

**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 PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT WITH RESPECT TO
U. S. STEEL CANADA INC. (the "Applicant")

**RESPONDING MOTION RECORD OF THE APPLICANT
(Lifting of the Suspension of Payment of OPEBs)
(returnable August 17, 2016)**

August 11, 2016

McCarthy Tétrault LLP
Suite 5300, Toronto Dominion Bank Tower
Toronto ON M5K 1E6

James Gage LSUC#: 34676I
Tel: 416.601.7539
Email: jgage@mccarthy.ca

Paul Steep LSUC#: 21869L
Tel: 416.601.7998
Email: psteep@mccarthy.ca

Heather Meredith LSUC#: 48354R
Tel: 416.601.8342
Email: hmeredith@mccarthy.ca

Sharon Kour LSUC#: 58328D
Tel: 416.601.8305
Email: skour@mccarthy.ca

Lawyers for the Applicant,
U.S. Steel Canada Inc.

TO: THE SERVICE LIST

**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 PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT WITH RESPECT TO
U. S. STEEL CANADA INC. (the "Applicant")

**RESPONDING MOTION RECORD OF THE APPLICANT
(Lifting of the Suspension of Payment of OPEBs)
(Returnable August 17, 2016)**

INDEX

Tab	Document
1	Affidavit of William E. Aziz sworn August 11, 2016
A	Exhibit "A" – Cash Conservation and Business Preservation Order dated October 9, 2015 and Reasons for Decision dated October 14, 2015
B	Exhibit "B" – Affidavit of William E. Aziz sworn September 17, 2015 (Re: Cash Conservation and Business Preservation Motion)
C	Exhibit "C" – Supplementary Affidavit of William E. Aziz sworn September 28, 2015 (Amended and Restated Replacement DIP Term Sheet)
D	Exhibit "D" – DIP Term Sheet dated as of November 4, 2015
E	Exhibit "E" – First Amending and Extension Agreement made as of January 25, 2016
F	Exhibit "F" – Second Amending and Extension Agreement made as of July 15, 2016
G	Exhibit "G" – High Level Summary of Certain Provincial Benefit Plans
H	Exhibit "H" – Transition Fund Order dated December 23, 2015

TAB 1

**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 PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT WITH RESPECT TO
U. S. STEEL CANADA INC.

**RESPONDING AFFIDAVIT OF WILLIAM E. AZIZ
SWORN August 11, 2016
(re: OPEB Motion)**

I, William E. Aziz, of the Town of Oakville, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am the President of BlueTree Advisors II Inc., which has been retained by U. S. Steel Canada Inc. (“**USSC**” or the “**Applicant**”) to provide my services to USSC as Chief Restructuring Officer (“**CRO**”) of USSC in accordance with the engagement letter dated September 16, 2014. I report to the board of directors of USSC.

2. As the Chief Restructuring Officer of USSC, I have personal knowledge of the matters deposed herein, except where I have indicated that I have obtained facts from other sources, in which case I verily believe those facts to be true. I have spoken with certain of the officers, advisors and/or employees of USSC as well as the Monitor, as necessary, and where I have relied on information from such discussions, I believe such information to be true.

3. I swear this affidavit in response to a motion by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (the

“USW”, an international trade union working together with its local unions Local 1005 and Local 8782 (collectively, the “**Union**”), and the non-USW active and retired employees of USSC (the “**Salaried Employees**”, together with the Union, the “**Moving Parties**”) for an order reinstating the payment of post-employment benefit plans (“**OPEBs**”) that the Court authorized USSC to suspend effective October 9, 2015 pursuant to the order dated October 9, 2015 (the “**Cash Conservation and Business Preservation Order**”). Attached hereto as **Exhibit “A”** is a copy of the Cash Conservation and Business Preservation Order and related Reasons for Decision.

BACKGROUND

4. USSC is a leading steel producer that conducts most of its business from two large steel plants – one located in Hamilton, Ontario (“**HW**”) and one located in Nanticoke, Ontario (“**LEW**”).

5. On September 16, 2014, USSC obtained an initial order (as amended and restated from time to time, the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act* (“**CCAA**”), among other things, granting a stay of proceedings and appointing Ernst & Young Inc. as monitor (the “**Monitor**”).

6. USSC has undertaken a complex court-supervised restructuring process with the view of preserving the ongoing value of its operations while exploring restructuring solutions with key stakeholders.

7. A sale and restructuring/recapitalization process (“**SARP**”) was authorized on April 2, 2015. The SARP did not result in an executable transaction and it was discontinued on October 9, 2015.

8. USSC then undertook a sale and investment solicitation process (“SISP”) as required pursuant to the Amended and Restated DIP Term Sheet between USSC and Brookfield Capital Partners Ltd. (the “DIP Lender”), dated November 5, 2015 (as amended and restated, the “DIP Term Sheet”).

9. The SISP is presently at a critical phase. USSC and its advisors have been working with the Phase 2 bidders, including facilitating negotiations and consultations between bidders and certain key stakeholder groups. The bidders were given August 5, 2016 as a target date for negotiations with key stakeholder groups including the Union and the Province of Ontario.

10. On August 5, 2016, negotiations with certain of the key stakeholder groups were scheduled to continue and, to the best of my knowledge, are ongoing at the time of swearing this affidavit. At the same time, USSC and its advisors are considering available alternatives to a going-concern transaction including a transaction or combination of transactions in the SISP for portions of the business and/or a sale of all or some portion of the lands.

Cash Conservation and Business Preservation Order

11. In the Initial Order, USSC was permitted but not required to continue to provide OPEBs to eligible former employees, their spouses and their dependants in the ordinary course of business and consistent with existing compensation policies and arrangements.

12. As described in my affidavit dated September 17, 2015, attached hereto (without exhibits) as **Exhibit “B”**:

- (a) USSC provided OPEBs to approximately 20,600 former salaried and unionized employees and their spouses and dependants, including prescription drugs, dental,

other medical, hospital and vision coverage, and life insurance pursuant to plans maintained by the company (the “**OPEB Plan**”);

- (b) The USSC August 31, 2015 balance sheet reflected a total present accounting value of future OPEB contingent liabilities to be \$871 million. No corresponding assets are maintained by USSC to pre-fund the benefit obligations; rather, claims were paid by USSC under a contract administered by Green Shield Canada (“**Green Shield**”) on a pay-as-you-go basis;
- (c) At the time, USSC was making OPEB payments totalling approximately \$3.6 million each month inclusive of life insurance premiums.

13. USSC continued to provide OPEBs in accordance with the terms of its OPEB Plan from the date of the Initial Order until October 9, 2015, making payments totalling \$43.3 million in respect of the OPEBs, including life insurance, in that timeframe.

14. On October 9, 2015, the Cash Conservation and Business Preservation Order authorized USSC to suspend the payment of various amounts including payments in respect of “**OPEB Claims**” (as defined in the Cash Conservation and Business Preservation Order) and payments on account of any OPEB Plan-related costs and expenses incurred on or after October 9, 2015.

15. In accordance with the Cash Conservation and Business Preservation Order, USSC has continued to pay premiums under the group insurance policy between USSC and Desjardins Financial Security Life Assurance Company under Policy number 530005 for life insurance benefits for former salaried and unionized employees.

16. The USW sought leave to appeal the suspension of payments pursuant to the OPEB Plan. Leave to appeal was denied by the Ontario Court of Appeal on February 1, 2016.

17. At the time the Cash Conservation and Business Preservation Order was issued, USSC provided a forecast, attached to my affidavit sworn September 28, 2015 that forecasted EBITDA, changes to working capital, DIP draws and closing cash, among other things, between September 2015 and July 2016 (the “**Forecast**”). Attached hereto as **Exhibit “C”** is a copy of my September 28, 2015 affidavit, with Exhibit “B” attached.

USSC RESULTS DO NOT JUSTIFY REINSTATING OPEB PAYMENTS

18. I have reviewed the affidavit of Paul Bishop, sworn July 20, 2016, in support of the motion of the Moving Parties (the “**Bishop Affidavit**”). In it, Mr. Bishop focuses on the cash position of USSC. In my view, a focus on only the cash position of USSC is misleading and does not fully encompass the complexities of the business. To make an accurate assessment of USSC’s financial position, it is important to also understand USSC’s actual earnings and those earnings relative to the Forecast, as well as the sources of cash held by USSC and the priority claims to that cash.

EBITDA and Income from Operations

19. USSC’s actual cumulative EBITDA results were tracking directly to the Forecast to May 31, 2016:

	Forecast (m)	Actual (m) ¹
Oct 2015	(\$12)	(\$5)
Nov 2015	(\$13)	(\$7.6)

¹ The actual EBITDA cited in this chart and in this affidavit is as reported in the 28th Report of the Monitor dated July 25, 2016 (the “**28th Report**”), para 34, and adjusted as set out in paragraph 34 of the 28th Report.

Dec 2015	(\$12)	(\$10.5)
Jan 2016	(\$10)	(\$24.8)
Feb 2016	(\$8)	(\$17.3)
Mar 2016	(\$6)	(\$10.8)
Apr 2016	(\$7)	(\$5.0)
May 2016	(\$7)	\$5.7
TOTAL	(\$75)	(\$75)

20. In June 2016, actual EBITDA was \$14.5 million versus the projected EBITDA of negative \$9 million. The cumulative forecast EBITDA of negative \$84 million is compared to the negative \$61 million actual EBITDA for the period ending June 2016. As can be seen in these figures, EBITDA has varied from the Forecast in certain months – with at least two months (January and February 2016) having EBITDA results significantly below the Forecast – and every month except May and June 2016 producing negative EBITDA. The actual EBITDA results have not shown a specific upward or downward trend consistently in the October 2015 to June 2016 timeframe.

21. EBITDA results were positive in May 2016 and June 2016 for the first time since at least August 2015, according to the Monitor. USSC reported positive income from operations (“**IFO**”) in June 2016, for the first time in 2016. The significance of USSC having positive IFO for the first time in 2016 cannot be understated. This is not a trend and is certainly not enough to counter the losses from operations prior to that time.

22. In summary, USSC lost a significant amount of money between October 2015 and the end of May 2016, with total adjusted IFO of negative \$139.7 million and total EBITDA of negative \$75 million for that period.

23. While USSC has had one month in which it generated positive IFO, it is important to keep in mind that a) in every other month since October 2015, USSC lost money from operations and there have only been two months in that timeframe during which EBITDA was not negative; b) USSC's overall EBITDA and IFO results since October 2015 are negative, with adjusted IFO losses in excess of \$130 million; c) for the period to the end of May 2016, EBITDA was tracking to the Forecast (i.e., actual EBITDA was consistent with the forecast that demonstrated the extremely challenging circumstances faced by USSC and supported the suspension of OPEB payments and other amounts); and d) the fact that USSC did not incur losses in EBITDA in May and June 2016 was driven in large part by a combination of factors, some of which were outside of the control of USSC management.

24. In particular, EBITDA increased in May 2016 and June 2016 chiefly due to the increase in gross margins, which was driven by the following factors that can change quickly:

- (a) Lower costs for key raw materials, such as iron ore and coal, as of Q2 2016;
- (b) Higher North American steel prices, which, I am advised by Gideon Volschenk, Director of the Financial Advisor, have increased by 40.5% since January 2016 after generally declining since August 2014; and
- (c) A weakened Canadian dollar vis-à-vis the US dollar that benefits USSC since a significant percentage (from approximately 48.7% in 2015 to approximately 24.2% year-to-date to June 2016) of its revenue is in US dollars while a

signification portion of its non-raw material operating costs are in Canadian dollars.

25. USSC has also been successful in replacing the lost automotive OEM sales volume to with other sales volume; however, the 2016 year-to-date average selling price of this replacement volume has decreased as a result of market pricing for the types of steel being sold, making the relative impact of the current sales mix unfavourable.

26. The factors that have driven the recent improvement in EBITDA, particularly steel prices, are subject to dramatic short-term changes. I am advised by Mr. Volschenk that forward curves and research analysts are generally forecasting a decline in steel prices by the 2016 year end. Significant capacity currently remains offline globally and it is anticipated that trade actions in the U.S. and other countries will likely result in some of the excess global capacity being directed to sales of steel in the Canadian market. The possibility of dumping of steel in Canada and the volatility of the economic inputs to EBITDA all suggests that steel prices can be expected to decline in Canada during the near term.

Cash Position

27. USSC's cash position has increased since implementation of the Cash Conservation and Business Preservation Order notwithstanding that it continued to incur IFO losses to the end of May 2016. However, an increased cash position does not reflect an ability to reinstate OPEB benefits (particularly in the face of overall IFO and EBITDA losses, which demonstrate that accumulating cash to the end of May 2016 did not come from increased income). It is critical to any discussion of USSC's cash position to understand how the cash position was derived. This is discussed below. In addition, it is important to recognize that a healthy cash position has numerous benefits to USSC and to its restructuring.

Benefits of Cash Position

28. The benefits to USSC and its restructuring of its cash position include:
- (a) Enabling USSC to operate reliably and without interruption, particularly in a market subject to dramatic short-term changes in prices;
 - (b) Ensuring USSC has sufficient liquidity to continue operations without requiring it to liquidate assets or draw on the DIP facility – not only does this reduce operating costs by reducing the cost of borrowing but also it prevents secured and other priority creditors from curtailing the restructuring efforts out of a concern that security is being eroded;
 - (c) Positioning USSC to be able to meet the increased expenditures that are incurred on a seasonal basis for the shipment of raw materials prior to the close of the shipping season for the winter freeze;
 - (d) Permitting USSC to make necessary capital expenditures to the extent it is required to do so in advance of any sale to a going concern buyer;
 - (e) Providing flexibility to USSC in its restructuring process, including by permitting it to continue to operate while pursuing a going concern solution on a timeline that is not dictated by cashflow constraints. This is important given the complicated multi-party negotiations that have been and continue to be taking place; and
 - (f) Achieving better payment terms from suppliers and assuaging doubts from customers who are looking for certainty of supply.

29. For these reasons, and the resulting benefits to USSC's operations and SISP process, USSC has, since the Cash Conservation and Business Preservation Order, demonstrated a preference to preserve its cash position as much as possible.

Sources of Cash

30. USSC's cash position increased chiefly as a result of converting working capital (primarily raw material inventory) into cash and deferring capital expenditures.

(a) As set out in the 28th Report of the Monitor:

(i) The net change in USSC's cash position between October 2015 and the end of June 2016 was \$67.8 million whereas the net change in working capital between October 2015 and June 2016 was a reduction of \$138.6 million (see the chart at paragraph 34); and

(ii) USSC's actual capital expenditures were \$4.2 million rather than the estimated \$18 million set out in the Forecast (see the chart at paragraph 35).

(b) Relative to the Forecast, the net change in USSC's cash position from October 2015 to the end of May 2016 was \$115 million higher than the forecast net change for that period whereas the change in working capital and deferred capital expenditures in that period differed from the Forecast change for that period by a similar amount – \$102 million. From October 2015 to the end of June 2016, due to higher EBITDA in that one month, the overall net closing cash was \$92 million higher than the Forecast whereas the change in working capital and capital expenditures differed from the Forecast by \$54 million.

- (c) The conclusion from this information is that substantially all of the increase in USSC's cash position has not been generated by way of income from operations but rather by converting working capital into cash and deferring capital expenditures (with USSC having a higher cash position than forecast but also a greater change in working capital and capital expenditures than forecast).
- (d) The distinction is crucial since, in order to continue operations, USSC will have to purchase raw material inventory and make necessary capital expenditures, which will once again reduce cash and increase other working capital.
- (e) The accumulation of cash as a result of the conversion of other working capital reflects the seasonality in USSC's business. The cyclicity of the business requires that cash will be converted back into raw material inventory, then finished goods inventory and accounts receivable. USSC will be required to invest in rebuilding such inventories in preparation for the winter freeze and related decrease in shipping capacity. It would be misleading to point to the high water-mark in this general cycle and call it the new normal or surplus.
- (f) In addition, USSC has been prudent but will need to make capital expenditures to maintain its production capabilities. This includes the previously disclosed intention to perform certain blast furnace repairs in October 2016 at the LEW facility. USSC anticipates these expenditures to be approximately \$8 million and these costs and the repair activities themselves will impact earnings in the period while these repairs are undertaken.

31. In addition, USSC has received increased support from suppliers.

- (a) At the time of the Cash Conservation and Business Preservation Order and in creation of the Forecast, USSC and its advisors could not assume that suppliers would continue to extend credit terms to USSC. However, likely in part due to the effect of the Cash Conservation and Business Preservation Order and USSC's increased cash position, suppliers have been extending credit terms to USSC.
- (b) While availability of credit terms from suppliers has improved USSC's cash position, this results in post-filing accounts payables. These amounts must be paid in accordance with the Initial Order. It is important that USSC not take any actions that could be seen as imperilling repayment of these post-filing amounts or the credit terms made available by suppliers.

32. Also, the cash conservation measures implemented pursuant to the Cash Conservation and Business Preservation Order have resulted in increased cash. According to the Monitor, had these amounts not been suspended, based on assumptions regarding average payments and funding, and assuming payment of post-filing payables, USSC would have had an ending cash position of negative \$54.1 million as at May 31, 2016 (or positive \$67.5 million with continuing trade credit) rather than a positive cash position of approximately \$154 million.

33. Relative to the Forecast, some increase in cash is attributable to improved market conditions for steel products and USSC has benefited from lower raw material costs and higher steel prices. As described above, these prices and costs (particularly steel prices) are subject to significant short-term changes.

34. Accordingly, while USSC's cash position has increased, to conclude that this means USSC is able to reinstate OPEB payments would be to ignore the sources of that cash (namely a conversion of working capital to cash, the deferral of capital expenditures, and supplier credit

terms) and the fact that cash will need to be used for working capital (particularly raw materials as the winter season approaches), necessary capital expenditures, and payment for post-filing supplies in accordance with the credit terms.

35. Finally, it is important to recognize that USSC's cash position is subject to volatility due to the variability of steel prices and input costs (iron ore, metallurgical coal and scrap) and declined between April 2016 and June 2016. The chart at paragraph 34 of the Monitor's 28th Report shows that the cash balance has declined from a high in April 2016 of \$163.8 million to \$131.4 million at the end of June 2016 (a decrease of \$32.4 million). Moreover, the cash position was higher in December 2015 than it was at the end of June 2016, although it very quickly declined in January 2016 by over \$40 million in one month as cash was spent on raw material inventory.

OTHER CREDITORS AND PRIORITY CLAIMS

36. When considering whether to pay unsecured obligations, consideration must be given to secured and other priority claims that have been asserted. In this case, USS has been found by the CCAA Court to hold a secured claim in the amount of approximately USD \$118.7 million. In addition, there are potential statutory liens relating to the HW and LEW lands.

37. Further, as discussed above, there are post-filing payables of approximately \$95.5 million as at the end of June 2016.

IMPACT ON THE RESTRUCTURING

38. The cash conservation measures in the Cash Conservation and Business Preservation Order were designed to enable USSC to continue operations while seeking to minimize potential diminution in collateral value for creditors and ensure it has sufficient liquidity and continued

access to financing to continue in operations as it implemented the SISP and sought to identify and pursue a going concern transaction. These goals have not changed.

39. As noted above, the SISP is ongoing and it is at a critical juncture. USSC is continuing to pursue a going concern sale transaction and has been working diligently to achieve that goal. In addition, USSC is also seeking to ensure it is in the best position possible should the SISP not produce a going concern transaction for the entire business and USSC is required to continue operations while seeking an alternative solution. As described above, the cash position of USSC will serve to provide additional stability in the business and flexibility in the SISP process.

40. I am of the view that it would be preferable for all parties to achieve a going concern transaction in the SISP. The extent to which OPEBs will be provided to USSC's former salaried or unionized employees and their eligible spouses and beneficiaries (the "**OPEB Beneficiaries**") subsequent to a going concern transaction is the subject of negotiation between the Moving Parties and bidders in the SISP process. The steps that USSC has taken, including accumulating cash, which it has achieved by the methods set out above notwithstanding its continuing operating losses to the end of May 2016, have been focused on preserving the business and achieving a successful restructuring. I believe that it is important to continue to work toward this goal rather than to sacrifice the longer-term solution in favour of reinstating the OPEBs at this time.

DIP

41. The DIP Term Sheet was amended and extended on January 22, 2016 (the "**First Amending and Extension Agreement**") and again on July 15, 2016 (the "**Second Amending and Extension Agreement**"). The DIP Term Sheet (without schedules), the First Amending and

Extension Agreement and the Second Amending and Extension Agreement are attached here as **Exhibits “D”, “E” and “F”**, respectively.

42. If USSC is ordered by this Court to reinstate payment of OPEB Claims then an Event of Default pursuant to the DIP Term Sheet may be triggered.

OPEB BENEFITS AND TRANSITION FUND

43. Since the issuance of the Cash Conservation and Business Preservation Order on October 9, 2015 in which this Court ordered the suspension of all payments in respect of OPEBs to OPEB Beneficiaries:

- (a) In accordance with the Cash Conservation and Business Preservation Order, USSC is continuing to pay the premiums for life insurance coverage for OPEB Beneficiaries of approximately \$440,000 per month; and
- (b) OPEB Beneficiaries resident in Ontario have had access to the Transition Fund (defined and described below) as well as provincial programs, including various benefit plans established by the Government of Ontario (the “**Province**”) for Ontarians at large (the “**Provincial Benefit Plans**”). Attached as **Exhibit “G”** is a high-level summary of certain Provincial Benefit Plans available in Ontario, which was prepared by counsel to USSC at Hicks Morley.

