement with US aluminium extrusion company Indalex for the possible purchase of substantially all of Indalex's assets in the US and Canada.



Under the agreement, Sapa would acquire Indalex's ten active plants in the US (6) and Canada (4), with 29 presses and a total capacity of about 315,000 tonnes per year. Indalex's sales in 2008 were about 200,000 tonnes which represented sales of just above 900 MUSD. Indalex has about 1,400 employees.

The planned purchase represents an underlying enterprise value of approximately 95 MUSD for the business.

The transaction would allow Sapa to improve its geographical presence in North America, including an introduction into the Canadian region. Also, Sapa would be better positioned to service customers through improved painting, anodising and fabrication capabilities. In addition, Sapa would be able to optimize customer value through the combined knowledge, experience and technical competence of the two companies. The combination has a significant potential of realising cost synergies through plant restructuring and cost improvements in procurement, logistics and shared services. The new company would have the ability to further develop new end use applications in North America, benefitting the customers and the extrusion industry as a whole.

President and CEO of Sapa, Bjørn Wiggen says in a comment: "I appreciate this opportunity to include Indalex in our North American operation. The new combined unit will reflect the strengths of both organizations and represent a possibility to serve the customers even better. By optimizing the broad experience and technical knowledge in the two companies we will be able to bring new solutions to the market sooner."

"The agreement demonstrates Orkla's and Sapa's commitment to the North American extrusion market. Indalex is an excellent company with a long history in the industry. Combining the two companies will provide a wider product range and better geographic coverage than either company has alone. We will be able to offer our customers a range of products and services that is truly unique," says Jack Miller, Business Area President Sapa Profiles North America.

Tim Stubbs, President and CEO, Indalex, said: "This would be a natural fit for both companies. Our customer-focused operating strategies match well and the long-standing commitment to the extrusion industry through investment and modernization are mutual. The strengths of both companies will fit well to provide our customers with unmatched capacity, capabilities and commitment."

The agreement is part of a motion filed with the bankruptcy court in Delaware, along with sale and bid procedures, pursuant to Section 363 of the United States Bankruptcy Code. A parallel motion has also been filed with the Ontario Superior Court of Justice in Toronto, with respect to the sale of Indalex's Canadian assets and business. The motions are scheduled to be heard on July 2, at which time Sapa is expected to be selected as the "stalking horse" bidder. In the event that competitive bids are received from other qualified bidders, a bankruptcy auction will be held around July 16, 2009. Final approval of Sapa's agreement or the auction outcome is expected by the end of July.

*For further information, please contact Bjørn Wiggen, President and CEO Sapa, telephone +46-70-953 08 53 or Marius Grønningsaeter, SVP Corporate Business, telephone: +47-905 190 77.*

## About Indalex Holdings Finance, Inc. and Indalex Holding Corp.

Indalex Holding Corp., a wholly-owned subsidiary of Indalex Holdings Finance, Inc., through its operating subsidiaries Indalex Inc. and Indalex Ltd., with headquarters in Lincolnshire, Illinois, is the second largest producer of soft alloy extrusion products in North America. The company's aluminium extrusion products are widely used throughout industrial, commercial and residential applications and are customized to meet specific end-user requirements. Indalex operates 10 extrusion facilities, 29 extrusion presses with circle sizes up to 20 inches, a variety of fabrication and close tolerance capabilities, two anodizing operations, two billet casting facilities, and six electrostatic paint lines, including powder coat capability.

## About Sapa Holding AB

Sapa is the largest aluminium profiles producer in the world. The Sapa Group develops, manufactures and markets value-added profiles, profile-based building systems and heat exchanger strip in the light-weight material aluminium. Sapa is divided in the business areas Sapa Profiles, Sapa Building System and Sapa Heat Transfer and is represented in Europe, North America and Asia. The business concept is built on close cooperation with customers. Sapa is the leading company in its field of operation and have customers in the building, transport-, engineering, telecom and home and office industry. The Sapa Group has combined net sales of 32,500 MSEK and 12,000 employees. Sapa is part of Norwegian Orkla ASA.

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Email: [info@sapagroup.com](mailto:info@sapagroup.com) |

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## Tim Stubbs appointed Business Area President for Sapa Profiles North America

Tim R.J. Stubbs (42) has been appointed Business Area President for Sapa Profiles North America after the acquisition of the former Indalex assets has been concluded.

Tim has been leading Indalex for the last four years having held the positions of both Chief Operating Officer and Vice President of sales and marketing.

Tim joined Indalex in 2000 having previously worked for Sapa in the UK in both operations and sales roles.

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## Bjørn Wiggen new President and CEO of Orkla

Orkla's Board of Directors has appointed Bjørn M. Wiggen (50), President and CEO of Sapa, as President and CEO of Orkla to succeed Dag J. Opedal. Mr Wiggen will take up his new position today.