44. The Transition Fund was created by the Province specifically for OPEB Beneficiaries in order to transition them to other supports and programs for claims arising after October 9, 2015. It is administered by Green Shield and a committee that I understand is made up of designated representatives of the Union, non-unionized retirees, and the Province, with assistance from the Monitor. Attached hereto as **Exhibit “H”** is a copy of the December 23, 2015 Transition Fund

Order of this Court, approving the operation and administration of the Transition Fund in accordance with the “Transition Fund Memorandum”. It is my understanding that the Moving Parties supported the eligibility, operation and administration of the Transition Fund as set out therein.

45. The Province initially contributed \$3 million to the Transition Fund. In July 2016, the Province announced it would be providing an additional \$2.65 million in funding.

46. The Province’s initial \$3 million contribution to the Transition Fund was divided into two tranches of benefit coverage:

- (a) Tranche 1 (\$2.5 million) – Prescription Drugs. Generally, this provides coverage for prescription drugs that would have been covered under the USSC OPEB Plan but that are not covered by the Provincial Benefit Plans or other available sources of coverage.
- (b) Tranche 2 (\$500,000) - Other dental and health benefits. Generally (i) dental extractions and endodontics, major dental services in emergency situations and the repair of dental appliances; and (ii) other health expense claims (in each case to the extent that such amounts were covered under the USSC OPEB Plan, are medically necessary, and the OPEB Beneficiary is unable to pay for the benefit, or payment will cause economic hardship, and there is no alternate source of coverage).

47. There are certain benefits that were previously covered under the USSC OPEB Plan that are not covered under the Transition Fund including routine dental and vision care and paramedical services such as massages and orthotics. In addition, out-of-province costs and travel insurance are not covered by the Transition Fund.

48. These parameters were not set by USSC. I understand that the Province consulted extensively with the Moving Parties in setting eligibility coverage and benefits covered under the Transition Fund as well as in setting the mechanisms for submitting claims, benefit payments and adjudication matters.

49. Upon written consent of the Moving Parties, the Monitor and the Province, the benefit coverage and eligibility criteria for the Transition Fund may be amended as needed pursuant to section 3(c) of the December 23, 2015 Transition Fund Order.

50. The Monitor advises that it receives monetary information from Green Shield on the claims received and paid as they process all claims. The Monitor then provides anonymous reporting to the Province and the Moving Parties on claims received and paid from the Transition Fund as well as concerns that arise.

51. The Transition Fund commenced on January 1, 2016 and was to be continued until the earlier of March 31, 2016 and the date on which the Transition Fund was depleted. In fact, eligible claims under the Transition Fund have been less than originally expected. As at July 31, 2016, \$2,938,327.36 worth of OPEB claims have been paid from the Transition Fund. \$61,672.64 remains in the Transition Fund in addition to the additional \$2.65 million in funding announced in July 2016.

52. It is difficult to predict the actual cost of OPEB coverage if the OPEB Plan is reinstated since:

- (a) It is reasonable to expect that a large number of OPEB Beneficiaries may obtain dental, vision care or other treatments, services and products that were not covered by the Transition Fund or other Provincial Benefit Programs, leading to

an increase in such treatments that were delayed or deferred since October 2015;
and

- (b) There will be incentive for OPEB Beneficiaries to undertake services, including routine dental and vision care, massages and orthotics, before completion of a going concern or alternative transaction or conclusion of the SISP that may result in different OPEB coverage following the completion of any transaction.

53. As a result, while USSC was paying approximately \$3.6 million per month prior to the Cash Conservation and Business Preservation Order, inclusive of life insurance premiums, the actual monthly cost may be much higher if the OPEB Plan is reinstated in full at this time, even if the payments were only reinstated for a limited period of time prior to completion of any transaction.

54. Overall, there is uncertainty regarding the actual cost to USSC if it was required to resume payments under the OPEB Plan and there may be “pent-up” demand and incentives to undertake services before conclusion of the SISP. I believe it would be inappropriate, at this time, to require USSC to commit its cash resources - generated chiefly by decreasing working capital, deferring capital expenditures and supplier terms – to these open-ended, pre-filing, unsecured obligations.

55. The EBITDA results show that there has not been a significant change in the profitability of USSC’s operations when compared to the Forecast provided to the Court in support of the Cash Conservation and Business Preservation Order. One month of positive IFO should not drive precipitous action, especially at a time in which USSC is focusing on creating stability and pushing toward a restructuring solution for the benefit of all stakeholders.

56. Accordingly, while requesting the suspension of payments under the OPEB Plans was a difficult decision, I believe that it continues to be necessary and in the best interests of achieving a successful restructuring to not reinstate payment of the amounts suspended under the Cash Conservation and Business Preservation Order.

57. This affidavit is sworn in response to the motion of the Moving Parties set out above, and for no other or improper purpose.

SWORN BEFORE ME at the Town of)
Baysville, in the Province of Ontario,)
this 11th day of August, 2016.)

Commissioner for Taking Affidavits

William E. Aziz

TAB A

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

This is Exhibit "A" referred to in the
affidavit of William E. Aziz
sworn before me, this 11th
day of August 20 16

THE HONOURABLE)
JUSTICE WILTON-SIEGEL)

FRIDAY, THE 9th DAY OF OCTOBER 2015
A COMMISSIONER FOR TAKING AFFIDAVITS



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 WITH RESPECT TO
U. S. STEEL CANADA INC.
(the "Applicant")

CASH CONSERVATION AND BUSINESS PRESERVATION ORDER

THIS MOTION, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of William E. Aziz sworn September 17, 2015 (the "Aziz Affidavit"), the supplemental affidavit from William E. Aziz sworn September 28, 2015 (the "Aziz Supplemental Affidavit"), the affidavit of William E. Aziz sworn October 7, 2015, and the reports dated August 31, 2015, September 22, 2015, October 2, 2015 and October 7, 2015 of Ernst & Young Inc. in its capacity as the monitor of the Applicant (the "Monitor"), and on hearing the submissions of counsel for the Applicant, the Monitor, and such other counsel as were present, no other person appearing although duly served as appears from the affidavit of service of Sharon Kour sworn September 17, 2015, the affidavit of service of Stephen Fulton sworn September 28, 2015 and the affidavit of service of Kelly Peters sworn September 30, 2015.

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. The following terms shall have the meanings ascribed thereto:

- (a) **“Initial Order”** means the order of Morawetz R.S.J. dated September 16, 2014 as amended and restated from time to time.
- (b) **“Normal Cost Contributions”** means normal cost contributions, if any, determined in accordance with the general funding regime of the *Pension Benefits Act* (Ontario) and Regulation 909 thereunder.
- (c) **“OPEB Claim”** means any claim of any former salaried or unionized employee, a surviving spouse of a deceased former salaried or unionized employee, or any other Person, under or in relation to the OPEB Plan.
- (d) **“OPEB Plan”** means the post-employment benefit plan maintained by the Applicant, including, without limiting the generality of the foregoing, (i) prescription drugs, dental, other medical, hospital and vision benefits for eligible former salaried and unionized employees of the Applicant and their eligible spouses and dependents, which benefits are administered through Green Shield Canada (**“Green Shield”**) on an administrative service only basis with the Applicant, but (ii) excluding life insurance benefits for former salaried and unionized employees of the Applicant provided pursuant to a group insurance

policy between the Applicant and Desjardins Financial Security Life Assurance Company (“**Desjardins**”) under Policy number 530005.

- (e) “**OPEB Claims Suspension Date**” means October 9, 2015.
- (f) “**PBGF**” means the Pension Benefits Guarantee Fund under the *Pension Benefits Act* (Ontario).
- (g) “**Pre-Suspension Claims**” means OPEB Claims for amounts incurred but not paid on or prior to the OPEB Claims Suspension Date.
- (h) “**Pre-Suspension Claims Bar Date**” means October 31, 2015 or such date as specified by Green Shield with the approval of the Monitor;
- (i) “**RCA Trust**” means the retirement compensation arrangement trust maintained by the Applicant pursuant to a Trust Agreement with CIBC Mellon Trust Company dated May 1, 2003 for supplementary pension and retirement payments for certain former salaried employees and their surviving spouses.
- (j) “**Salary Continuance Payments**” means salary continuance payments being made by the Applicant to 18 employees, including, without limiting the generality of the foregoing, pension accrual and group benefits coverage, who are no longer actively employed by or providing services to the Applicant.
- (k) “**Stelco Regulation**” means Regulation 99/06 of the Ontario *Pension Benefits Act*, the *Stelco Inc. Pension Plans Regulation*.
- (l) “**Supplementary Pension Payments**” means all unfunded, unregistered supplementary pension and retirement payments that are payable by the Applicant from time to time to certain former salaried and unionized employees and their

surviving spouses, as applicable, including, without limiting the generality of the foregoing, (i) payments made pursuant to the terms of retirement benefit contracts entered into by the Applicant and employees on or around the employee's retirement date, (ii) retiring allowances paid to former Stelpipe unionized employees and their surviving spouses pursuant to the Basic Agreement between Stelpipe Ltd. and Local Union No. 523 CWA-TCA Canada dated April 2, 2001 and related documents, and (iii) special retiring allowances for certain former salaried and unionized employees and their surviving spouses in accordance with individual arrangements between the Applicant and the former salaried and unionized employees and/or their surviving spouses, as applicable. For greater certainty, Supplementary Pension Payments do not include supplementary pension benefits payable to former employees and their surviving spouses from the RCA Trust.

All capitalized terms referred to in this Order and not otherwise defined, are as defined in the Initial Order.

SARP DISCONTINUATION

3. THIS COURT ORDERS that the Applicant is authorized and directed to discontinue immediately its Sale and Restructuring/Recapitalization Process ("SARP"), approved by order of this Court on April 2, 2015 (the "SARP Order"), in relation to all of the assets and business of the Applicant other than the Hamilton Lands (as defined in the SARP Order), with the SARP continuing in respect of the Hamilton Lands and the SARP Order continuing to govern that process until further Order of the Court.

CASH CONSERVATION MEASURES AND BUSINESS PRESERVATION PLAN

4. THIS COURT ORDERS that the Applicant is hereby authorized to implement the Business Preservation Plan (as described in the Aziz Affidavit) and to take any steps and operating initiatives as determined by the Applicant, in consultation with the Monitor, to be necessary to permit the Applicant to implement the Business Preservation Plan and cash conservation measures contemplated therein (the "**Cash Conservation Measures**"), subject to the terms of this Order and the terms of the Initial Order.

5. THIS COURT ORDERS that, without limitation to the requirements of the Initial Order, no Person shall discontinue, fail to honour, interfere with, repudiate, terminate or cease to perform any existing agreement or arrangement with the Applicant as a result of the implementation of the Business Preservation Plan and Cash Conservation Measures.

6. THIS COURT ORDERS that all Persons are hereby directed to assist and cooperate with the Applicant and the Monitor in the implementation of the Business Preservation Plan and the Cash Conservation Measures.

DIP AMENDMENT

7. THIS COURT ORDERS that the Applicant is hereby authorized and empowered to enter into the Amended and Restated Interim Financing Term Sheet among the Applicant, Brookfield Capital Partners Ltd. (the "**Replacement DIP Lender**") and the other parties thereto substantially in the form attached as Exhibit "A" to the Aziz Supplemental Affidavit (the "**Amended and Restated Replacement DIP Term Sheet**"), which amends and restates the Replacement DIP Term Sheet, as defined in the order of the Court dated July 24, 2015 (the "**Replacement DIP Order**").

8. THIS COURT ORDERS that Amended and Restated Replacement DIP Term Sheet be and is hereby approved.

9. THIS COURT ORDERS that from and after the date of this Order, all references in the Replacement DIP Order to the "Replacement DIP Term Sheet" shall refer to the Amended and Restated Replacement DIP Term Sheet, and the terms "Replacement DIP Facility", "Replacement DIP Lender" and "Replacement DIP Definitive Documents" shall refer to such terms as defined in, relating to or used with respect to the Amended and Restated Replacement DIP Term Sheet.

10. THIS COURT ORDERS that the Applicant is authorized and empowered to borrow under the credit facility (the "**Replacement DIP Facility**") provided for under, and subject to the terms of, the Amended and Restated Replacement DIP Term Sheet and that the obligations thereunder and under the Replacement DIP Definitive Documents (as defined in the Replacement DIP Order) or any other definitive documents entered into in respect of the Amended and Restated DIP Term Sheet shall continue to have the benefit and the priority of the Replacement DIP Lender's Charge (as defined in the Replacement DIP Order) and all other security granted pursuant to the Replacement DIP Definitive Documents.

11. THIS COURT ORDERS that the Replacement DIP Lender shall be entitled to rely on this Order and the Replacement DIP Order (including paragraphs 30 and 31 thereof), each as issued, and the Replacement DIP Lender's Charge for all advances made and all obligations owing under the Replacement DIP Term Sheet, the Amended and Restated Replacement DIP Term Sheet and the Replacement DIP Definitive Documents.

12. THIS COURT ORDERS AND DECLARES that this Order is subject to provisional execution and that if any of the provisions of this Order in respect of or in connection with the Amended and Restated Replacement DIP Term Sheet, the Replacement DIP Facility or the Replacement DIP Order shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, "Variation") whether by subsequent order of this Court on or pending an appeal from this Order, such Variation shall not in any way impair, limit or lessen the protections, rights or remedies of the Replacement DIP Lender, whether under this Order (as made prior to the Variation), under the Amended and Restated Replacement DIP Term Sheet, under the Replacement DIP Order or under any of the documentation delivered hereto or thereto (including the Replacement DIP Definitive Documents), with respect to any advances made prior to the Replacement DIP Lender being given notice of the Variation and the Replacement DIP Lender shall be entitled to rely on this Order as issued for all advances so made.

13. THIS COURT ORDERS AND DECLARES that any motion for a Variation by this Court of paragraphs 7 to 13 of this Order or any other provisions of this Order in respect of the Amended and Restated DIP Term Sheet, the Replacement DIP Facility or the Replacement DIP Order may only be brought by a party that has not been served with notice of the within motion and any such motion must be brought and be returnable no later than ten (10) business days after the date of this Order and on not less than eight (8) business days' notice to the Applicant, the Monitor, the Replacement DIP Lender and 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.

SUSPENSION OF BENEFITS UNDER THE OPEB PLANS

14. THIS COURT ORDERS that, until further order of this Court, all payments in respect of OPEB Claims shall be suspended effective on and after the OPEB Claims Suspension Date in accordance with this Order and no payment of or in respect of an OPEB Claim incurred after the OPEB Claims Suspension Date shall be made during the remainder of the Stay Period. For greater certainty, the suspension of the payments in respect of OPEB Claims does not constitute a disclaimer or termination by the Applicant of the OPEB Plans.

15. THIS COURT ORDERS that the Applicant shall not make any payments on account of any OPEB Plan-related costs and expenses incurred on or after the OPEB Claims Suspension Date or benefits arising on or after the OPEB Claims Suspension Date.

16. THIS COURT ORDERS that the Applicant shall:

- (a) within 10 days of the date of this Order, prepare and send by regular pre-paid mail, courier, fax, or email, notice of the suspension of payments of OPEB Claims, which are suspended subject to further order of the Court, and the OPEB Claims Suspension Date (the "**OPEB Claims Suspension Date Notice**") substantially in the form attached hereto as Schedule "A" to the President of USW Local 1005, the President of USW Local 8782, Representative Counsel for Salaried Employees and each Person identified as an OPEB Plan member in the Applicant's records on the date of this Order, including former salaried and unionized employees, certain separated spouses of former employees and surviving spouses of deceased former employees; and
- (b) post the OPEB Claims Suspension Date Notice on the Monitor's website.

PRE-SUSPENSION CLAIMS

17. THIS COURT ORDERS that any individual holder of a Pre-Suspension Claim seeking reimbursement from the Applicant or Green Shield shall be required to submit to Green Shield, before the Pre-Suspension Claims Bar Date, the required claim form and supporting documentation relating to the Pre-Suspension Claim, failing which such Pre-Suspension Claims shall not be assessed for payment or paid by the Applicant or Green Shield and in such case, the individual holder may file a claim in a claims process within these CCAA Proceedings or a receivership or bankruptcy of the Applicant, as the case may be, which, if accepted, shall constitute a claim of the claimant against the Applicant.

18. THIS COURT ORDERS that any Pre-Suspension Claims and supporting documentation submitted prior to or on the Pre-Suspension Claims Bar Date in accordance with this Order shall be assessed by the Applicant, Green Shield, and/or the Monitor and shall not be paid without approval of the Monitor.

SUSPENSION OF THE SUPPLEMENTARY PENSION PAYMENTS

19. THIS COURT ORDERS that, until further order of this Court, all Supplementary Pension Payments shall be temporarily suspended effective on and after October 9, 2015 in accordance with this Order and no such payments shall be made during the remainder of the Stay Period. For greater certainty, the suspension of the Supplementary Pension Payments does not constitute a disclaimer or termination by the Applicant of the agreements relating to the Supplementary Pension Payments.

20. THIS COURT ORDERS that the Applicant shall:

- (a) within 10 days of the date of this Order, prepare and send by regular pre-paid mail, courier, fax, or email, notice of the temporary suspension of Supplementary Pension Payments substantially in the form attached hereto as Schedule "B" (the **"Supplementary Pension Payments Suspension Notice"**) to the President of USW Local 1005, Representative Counsel for Salaried Employees and each Person identified as a recipient of Supplementary Pension Payments in the Applicant's records on the date of this Order, including former salaried and unionized employees and surviving spouses of deceased former employees entitled to Supplementary Pension Payments benefits; and
- (b) post the Supplementary Pension Payments Suspension Notice on the Monitor's website.

SUSPENSION OF SALARY CONTINUANCE PAYMENTS

21. THIS COURT ORDERS that, until further order of this Court, all Salary Continuance Payments that have not been processed as of October 9, 2015 shall be temporarily suspended in accordance with this Order and no such payments shall be made during the remainder of the Stay Period. For greater certainty, the suspension of Salary Continuance Payments does not constitute a disclaimer or termination by the Applicant of the agreements relating to the Salary Continuance Payments.

22. THIS COURT ORDERS that the Applicant shall:

- (a) within 10 days of the date of this Order, prepare and send by regular pre-paid mail, courier, fax, or email, notice of the temporary suspension of Salary Continuance Payments substantially in the form attached hereto as Schedule "C"

(the “Salary Continuance Payments Suspension Notice”) to Representative Counsel for Salaried Employees and each Person identified as a recipient of Salary Continuance Payments in the Applicant’s records; and

- (b) post the Salary Continuance Payments Suspension Notice on the Monitor’s website.

SUSPENSION OF REGISTERED PENSION PLAN CONTRIBUTIONS, RCA TRUST CONTRIBUTIONS AND PBGF ASSESSMENTS

23. THIS COURT ORDERS that, until further order of this Court, effective from and after September 29th, 2015 the Applicant shall:

- (a) pay only Normal Cost Contributions to the DB Registered Plans and paragraph 11(a) of the Initial Order shall cease to apply to any payments other than Normal Cost Contributions;
- (b) shall not pay any contributions that would otherwise be required under the Stelco Regulation or any past service contributions or special payments to fund any going concern unfunded liability or solvency deficiency of any of the DB Registered Plans as long as the Stay Period remains in effect;
- (c) shall not pay any amounts to the PBGF in respect of assessments relating to the DB Registered Plans as long as the Stay Period remains in effect; and
- (d) shall not pay any amounts to the RCA Trust as long as the Stay Period remains in effect (the amounts described in (b), (c) and (d), the “Stayed Pension Amounts”).

For greater certainty, the suspension of the payments in paragraph 23(d) above does not constitute a disclaimer or termination by the Applicant of the agreements relating to the payments in paragraph 23(d) above.

24. THIS COURT ORDERS that (i) the Applicant, (ii) the Monitor, (iii) the trustee(s) and custodian(s) of the assets held in respect of the DB Registered Plans and the RCA Trust, and (iv) their respective officers, directors and advisors shall not incur any obligation or liability whether by way of debt, damages for breach of any duty whether statutory, fiduciary, common law or otherwise, or for breach of trust, nor shall any trust be imposed, whether express, implied, constructive, resulting, deemed or otherwise, as a result of the implementation of the Business Preservation Plan or any Cash Conservation Measures taken by the Applicant in accordance with the terms of this Order, including, without limiting the generality of the foregoing, the non-payment of the Stayed Pension Amounts and any other obligations suspended hereunder. Notwithstanding the above, nothing in this paragraph shall be taken to extinguish or compromise the obligations of the Applicant in respect of the DB Registered Plans and the RCA Trust.

25. THIS COURT ORDERS that if any claim, lien, charge or trust, including deemed trust, arises as a result of the failure to contribute any Stayed Pension Amount while the Stay Period is in effect, no such claim, lien, charge or trust shall have priority over the Charges as set out in the Initial Order or in the Replacement DIP Order in these proceedings, or in any subsequent receivership, interim receivership or bankruptcy of the Applicant.

26. THIS COURT ORDERS AND DECLARES that nothing in this Order shall be taken to extinguish or compromise the claim of any Person having a claim against the Applicant in respect of the DB Registered Plans, the RCA Trust, PBGF assessments with respect to the DB

Registered Plans, the OPEB Plans or any Supplementary Pension Payments or Salary Continuance Payments.

CRITICAL SUPPLIER CHARGE

27. THIS COURT ORDERS that United States Steel Corporation (“USS”) shall be entitled to the benefit of and is hereby granted a charge (the “**Critical Supplier Charge**”) on the Property of the Applicant in an amount equal to the value of goods and services supplied by USS and received by the Applicant after the date of this Order less all amounts paid to USS in respect of such goods and services. The Critical Supplier Charge shall be subordinate to the Administration Charge (Part 1), Directors’ Charge, DIP Lender’s Charge, Replacement DIP Lender’s Charge, but shall rank in priority to all other Encumbrances (other than the Permitted Priority Liens (as defined in the Replacement DIP Order)), including for greater certainty, the Administration Charge (Part 2).

SUSPENSION OF MUNICIPAL REALTY TAXES

28. THIS COURT ORDERS that, until further Order of this Court, the Applicant’s obligation to remit or pay any amount payable in respect of municipal realty, business, or other taxes, assessments or levies of any nature or kind pursuant to paragraph 11(d) of the Initial Order shall be suspended.

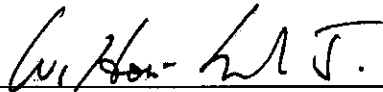
NOTICE

29. THIS COURT ORDERS that the sending and publication of the notices described herein in the manner set forth in this Order shall constitute good and sufficient service upon all Persons affected by this Order, notwithstanding the service and notice procedure set out in the Initial Order, and that no other or further notice to shall be required.


CONFLICT

30. THIS COURT ORDERS that the provisions of this Order shall be interpreted in a manner complementary and supplementary to the provisions of the Initial Order, provided that in the event of a conflict between the provisions of this Order and the provisions of the Initial Order, the provisions of this Order shall govern.

31. THIS COURT ORDERS that the Applicant and the Monitor may, at any time, and with such notice as the Court may require, seek directions from the Court in respect of this Order, the Business Preservation Plan and the Cash Conservation Measures.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

 OCT 28 2015

Schedule "A"

Date: October • , 2015

To: Gary Howe, President, United Steelworkers Of America ("USW"), Local 1005, on behalf of retirees represented by USW Local 1005 and surviving spouses of deceased retirees who were represented by USW Local 1005

Bill Ferguson, President, USW, Local 8782, on behalf of retirees represented by USW Local 8782 and surviving spouses of deceased retirees who were represented by USW Local 8782

Andrew Hatnay, Koskie Minsky LLP, Representative Counsel for retirees of U. S. Steel Canada Inc. ("USSC") not represented by USW and surviving spouses of deceased retirees not represented by USW

Retirees of USSC, certain spouses of USSC retirees and surviving spouses of deceased retirees of USSC who have coverage under USSC's post-employment benefit plans

From: ~~Michael McQuade, President, U.S. Steel Canada Inc.~~

Subject: Notice of Benefit Termination Date

Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on September 16, 2014 (the "Initial Order"), USSC commenced court-supervised restructuring proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA").

Pursuant to the Initial Order, USSC was permitted but not required to continue to pay expenses in respect of post-employment benefit plans relating to prescription drugs, dental, other medical, and hospital and vision coverage for eligible former USSC employees and their surviving spouses and dependants (collectively referred to as the "OPEB Plans"). USSC was also permitted but not required to provide life insurance for eligible former USSC employees. A further Court order dated October 8, 2014, appointed Koskie Minsky LLP as representative legal counsel for individuals representing all beneficiaries of USSC pension and benefit plans who are not represented by the USW in these CCAA proceedings (subject to those individuals who elected to opt out of such representation).

Pursuant to an Order of the Court dated October 9, 2015, benefits payable under the OPEB Plans shall be suspended after October 9, 2015. In other words, after October 9, 2015, your entitlement to benefits coverage under the OPEB Plans will be suspended. The Order does not apply to life insurance.

For eligible prescription drugs, dental, other medical, hospital and vision coverage incurred under the OPEB Plans on or prior to October 9, 2015, you must submit applicable claims, invoices, or benefit forms to Green Shield Canada in the normal manner but the submission must be made prior to October 31, 2015, in order to be reimbursed. If you fail to submit applicable claims, invoices, or benefit forms to Green Shield Canada prior to October 31, 2015, any eligible claim shall constitute an unsecured claim against USSC in the CCAA proceeding.

While October 31, 2015 is the final deadline to submit applicable claims, invoices, or benefit forms for expenses incurred on or prior to October 9, 2015, you are strongly encouraged to submit any claims as soon as possible.

The suspension of coverage under the OPEB Plans does not impact the pension benefits payable under a registered pension plan maintained by USSC.

Schedule "B"

Date: October 9, 2015

To: Gary Howe, President, United Steelworkers Of America ("USW"), Local 1005, on behalf of retirees represented by USW Local 1005 and surviving spouses of deceased retirees who were represented by USW Local 1005, who are in receipt of an individual unfunded retiring allowance ("Unfunded RA")
Andrew Hatnay, Koskie Minsky LLP, Representative Counsel for retirees of U. S. Steel Canada Inc. ("USSC") not represented by USW and surviving spouses of deceased retirees not represented by USW, who are in receipt of an individual unfunded retirement benefit contract ("Unfunded RBC") or an Unfunded RA
Retirees of USSC and surviving spouses of deceased retirees who are in receipt of an Unfunded RBC or RA

From: ~~Michael McQuade, President, U. S. Steel Canada Inc.~~

Subject: Notice of Cessation of Unfunded RBC and RA Payments

Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on September 16, 2014 (the "Initial Order"), USSC commenced court-supervised restructuring proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA"). A further Court order dated October 8, 2014, appointed Koskie Minsky LLP as representative legal counsel for individuals representing all beneficiaries of USSC pension and benefit plans who are not represented by the USW in these CCAA proceedings (subject to those individuals who elected to opt out of such representation).

Pursuant to the Initial Order, USSC was permitted but not required to continue to make payments to eligible former employees and their surviving spouses who are entitled to receive an Unfunded RBC or RA, sometimes referred to as an unregistered supplemental pension or retirement payment, in the ordinary course of business and consistent with existing compensation policies and arrangements.

On October 9, 2015, the Court ordered that supplemental pension and retirement payments under the Unfunded RBCs and RAs to all eligible former employees and their surviving spouses shall cease on and after October 9, 2015. In other words, eligible former employees and their surviving spouses will not receive any payment under their Unfunded RBC or RA that would have been payable on or after October 9, 2015.

The cessation of payments under the Unfunded RBCs and RAs does not impact any pension benefits payable under a registered pension plan maintained by USSC.

Schedule "C"

Date: October 9, 2015

To: Andrew Hatnay, Koskie Minsky LLP, Representative Counsel for employees of U. S. Steel Canada Inc. ("USSC") not represented by United Steelworkers Of America ("USW"), who are in receipt of salary continuance payments and who are no longer reporting to work at USSC

Employees who are in receipt of salary continuance payments and who are no longer required to report to work at USSC

From: ~~Michael McQuade, President, U. S. Steel Canada Inc.~~

Subject: Notice of Cessation of Salary Continuance Payments

Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on September 16, 2014 (the "Initial Order"), USSC commenced court-supervised restructuring proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA"). A further Court order dated October 8, 2014, appointed Koskie Minsky LLP as representative legal counsel for individuals representing all beneficiaries of USSC pension and benefit plans who are not represented by the USW in these CCAA proceedings (subject to those individuals who elected to opt out of such representation).

Pursuant to the Initial Order, USSC was permitted but not required to continue to make salary continuance payments to you as an employee who is no longer required to report to work at USSC, in the ordinary course of business and consistent with existing compensation policies and arrangements.

On October 9, 2015, the Court ordered that unprocessed salary continuance payments payable to employees who are no longer actively employed by or providing services to USSC shall be temporarily suspended on and after October 31, 2015. In other words, employees receiving such salary continuance payments will not receive payments that would have been payable on or after October 31, 2015.

The temporary suspension of these salary continuance payments does not impact your eligibility for any pension benefits under a registered pension plan maintained by USSC.

IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH
RESPECT TO U. S. STEEL CANADA INC.

Court File No. CV-14-10695-00CL

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

Proceeding Commenced at Toronto

**CASH CONSERVATION AND BUSINESS
PRESERVATION ORDER**

McCarthy Tétraut LLP
Toronto Dominion Bank Tower
Toronto, ON M5K 1E6
Fax: (416) 868-0673

James Gage LSUC#: 346761
Tel: (416) 601-7539
Email: jgage@mccarthy.ca

Paul Steep LSUC#: 21869L
Tel: (416) 601-7998
Email: psteep@mccarthy.ca

Kelly Peters LSUC#: 59914W
Tel: (416) 601-8281
Email: kpeters@mccarthy.ca

Lawyers for U. S. Steel Canada Inc.
14819129

CITATION: U.S. Steel Canada Inc. (Re), 2015 ONSC 6331

COURT FILE NO.: CV-14-10695-00CL

DATE: 20151014

SUPERIOR COURT OF JUSTICE - ONTARIO

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

AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT
WITH RESPECT TO U.S. STEEL CANADA INC.

BEFORE: Mr. Justice H. Wilton-Siegel

COUNSEL: *R. Paul Steep, J. Gage, S. Kour, K. Peters, E. Brown and S. Shamie*, for the
Applicant

M. Barrack, R. Thornton, K. Patel, M. Shapiro, M. Shakra and T.J. Cornetti, for
United States Steel Corporation

G. Capern, L. Harmer, D. Cooney and D. Rosenbluth, for the United Steel
Workers Union and USW Local 8782

S. White and I. Hammond, for the United Steel Workers Union Local 1005

A. Mark, G. Rubenstein and T. Jacobson, for the Province of Ontario

A. Hatnay, A. Scotchmer and B. Walancik, as Representative Counsel for the non-
unionized active employees and retirees

D. Lezau, for the City of Hamilton

P. Mahoney, for the County of Haldimand

R. Staley and K. Zych, for the Monitor, Ernst & Young Inc.

L. Brzezinski, for Robert and Sharon Milbourne

S. M. Citak, for Eramet & Gulf Metallurgical Corporation

M. Wasserman and P. Riesterer, for Brookfield Capital Partners Ltd.

HEARD: October 7 and 8, 2015

REASONS FOR DECISION

[1] In this hearing, there were three principal motions before the Court addressing a number of interrelated matters which are critical for the future of the Applicant, U.S. Steel Canada Inc.

("USSC"), and the continuation of its restructuring activities in these proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "CCAA"). On October 9, 2015, the Court issued a short endorsement stating that, for written reasons to follow, the three motions before the Court were approved. These Reasons for Decision set out the Court's written reasons for such approval.

Background

[2] USSC is an indirect, wholly-owned subsidiary of United States Steel Corporation ("USS"). USS acquired USSC in October 2007.

[3] USSC is an integrated steel manufacturer. It conducts most of its business from two large steel plants located in Ontario: the Hamilton Works and the Lake Erie Works.

[4] The Lake Erie Works are located near Nanticoke, Ontario on the shores of Lake Erie. The Lake Erie Works consist of an integrated steel mill with an annual capacity of approximately 2.7 million tons of raw steel production, although the plant is currently producing at an annualized rate of approximately 1.8 to 2.0 million tons of raw steel, depending on market conditions. The principal operations of the Lake Erie Works include coke making (the process whereby metallurgical coal is converted into coke by baking the coal in coke ovens), iron and steelmaking (the process whereby coke is combined with iron ore and limestone in a blast furnace and ultimately combined with scrap metal and injected with oxygen to produce liquid steel and then processed into slabs) and finishing (the process whereby slabs are rolled on a hot strip mill and formed into steel sheet and then rolled into coils). The plant also operates a pickling line finishing facility, a process whereby the hot rolled coils are cleaned by running them through an acid solution.

[5] The Hamilton Works are located in Hamilton, Ontario. The Hamilton Works steelmaking operations were permanently shut down in 2013 after being idle since 2010. The plant's operations now consist of certain finishing lines, which are used to further process steel to meet specific customer requirements. These lines include a cold reduction mill (which forms hot rolled steel into thinner gauges of steel for end customer use, referred to as cold-rolled steel) and two galvanizing lines referred to as the "Z-line" (which add zinc to the cold-rolled steel). A significant quantity of the hot rolled coils produced at the Lake Erie Works is shipped to the Hamilton Works for further finishing before sale to end customers. USSC idled production of coke at the Hamilton Works commencing October 31, 2014, as it had produced enough coke to supply the Lake Erie Works steelmaking operations until April 2015. Coke production resumed on March 31, 2015, pursuant to an agreement between USSC and USS dated December 4, 2014, as amended, which was approved by order of the Court dated December 5, 2014 (the "Coke Conversion Agreement").

[6] One of the key drivers of USSC's revenue and cash flow is automotive-related production and finishing work that is allocated by USS to USSC mills as described below. USSC currently produces and sells two types of product to USS's automotive customers: (1) cold-rolled full hard coils ("cold roll"), which are used as substrate to be finished by galvanizing lines downstream in the production process before being sold to automotive manufacturers; and (2) hot-dipped galvanized sheet steel, which involves coating the cold roll with zinc using the Z-line

at the Hamilton Works, thereby making the steel suitable for automotive applications. In addition to producing hot-dipped galvanized steel for automotive manufacturers, the Z-line at the Hamilton Works also has the capacity to produce non-automotive steel products.

The CCAA Proceedings

[7] USSC filed for, and obtained, protection under the CCAA on September 16, 2014 (the "Filing Date") pursuant to an order of Morawetz R.S.J. (as subsequently amended and restated, the "Initial Order").

[8] USS has filed secured and unsecured claims totaling approximately \$2.2 billion against USSC. Certain stakeholders are challenging the characterization of a large portion of these claims as debt rather than equity in the Claims Process established in these CCAA proceedings. The Court has yet to make any determination regarding these objections. In addition to its debt claims, USS has invested over \$2.3 billion in equity in USSC.

[9] USSC obtained DIP financing from USS from the Filing Date until August 4, 2015, pursuant to an agreement between USSC and USS (the "USS DIP Financing"). On that date, Brookfield Capital Partners Ltd. ("Brookfield") replaced USS as the DIP lender pursuant to a term sheet between Brookfield and USSC dated July 24, 2015 (the "DIP Financing"), as approved by an order of the Court of the same date (the "Replacement DIP Financing Order"). USSC cannot currently draw funds under the DIP Financing as a result of the material adverse developments in its affairs described below.

[10] With the assistance of its Financial Advisor, USSC has undertaken an extensive sales and restructuring process (the "SARP"), pursuant to the terms of an order dated April 2, 2015 of this Court (the "SARP Order"). USSC advised the stakeholders in early September 2015 that, given the bids received in the SARP and the position of stakeholders from whom contributions or compromises would be required to satisfy the conditions of the bids, USSC does not have a SARP transaction with which it can proceed. Nor is there a consensual restructuring solution among the principal stakeholders, despite the Court-mandated mediation described below.

[11] The Court understands that, throughout the period in which the SARP was conducted, global steel markets have been very challenging with demand and pricing remaining weak. These market conditions appear to have impacted the terms of the bids received by USSC in the SARP, as well as the conditions proposed by prospective purchasers.

The Operating Relationship Between USS and USSC

[12] It is important for these motions to set out the manner in which USS has organized and conducted the business of USSC since its acquisition in 2007, as well as the economic circumstances in which USSC is currently operating and that have given rise to these motions.

[13] Prior to the USS acquisition of the company in 2007, Stelco Inc. was an independent company with responsibility for its own governance, administration, sales and operations. Following the acquisition, USS changed the corporate name to USSC and integrated USSC into USS, with the result that all principal operational functions and major decisions have been

centralized, including: (1) cash management, including treasury services, accounts receivable and accounts payable administration; (2) operational services in respect of production scheduling (plant loading), sales and general procurement; (3) management of a number of employee functions, including compensation and benefits, recruiting services and the administration of pension and benefit plans; (4) IT, tax, accounting and internal audit services; and (5) strategic planning, insurance, research and engineering services.

[14] In particular, USS currently provides services to USSC pursuant to the following four principal agreements: (1) a corporate services agreement dated November 1, 2007 governing the provision to USSC of, among other things, financial and accounting services, corporate strategic planning services, tax planning services and audit services; (2) a business services agreement dated January 1, 2014 among USS, USSC and U.S. Steel Kosice, s.r.o. (“USSK”) concerning certain IT and related services and financial transaction processing services; (3) an ERP cost sharing agreement dated November 19, 2009, as amended, among USS, USSC, USSK and U.S. Steel Serbia, D.O.O. which divides the costs relating to the Enterprise Resource Planning computer software systems; and (4) a retirement plan administration services agreement among USS, Carnegie Pension Fund and USSC dated August 5, 2008, which provides for the provision of investment management and administrative and actuarial services by Carnegie Pension Fund to USSC’s registered and non-registered pension plans. These agreements are collectively referred to as the “Critical Agreements”, and the services provided under the Critical Agreements are collectively referred to as the “Critical Services”.

[15] USS is also exclusively responsible for the sales function in respect of contracts with purchasers who are original equipment manufacturers (“OEMs”) in the automotive industry in Canada and the United States. USSC is heavily dependent upon such business. USS is also USSC’s primary sales agent for other steel products sold to customers in the United States.

[16] As mentioned, USS has been responsible for allocating production to USSC, based in large part on the sales contracts that USS negotiates with the OEM purchasers. The plant loading arrangements are briefly summarized as follows in the Monitor’s twelfth report dated August 31, 2015 (the “Twelfth Report”):

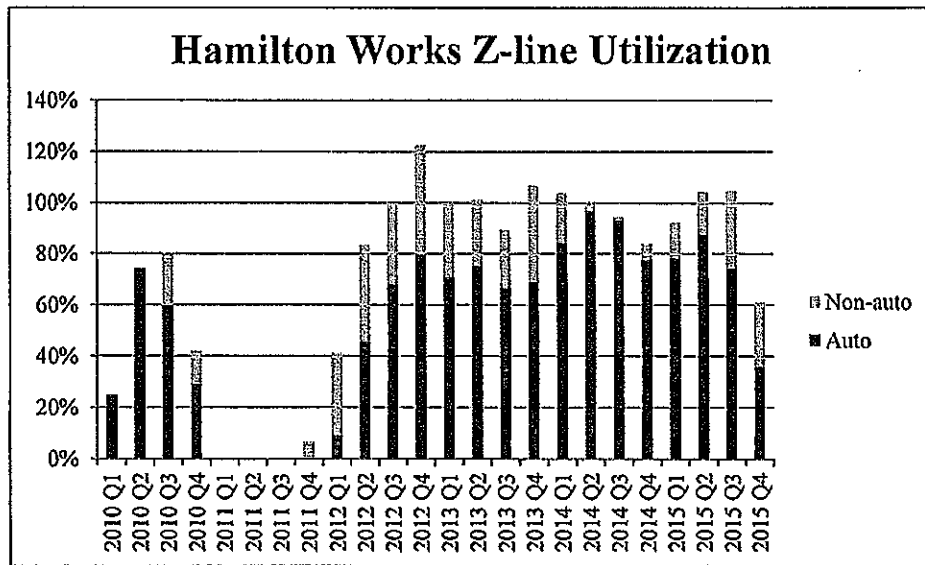
..., although it is not formalized in a written agreement, USS centrally plans the loading of its North American steel mills, including USSC’s Hamilton Works and Lake Erie Works. The production generated at USSC’s mills is ultimately one of the key drivers generating revenue and cash flow, as semi-finished or finished mill products are ultimately sold to Canadian and U.S.-based customers, or to other USS mills for further processing. The current mill loading and production allocation process has been followed for a number of years. Although there is no written agreement between USS and USSC with respect to USS’s allocation of production, there is a structured process that is understood among the parties and followed. This process is referred to herein as “plant loading”.

Pursuant to the plant loading process, USS has been loading USSC’s plants with particular products to be produced at Lake Erie Works and Hamilton Works during the course of the CCAA proceedings. Any significant changes in

production since the Filing Date have been largely due to market conditions and generally challenging steel demand in the North American steel market and not as a result of reallocation to U. S. mills of automotive steel currently being manufactured by USSC.

... a large proportion of Hamilton Works' production is ultimately sold to North American automotive customers. Such steel is produced at Lake Erie Works and then further processed at Hamilton Works' cold mill and Z-line (which is a zinc coating line). ..., automotive contracts represented a significant proportion of steel processed at the Hamilton Works plant in fiscal 2014.

[17] The chart below sets out a summary of information provided by USSC to the Monitor with respect to historical utilization rates for the Hamilton Works Z-line. The Z-line has historically produced a significant proportion of automotive steel as a proportion of its total production. It should be noted that there was a lock-out at the Hamilton Works from November 2010 to December 2011. The Court understands that the utilization for the third and fourth quarters of 2015 are USSC's estimates based on its assessment of expected Z-line production taking into account the impact of the Diversion Decision described below.



Note: The utilization rates above are expressed as a percentage of the Z-line's rated capacity which, depending on the product mix, may exceed 100%.

Recent Developments

[18] The motions before the Court were commenced in response to two recent decisions of USS that impact the amount of work to be allocated by USS to USSC in the fourth quarter of 2015 and for the calendar year 2016 and beyond, respectively.

The Diversion Decision

[19] In its Twelfth Report, the Monitor notified the stakeholders that USS had decided to redirect or divert certain automotive steel production and finishing work scheduled for production at USSC facilities in the fourth quarter of 2015 to USS mills located in the United States (the “Diversion Decision”).

[20] The following statements in the Twelfth Report describe the Diversion Decision as it was understood on August 31, 2015:

USSC and the Monitor have recently received notification from USS that approximately 15,000 tons of monthly production scheduled for customer delivery in early October will be redirected to USS mills in the United States rather than being allocated to and produced at Lake Erie Works and finished at Hamilton Works. ... The parts being diverted to the U.S.-based mills represent relatively higher gross margin production for Hamilton, so the impact on Hamilton’s revenue, earnings and cash flow will be significant.