"The Board of Directors is convinced that Bjørn M. Wiggen is eminently qualified to head Orkla's further development effectively and in the best interests of shareholders and employees. His ability to execute plans, track record and broad international experience of leadership within and outside Orkla were decisive factors in this appointment," says Board Chairman Stein Erik Hagen.

"Orkla is a very exciting company to head. I have good, strong feelings for this Group," affirms Bjørn M. Wiggen.

"Orkla will remain a diversified portfolio company. I will continue to build on Orkla's strong positions and competencies, but it is also important to prioritise resources so as to maximise Orkla's ability to create long-term value for its shareholders. There are good growth opportunities in markets such as those in which Orkla Brands and Sapa operate, and we see particular potential for us in Asia. We will concentrate the Group's activities on a smaller number of areas in the time to come, and we will seek to reduce our exposure to solar energy over time," declares Wiggen.

"Bjørn knows Orkla well from many different angles. He has demonstrated an ability to implement demanding change processes, such as the sale of Orkla Media and Elkem's energy operations. He has developed Sapa into a leading global company by means of operational improvements, the swap with Alcoa and the acquisition of Indalex," says Hagen.

"I would also like to take this opportunity to thank Dag J. Opedal for his comprehensive efforts and more than 20 years of contributions to the Group's development and growth," says Hagen.

The current head of Sapa's operations in North America, Timothy R. J. Stubbs (43), will replace Mr Wiggen as CEO of Sapa. Mr Stubbs will be a member of Orkla's Group Executive Board.

Bjørn M. Wiggen has a degree (siv.økonom) from the Norwegian School of Economics and Business Administration (NHH). He was CEO of Pripps Breweries in Sweden (1996-1998) and Ringnes (1998-2001), after which he held key positions at Carlsberg Breweries from 2001 to 2004, including responsibility for Carlsberg's breweries in Central and Eastern Europe. Mr Wiggen was CEO of Orkla Media/Mecom Europe (2005-2007), Elkem (2008) and Sapa (from 2009).

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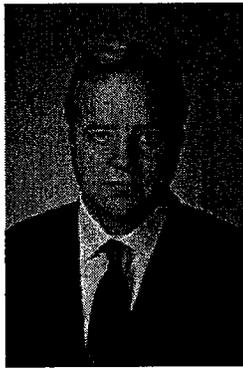
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Email: [info@sapagroup.com](mailto:info@sapagroup.com) |

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## Tim Stubbs appointed new President and CEO of Sapa

**Timothy R J Stubbs** (43) has been appointed new President and CEO of Sapa effective immediately. He will also be a member of Orkla's Group Executive Board. Tim comes from the position as Business Area President Sapa Profiles North America and has been a part of Sapa's Executive Team since the acquisition of Indalex in August 2009.

"I am very pleased that we have been able to recruit a Sapa-internal candidate to secure continuity and commitment to fulfilling our strategy. I wish Tim every success in his new role and I look forward to helping Sapa develop in the future", says Bjørn Wiggen, new Chairman of the Board at Sapa.

Tim was born in England and holds a Masters degree in Metallurgy from Oxford University and an MBA from London Business School. Tim started his career at Rio Tinto, assigned to the extrusion plant in Cheltenham (which today is a Sapa plant) where he was Operations Manager. After Sapa acquired Cheltenham in 1996 and Tim finished his MBA, he was appointed Marketing Director and later Operations Director. In 2000, Tim left Sapa to join Indalex in North America as Business Unit President Eastern region. In 2002 he became SVP Sales and Marketing for Indalex and in 2004 he was appointed CEO. Between 2004-2007 Tim was also a board member of Asia Aluminum in Hong Kong. In 2009 Indalex was acquired by Sapa and Tim was appointed Business Area president for Sapa Profiles North America.

"I am thrilled to be given this opportunity", says Tim Stubbs. "Sapa is a great company, with great people and I am pleased with the progress we are seeing in many areas. Our ambition remains to continue improving operations and creating more value for our customers through strong local presence and focus on realizing synergies across the group".

Updated: 2010-09-08

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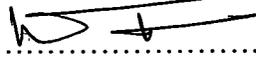
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This is **Exhibit "O"** referred to in the  
affidavit of

**KEITH B. CARRUTHERS**

sworn before me, this  
*26<sup>th</sup>* day of October, 2010

  
.....

A Commissioner for taking affidavits, etc.