As a result of the proposed reduction of production in Canada, it will be necessary for USSC to layoff approximately 17 employees and re-deploy a further 10 employees into other work, assuming the production is not replaced from other sources. Given the lesser impact to Lake Erie Works’ operations (on a proportionate basis), USSC is not contemplating layoffs at that facility as a result of the shift in production.

USSC has advised the Monitor that it expects it will not, on a timely basis and at the same pricing, be able to find alternate customers to make up for all the business expected to be lost in 2015 and 2016 due to the proposed change in plant loading. As stated previously, USS is USSC’s primary sales agent for automotive steel, and USSC does not have its own automotive sales staff. USSC has a smaller sales group that services certain non-automotive customers in the Canadian marketplace. USSC has advised the Monitor that it may be able to replace some of the lost tonnage referred to in the previous paragraph, but it is not certain and finding new customers could take up to a year. ...

Although this does not represent all of Hamilton Works’ automotive production the above tonnage loss represents approximately 27% of total Hamilton Works total production, based on current production levels.

USS has informed the Monitor that the decision to reallocate production to plants in the United States was made on a basis that it believes is consistent with past practice...

The Monitor has provided updated information regarding the status of implementation of the Diversion Decision and its impact on USSC in its thirteenth report dated October 2, 2015 (the “Thirteenth Report”). Set out below is a summary from the Thirteenth Report of the estimated approximate volume of steel production moved, or identified to be moved, from USSC’s plants

to USS plants in the United States pursuant to the Diversion Decision, which was provided to the Monitor by USS:

Summary by Customer	Customer	# of parts numbers	Weekly est. volume (NT)	Monthly est. volume (NT)
Cold Roll Full Hard for Further Processing	Auto customer - A	10	344	1,492
	Auto customer - B	2	31	132
	Auto customer - C	12	522	2,263
	Auto customer - D	34	586	2,538
			<u>58</u>	<u>1,483</u>
Z-Line	Auto customer - A	20	514	2,225
	Auto customer - B	11	548	2,375
	Auto customer - C	15	470	2,035
	Auto customer - D	52	654	2,834
			<u>98</u>	<u>2,185</u>
	Total	<u>156</u>	<u>3,668</u>	<u>15,895</u>

[21] It is understood, however, that there is still some automotive-related production which was intended to be diverted but is, and will continue to be, processed at the Hamilton Works in accordance with an order of the Court pertaining to the Standstill Motion (as defined below) and the Transition Arrangements (as defined below).

[22] USSC estimates that the Diversion Decision will result in a loss of approximately \$40 million of revenue and \$8 million of EBITDA in the fourth quarter of 2015, although, due to a delay in production scheduling and the existence of work in process and finished goods already produced by USSC, a certain amount of this impact may be experienced in the first quarter of 2016.

USS Contracting for 2016

[23] Subsequent to the disclosure of the Diversion Decision, USS also notified the parties that, having learned that its offer in the SARP had been rejected, it proposed to refrain from submitting any customer bids in the current round of negotiations with the OEM purchasers that would contemplate any allocation of automotive-related steel production to USSC. The following background to this decision and its consequences to USSC are relevant to the issues on these motions.

[24] The OEM purchasers contract to purchase steel products pursuant to calendar year contracts that are negotiated starting in or around September of the prior year. It is understood that USS's OEM customers have now opened contract discussions for the 2016 calendar year. USS says that, in this round of negotiations, some OEMs are seeking supply contracts that extend beyond 2016 in view of current conditions in the steel market.

[25] USS says that it conducts such negotiations having regard to its production capacity for the following year. It says this is critical because the OEM purchasers must be satisfied on the reliability of production and certainty of supply throughout the entire contract term as a necessary requirement, given the supply chain demands of the OEMs. These demands include, in particular, delivery in accordance with their "just in time" inventory management systems. In

this context, given the present circumstances, USS considers USSC's production capacity in 2016 to be uncertain.

[26] USS takes the position that, given these business realities regarding its customers, as well as its uncertainty regarding USSC's production capacity in 2016, it is not prepared to contract for OEM business for allocation to USSC. Accordingly, while USS has submitted initial bids relating to automotive production for 2016, USS has limited its initial customer bids to match the automotive production capacity of its U.S.-based mills and did not submit any bid that would involve allocation of automotive production to USSC facilities. Instead, as described further below, USS proposed a contract negotiation protocol between USSC and USS which contemplates that USSC will bid independently for its own OEM production.

[27] As a result of this decision, USSC has had to recast its business plan for 2016. Compared to its projections in its previous business plan for 2016, which assumed continued plant loading by USS, USSC now estimates revenue and EBITDA in 2016 will decrease by approximately \$361 million and \$106 million, respectively, on forecast sales of approximately 492,000 net tons. This estimate assumes a scenario in which USSC loses all automotive-related steel production and is unable to replace this lost production with new business.

The Motions Before the Court

[28] This round of motions was commenced by the United Steel Workers Union and Local 1005 (collectively, "the USW"), who brought a motion seeking an order declaring that the actions of USS in respect of the Diversion Decision contravened the Initial Order (the "USW Motion"). The USW Motion also sought an order, among other things, directing USS to immediately take steps to cancel the redirection or diversion of such work; directing the continued mill loading and production allocation of such work to USSC in accordance with the *status quo*; and directing USS not to terminate the supply of any goods and services required by USSC for the continued operation of its steel mills.

[29] After learning of USS's intentions respecting the contracting for, and allocating of, work for 2016, the relief sought in the USW Motion was broadened. The USW Motion now includes a request for an order requiring USS to continue to contract for, and to allocate, production and finishing work for the USSC mills, including, in particular, automotive-related production, in respect of the 2016 calendar year in accordance with its practice since the Filing Date.

[30] For its part, USS brought a motion seeking Court approval of a contract negotiation protocol that USS and USSC would follow with respect to the bidding for, negotiation of, and contracting for, the production and supply of steel products for OEM purchasers in the calendar year 2016 (the "USS Motion"). In the alternative, USS sought a declaration that: (1) it has no obligation to sell or attempt to sell products to OEM customers in respect of 2016 and beyond that would require plant loading capacity and production at USSC plants; and (2) it has no obligation to load production at USSC plants in respect of any OEM contracts for 2016 and beyond that USS might be awarded, except on terms and in amounts that are mutually agreeable to USS and USSC, in consultation with the Monitor.

[31] In addition, USS sought an order of the Court terminating effective December 10, 2015 all services currently provided by USS to USSC, excluding contracts relating to the supply of new materials from USS to USSC, but including the Critical Services. Pending such termination, USS also sought an order requiring USSC to provide a cash deposit or letter of credit satisfactory to USS to cover any credit exposure of USS in relation to the provision of goods and services to USSC or, alternatively, a declaration that it is under no obligation to provide money or credit to USSC in accordance with section 34(4) of the CCAA, notwithstanding the terms of the Initial Order.

[32] Concurrently, USSC brought a motion seeking direction from the Court as to whether the Diversion Decision contravened paragraph 6 of the Initial Order (the "USSC Motion"). In addition, USSC seeks an order, which it describes as a "Business Preservation Order", having the following two components: (1) an authorization and direction to discontinue the SARP, other than with respect to the sale of the Hamilton lands; and (2) an authorization and direction to implement a cash conservation and business conservation plan described in greater detail below (the "Business Preservation Plan"). The Business Preservation Order sought by USSC also contains an approval of the Court for amended and restated DIP financing arrangements described in greater detail below (the "Amended DIP Financing").

[33] The Business Preservation Plan is directed towards providing a basis for continuation of USSC's business and operations until the end of 2016 in the hope that a restarted sales and restructuring process in the spring of 2016, or a consensual settlement, will generate a viable offer for USSC's business and assets. The Business Preservation Plan contemplates a number of cash conservation measures that involve suspensions of payments that will affect various stakeholders. It also contemplated a declaration that USS is a "critical supplier" within the meaning of section 11.4 of the CCAA. Such a declaration is no longer necessary given the terms of the Transition Arrangements described below.

[34] Representative Counsel for the non-union active employees and retirees of USSC also brought a motion seeking relief which is substantially similar to the relief sought by the USW in respect of the Diversion Decision of USS and the relief sought by USSC in respect of the Critical Services (the "Representative Counsel Motion"). In particular, Representative Counsel sought a declaration that the Diversion Decision contravened paragraphs 6, 19 and 20 of the Initial Order. Representative Counsel also asserted a separate claim that the conduct of USS in respect of the plant loading issues (as defined below) is oppressive of the employees and retirees of USSC for the purposes of section 241 of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44. Representative Counsel also sought, among other relief, an order requiring USS to terminate any redirection of production and finishing work to its other mills, to restore the plant loading contemplated prior to the Diversion Decision, and to compensate USSC for any losses caused by the Diversion Decision.

[35] Subsequently, Representative Counsel brought a further motion seeking an order that USS terminate any redirection of production and finishing work and that USS be required to restore and continue to allocate production of automotive and other steel products to USSC until the Court released its decision on the USW Motion and the Representative Counsel Motion (the "Standstill Motion"). The Standstill Motion was adjourned to be heard together with the other

motions above on the agreement of USS and Representative Counsel, which included a confirmation of USS that no additional parts would begin production in the United States prior to October 1, 2015 and an understanding that the Monitor would issue a supplementary report on the status of the plant loading issue.

[36] In view of the significance of the failure of the SARP and the actions of USS in respect of plant loading for the prospects for USSC, the Court directed the principal stakeholders to participate in a mediation under the direction of a mediator who was to be selected by these parties.

[37] In accordance with this order, the Hon. Douglas Cunningham (the “Mediator”) conducted a mediation among the principal stakeholders between September 24 and September 28, 2015. The mandate of the Mediator was to explore the possibility of a global settlement among the stakeholders regarding a restructuring plan for USSC, failing which he was to attempt to mediate a consensual agreement among the parties regarding a business plan for USSC going forward. Unfortunately, the mediation did not result in a consensual global settlement regarding a restructuring of USSC.

[38] The motions described above were originally scheduled to be heard on September 29, 2015 following the mediation. However, on that day, the motions were adjourned by order of the Court to October 7 and 8, 2015 with the consent of most, but not all, of the stakeholders to provide time for these parties to pursue a consensual resolution of the business plan issues facing USSC.

[39] After further negotiations assisted by the Mediator and the Monitor, USS and USSC reached an agreement regarding transition arrangements to assist USSC to transition to a fully-independent company while continuing to carry on its business (the “Transition Arrangements”). USSC has therefore brought a further motion seeking the Court’s approval of the Transition Arrangements (the “TSA Motion”). The Transition Arrangements are described in greater detail below.

[40] For the purposes of these Reasons, the issues raised by the stakeholders in the motions described above regarding USS’s actions in implementing the Diversion Decision and in ceasing to contract for, and to allocate, production work to USSC for the 2016 calendar year and beyond are collectively referred to as the “plant loading issues”.

The Issues to be Addressed at this Hearing

[41] As a result of the agreement reached between USSC and USS, and subsequent discussions among the stakeholders, the issues to be addressed at this hearing have been narrowed considerably to USSC’s request for approval of the following matters in the TSA Motion and the USSC Motion: (1) the Transition Arrangements pursuant to the TSA Motion; (2) the Business Preservation Plan; (3) the Amended DIP Financing; and (4) the termination of the SARP. I will address each of these matters in turn.

Approval of the Transition Arrangements

[42] As mentioned, in the TSA Motion, USSC seeks the approval of the Court for the Transition Arrangements that have been agreed to between USS and USSC, including a modified version of the contract negotiation protocol sought by USS on the USS Motion.

The Principal Terms of the Transition Arrangements

[43] The following describes the principal elements of the Transition Arrangements. The complete text of the Transition Arrangements is attached to these Reasons as Appendix A.

[44] The Transition Arrangements generally provide for the continued supply by USS and its affiliates of all services that USSC requires or relies upon for its business and affairs at existing cost to USSC for up to 24 months. These services include the Critical Services. Arrangements for procuring customer sales orders, including in respect of automotive-related production for 2016 and beyond, are not included in the services that USS is required to continue providing. The arrangements relating to bidding on 2016 automotive production are dealt with in the proposed 2016 Automotive Contract Negotiating Protocol described below.

[45] To secure payment to USS for the supply of these goods and services, USS will receive a Court-ordered "Critical Supplier Charge" on the property of USSC, subordinate to the Replacement DIP Lender's Charge, Administrative Charge (Part 1) and Permitted Priority Liens, (as those terms are defined in the Replacement DIP Financing Order or the Initial Order), but current payment terms will remain the same.

[46] The quantity of iron ore required to be purchased by USSC, pursuant to an existing agreement between the parties for the supply of iron ore by USS to USSC for the 2015 shipping season (which ends early in January 2016), will be adjusted such that USSC will cancel approximately 66,000 tons of iron ore and may cancel up to an additional approximately 165,000 tons by advising USS of the final cancelled tonnage by October 31, 2015. USSC will accept delivery of all coal that it is required for the Lake Erie Works for the 2015 shipping season pursuant to the existing cost structure under an existing agreement between the parties for the supply of coal by USS to USSC. USSC will also receive the approximately 331,000 tons of coal remaining to be delivered in 2015 under the Coke Conversion Agreement.

[47] In exchange for maintaining the existing schedule in respect of the Diversion Decision relating to automotive production moved or scheduled to be moved in the fourth quarter of 2015, USS will release any interest it might otherwise have in the \$5.5 million DIP exit fee contemplated by the USS DIP Financing which is currently being held in escrow by the Monitor. These funds will become immediately available to USSC to assist with its liquidity needs and general corporate purposes in connection with the Business Preservation Plan.

[48] USS may request production of some non-automotive steel production in 2016 or beyond from USSC, subject to mutual agreement between the parties, with incremental opportunities to be identified and discussed. Sales to OEM customers will be dealt with pursuant to the 2016 Automotive Contract Negotiating Protocol described below.

[49] USS will provide USSC with funds to pay pension contributions, other than normal cost pension payments, owing under the Stelco Regulation between September 1 and December 31, 2015 pursuant to the USS Pension Guarantee (as defined below). These payments will be made by USSC.

[50] USS will support the Business Preservation Plan and the Amended DIP Financing and the parties will enter into good faith discussions regarding the timing and terms of a new SARP in which USS will not be a bidder. Provided that USSC is operating materially in accordance with the Business Preservation Plan, USS will also refrain from seeking or supporting any process or court order prior to December 31, 2015 that could result in the liquidation of USSC and, if any such order is sought after December 31, 2015, it shall not take effect prior to January 31, 2016. If a motion is brought in these CCAA proceedings to wind-up the registered pension plans of USSC, USS reserves the right to seek to lift the stay of proceedings granted under the Initial Order, as extended, in these CCAA proceedings to file an application to seek to preserve the priority of its security as a secured creditor of USSC, provided that any such application will be stayed so long as the stay of proceedings under the CCAA is in effect.

[51] In the event of a sale of all or substantially all of the assets of USSC, or in the event USSC is unable to continue operations, other than as a result of a court order obtained by USS, the parties will work in good faith to transition to the purchaser or wind down the provision of services by USS, as the case may be.

[52] USSC will be entitled to continued use of intellectual property currently used by it or available to it and owned or licensed by USS as necessary to operate its business in the ordinary course, including the use of the "Stelco" brand. The parties also agree to enter into good faith discussions to resolve intellectual property disputes by December 31, 2015, failing which they will schedule a motion before the Court to be heard prior to the end of the second quarter of 2016 in order to resolve such disputes.

[53] If possible, USS will continue to provide USSC with D&O insurance coverage and similar insurance coverage as it provides for its subsidiaries in the ordinary course, subject to payment of a reasonable portion of the premium by USSC, with the parties to determine within 30 days if a renewal of the existing policy, which expires on March 1, 2016, is possible and, if it is not, to work cooperatively to find a mutually acceptable solution for comparable D&O coverage.

[54] Lastly, the parties agree to take measures and work on technical solutions to separate and keep confidential information of one party from the other party. There is a mutual non-solicitation clause with respect to employees and, until technical solutions are implemented, employees of USSC or USS with access to confidential information of the other company will be required to execute non-disclosure agreements.

[55] It is important to note for present purposes that both USS and USSC intend the Transition Arrangements to address all financial issues between them in respect of the plant loading issues and its impact on USSC. Although it is not explicitly stated in the Transition Arrangements, the

Court also understands that the USS agreement to the Transition Arrangements is conditional upon there being no additional financial obligations ordered to be paid on behalf of USSC.

The 2016 Automotive Contract Negotiating Protocol

[56] The Transition Arrangements also contemplate a contract negotiation protocol between USSC and USS for the negotiation of automotive-related work with OEM purchasers for the 2016 calendar year and beyond. A copy of the proposed 2016 Automotive Contract Negotiating Protocol is attached to these Reasons as Appendix B.

[57] As mentioned above, in the USS Motion, USS sought approval of the Court to a contract negotiation protocol in the form attached as a schedule to the notice of motion. That contract negotiation protocol provided that USS would facilitate the introduction of USSC's personnel to OEM customers to allow USSC to bid on its own behalf for its own supply contracts in respect of 2016 and beyond. However, such contacts were to be provided only at the request of the OEM customers and not at the request of USSC. In exchange, the contract negotiation protocol provided that USSC would not be entitled to any allocation from USS of production for automotive contracts awarded to USS for 2016 and beyond, nor would USSC have any right to request any loading of USSC plants or production at USSC in respect of those contracts.

[58] In the Transition Arrangements, the parties have agreed to a revised form of the contract negotiation protocol (as so revised, the "2016 Automotive Contract Negotiating Protocol"). Under the 2016 Automotive Contract Negotiating Protocol, USS will provide USSC with contact details for the OEM customers and will introduce USSC's representatives to OEM customers if requested by either the OEMs or by USSC.

The Positions of the Parties

USSC

[59] USSC submits that the Transition Arrangements represent an important co-operative step towards an independent USSC, given that USS has indicated that it is no longer interested in being a purchaser of USSC. They are also a beneficial compromise in light of the unknown outcomes of the motions described above, in particular the motions related to the plant loading issues. The Transition Arrangements are supported by the Financial Advisor of USSC, as well as the Chief Restructuring Officer of USSC, William Aziz (the "CRO"). In an affidavit filed in support of the TSA Motion, the CRO stated that he supports approval of the Transition Arrangements given the importance of continued stability to USSC and the benefits of a co-operative approach between USS and USSC.

Representative Counsel

[60] Representative Counsel advised the Court that, after a review of the principal elements of the Transition Arrangements, it does not oppose the TSA Motion. Representative Counsel further advised that if the Court approved the Transition Arrangements, the Representative Counsel Motion and the Standstill Motion were to be treated as withdrawn.

The USW and Local 1005

[61] The USW takes no position on the TSA Motion to approve the Transition Arrangements. The USW advised the Court that, in the event the Court were to approve the Transition Arrangements on the basis contemplated below, i.e. that such approval extinguished all claims asserted, or that could be asserted, by USSC against USS in respect of the plant loading issues, the USW Motion should be treated as moot. Local 1005 advised the Court that it takes the same position on these matters as the USW.

Province of Ontario

[62] The Province of Ontario (the "Province") advised the Court that, while in its opinion it would have been preferable for the Transition Arrangements to have included a commitment of USS to some allocation of automotive-related production during 2016, it does not oppose approval of the Transition Arrangements.

The Monitor

[63] The Monitor has provided a supplemental thirteenth report dated October 7, 2015 (the "Supplemental Thirteenth Report") setting out, among other things, a description of the Transition Arrangements and of the 2016 Automotive Contract Negotiating Protocol. The Monitor also views the Transition Arrangements and the 2016 Automotive Contract Negotiating Protocol as reasonable and appropriate in the circumstances and recommends the approval thereof. In this regard, the Monitor has expressed the following opinions.

[64] First, USSC requires the continuation of the Critical Services beyond December 10, 2015 in order to implement its Business Preservation Plan. The Monitor notes that separating entities that have the degree of integration, scale and complexity of USS and USSC will take substantial time and will require a significant investment of time and money as well as cooperation between the parties.

[65] Second, the Transition Arrangements will assist in providing a framework for a stable and orderly transition for USSC to help it in implementing the Business Preservation Plan and ensuring that it has continued supply of the critical goods and services provided by USS. At the same time, the proposed Critical Supplier Charge will help USSC manage its liquidity and conserve cash as USSC will not be required to provide USS with payment in advance or cash on delivery for the services and iron ore and coal to be supplied by USS but will instead be able to pay for those goods and services in accordance with existing payment timelines and arrangements.

[66] Third, the Transition Arrangements will assist in resolving what could be very contentious, costly and uncertain litigation surrounding a number of operational and transition matters, including iron ore and coal deliveries, the coke conversion arrangements, the plant loading issues and the \$5.5 million exit fee under the USS DIP Financing.

[67] Lastly, the proposed 2016 Automotive Contract Negotiating Protocol includes important revisions requested by USSC to the protocol proposed by USS which has the potential for

assisting USSC in building its own relationships with OEM customers with a view to securing its own business for automotive steel production independent of USS.

Analysis and Conclusions

[68] The Transition Arrangements constitute a settlement agreement among several significant stakeholders in this CCAA proceeding. I note that USSC and USS intend the Transition Arrangements to have the effect of extinguishing and releasing all present and future claims of any nature that could be asserted by, or on behalf of, USSC against USS in respect of the plant loading issues and that the Court's approval of such arrangements will therefore extend to an extinguishment and release of all such claims.

[69] The test for approval of a settlement agreement during CCAA proceedings has been set out as follows in, among other decisions, *Sino-Forest Corp. (Re)*, 2103 ONSC 1078, 100 C.B.R. (5th) 30 (S.C.) at para. 49 per Morawetz R.S.J.:

In assessing a settlement within the CCAA context, the court looks at the following three factors, as articulated in *Robertson, supra*:

- (a) whether the settlement is fair and reasonable;
- (b) whether it provides substantial benefits to other stakeholders; and
- (c) whether it is consistent with the purpose and spirit of the CCAA.

[70] I am satisfied that the Transition Arrangements satisfy this test for the following reasons.

[71] First, the Transition Arrangements are consistent with the purpose and spirit of the CCAA, which is to further the prospects of a viable plan of arrangement that will restructure the debtor company or its business in a manner that will allow continued operation of the business. In this case, the Transition Arrangements are directed at ensuring that USSC can continue to maintain its operations during a necessary transition period. This continuation of operations may, in turn, result in USSC being able to obtain and implement alternative suppliers for the Critical Services.

[72] Second, by establishing arrangements by which USSC can carry on its business without interruption while it transitions to a fully-independent status, the Transition Arrangements provide a real benefit to the other stakeholders. The Transition Arrangements, together with the Business Preservation Plan and the Amended DIP Financing, constitute a package that collectively provides USSC the opportunity to carry on its operations, build back its customer base, and seek a new purchaser or investor in a new sales and restructuring process. The Transition Arrangements also settle issues that could otherwise have resulted in uncertain and expensive litigation that would have diverted USSC's scarce resources.

[73] Significantly, by reaching a consensual agreement of the major issues between USSC and USS, the Transition Arrangements provide a basis for co-operation between these parties that will be critical if the continuing arrangements are to function for the benefit of USSC and the

principal stakeholders. In addition, by providing for an orderly separation of USS and USSC, and given USS's statement that it is no longer a bidder for USSC, the Transition Arrangements may also increase the prospect of a successful sales or restructuring process in 2016.

[74] Third, with respect to the fairness and reasonableness of the Transition Arrangements, the evidence before the Court is that the board of directors of USSC, its CRO and the Monitor are each of the view that the Transition Arrangements provide USSC with all the services and interim supply arrangements that it needs to carry on in accordance with its Business Preservation Plan. I agree with the Province that it would have been preferable for the Transition Arrangements to have included provision for some allocation of production from USS during 2016. However, the Transitional Arrangements do provide for at least a partial, if not a total offset (depending on whether USS's payment of pension contributions in 2015 is taken into consideration), of the adverse impact on USSC's cash flow in the fourth quarter of 2015 resulting from the Diversion Decision. I would also note that the Court has not determined, and is not being asked to determine, the plant loading issues.

[75] Based on the foregoing, the Transition Arrangements are approved on the basis described above regarding the extinguishment and release of all claims as between USSC and USS regarding the plant loading issues.

Approval of the USSC Business Preservation Plan

[76] As mentioned, USSC has developed a Business Preservation Plan which forms the basis for the relief sought by USSC on the USSC Motion.

Background and Details of the Business Preservation Plan

[77] The Business Preservation Plan provides for continued operations at a significantly reduced level for the next 12 to 15 months when a blast furnace reline may be necessary, at which point USSC will not undertake the blast furnace reline or winter inventory buildup and both the Hamilton Works and the Lake Erie Works will be idled and placed on care and maintenance.

[78] USSC, along with the assistance of its Financial Advisor, has prepared a monthly financial forecast of availability under the Amended DIP Financing on the assumption that the Business Preservation Plan, and the cash conservation measures contemplated by the Plan, are approved by the Court and immediately implemented. Based on the availability of borrowings under the Amended DIP Financing, USSC is forecast to have sufficient liquidity to enable it to operate through the forecast period ending July 2016, although liquidity will be relatively tight at certain periods. The Monitor notes however that, if the cash conservation measures contemplated by the Business Preservation Plan are not implemented, the quantum of the funding available pursuant to the Amended DIP Financing may be insufficient to finance USSC's operations through 2016 absent a replacement by USSC, on similar terms, of the business that will be lost as a result of the Diversion Decision and the lack of sales support from USS for automotive production in 2016, or a rapid and significant increase in steel prices.

[79] The Business Preservation Plan is based on, among other things, the assumptions that: (1) USSC's sales will reflect materially lower volumes as USSC will not have the benefit of automotive business procured by USS for 2016; (2) USSC will be able to sell steel at spot prices roughly equivalent to current levels; (3) USS will continue to provide the Critical Services to USSC for a monthly fee; (4) USSC will continue to make non-RRSP pension, RRSP and WSIB payments; and (5) Brookfield will continue to extend DIP financing through the Amended DIP Financing described below, in exchange for the fees provided for therein.

[80] The background to the Business Preservation Plan and its principal features have been set out in an affidavit of the CRO in an affidavit dated September 17, 2015 filed by USSC in support of the USSC Motion. In his affidavit, the CRO states that USSC's board of directors, with the assistance of USSC's management, its Financial Advisor, its legal counsel, the Monitor, and the CRO, have considered various contingency plans for USSC. The scenarios considered by USSC included both the Business Preservation Plan, whereby USSC is assumed to operate at a reduced level through 2016 with the provision of intercompany services by USS, as well as a "hibernation" scenario, which would involve the near term realization of inventory, the orderly wind-down of USSC's operations, and the idling of its facilities pending a future sale opportunity or liquidation.

[81] The Business Preservation Plan includes a number of cash conservation measures reflected in the Business Preservation Order that the board of directors of USSC believes are necessary to enable USSC to maintain sufficient liquidity and continued access to DIP financing in order to continue operations. These cash conservations measures are addressed in greater detail below. USSC believes that implementation of the Business Preservation Plan will significantly reduce its estimated monthly cash depletion over what it otherwise would be if it attempted to continue to operate without the cash conservation measures contemplated by the Plan. However, even with the implementation of such measures, USSC estimates that it will still deplete cash balances at the rate of approximately \$6 to \$8 million per month.

[82] It is USSC's position that, although cash losses have the potential to reduce recoveries that would otherwise be available to stakeholders in a "hibernation" or liquidation scenario, the Business Preservation Plan offers, among other considerations, the following benefits which justify its implementation: (1) allowing USSC to avoid the near-term cessation of operations thereby preserving employment for approximately 2,200 employees at USSC's mills; (2) allowing USSC to continue developing and implementing measures to further reduce costs and improve its competitiveness; and (3) avoiding a near-term wind down which may remove options and end prospects for a going concern sale or solution.

[83] The Business Preservation Plan contemplates the following cash conservation measures by USSC for which it seeks the authorization and direction of the Court: (1) the immediate suspension of all contributions or payments to USSC's nine registered defined benefit pension plans, other than normal cost contributions, and to the retirement compensation arrangement trust fund; (2) the immediate suspension of supplementary pension payments to beneficiaries pursuant to unfunded individual retirement benefits contracts and individual retiring allowances; (3) the suspension of payment of other post-employment benefits (the "OPEBs") to beneficiaries under USSC's OPEB plans, other than the payment of premiums to fund life insurance benefits; (4) the

immediate suspension of payments to the Pension Benefit Guarantee Fund (the "PBGF") in respect of assessments; (5) the immediate suspension of salary continuance payments to USSC employees no longer actively employed by, or providing services to, USSC; and (6) the immediate suspension of payments on account of municipal taxes to the City of Hamilton and the County of Haldimand. Further detail regarding these cash conservation measures is set out below.

[84] USSC says that it is necessary to implement its Business Preservation Plan immediately in light of the proposed discontinuance of the SARP for the reasons set out above and in the absence of a global restructuring solution. USSC submits that the Court has the authority to approve each of the cash conservation measures contemplated by the Business Preservation Plan pursuant to the broad discretionary authority granted to it under section 11 of the CCAA. Approval of the Business Preservation Plan by October 13, 2015 is also a condition precedent for any draws under the Amended DIP Financing. USSC has advised the stakeholders and the Court that it anticipates that it will require a draw under the Amended DIP Financing on or about that date.

The Cash Conservation Measures

[85] The following describes the particular cash conservation measures in the Business Preservation Plan in greater detail and any additional authority of the Court relied upon by USSC to approve such measures.

Suspension of Pension Contributions

[86] As part of the cash conservation measures in the Business Preservation Plan, USSC seeks authorization to suspend immediately all contributions to USSC's nine registered defined benefit plans, other than normal cost contributions.

[87] USSC has made all contributions to the registered defined benefit plans in the ordinary course when due since the Filing Date. However, USSC says that, if it is required to continue to make such contributions, it will be required to pay approximately \$23.65 million, inclusive of normal cost contributions, in respect of contributions to its registered defined benefit plans for the remainder of 2015, with such payments increasing significantly to an estimated \$18.6 million per month as of January 1, 2016 when the registered defined benefit plans become subject to the general funding regime under the *Pension Benefits Act*, R.S.O. 1990, c. P.8. USSC says that it does not have sufficient liquidity to continue to pay these pension contributions.

[88] Essentially, in respect of its registered defined benefit plans, USSC proposes to suspend contributions relating to the solvency deficiency in these plans on the basis that the solvency deficiency funding contributions represent amortization of a deficit that existed prior to the date of the Initial Order and, as such, these payments relate to pre-filing obligations..

[89] In several other decisions, courts have also suspended pension contributions (other than normal cost payments) in CCAA proceedings where failure to stay these obligations would jeopardize the business of the debtor company and the company's ability to restructure: see, for example, *Fraser Papers Inc. (Re)* 2009, 55 C.B.R. (5th) 217 (Ont. S.C.J. [Comm. List]), at paras.

20-21, and *Timminco Limited (Re)*, 2012 ONSC 506, 85 C.B.R. (5th) 169, at para. 63, in which Morawetz J. (as he then was) stated:

Where the facts demonstrate that ordering a company to make special payments in accordance with provincial legislation would have the effect of forcing the company into bankruptcy, it seems to me that to make such an order would frustrate the rehabilitative purpose of the CCAA. In such circumstances, therefore, the doctrine of paramountcy is properly invoked, and an order suspending the requirement to make special payments is appropriate (see *ATB Financial and Nortel Networks Corporation (Re)*).

In my opinion, the principles applied in these cases, in particular, the principle of paramountcy, are applicable in the present circumstances and are relied upon in the Court's approval of the Business Preservation Plan.

[90] I note as well that USS and the Province are parties to a guarantee agreement, pursuant to which USS unconditionally guaranteed certain pension funding obligations of USSC due and owing under the Stelco Regulation between September 1, 2015 and December 31, 2015 (the "USS Pension Guarantee"). The Transition Arrangements contemplate that USS will provide USSC with funds solely for the purpose of payment of such pension contributions, not including normal cost contributions. USS will make such payments to USSC pursuant to the USS Pension Guarantee.

Suspension of Certain Supplementary Pension Payments

[91] USSC also seeks authorization to suspend immediately the supplementary pension payments to beneficiaries made pursuant to unfunded individual retirement benefit contracts and retirement compensation arrangements (collectively "SERP Benefits").

[92] USSC has made SERP Benefits payments in the ordinary course when due since the Filing Date. It is understood that such payments are projected to be approximately \$663,000 for the remainder of 2015 and \$1.99 million for 2016.

[93] USSC relies on the same principles as were set out above in respect of the suspension of registered pension contributions, namely the fact that the SERP Benefits represent pre-filing unsecured obligations of USSC that can be stayed where a suspension of payments furthers the purposes of the CCAA and a failure to stay these obligations would jeopardize the business of a debtor company and the company's ability to restructure its business and affairs.

Suspension of Payment of Post-Employment Benefits

[94] USSC also seeks the suspension of OPEB payments to retirees, effective on October 9, 2015, which is referred to in the Business Preservation Plan Order as the "OPEB Claims Suspension Date".

[95] The OPEBs include prescription drugs, dental services, certain other medical services, hospital charges, life insurance premiums and vision costs. All OPEB payments, other than life

insurance benefits, are self-insured by USSC. Accordingly, while the claims for eligible OPEB costs incurred by retirees, their spouses and their dependants are administered by Green Shield Canada under an administrative services-only contract with USSC on a pay-as-you-go basis, the claims are funded by USSC. USSC is not, however, seeking to suspend non-retirement benefits, such as long-term disability, short-term disability, and accidental death and dismemberment insurance, which are benefits provided to active USSC employees.

[96] The projected OPEB funding for the remainder of 2015 is estimated to be approximately \$3.6 monthly for a total of \$14.4 million, and for 2016 is estimated to be approximately \$100 million.

[97] Notice of the pending suspension of OPEBs has been provided to retirees. USSC served its motion on September 17, 2015. The Court understands that counsel for the USW and USW Local 8782 and counsel for USW Local 1005 as well as the Representative Counsel were all served at this time. In addition, on September 18, 2015, the president of USSC, Michael McQuade, sent a letter to all retirees explaining the relief sought in this motion.

[98] Of all the cash conservation measures proposed in the Business Preservation Plan, this is the most difficult for the Court and the most contentious among the parties.

[99] In an eloquent affidavit in opposition to approval of the Business Preservation Plan, Gary Howe, a USSC employee at the Hamilton Works and the current president of Local 1005, addressed the significance of this compensation for current and retired steelworkers. Employment in steel mills is a dangerous occupation in a hazardous environment. These employees and former employees accepted these risks on the understanding that they would have access to any necessary medical coverage should they become injured or ill as a consequence of their employment. The current and retired employees of USSC, particularly those who work or have worked at the older Hamilton Works, rely heavily on the OPEBs to address medical conditions involving chronic illness or injury that is often related to their employment. This is therefore a very important issue to the USW, including Local 1005, and to the union retirees who understandably regard the OPEBs as part of their compensation that should not be suspended, even temporarily.

[100] The Court's jurisdiction under the CCAA to suspend OPEB payments "when necessary to enhance liquidity to promote the survival of the company in financial distress" has been recognized on at least one other occasion: see *Bloom Lake, g.p.l (Arrangement relatif a)*, 2015 QCCS 3064, [2015] Q.J. No. 6111, at para. 104, leave to appeal dismissed, 2015 QCCA 1351, [2015] Q.J. No. 7736. In *Bloom Lake*, the CCAA debtor companies sought an order to suspend the payment of OPEBs *nunc pro tunc* to the CCAA filing date. In granting the relief sought, the court noted that debtor companies did not have the funding available to continue to pay OPEBs. Also, since these amounts related to services provided pre-filing, the OPEBs represented unsecured, pre-filing claims. Given the financial circumstances of USSC, in particular the probability of negative cash flow even under the Business Preservation Plan and the need to access financing under the Amended DIP Financing to continue to operate in such circumstances, I see no substantive difference between the financial circumstances in *Bloom Lake* and the present circumstances. Nor is the fact that the OPEBs in *Bloom Lake* were provided

through an insurer, rather than funded directly as in the case of USSC, of relevance for present purposes.

[101] I would add that, as was also the case in *Bloom Lake*, the present circumstances do not entail a proposed unilateral amendment or variation of the terms of, or alteration of rights under, the collective agreements between the USW and USSC, but rather an amendment to the Initial Order suspending payment of the OPEBs.

Pension Benefit Guarantee Fund Assessments

[102] USSC's Business Preservation Plan also contemplates the immediate suspension of all fees payable hereafter to the PBGF in respect of USSC's registered defined benefit plans for the remainder of these CCAA proceedings. USSC's 2015 PBGF assessment, which was due no later than September 30, 2015, is approximately \$4.4 million. Payment of this amount was stayed on an interim basis pending the hearing of these motions by the order of the Court that adjourned the hearing date of these motions from September 29, 2015, as described above. None of the parties has specifically opposed the suspension of these payments.

Suspension of Salary Continuance Payments

[103] In 2014, prior to the commencement of these CCAA proceedings, USSC terminated a number of salaried employees as part of a company-wide downsizing initiative. USSC currently makes salary continuance payments to 18 employees who were terminated and who are no longer actively employed by, or providing services to, USSC, but who are still receiving salary during their notice periods. The total outstanding amount owing by USSC to employees under these salary continuance arrangements is approximately \$727,000.

[104] While paragraph 9(a) of the Initial Order contains language that allows USSC, with the Monitor's consent, to pay amounts in respect of severance, this language is permissive rather than mandatory. The Initial Order does not require USSC to pay salary continuance while the stay is in effect.

[105] USSC proposes to suspend the salary continuance payments on the grounds that they are pre-filing obligations of USSC in respect of past service. It says that these are non-essential payments that are unrelated to its ongoing operations. If approved, the Business Preservation Order will stay any payments processed after the date of the Court order. As a result of USSC's internal payroll procedures, the first suspended payments for such employees would be the salary continuance payments that would otherwise have been payable on November 1, 2015. USSC notes that the employees will be entitled to file a claim in any employee claims process in respect of the suspended payments. I would also note that the effect of the relief sought is that there will be rough equality of payment between the individuals affected by the Business Preservation Order and the individuals whose circumstances were addressed by the Court in *U.S. Steel Canada Inc. (Re)*, 2015 ONSC 5990.

Suspension of Property Tax Payments

[106] USSC pays municipal realty taxes in the amount of approximately \$1.4 million quarterly, or \$5.8 million annually, to the City of Hamilton (“Hamilton”) and approximately \$896,000 quarterly, or \$3.6 million annually, to the County of Haldimand (“Haldimand” and, collectively with Hamilton, the “Municipalities”). USSC has paid all municipal realty tax amounts to date. The Business Preservation Plan also contemplates the suspension of all municipal realty tax payments.

Positions of the Parties

Representative Counsel

[107] Representative Counsel advised the Court that, in spirit, it would wish to oppose approval of the Business Preservation Plan but, of necessity, it felt compelled not to do so in view of the financial circumstances facing USSC and the desire that the now-independent USSC will succeed. Representative Counsel emphasized, however, that its position is based on two understandings that are important to the non-union active employees and retirees: (1) that USSC will continue to fund the life insurance premiums payable under retiree life insurance that is provided through a policy with Desjardins Financial Security Life Assurance Company, for which USSC has an obligation to remit the premiums; and (2) the important consideration that USSC is not seeking to terminate or disclaim, under section 32 of the CCAA or otherwise, any of its obligations to make the pension contributions, OPEB payments and SERP Benefits payments that are addressed in the Business Preservation Plan, but is seeking only the authorization to suspend temporarily such payments to deal with its current financial situation.

The USW

[108] The USW opposes approval of the Business Preservation Plan. The USW submits that, in determining whether to sanction USSC's Business Preservation Plan and, in particular, whether to grant the requested relief suspending its payment obligations with respect to pensions and the OPEBs, the Court should at a minimum consider whether: (1) USSC faces insurmountable losses; (2) the relief is material to USSC's survival; (3) USSC should have consulted with the USW in an attempt to reach a consensual resolution; and (4) USSC has canvassed other available options.

[109] In particular, the USW submits that USSC has made insufficient efforts to engage the USW in consultations to determine whether the parties can reach a consensual resolution with respect to the issues pertaining to the pension contributions and OPEB payments. It also submits that USSC has led no evidence with respect to the other options that it has canvassed which might allow USSC to put in place the cost efficiencies it asserts are necessary in order to save the business of USSC without suspending such payments.

[110] In addition, the USW submits that any approval should include a requirement that USSC provides better and more timely financial reporting to the USW and its financial consultants, as well as a “come-back” provision to permit a reassessment of whether the financial condition of

USSC at some point in the future will permit a resumption of the pension contribution payments and the OPEBs. In this regard, I note that USSC and the Monitor both contemplate monthly financial reporting to the stakeholders going forward. I would also observe that, in these CCAA proceedings, the USW (or any other party) is at liberty to bring a motion for re-consideration of the suspension of these payments and benefits in the event that the financial circumstances of USSC, or the information upon which the approval of the Business Preservation Order is sought, were to change.

Province of Ontario

[111] The Province stated that it was not in a position to support the motion for approval of the Business Preservation Plan, but it does not oppose any particular features of the Plan.

USS

[112] Consistent with its commitment under the Transition Arrangements, USS supports the approval of the Business Preservation Plan.

The Monitor

[113] The Monitor supports and recommends approval of the Business Preservation Plan. In this regard, the Monitor notes that the current environment for a transaction in the steel sector is “less than optimal” due to deteriorating prices and demand in the North American steel market since these CCAA proceedings commenced. The Monitor is of the view that USSC needs to bring stability to its operations while it disengages from USS, which will also allow it the opportunity to develop new markets and customers for its steel production. It also says that it is critical for such stability that USSC conserve cash flow to create as much flexibility, and provide as much time, as possible to ensure sufficient financing to operate its business and to fund the necessary capital investment as well as to develop a restructuring solution.

Analysis and Conclusions

[114] I propose to consider the motion for approval of the Business Preservation Plan, including the cash conservation measures described above, in two parts. I will first consider the specific issues of the Court’s authority raised by the Municipalities in regard to the suspension of municipal realty taxes. I will then address the approval of the Business Preservation Plan as a whole.

The Proposed Suspension of Municipal Realty Taxes

[115] The Municipalities oppose the relief sought on three legal grounds discussed below. In addition, Hamilton asserts a further argument specific to it based on an agreement dated February 27, 2015 between USSC and Hamilton (the “Settlement Agreement”), which is also discussed below. I will address each issue in turn.