Industry Canada > Information by Industrial Sector > Canadian Railway Manufacturing Industries >  
Company Directories

## Railway Equipment Manufacturing

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### Sapa Extrusions - Complete Profile

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#### Sapa Extrusions

Last Updated: 2010-05-11

**Legal Name:** Sapa Inc

**Operating Name:** Sapa Extrusions

**Mailing Address**

5675 Kennedy Rd  
MISSISSAUGA, Ontario  
L4Z 2H9

**Location Address**

5675 Kennedy Rd  
MISSISSAUGA, Ontario  
L4Z 2H9

**Telephone:** (905) 890-8821

**Toll Free Phone:** (800) 724-5947

**Fax:** (905) 890-8385

**Email:** [sales@indalex.com](mailto:sales@indalex.com)

**Website URL:** <http://www.sapagroup.com>

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#### Contact Information

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**Title:** Vice President

**Area of Responsibility:** Domestic Sales & Marketing

**Telephone:** (905) 890-8821

**Fax:** (866) 462-6822

**Email:** [terry\\_wagner@indalex.com](mailto:terry_wagner@indalex.com)

**Dave McCallen**

**Title:** Vice President

**Area of Responsibility:** Manufacturing/Production/Operations

**Telephone:** (905) 890-8821

**Fax:** (866) 462-6822

**Email:** dave\_mccallen@indalex.com

### Andrew Popus

**Title:** Genral Manager  
**Telephone:** (905) 890-8821  
**Fax:** (905) 890-8385  
**Email:** sales@indalex.com

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## Company Description

Aluminum extrusion  
Painting, Anodizing, Fabricating of aluminum extrusions.

**Country of Ownership:** Canada  
**Exporting:** Yes  
**Primary Industry (NAICS):** 331313 - Primary Production of Alumina and Aluminum  
**Alternate Industries (NAICS):** 331410 - Non-Ferrous Metal (except Aluminum) Smelting and Refining  
**Primary Business Activity:** Manufacturer / Processor / Producer

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## Product / Service / Licensing

**Product Name:** Aluminum Extrusions

Aluminum Extrusions - Painting - Anodizing - Fabrication

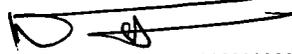
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Date Modified: 2010-10-21

This is **Exhibit "P"** referred to in the  
affidavit of  
**KEITH CARRUTHERS**  
sworn before me, this  
26<sup>th</sup> day of October, 2010

A handwritten signature in black ink, appearing to be "D. Carruthers", written over a horizontal line.

.....  
A Commissioner for taking affidavits, etc.



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## Executive Management

**Tim Stubbs**, President and CEO

**Svein-Tore Holsether**, Business Area President, Sapa Asia & Middle East

**Paul Hogg**, Vice President Human Resources (including Genesis, CVM, Redesign)

**Kåre Wetterberg**, Senior Vice President of Technology

**Anna Smieszek**, General Counsel

**Erika Ahlqvist**, Communications Director

**Patrick Lawlor**, Business Area President North America

**Arne Rengstedt**, Business Area President Europe

**Tor Gule**, Responsible for South and West Europe  
**Michael Mononen**, Business Area President Heat Transfer  
**Hans Johansson**, Business Area President Building System

Updated: 2010-02-08

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## Sapa Names Two New Executives

in News Departments > People  
by SI Staff on Tuesday 14 September 2010



Tim Stubbs has been appointed president and CEO of **Sapa**, a provider of extruded aluminum products. Stubbs recently held the position as business area president for Sapa Profiles North America and has been a part of Sapa's executive team since its acquisition of Indalex in August 2009.

Patrick Lawlor has been appointed business area president for Sapa Profiles North America. Since 2009, he has served as chief financial officer and general manager for specialty/business integration for Sapa Profiles North America.

SOURCE: Sapa

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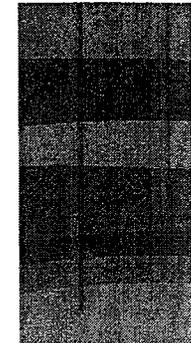
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SOLAR ELECTRIC PHOTOVOLTAICS

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Spi-Sun Simulator

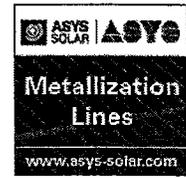
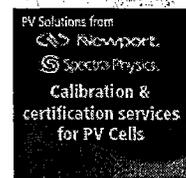
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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, 1985  
R.S.C. c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF INDALEX  
LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and NOVAR INC.

Applicants

Court File No: CV-09-8122-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**AFFIDAVIT OF KEITH B CARRUTHERS  
(SWORN OCTOBER 16, 2010)**

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Kozierok, Max Degen, Eugene D'Iorio, Richard Smi  
Robert Leckie, Neil Fraser, Richard Benson, John F  
Jack Rooney, and Robert Waldron (the "Pensioners")

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, 1985,  
R.S.C. c. C-36, AS AMENDED

Court File No: CV-09-8122-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and  
NOVAR INC.

Applicants

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(Commercial List)**

Proceeding commenced at **Toronto**

**RESPONDING MOTION RECORD**  
(Opposing termination of Directors' Charge,  
returnable November 10, 2010)

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**Demetrios Yiokaris** (LSUC# 45852L)  
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Lawyers for Keith Carruthers, Leon Kozierok,  
Richard Benson, John Faveri, Ken Waldron, John  
(Jack) W. Rooney, Bertram McBride, Max  
Degen, Eugene D'Iorio, Richard Smith, Robert  
Leckie, Neil Fraser and Fred Granville, members  
of the Retirement Plan for Executive Employees  
of Indalex Canada and Associated Companies