[116] First, the Municipalities argue that post-filing taxes are not “claims” for the purposes of section 19 of the CCAA and, therefore, may not be dealt with in any plan of compromise or

arrangement under that statute. While I agree that post-filing obligations, including post-filing taxes, are not Claims that can be dealt with in any plan of arrangement under the CCAA, the Municipalities' argument proceeds on the basis of an important misunderstanding. The USSC motion seeks the Court's approval for the suspension of municipal realty tax payments, rather than a compromise or arrangement of the claims of the Municipalities by way of a plan of arrangement under the CCAA. Accordingly, section 19 of the CCAA has no application to this motion.

[117] Second, the Municipalities assert that the suspension of payments will increase cash flow to USSC and, as a result, this suspension will constitute a bonus to USSC in contravention of section 106 of the *Municipal Act, 2001*, S.O. 2001, c. 25. The relevant provision of the *Municipal Act, 2001* reads as follows:

106(1) Despite any Act, a municipality shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for the purpose.

(2) Without limiting subsection (1), the municipality shall not grant assistance by, ... (d) giving a total or partial exemption from any levy, charge or fee.

[118] Section 106 is intended to prevent a municipality and a third party from entering into a transaction in which the municipality confers an undue advantage on the third party: see *Nowak v. Fort Erie (Town)*, 2012 ONSC 2152, [2012] O.J. No. 1943, at paras. 28-31. Section 106 is therefore directed toward assistance given by a municipality to a manufacturing business or other industrial or commercial enterprise. In this case, the Municipalities oppose the relief sought by USSC and it is a court order, rather than any action on the part of the Municipalities, that is bringing about the suspension of the realty tax payments. Quite apart from the fact that the continued operation of USSC with the possibility of a longer term solution is likely to benefit the Municipalities, I do not see how it can be argued that an involuntary suspension of municipal realty taxes imposed on the Municipalities over their objections by the Court can be characterized as the giving of assistance or the conferring of an undue advantage on USSC by the Municipalities for the purposes of section 106 of the *Municipal Act, 2001*.

[119] The principal argument of the Municipalities is that municipal realty taxes represent payment for the provision of post-filing services that are provided by the Municipalities or require the Municipalities to advance credit to USSC, and, as such, cannot be stayed pursuant to an order of a court under the CCAA. They rely, in particular, on the provisions of section 11.01 of the CCAA, which read as follows:

No order made under section 11 or 11.02 has the effect of

(a) prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided after the order is made; or

(b) requiring the further advance of money or credit.

[120] I do not think that municipal realty taxes are properly characterized as a payment for the provision of post-filing services as the concept of “services” is understood for the purposes of section 11.01. Rather, municipal realty taxes are a levy imposed on property owners to fund the operations of a municipality exercising its authority and obligations as a local governmental body. I note that the Alberta Court of Appeal appears to have reached a similar conclusion in *Montreal Trust Company of Canada Ltd. v. Smoky River Coal Ltd.*, 2001 ABCA 209, 205 D.L.R. (4th) 94, at paras. 28-33, albeit in a somewhat different context, as the case dealt with entitlement of a municipality to the benefit of a post-petition trade creditor charge. Similarly, paragraph 11.01(b) addresses a “further advance of money or credit”. As such, the provision assumes a pre-existing credit relationship which is maintained on an involuntary basis after the commencement of CCAA proceedings. Such a relationship is absent in the present circumstances. For these reasons, I conclude that the present circumstances do not fall within the circumstances contemplated by section 11.01.

[121] Lastly, as mentioned, USSC and Hamilton are parties to the Settlement Agreement, under which USSC and Hamilton agreed that Hamilton could offset certain amounts owing by USSC against a tax refund owing by Hamilton to USSC, and USSC agreed to pay a deposit to Hamilton for future utility charges. USSC also agreed to pay future realty taxes to Hamilton in accordance with the Initial Order. Hamilton argues that the relief sought amounts to an amendment of the Settlement Agreement, which the Court has no jurisdiction to grant under section 11 of the CCAA. I note that neither party sought the approval of the Court to the Settlement Agreement.

[122] I do not accept this argument for the following reasons.

[123] First, Hamilton argues that it received an absolute covenant from USSC to pay all realty taxes in consideration for its covenants in the Settlement Agreement. As such, it says the effect of the suspension is to amend the agreement with respect to the consideration to be received by Hamilton. I do not think that is an accurate description of the USSC covenant in respect of municipal realty taxes, which was limited to a covenant to pay such taxes to the extent not otherwise suspended by order of the Court. In this regard, the Settlement Agreement specifically contemplated non-payment of tax amounts to Hamilton, and it provides Hamilton with a remedy in such a circumstance as well as a deposit from USSC to secure payment of future utility arrears. Accordingly, I am of the opinion that Hamilton received the consideration contemplated under the Settlement Agreement.

[124] Second, as a general rule, the agreement between the parties cannot exclude the operation of a court under the CCAA in the exercise of its discretion under section 11, provided any such order furthers the purposes of the CCAA. In this case, there is also no specific language in the Settlement Agreement which indicates an intention on the part of the parties thereto to oust the jurisdiction of the court.

[125] Third, in my view, the principle of paramountcy articulated in *Timminco* above is equally applicable in the present circumstances, again provided any suspension of realty taxes furthers the purposes of the CCAA.

[126] Given the foregoing, I conclude that the Court has the authority under section 11 of the CCAA to order the suspension of the municipal realty taxes otherwise payable to the Municipalities.

[127] In assessing the considerations before the Court that are relevant to the exercise of the Court's discretion to suspend such taxes, I note that the Municipalities have a statutory lien for unpaid taxes provided for in the *Municipal Act, 2001*. The relief sought does not terminate USSC's obligations to pay taxes, but merely suspends the obligation. USSC does not suggest that the effect of the relief sought would be to affect in any way the rights of the Municipalities to exercise their respective remedies for tax arrears in accordance with that statute. The suspension would appear to have a maximum length of 15 months, being the length of the period contemplated by the Business Preservation Plan, which is well within the period before which remedies can be exercised under the *Municipal Act, 2001*. The total amount of unpaid taxes that would accrue during that period and be secured by the statutory lien for realty taxes would not be material relative to the value of the USSC assets and the anticipated amount of any prior ranking security. There is therefore no evidence that the Municipalities' security will be eliminated or materially reduced in the event of a liquidation of USSC as a result of the proposed suspension of payment of municipal realty taxes.

[128] While the Municipalities raise the possibility of a Crown lien for any claim of the Province for environmental clean-up, that is by no means certain. As of today it is entirely speculative. Similarly, the Court cannot speculate on any dealings that might transpire between the Municipalities and the Province if such a claim were to arise.

[129] Accordingly, in the present situation, the principal effect on the Municipalities is a cash flow reduction that must be met by a higher levy for realty tax purposes or access to reserves of some nature. I do not wish to diminish the significance of such consequences to the Municipalities, particularly to Haldimand which is a relatively small municipality with a modest tax base. On the other hand, the evidence before the Court indicates that USSC requires access to the increased cash flow from the various cash conservation measures in the Business Preservation Plan, including a suspension of municipal realty taxes, if it is to continue its operations even at the reduced level contemplated by the Plan. The evidence also indicates that, absent such continuity of operations, the likelihood of a restructuring option for USSC is significantly reduced, if not eliminated. Such a result would have permanent consequences for the Municipalities, which would not be limited to the permanent loss of realty tax revenue.

[130] There is no doubt that the Plan is put forward by USSC with a view to furthering the prospects of a future restructuring plan and, as such, furthers the purposes of the CCAA. The Municipalities have not demonstrated that the ultimate impact on them is sufficiently adverse as to justify a rejection of the Business Preservation Plan. On balance, I think it is clear that continuation of USSC's operations pursuant to the Business Preservation Plan is in the best interest of the Municipalities as well as of the other stakeholders. This is only possible, however, if all of the cash conservation measures are approved, including the suspension of municipality realty taxes. In these circumstances, I conclude that it is appropriate to exercise the Court's discretion to authorize the suspension of payment of municipal realty taxes to the Municipalities under section 11 of the CCAA.

Consideration of the Business Preservation Plan as a Whole

[131] Section 11 of the CCAA grants the Court a broad discretion to make any order considered appropriate in the given circumstances. USSC urges the Court to exercise that discretion to approve the Business Preservation Plan, including the cash conservation measures that are an integral part of the Plan.

[132] When exercising its discretionary authority, this Court must be satisfied that the relief sought furthers the purposes underlying the CCAA, which is to facilitate the making of a compromise or arrangement between an insolvent debtor company and its creditors to the end that the business is able to continue: see *Hongkong Bank v. Chef Ready Foods*, [1990] B.C.J. No. 2384 (C.A.), at p. 4. In this regard, courts have granted relief to debtor corporations in the form of cash conservation and preservation measures if they are satisfied that such measures are necessary for continued operation under CCAA protection, provided the purposes of the CCAA are being advanced.

[133] In the present proceeding, none of the stakeholders argues that the Court lacks the authority under section 11 of the CCAA to grant the relief sought by USSC. In this regard, it is significant that the relief requested is a temporary suspension pending a consensual global settlement on a restructuring plan for USSC or a sale of USSC or its business. I would add that, insofar as the relief sought would conflict with provincial pension or municipal tax legislation, the principle of paramountcy is properly engaged to avoid a bankruptcy scenario. While it is tempting to consider withholding approval for one or more measures in light of their impact on particularly vulnerable persons who have the sympathy of the Court, in particular the retirees who rely on the OPEBs, the issue before the Court is approval or rejection of the Business Preservation Plan as an entirety. In this regard, the following considerations are relevant

[134] First, approval of the Business Preservation Plan in its entirety is a pre-condition to the availability of financing under the Amended DIP Financing which will be required as early as this week.

[135] Second, and more importantly as discussed below, the anticipated cash flow of USSC over the period until the end of 2016 requires a suspension of payments, and a consequential increase in cash flow, in the aggregate amount contemplated by the cash conservation measures. Given the anticipated cash burn of \$6-\$8 million per month even under the Business Preservation Plan, any reductions in budgeted cash flow would diminish USSC's cash resources, even with the Amended DIP Financing, to the point where it would be incapable of continuing its operations. The evidence also demonstrates that USSC faces insurmountable losses if the Business Preservation Plan is not implemented. The evidence therefore demonstrates that the suspension of payments is material to USSC's survival in the manner contemplated by the Business Preservation Plan.

[136] Third, the USW argues that USSC has failed to demonstrate that it has properly canvassed its costs structure in its entirety to determine whether there are other costs that can be reduced, rather than, in particular, the OPEBs, in order to meet the target reductions of cash flow.

It submits that the Court must be satisfied that USSC has exhausted all reasonable alternatives before suspending the OPEBs and the pension contributions.

[137] The Court would far prefer to be able to identify alternatives to the suspension of these payments. However, none of the stakeholders are able to identify any such alternatives at the present time. It is possible that the operating experience in the new environment will reveal some possible alternatives. I would encourage USSC to be alert to such possibilities as it moves forward. The restoration of the OPEBs should be a priority together with its operating and restructuring priorities. It is also possible that USSC may be able to contract for automotive-related production on its own, in which case improved operating results may present such an opportunity. However, the Court cannot speculate today on the likelihood of these events in the future. It must proceed on the basis of the evidence before it.

[138] Unfortunately, that evidence is unequivocal with respect to alternatives to the Business Preservation Plan. The evidence of the CRO is that USSC has considered various contingency plans and has decided to proceed with the Business Preservation Plan. This has not been challenged in any way by any of the stakeholders. In particular, USSC has given serious consideration to a hibernation scenario as an alternative to the Business Preservation Plan. Such a scenario would appear to simply accelerate a termination of retirement benefits and OPEBs without any corresponding benefit to the past and present employees. I note that, in the Thirteenth Report, the Monitor states that the forecast EBITDA losses under the Business Preservation Plan along with the cash requirements for maintenance capital expenditures and interest on the Amended DIP Financing are only \$1-\$2 million more than the monthly care and maintenance cash costs projected by USSC under the hibernation scenario. As a result, if USSC is able to implement the Business Preservation Plan as projected, it is not anticipated to incur significantly larger incremental cash losses than if it implemented the hibernation scenario, but will preserve the benefits of maintaining a going concern operation.

[139] Fourth, the argument of several stakeholders that the present circumstances are the responsibility of USS and therefore USS should contribute more toward the payment of these obligations is unrealistic for the reasons discussed above in respect of the Transition Arrangements. This is not the agreement that was reached between USS and USSC, and it is not the agreement now before the Court. Any such order would require a determination of the plant loading issues which USS and USSC have agreed are addressed by way of a compromise in the Transition Arrangements.

[140] Fifth, the terms of the Amended DIP Financing require implementation of the cash conservation measures. In the present financial circumstances of USSC and given the negative cash flow expected over the next fifteen months, any such payments would effectively be made out of claims under the Amended DIP Financing, which is unacceptable to Brookfield. Until there is an alternative DIP lender willing to lend to USSC on a basis that would fund some or all of these payments, the Court must assess the Business Preservation Plan in light of the available financing, being the Amended DIP Financing.

[141] Lastly, the Monitor has specifically addressed the issue of suspension of the OPEBs in its Thirteenth Report. The Monitor's conclusion is that:

[T]he unfortunate (but inevitable) fact is that USSC does not have access to liquidity or financing to honour these obligations in the present circumstances and that, if the Order sought by USSC is not made, it will not have the financial resources to continue to carry on in business for the period of time necessary to develop a long term restructuring solution, and a near term cessation of operations will be necessary.

[142] In these circumstances, I conclude that it is not only appropriate, but necessary, to authorize the Business Preservation Plan, including the cash conservation measures contemplated therein.

Approval of Amended and Restated Replacement DIP Financing

[143] In connection with its Business Preservation Plan, USSC has negotiated certain amendments to the DIP Financing, being the Amended DIP Financing for which it seeks the approval of the Court.

[144] These amendments include, principally, the following: (1) a reduction of the loan amount to \$75 million; (2) two six-month extension options from January 28, 2016 and July 28, 2016, subject to the consent of Brookfield and payment of a fee of \$1.5 million for each extension; (3) acceleration of the Amended DIP Financing if USSC terminates its Business Preservation Plan or decides to liquidate its assets; (4) additional budget compliance covenants, including Brookfield's approval of USSC's updated weekly budgets and updated monthly budgets; (5) certain milestones including commencement of a new SARP by May 31, 2016; (6) a collateral coverage covenant requiring that USSC's "Liquidation Value" (as defined in the Amended DIP Financing), less all charges ranking in priority to the Replacement DIP Lender's Charge (as defined in the "Replacement DIP Financing Order"), shall at all times be not less than \$100 million plus the amount of all advances under the Amended DIP Financing; and (7) certain additional affirmative covenants and additional events of default. As mentioned, advances under the Amended DIP Financing are conditional on approval by the Court of the Business Preservation Plan in the form of the order sought by USSC.

[145] It should be noted that the priority of the Replacement DIP Lender's Charge will remain the same as currently exists in respect of advances under the current DIP Financing, with the exception that it is proposed that the Replacement DIP Lender's Charge will now rank in priority to any purchase money security interests in respect of inventory (as so amended, the "Amended Replacement DIP Lender's Charge").

[146] USSC says that the stability afforded by the DIP financing provided by Brookfield cannot be understated. The amendments set out in the Amended DIP Financing were extensively negotiated by USSC's advisors, with the assistance and supervision of the Monitor. These amendments are necessary in light of the circumstances of the failed SARP and the need for continued financing for USSC through 2016. Absent the additional protections provided to Brookfield, it is not realistic to expect that Brookfield would continue to provide extended, committed financing. I note that none of the stakeholders oppose the Amended DIP Financing by itself.

[147] The Court has the authority to approve the Amended DIP Financing under section 11 of the CCAA. I am satisfied that it is appropriate to do so in the present circumstances for the following reasons.

[148] USSC is satisfied that the covenant pattern in the Amended DIP Financing, including in particular the milestones, is compatible with the Business Preservation Plan and the principal assumptions upon which it is based. The availability of DIP financing is a critical component of the Business Preservation Plan. It is not suggested that there is alternative DIP financing available to USSC. The Monitor has reviewed the terms of the Amended DIP Financing and is of the opinion that the Amended DIP Financing is reasonable and necessary in the circumstances and recommends the approval thereof by the Court.

[149] The Court also has the authority under section 11.2 of the CCAA to grant the requested priority of the Amended Replacement DIP Lender's Charge to secure the Amended DIP Financing. In this regard, section 11.2(4) of the CCAA sets out a non-exhaustive list of factors to be considered by a court in addressing such a motion. In addition, Pepall J. (as she then was) stressed the importance of three particular criteria in *Camvest Global Communications Corp. (Re)*, 2009 CarswellOnt 6184, [2009] O.J. No. 4286 (S.C.), at paras. 32-34. In my view, the Amended Replacement DIP Lender's Charge is appropriate based on those factors for the reasons that follow.

[150] As mentioned, the Amended Replacement DIP Lender's Charge is a condition of the Amended DIP Financing which, in turn, is critical for the continued operation of the business of USSC in accordance with the Business Preservation Plan. As such, the Amended Replacement DIP Lender's Charge will advance the prospects of a viable plan of arrangement to restructure the affairs of USSC. In addition, all creditors have had ample notice of the proposed Amended Replacement DIP Lender's Charge and the Monitor is of the view that no creditor will be materially prejudiced by the Amended Replacement DIP Lender's Charge. In this regard, I note that USS, which asserts security in the assets of USSC which will rank behind the Amended Replacement DIP Lender's Charge, does not object to the amendment to the priority sought by USSC. Lastly, the cash flow projections prepared by USSC, including the forecast of availability under the Amended DIP Financing, demonstrate that, on the assumptions upon which the Business Preservation Plan is based, the amount of the financing available under the Amended DIP Financing is appropriate and required to meet USSC's liquidity requirements until the end of 2016.

[151] Accordingly, I am satisfied that the proposed Amended DIP Financing, including the Amended Replacement DIP Lender's Charge, should be approved.

Discontinuance of the SARP

[152] In the absence of any agreement between USSC's stakeholders and any of the bidders in its SARP process, USSC seeks to have the SARP discontinued, except as it relates to the sale of the Hamilton lands. None of the stakeholders present at the hearing of these motions objects to this relief.

[153] Pursuant to the terms of the SARP Order, USSC is not obligated to enter into a transaction with a SARP bidder and, after consultation with the Monitor and the Financial Advisor, USSC has the right to reject all bids. Paragraph 5 of the SARP Order further provides that USSC may apply to this Court for relief with respect to any matter relating to the SARP. Section 11 of the CCAA also provides the Court with the jurisdiction to make any order it considers appropriate in the circumstances.

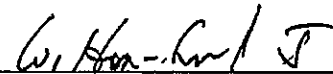
[154] In the current circumstances, given that USSC has not received a viable offer for the ongoing business of USSC and there is no reasonable prospect of receiving such an offer in the immediate future, I am satisfied that it is appropriate to discontinue the SARP, other than the land sale process respecting the Hamilton lands, with a view to launching a new sales and restructuring process at an appropriate time later in 2015 or early in 2016.

Conclusions

[155] Based on the foregoing, the relief sought in each of the TSA Motion, including approval of the Transition Arrangements, and the USSC Motion, including in particular approval of the Business Preservation Plan, the Amended DIP Financing, and the termination of the SARP, is granted.

[156] In conclusion, I wish to address two contentious issues that were raised at the hearing of these motions. First, the parties disputed at some length whether the immediate cause of the present circumstances was the USS plant loading actions described above or the failure of USSC's current sales and restructuring process. Second, the parties disagreed whether the stakeholders, in particular the USW, had been adequately consulted with respect to the issues in these motions and in particular the necessity for the cash conservation measures.

[157] These are not matters that the Court needs to determine in this hearing. Nor are they appropriate considerations in the determination of the approval of these motions. However, I do think it appropriate to observe that the effect of the order giving effect to the approvals granted herein is to close the book on the USS involvement in the operational affairs of USSC. As the Monitor notes in its Thirteenth Report, the reality facing the stakeholders is that, going forward, given that USSC no longer has any support from USS apart from the temporary support to be provided under the Transition Arrangements, acceptance of the economic reality in which USSC finds itself today, and consultation and co-operation among the remaining principal stakeholders, will be crucial for the survival of USSC. In this regard, the parties would be well advised to agree to disagree if necessary with respect to these two contentious, but now historical, issues and focus instead on the future of the newly-independent USSC.



Wilton-Siegel J.

Date: October 14, 2015

APPENDIX A

USSC/USS Transition Arrangements

- 1 **Transition services:** United States Steel Corporation (“USS”) (and all affiliates, including but not limited to U.S. Steel Kosice, s.r.o. and the United States Steel and Carnegie Pension Fund) to continue to provide all services and arrangements that U. S. Steel Canada (“USSC”) requires or relies upon (for its business and affairs, including suppliers, customers, management, board of directors and employees), for up to 24 months under the existing cost mechanism to USSC, with the exception of procuring customer sales orders (including for greater certainty all orders of automotive production in respect of 2016 and beyond) for loading onto the USSC operating facilities, unless by mutual agreement as contemplated in paragraph 6.
 - a. Further discussion required on technical solutions to separate and keep confidential USSC information (pricing/costs) from USS and the same USS information confidential from USSC. The parties agree to cooperate in good faith to find a mutually agreeable technical solution and an agreed budgeted cost prior to implementation. Any employees of one party who have access to confidential information of the other party will execute non-disclosure agreements satisfactory to that other party.
 - b. Upon: (i) any sale of all or substantially all of the assets of USSC; or (ii) USSC being unable to continue operations (other than as a result of an order obtained by USS), then the provision of services by USS to USSC shall be transitioned or wound down, as the case may be in an orderly fashion, pursuant to a transition services agreement to be negotiated in good faith between USS on the one hand and USSC and/or a buyer on the other, or as may be ordered by the Court.
 - c. USS shall retain the ability to outsource certain services to qualified third parties (provided any such services are also outsourced by USS for its own use) and pass any reasonable, out-of-pocket costs of outsourcing to USSC in the same proportion to the total USS costs as is currently allocated to USSC under the existing intercompany service arrangements, provided before outsourcing any services on the terms hereunder, USS discloses to USSC the details, including the cost and effect of such outsourcing upon USSC in sufficient time to allow USSC to seek any court order or other remedy it sees fit.
 - d. Notwithstanding anything contained herein, USS shall not provide any technical and engineering services associated with product development or sales to USSC. In addition, USS shall not support any field quality claims made against USSC. For greater certainty, USS will continue to provide technical support associated with informational technology, accounting and IT services.

- 2 **Existing LEW coal & iron ore contracts:** reduce the take or pay of raw materials under existing supply contracts to reflect the auto load reduction.

- a. USSC will accept all of the coal for the 2015 shipping season to be purchased for Lake Erie Works per the existing contract under the existing cost mechanism currently in place.
 - b. USSC will cancel 66,000 tons (approximately 2 boatloads) of iron ore and up to 165,000 additional tons of iron ore (approximately 5 boatloads), with USSC to advise USS of the final cancelled tonnage by October 31, 2015.
 - c. All iron ore purchased per the existing 2015 contract shall be priced per the existing cost mechanism currently in place. A schedule of timing for remaining deliveries in the 2015 shipping season will be proposed by USSC no later than October 31, 2015.
- 3 **Coke Conversion Agreement:**
- a. USSC will receive approximately 331,000 tons of coal remaining to be delivered in 2015 under the Coke Conversion Agreement.
- 4 **USS would like to limit credit exposure for all services and raw material provided to USSC:**
- a. Current payment terms will remain the same. COD not possible due to billing systems and available cash flow.
 - b. USS will receive a Court-ordered Critical Supplier Charge on property of USSC subordinate to the current court-ordered charges of the DIP Loan, Administrative Charge (Part 1), Directors' Charge and Permitted Priority Liens. For greater certainty, the Critical Supplier Charge shall rank ahead of Administrative Charge (Part 2).
- 5 Option of USSC to buy coke from USS from time to time at a price and in amounts to be mutually agreed upon at the time of purchase.
- 6 USS may request production of some non-automotive load in 2016 or beyond from USSC. USS may load orders on USSC by mutual agreement, for certain products and other items for non-OEM customers that USS cannot or chooses not to make.
- a. USS to provide USSC with particulars of non-automotive orders, if any, it intends to continue to load at USSC to assist USSC with its forecasting processes.
 - b. Incremental opportunities to be identified and discussed.
- 7 USS to provide a 'warm hand off' to auto accounts. USS will not make any sales on USSC's behalf (apart from that contemplated in item 6).
- a. At the request of USSC, USS will sell to USSC steel products not manufactured by USSC including but not limited to USS Galvalume, on commercially reasonable terms, which terms will include the cost of freight.
 - b. Sales Protocol attached as Schedule A is agreed to by the parties.
- 8 Stay with the existing schedule to move automotive parts in Q4 2015. In exchange, USS to release any interest in the \$5.5 mil DIP exit fee, with the intent that such funds will become immediately available to USSC to assist with its liquidity needs

and to be used for general corporate purposes in accordance with the Business Preservation Plan.

- 9 USS will provide USSC with funds solely for the purpose of payment of pension contributions due and owing under the Stelco Regulation between September 1, 2015 and December 31, 2015, under and in respect of the guarantee of USS of such pension payments, but such payments will not include any payments in respect of normal cost funding. For greater certainty, USSC will continue to make normal cost pension payments in respect of that period. To the extent USS makes payments as contemplated in this section, USSC shall acknowledge that USS has a claim against USSC in accordance with the terms of such guarantee and any other agreements between the parties. Both parties reserve their rights as to the status (contingent or non-contingent) and priority in respect of any such claim.
- 10 USS will support the Business Preservation Plan and approval of the Revised DIP Loan currently being sought by USSC. The parties will enter into good faith discussions forthwith regarding the timing and terms of a new SARP in which process USS will confirm that it is not, and will not be, a bidder. Provided that USSC is operating materially in accordance with the Business Preservation Plan, USS will not seek or support any process or court order prior to December 31, 2015 that could result in the liquidation of USSC and any such process or court order sought after December 31, 2015 will not take effect prior to January 31, 2016. In the event that a motion is brought in USSC's CCAA proceedings seeking the winding up of USSC's registered pension plans, USS reserves the right to seek to lift the CCAA stay to file an application in respect of USSC if USS deems it necessary or advisable to preserve the priority of its security PROVIDED that any such application will be stayed so long as the CCAA stay is in effect.
- 11 **Intellectual Property:** Parties agree to enter into good faith discussions to reach a mutually acceptable resolution in respect of intellectual property rights. Until closing of a transaction to sell all or substantially all assets of USSC, USSC is permitted to continue to use all intellectual property currently used by or available to it and owned or licensed by USS, if any, necessary to operate its business in the ordinary course, including retaining the right to use the name and brand "Stelco". If all intellectual property disputes between USS and USSC are not finally resolved by December 31, 2015, the parties shall then schedule a motion or motions before the CCAA Court to have such disputes determined prior to the end of Q2 2016.
- 12 **Employees:** Non-solicitation of USSC employees by USS and non-solicitation of USS employees by USSC.
- 13 **Insurance:** If possible, USS will continue to provide D&O insurance coverage and other similar insurance coverage that it provides for its subsidiaries in the ordinary course, subject to the payment of a reasonable portion of the premium by USSC. USS confirms that such insurance remains in place today under a policy that expires

- March 1, 2016. The parties agree to determine within the next 30 days if a renewal of the existing policy is possible and if not to cooperate in good faith to find a mutually acceptable solution that would provide comparable D&O coverage.
- 14 Parties to make reasonable commercial efforts, including the addition of other arrangements that are not expressly referred to herein, in order to implement the above.
 - 15 The parties acknowledge that USS and USSC are subject to anti-trust and anti-competition laws in their respective jurisdictions. Nothing herein is intended to violate any such laws. This agreement will be interpreted to exclude any violation of any applicable anti-trust or anti-competition law.
 - 16 USSC and USS may apply to Court from time to time for directions regarding the implementation of these arrangements and the supply and payment for intercompany goods and services.
 - 17 All terms agreed to herein are subject to Court approval and DIP lender approval.

APPENDIX B

2016 Automotive Contract Negotiating Protocol

The following is an outline of the business principles that the United States Steel Corporation ("USS") and U. S. Steel Canada Inc. ("USSC") agree to follow with respect to bidding for, the negotiation of and contracting for the production and supply of steel products for original equipment manufacturers ("OEMs") in the automotive sector for supply in the calendar year 2016 and beyond. Notwithstanding anything contained in this Protocol, it is understood that USS and USSC will each independently determine and set pricing for the supply of steel products to OEMs.

Facts

- A. USSC filed for creditor protection under *Companies' Creditor Arrangement Act* (Canada) ("CCAA") on September 16, 2014.
- B. USSC is an indirect wholly-owned subsidiary of USS, an integrated North American steel producer and supplier to a number of industries, including the automotive manufacturing sector.
- C. Included among the intercompany goods and services provided by USS to USSC to date is the allocation to USSC of production of steel products for OEMs pursuant to contracts obtained by USS with OEMs.
- D. Issues have arisen between USS and USSC regarding contracts with OEMs for 2016 and the allocation of production.
- E. USS no longer wants to be responsible for the provision of an allocation to USSC of production for OEMs but is willing to direct its contacts in respect of negotiations with the OEMs to USSC to allow USSC to have an opportunity to obtain OEM supply contracts in respect of 2016 and beyond for and on its own behalf.

Therefore, in an effort to afford USSC the ability to bid on, negotiate for and contract for production volumes on its own behalf with the OEMs during the current negotiating season, USS and USSC agree to the following protocol:

- 1. The OEMs are being and will be informed that the quotations currently being submitted by USS are for and in respect of production on the plants owned and controlled by USS in the United States, not including the plants of USSC.

2. USS will inform all of the OEMs that, if any of them would prefer to source any of its production for terms involving 2016 and beyond from USSC, the OEM should contact Mike McQuade ("McQuade"), President and General Manager of USSC, or such other person as McQuade may so direct. USS will provide contact details for McQuade to the OEMs, and will provide contact details for the OEMs to USSC.
3. If requested by an OEM or USSC, USS will provide McQuade or other representatives of USSC with: (a) an introduction, in a form to be agreed acting reasonably and in accordance with the *Competition Act* (Canada), to the contacts of appropriate individuals within the organizational structure of the OEMs; and (b) subject to the below terms, such data and other information as are reasonably necessary to allow USSC to present bids or quotes to each OEM (whether jointly with USS or independently, as may be agreed between USS and USSC, each acting reasonably and in accordance with the *Competition Act* (Canada)), for and in respect of quotations for the supply of products for the 2016 calendar year or beyond.
4. For greater certainty, each of USS and USSC will be precluded from providing or obtaining pricing or other sensitive information in respect of the other's current or pending quotations to the OEMs, but USS will provide to USSC, on a confidential basis, historical information in respect of products that have been produced by USSC plants in 2015 and such other information as USSC may reasonably request.
5. It is the purpose and intent of this protocol that USSC and its representatives shall be granted a reasonable and fair opportunity to bid, negotiate and contract for a share of the production and supply of steel products for the OEMs in respect of the 2016 production year and beyond commencing immediately. USS agrees to take such commercially reasonable steps as will afford USSC the reasonable and fair opportunity described herein.
6. USSC agrees that it is solely and independently responsible for the production and supply of any contracts awarded to it by any OEMs without guarantee, assurance or other involvement by USS in the performance of USSC's contracts (but for greater certainty, this paragraph does not apply to intercompany goods and services, other than the procurement of OEM production).
7. Unless USS and USSC expressly agree otherwise for any specific transactions or opportunities pursuant to the transition arrangements to which they have agreed that govern intercompany goods and services for the balance of 2015, for 2016 and beyond, USSC agrees that:
 - (a) any contract awarded by any OEM to USS in respect of 2016 or beyond is solely for the benefit of USS and not USSC;

- (b) any contract awarded by any OEM to USSC in respect of 2016 or beyond is solely for the benefit of USSC and not USS;
 - (c) USSC has no right, beneficially or otherwise, to any contract entered into between USS and any automotive OEM in respect of production for the 2016 calendar year or beyond; and
 - (d) USSC has no right to and shall not request any loading of plants or production of any products in respect of any contracts that USS enters into with any automotive OEM in respect of supply of product to be delivered in 2016 or beyond.
8. USS and USSC both acknowledge and agree that this protocol is being entered into while time sensitive negotiations are commencing and/or are ongoing and that both parties will need to engage with each other immediately and cooperatively to maximize the effectiveness of this protocol for the benefit of both parties. They also acknowledge and agree that perfection is unlikely to be achieved and that both parties agree to act in good faith to achieve the goals described herein.
9. If either party has a complaint with respect to the conduct of the other under this protocol, they agree to engage the Monitor immediately with a view to resolving such complaint.
10. Both USS and USSC agree to provide access to such necessary and competent personnel as may be required to implement this protocol upon short notice over the coming weeks.

TAB B

This is Exhibit "B" referred to in the
affidavit of William E. Aziz
sworn before me, this 11th
day of August 2016.
Court File No. CV-14-10695-00CL

.....
A COMMISSIONER FOR TAKING AFFIDAVITS

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 PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT WITH RESPECT TO
U. S. STEEL CANADA INC.

AFFIDAVIT OF WILLIAM E. AZIZ
SWORN SEPTEMBER 17, 2015
(Re: Cash Conservation and Business Preservation Motion)

I, William E. Aziz, of the Town of Oakville, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am the President of BlueTree Advisors II Inc. ("**BlueTree**"), which has been retained by U. S. Steel Canada Inc. ("**USSC**" or the "**Applicant**") to provide my services to USSC as Chief Restructuring Officer ("**CRO**") of USSC. I report to the board of directors of USSC.
2. In my role as CRO, I have sworn a series of affidavits in these *Companies' Creditors Arrangement Act* ("**CCAA**") proceedings and as such have personal knowledge of the facts to which I depose, except where I have indicated that I have obtained facts from other sources, in which case I verily believe those facts to be true.
3. I swear this affidavit in support of a motion by USSC for:
 - (a) directions from the Court as to whether the decision by United States Steel Corporation ("**USS**") to divert the manufacture of certain auto parts slated for production at USSC's facilities to mills located in the United States violates

paragraph 6 of the order of R.S.J. Morawetz dated September 14, 2014 (as amended and restated, the “**Initial Order**”);

- (b) an order (the “**Business Preservation Order**”) authorizing and directing USSC to implement USSC’s cash conservation and business preservation plan as described in this affidavit (the “**Business Preservation Plan**”) and any other additional steps, as determined by the Applicant in consultation with the Monitor, as may be necessary or desirable from time to time to give effect to the Business Preservation Plan; and
- (c) such further and other relief as this Court deems just.

A. Overview

4. USSC is a leading steel producer that conducts most of its business from two large steel plants – one located in Hamilton, Ontario (“**Hamilton Works**”) and one located in Nanticoke, Ontario (“**Lake Erie Works**”).

5. On September 16, 2014, USSC obtained an Initial Order pursuant to the *Companies’ Creditors Arrangement Act* (Canada) (“**CCAA**”), among other things, appointing Ernst & Young Inc. as monitor (the “**Monitor**”), and approving the agreement engaging BlueTree to provide my services to act as CRO of USSC.

6. Under the umbrella of a stay of proceedings and other important relief granted in the Initial Order, USSC has undertaken a complex court-supervised restructuring process with the view of preserving the ongoing value of its operations while exploring restructuring solutions with key stakeholders.

7. Having received the Phase 2 submissions from bidders in USSC's sale and restructuring/recapitalization process ("SARP") and with important operating decisions arising at this time of year, USSC is at the most critical juncture in its restructuring proceedings to date.

8. Despite the best efforts of Rothschild Inc. (the "Financial Advisor") and USSC under the SARP, the unwillingness of stakeholders to make the contributions and compromises required by bidders as conditions to their offers, and the unwillingness of bidders to modify their conditions in a manner acceptable to stakeholders, has resulted in none of the offers for the ongoing business being executable to date.

9. Similarly, although confidential and without prejudice efforts to find a consensual restructuring solution among key stakeholders continue, stakeholders have been unable to date to reach an agreement. The result is that USSC does not have a consensual transaction it can implement at the present time.

10. Because neither a sale nor a restructuring transaction has materialized, USSC and its stakeholders now face the prospect that its revenue streams will be curtailed as early as October 1, 2015 and going forward into 2016 for the reasons discussed below. In response to potential adverse revenue impacts and other potential adverse consequences, USSC needs to implement significant cash conservation and business preservation measures. These measures will have a significant impact on its business and operations and consequent impacts on its current and former employees and key stakeholders going forward.

11. For these reasons, USSC has developed its Business Preservation Plan and is seeking the approval of this Court to implement it. The Business Preservation Plan takes into account, among other things, the decline in revenue that is anticipated to result from USS's decision to divert production and assumes that USSC will not have the benefit of automotive business procured by

USS for 2016. It also includes cash conservation measures necessary to enable USSC to continue operations while seeking to minimize potential diminution in collateral value for creditors and so that it has sufficient liquidity and continued access to debtor-in-possession (“DIP”) financing.

B. The USS Diversion Decision

12. In April 2015, USSC was advised by USS representatives that USS could not guarantee certain 2016 volumes relating to automotive original equipment manufacturer (“OEM”) sales. Various exchanges occurred in respect of the importance of automotive sales to USSC and to the conclusion of a transaction, either consensually or via the SARP.

13. Around the end of July 2015, USSC became aware that USS was proposing a transfer of some Canadian production to its U.S.-based plants. Around that time, I contacted USS’s counsel, along with the Monitor, and had a discussion about USS’s intention to divert the manufacture of certain auto parts slated for production at USSC’s facilities to mills located in the United States (the “**Diversion Decision**”), which I understand was to take effect for customer orders to be delivered on or after October 1, 2015.

14. In accordance with the provisions of the Initial Order, intercompany transactions between USS and USSC (specifically including any allocation by USS of production to USSC mills, commonly referred to as “plant loading” or “mill loading”) were to continue on terms consistent with existing arrangements or past practice, subject to changes thereto that the Monitor may require, or subject to further order of the Court. Since USS was not seeking Court approval of the Diversion Decision and the Monitor had not approved it (nor, I am advised, did USS seek the Monitor’s approval), USSC sought the Monitor’s assistance to enable USSC to

determine whether the Diversion Decision was consistent with past practice, since, I am advised by USSC management, that it was clearly not consistent with existing arrangements.

15. I understand that the Diversion Decision is intended to apply to production to be shipped to customers on or after October 1, 2015. As set out in the Monitor's report dated August 31, 2015 (the "**Monitor's Twelfth Report**"), USS takes the position that its decision to move production away from USSC's plants was consistent with past practice and in compliance with the Initial Order.

16. It is my understanding that the Monitor has made a number of requests for information in an attempt to ascertain whether or not the Diversion Decision was in fact consistent with existing arrangements or past practice, and with the Initial Order. USS has taken the position that certain of these requests are not relevant to the determination of whether the Diversion Decision was consistent with past practice. A letter from USS's counsel to the Monitor dated September 4, 2015 is appended hereto as **Exhibit "A"**.

17. I also understand that the Monitor was asked to enter into a non-disclosure agreement ("**NDA**") with USS in order to receive any further information in respect of the Diversion Decision. Pursuant to the NDA, the Monitor has been unable to share any of that additional information with USSC, and USS refuses to allow similar access – even on a confidential basis – to USSC and its counsel. From the information available to USSC the Diversion Decision appears to be a departure from past experience and I am advised by USSC's management that the Diversion Decision is not consistent with past practice. Without access to the information that USS provided to the Monitor, USSC is unable to conclude otherwise. A more informed conclusion may not be reached until the Monitor is able to complete its analysis.

18. Recently, it has become clear from discussions I have had with advisors to USS and USSC that USS intends to continue implementing the Diversion Decision and is actively taking steps to do so without the Monitor's prior approval.

19. The proposed Diversion Decision, if implemented, will have a significant adverse effect on USSC's profitability and cash flow, including as described in the Monitor's Twelfth Report, and will cause disruption at a critical time in these CCAA proceedings, when all efforts should be focused on achieving a viable restructuring solution.

20. With the effective date of the Diversion Decision looming, time is of the essence. Accordingly, USSC seeks directions from this Court in light of the significant harm to USSC that will ensue if the Diversion Decision is implemented.

C. Plant Loading Procedure

21. To better understand the circumstances facing USSC, one must appreciate the significant degree of operational integration and reliance that exists between USSC and USS. As a wholly-owned subsidiary of USS, the operations of USSC are highly integrated with its parent. As a result, USSC relies on USS to service a significant portion of its sales, back office, and administrative operations, a reliance that has increased in recent years. The intercompany services provided by USS to USSC are described in detail in the affidavit of Michael McQuade sworn September 16, 2014 (the "**Initial Order Affidavit**") appended hereto (without exhibits) as **Exhibit "B"**, and in the pre-filing report of the Monitor dated September 16, 2014 appended hereto (without exhibits) as **Exhibit "C"**.

22. The services provided by USS include, among others, the provision of sales and marketing support, including with respect to automotive OEMs and their suppliers and the

management of USSC's plant loading and a cross-border sale arrangement ("LRD") pursuant to which USSC and USS allocate revenues generated through cross-border sales. USSC does not maintain its own sales force for any of its automotive business, nor for non-automotive business in the United States and instead relies entirely on USS.

23. As described in the Initial Order Affidavit, plant loading (also referred to as "mill loading") is the process of allocating production orders to USSC plants in Canada and USS plants in the U.S., through a centrally-managed division of USS, known as the Enterprise Planning Group, located in Pittsburgh.

24. I am advised that the mill loading and production allocation process has effectively been in place since USSC's acquisition (as Stelco Inc.) in 2007. There is no written agreement that governs the process although a consistent, structured process has historically been followed. I understand that there are a series of principles that are applied in determining which mills will produce the steel required for specific customer orders. An order booked by the USS sales department for a customer part is assigned to a mill by USS, taking into account mill production capabilities, including a mill's capacity and technical capability, its proximity to the end customer and future sales forecasts compiled by the USS sales department in Pittsburgh. Once a customer part is assigned to a mill, steel for that part is generally produced by that mill and not reallocated.

25. I am advised that reallocations are even less common when the customer is an automotive customer. OEM customers always require that their steel be produced by certain pre-approved mills. These parts are allocated by USS accordingly provided that enough capacity exists at the designated plant. In order for an OEM customer part to be reallocated, the automotive customer

must have approved the alternative mill's designation as a qualified producer. In practice, this means that OEM customer parts, once supplied by a designated plant, are not generally moved.

26. Steel for a customer part is produced by "releasing" orders to the assigned mill, either through an automated process or manually. Once orders are assigned, or "released", in the plant loading process, each plant independently organizes its resources to schedule and produce the orders allocated to it. I understand from Mr. McQuade that generally production is allocated to mills four to six weeks in advance and each batch of product is "locked in" once the production process for that batch is started.

C. Protective Provisions in the Initial Order

27. In light of the USSC's significant dependence on USS, it is imperative that USSC preserve existing plant loading and other critical intercompany services and support during these CCAA proceedings. At the time of USSC's CCAA initial filing, USSC wanted to maintain the *status quo* and eliminate the risk that USSC might be negatively impacted by any potential future change in policy at USS with respect to production allocation at its Canadian plants vis-à-vis its U.S.-based plants.

28. With the support of the then-proposed Monitor, USSC in its CCAA application sought Court direction to continue dealing with and receiving services from USS in respect of the plant loading process (and other critical intercompany services and support) consistent with existing arrangements or past practice, subject to the oversight of the Monitor or further order of this Court. As a result, paragraph 6 of the Initial Order provides:

THIS COURT ORDERS that the Applicant is authorized to complete outstanding transactions and engage in new transactions with other members of the USS Group and to

continue, on and after the date hereof, to buy and sell goods and services, including without limitation head office and shared services, and allocate, collect and pay costs, expenses and other amounts from and to the other members of the USS Group (collectively, together with the Cash Management System and all transactions, inter-company funding and other processes and services between the Applicant and any member of the USS Group, the “**Intercompany Transactions**”) in the ordinary course of business. All ordinary course Intercompany Transactions among the Applicant and any member of the USS Group, including the provision of goods and services from any member of the USS Group to the Applicant and loading of the Applicant’s mills, shall continue on terms consistent with existing arrangements or past practice, subject to such changes thereto, or to such governing principles, policies or procedures as the Monitor may require, or subject to further Order of this Court. Other than as permitted elsewhere by this Order, the Applicant shall not enter into any Intercompany Transactions outside the ordinary course of business with any other member of the USS Group unless such new arrangements: (i) have a transaction value that does not exceed \$1 million and are on commercially reasonable terms each as determined by the Applicant, and (ii) are approved by the Monitor in advance. [emphasis added]

29. I understand that USS had significant input into the draft materials filed in support of the CCAA application. I also attended the CCAA application hearing on September 16, 2014 during which counsel to USS indicated that they supported the granting of the Initial Order, which included these protective provisions. It was clear to me that the intention of these protective provisions was to ensure that the allocation of production to USSC’s facilities remained consistent with past practice as between USS and USSC, which meant that there would be no material reduction in the volume or contribution margins of steel produced or finished at USSC’s facilities.

30. I am advised by the Monitor that the Monitor has been actively engaged with the USS Enterprise Planning Group (now the Sales and Operations Planning Group) to monitor plant loading procedures to ensure compliance with the Initial Order. On a weekly basis since the CCAA application date, the Monitor has held calls with the Enterprise Planning Group to review forecasts and to ensure it was aware of any significant potential variation in existing plant

loading arrangements.

D. Impact of the Diversion Decision on USSC

31. Since late July 2015 when the plant loading issue was first brought to my attention by USSC and the Monitor, I have had several discussions with USS's advisors about this decision. Throughout, I have conveyed USSC's request that USS not proceed with the Diversion Decision, at least for the remainder of 2015. USS has so far refused to defer implementation.

32. Effective October 1, 2015, USS proposes to divert from USSC to other mills operated by USS in the United States:

- (a) an estimated 9,469 tons per month of steel for auto parts for OEMs slated for production at USSC's plants; and
- (b) an estimated 6,425 tons per month of Cold Roll Full Hard ("**Cold Roll**") steel produced for further processing at USS's plants (collectively, the "**Diverted Production**").

33. The Diverted Production had as late as June 2015 been forecast for production at USSC's plants and raw material commitments were made to USS on this basis. The Diverted Production had been allocated to Lake Erie Works, where the raw steel would be produced and converted into hot-rolled coil and then pickled, and then finished at Hamilton Works where it would be cold-rolled and galvanized (other than the Cold Roll). I understand that the production to be diverted consists entirely of OEM parts for four automotive manufacturers.

34. I am advised that on an annualized basis, the Diversion Decision will divert production of approximately 180,000 tons of steel from USSC's plants. To provide a context for the degree of

variance that will be caused by the Diverted Production if allowed to proceed, set out below is USSC's total annual Z-Line automotive tonnage on an annual basis from 2012¹:

Year	Z-Line Automotive Tonnage ('000 NT)	Z-Line Non-Auto Tonnage ('000 NT)
2012	186	133
2013	259	106
2014	323	28
2015 (accounting for Diverted Production)	253	107
2016 projected	134	100

35. It is clear that any diversion of production from USSC for the remainder of 2015 would result in a sudden, marked decrease in tonnage flowing through USSC's plants, with a corresponding decrease in revenue and earnings. These plants have fixed costs and require sufficient volumes to remain viable.

36. Moreover, I am advised by Mr. McQuade that in his tenure as President of USSC he has never seen a diversion of production from USSC at this tonnage level, absent a labour disruption or equipment failure.

37. USSC relies heavily on the orders allocated to it by USS for both revenue generation and for projections and planning. USSC's annual planning, quarterly forecasting and monthly updates are prepared taking into account the orders allocated to USSC's plants and corresponding raw material needs going forward. The most recent short range forecast was prepared in and around June 2015 (the "SR7 Report"). The SR7 Report was prepared with

¹ Data is only available from 2012 onward due to the transition at that time away from PeopleSoft, USSC's former financial management system.

input from USS, and the resulting business plan was approved by USSC's board of directors on or around July 6, 2015. This report relied on information provided by USS regarding future mill loading and did not consider that the Diverted Production would not be allocated to USSC. To the best of my knowledge, this forecast was not corrected by USS at any time when the SR7 Report was being prepared with USS's input and involvement.

E. Existing Arrangements and Past Practice

38. Automotive business has historically been and continues to be the cornerstone of Hamilton Works operations and represents a material part of Lake Erie Works operations.

39. Some of the parts to be diverted are destined to be delivered to U.S. customers through the LRD arrangement. In southbound LRD sales, product originates from USSC's plants in Canada and is sold, through USS, to an end customer in the United States. Under the terms of the arrangement, USS purchases the product from USSC and transfers title to the customer. The purchase price paid by USS to USSC is 98% of the purchase price to the end customer, in effect allowing USS to receive a 2% commission on the value of all southbound LRD sales. A similar arrangement exists for northbound sales.

40. The Diversion Decision removes any ability of USSC to earn any revenue or gross margin from the LRD southbound sale of the Diverted Production. The Diverted Production, once reallocated to USS's U.S.-based plants and sold on to U.S.-based customers, will bypass the LRD arrangements allowing USS to realize 100% of the revenue associated with the sale of the Diverted Production.

41. At an operational level, other than during periods of labour interruptions, the Z-Line (which is critical to USSC's automotive production) has historically operated at or near

capacity. The proposed Diversion Decision, if implemented, would cause the Z-Line to operate significantly under capacity, reducing tons sold by approximately 25%. With respect to Cold Roll tonnages, USSC has been manufacturing automotive products from Cold Roll since 2012. The Diversion Decision, coupled with USS's apparent intention not to obtain and allocate automotive production to USSC in 2016, will result in very little Cold Roll production by 2016 should USSC be unable to replace those volumes.

42. Moreover, I am advised by Mr. McQuade and verily believe that, given the comprehensive qualification process that a mill must undergo in order to be a "designated mill" by OEMs, it is outside the ordinary course for a part to move to a different mill once it is being produced at a certain mill.

43. USSC has been advised that USS's overarching reason for the re-allocation is premised on the economic benefits to the USS corporate family as a whole. USS cites, among other things, lower shipping costs and a desire to move production to facilities with available production capacity in order to allow facilities operating near capacity, such as USSC's mills, to seek out potential additional volumes. It is USS's position that USSC's facilities are capable of producing a wider range of products and therefore have a greater ability to replace the Diverted Production.

44. This economic analysis, even if in accordance with existing arrangements or past practice, fails to take into account several key variables such as:

- (a) USSC's long history as a well-established supplier of automotive products and the Z-line's proven track record of delivering high quality product on a timely basis to customers and with low percentage of quality claims;

- (b) the Canadian dollar being at a 10-year low, reducing manufacturing costs for U.S. dollar-denominated steel produced in Canada; and
- (c) the practical reality that time is running short for USSC to replace the Diverted Production for the fourth quarter of 2015, and in any event that it may have difficulty doing so due to the CCAA proceedings.

45. The effect of the Diversion Decision is to reallocate a key revenue stream from USSC to USS at a time when stability and preservation of the *status quo* at USSC is most critical.

46. The Diversion Decision, if implemented, will cause a significant disruption to USSC's business and restructuring efforts, including:

- (a) causing a material negative impact on the financial health of the business (currently estimated at over \$42 million in lost revenues and an \$8.8 million negative impact on EBITDA for the remainder of 2015);
- (b) potentially constituting a Material Adverse Change (as defined in the DIP Term Sheet) giving rise to an event of default;
- (c) making USSC significantly less attractive to a potential purchaser; and
- (d) taking focus and resources of key USSC management away from USSC's restructuring efforts at a critical juncture in order to seek out replacement business and address contingency planning efforts.

47. Further exacerbating the potential disruption to USSC is USS's position, as I understand it, that it is not currently intending to obtain and allocate to USSC any 2016 automotive production for OEMs. USSC does not have a standalone sales force directed at sourcing automotive production contracts from OEMs. To date it has relied on USS and its expertise to

do so, as described in some detail in the Initial Order Affidavit and Pre-Filing Report of the Monitor, and as contemplated by USSC when it sought the relief set out at paragraph 6 of the Initial Order.

48. The financial impact of the potential loss of automotive production for 2016 is even more significant than for the fourth quarter of 2015 if USS is unwilling or unable to continue providing sales services to USSC and USSC is unable to replace that volume itself.

F. Termination of SARP

49. With the Court's approval, USSC, with assistance of its Financial Advisor, the Monitor, and myself, have run a comprehensive SARP extending over a five month period commencing in April, 2015. Despite the extensive solicitation and marketing process, as described above, the unwillingness of stakeholders to make the contributions and compromises required by bidders as conditions to their offers (and the unwillingness of bidders to waive those requirements) has resulted in no executable offers for the ongoing business being received to date.

50. In light of the impasse between USSC's stakeholders and the SARP bidders, USSC believes the SARP should be discontinued, except as it relates to the Hamilton Works land sale, and seeks authorization to do so with a view to a renewed SARP at an appropriate time in late 2015 or early 2016.

G. Status of Consensual Restructuring

51. Since early 2014, confidential and without prejudice consensual restructuring discussions have been ongoing among USSC's key stakeholders with the view to reaching a global restructuring solution for the business.

52. In an effort to reach a consensual compromise, the Monitor, USSC's Financial Advisor, and I have attended and convened stakeholder meetings, provided and analyzed restructuring proposals and, most recently, communicated the urgent need to conclude a SARP transaction or reach a consensual resolution in light of the timing pressures facing USSC's operations. Although efforts to find a consensual restructuring solution among key stakeholders continue, to date no agreement has been reached.

H. USSC's Business Preservation Plan

53. As a result of the Diversion Decision, the potential loss of sales support from USS for automotive business in 2016 and the absence at this time of an executable SARP transaction or a consensual deal, USSC's board of directors, with the assistance of USSC's management, its Financial Advisor, legal counsel, the Monitor, and myself, have been actively considering various contingency plans to determine the best path forward for USSC.

54. These scenarios have included both the Business Preservation Plan (where USSC is assumed to operate but at a reduced level through 2016 with the provision of intercompany services by USS), as well as a "hibernation" scenario which would involve the near term realization of inventory, the orderly wind-down of USSC's operations and the idling of its facilities pending a future sale opportunity or liquidation.

55. After considering a variety of factors, including current market conditions and stakeholder input the USSC Board of Directors has determined to pursue the Business Preservation Plan, subject to approval from this Court.

56. The Business Preservation Plan contemplates that USSC will continue to operate at a significantly reduced level for the next 12 to 15 months when a blast furnace reline may be

necessary, at which point USSC will not undertake the blast furnace reline or inventory winter buildup and both Hamilton Works and Lake Erie Works will be idled and placed on care and maintenance. Within this plan are assumptions that: USSC's sales will reflect materially lower volumes; USSC will be able to sell steel at spot prices roughly equivalent to current levels; USSC will not extend its coke conversion agreement with USSC; USSC continues to provide services to USSC for a monthly fee including, but not limited to IT, communication applications, accounts payable and treasury services; USSC continues to make non-RRSP pension, RRSP and WSIB payments; and the DIP Lender will agree to continue to extend DIP funding through an amended facility in exchange for an ongoing fee.

57. In order to pursue the Business Preservation Plan, USSC will have to take cash conservation measures that will impact key stakeholders in these CCAA proceedings. The Business Preservation Plan assumes, to be prudent, a reduced level of operation and associated cash conservation measures, including among other things:

- (a) the immediate suspension of all contributions or payments to USSC's defined benefit pension plans, other than normal cost contributions, and to a trust set up to fund retirement benefit contracts;
- (b) the immediate suspension of supplementary pension payments to beneficiaries under unfunded retirement benefit contracts and individual retiring allowances;
- (c) the near-term suspension of other post-employment benefit ("OPEB") payments to beneficiaries under USSC's OPEB plans, including the suspension of premiums to fund insured life insurance benefits;
- (d) the immediate suspension of payments to the Pension Benefits Guarantee Fund in respect of assessments;

- (e) the immediate suspension of salary continuance payments to USSC employees no longer actively employed by or providing services to USSC;
- (f) the immediate suspension of payments on account of municipal taxes; and
- (g) the deferral of shipments of certain raw materials purchased from USS for the 2015 shipping season.

58. In addition, because of the significant degree of integration between USSC and USS, and the time needed for USSC to obtain replacement providers or develop its own resources internally, USSC will require the continued provision of intercompany services by USS (the “**USS Critical Supplier Relief**”).

59. If the Business Preservation Plan measures are approved by the Court, USSC’s estimated monthly cash depletion will be significantly decreased from what it otherwise would be if it attempted to continue to operate without them, but the company will still operate with negative cash flow. Even with the benefit of the cash conservation measures, USSC estimates that it will deplete cash balances at the rate of approximately \$6 to \$8 million per month. Although cash losses have the potential to reduce recoveries that would otherwise be available to stakeholders in a “hibernation” or liquidation scenario, the Business Preservation Plan offers the following benefits, as discussed in more detail below:

- (a) it will allow USSC to avoid the near-term cessation of operations and preserve employment for approximately 2,200 employees at USSC’s mills;
- (b) it will allow USSC to continue developing and implementing measures to further reduce costs and improve its competitiveness;

- (c) it is believed to provide the best opportunity to resolve outstanding issues, which might lead to a consensual solution in the near time;
- (d) it will allow for more time for the USS claims litigation to be resolved;
- (e) although continued operations with cash losses could negatively impact the estate value, the DIP and USS collateral coverage does not appear to be jeopardized at this juncture;
- (f) the cash losses are not projected to be significant relative to debt levels and there are significant stakeholders interested in continued operations; and
- (g) a near-term wind down may remove options and end prospects for a going concern sale or solution.

Suspension of Pension Contributions and Certain Supplementary Pension Payments

60. As described in the Initial Order Affidavit, USSC provides pension and retirement benefits pursuant to: (i) nine registered non-contributory defined benefit (“DB”) pension plans (the “DB Registered Plans”), all of which are closed to new members; (ii) four group registered retirement savings plans arrangements (three of which are sponsored and administered by USW); and (iii) non-registered supplemental pension payments pursuant to individual “retirement benefit contracts” and other supplemental non-registered retirement payments known as “retiring allowances”. Further particulars regarding the pension and retirement plans are set out in **Exhibit “D”** attached hereto.

61. As summarized in Exhibit “D”, the DB Registered Plans consist of pension plans for Lake Erie Works employees, pension plans for Hamilton Works employees and a number of additional legacy and individual pension plans.

62. Funding of the Main Pension Plans (as defined in Exhibit “D”) is governed by a pension agreement dated as of March 31, 2006 between, among others, the Province of Ontario and Stelco Inc., as amended and Regulation 99/06 of the Ontario *Pension Benefits Act* (the “PBA”), called the *Stelco Inc. Pension Plans Regulation* (the “Stelco Regulation”). Funding for the DB Registered Plans other than the Main Pension Plans is made in accordance with the regular funding regime under the PBA.

63. Since the outset of these CCAA proceedings, USSC has continued to make all contributions to the DB Registered Plans, including the Main Pension Plans, in the ordinary course when due and consistent with existing compensation policies and arrangements in accordance with paragraph 11(a) of the Initial Order. For 2015, USSC has paid approximately \$5.9 million each month in respect of the DB Registered Plans (the next payment will be processed on September 23, 2015 with payment scheduled for October 1, 2015.)

64. In addition, although not required by the Initial Order, USSC has paid approximately \$165,946.00 since the outset of the CCAA proceedings with respect to certain (unregistered) supplemental pension and retirement benefits provided by USSC pursuant to individual retirement benefit contracts (“RBCs”) and individual retiring allowances (“RAs”) that are not pre-funded.²

65. If continued, USSC’s total pension contributions to the DB Registered Plans, inclusive of normal cost contributions, are projected to be approximately \$23.65 million for the remainder of 2015 based on the latest actuarial reports filed with the Superintendent of Financial Services

² Historically, some RBCs were funded by a trust (the “RCA Trust”); however, in or around 2004, USSC ceased to pre-fund RBC benefits going forward. The RAs are not pre-funded. USSC is not required to make (and is not making) any monthly contributions to the RCA Trust based on the latest actuarial valuation for the RCA Trust. In the Business Preservation Plan Order, USSC will be seeking the suspension of all contribution to the RCA Trust that may become payable during the remainder of USSC’s CCAA proceedings.

(Ontario) (the “**Superintendent**”) by the actuary for the DB Registered Plans. If the general funding regime under the PBA were to apply to all of the DB Registered Plans in 2016 and the December 31, 2014 actuarial report results applied throughout 2016 for the Main Pension Plans, USSC’s total monthly pension contributions to the DB Registered Plans inclusive of normal costs would be approximately \$18.6 million per month. If continued, USSC’s total supplemental pension and retirement payments pursuant to the unfunded RBCs and RAs are projected to be approximately \$663,000 for the remainder of 2015, and \$1.99 million for 2016.

66. In light of the difficult financial circumstances now facing USSC, the company no longer has the financial resources and flexibility to continue to make these pension and retirement plan contributions and payments during its restructuring proceedings. Accordingly, the Business Preservation Plan Order being sought contemplates the suspension of all pension contributions to the DB Registered Plans, other than payments of normal cost contributions (which are estimated at \$794,657 per month for 2015), for the remainder of USSC’s CCAA proceedings. Moreover, the Business Preservation Order contemplates the suspension of certain supplementary pension payments for the remainder of USSC’s CCAA proceedings.

67. While USSC will be reducing its pension contributions, it is anticipated that USS will pay certain pension funding obligations pursuant to a guarantee it provided to the Superintendent and the Province of Ontario at the time it acquired Stelco Inc. in 2007.

Suspension of Benefits and Premiums under OPEB Plans

68. In addition to pension funding, USSC also provides OPEBs to approximately 20,600 former salaried and unionized employees and their spouses and dependants, including prescription drugs, dental, other medical, hospital and vision coverage, and life insurance pursuant to plans maintained by the company (the “**OPEB Plan**”).

69. The USSC August 31, 2015 balance sheet reflects total present value of future OPEB contingent liabilities to be \$871 million. As is customary for such plans, no corresponding assets are maintained by USSC to pre-fund the benefit obligations. Said differently, claims for eligible benefits costs incurred by retirees and their spouses and dependants are paid by USSC under an administrative services only (“ASO”) contract administered by Green Shield Canada (“Green Shield”) on a pay-as-you-go basis. Retiree life insurance is provided through Desjardins Financial Security Life Assurance Company (“Desjardins”) Policy No. 530005 to which USSC remits premiums in the first week of each month.

70. Pursuant to paragraph 9(a) of the Initial Order, USSC is entitled but not required to continue to provide OPEBs to eligible former employees, their spouses and their dependants in the ordinary course of business and consistent with existing compensation policies and arrangements. Since the Initial Order, USSC has continued to provide OPEBs to eligible former employees and their spouses and dependants in the ordinary course of business and consistent with existing compensation policies and arrangements.

71. Currently, USSC is making OPEB payments totalling approximately \$3.6 million each month inclusive of life insurance premiums. Under this arrangement, USSC pays Green Shield approximately \$1 million weekly in advance in respect of OPEBs (excluding life insurance, which is provided by Desjardins) and self-insured benefits for active employees. Each month there is a reconciliation of claims actually paid by Green Shield to OPEB Plan beneficiaries against the \$1 million in weekly advances paid during the month. USSC is entitled to set-off the amount of any excess payment from the next scheduled payment. It is anticipated that continued payments to Green Shield at current levels will result in significant overpayment in conjunction with the suspension of OPEBs pursuant to the contemplated Business Preservation Order.

72. Absent Court relief, the projected OPEB funding for the remainder of 2015 is estimated to be approximately \$14.4 million, which, taken together with all of the other funding requirements and absent the Business Preservation Order, USSC will not have sufficient funds to pay. As a result, the Business Preservation Order that is being requested seeks to suspend all benefits payable under the OPEB Plan and all obligations of the Applicant under or pursuant to the OPEB Plan effective October 9, 2015 (the “OPEB Claims Suspension Date”) for the remainder of USSC’s CCAA proceedings. For all OPEBs other than life insurance, individuals will have until October 31, 2015, or such other date as specified by Green Shield with the approval of the Monitor, to submit a claim for reimbursement for amounts incurred but not paid on or prior to the OPEB Claims Suspension Date. For life insurance, coverage will continue until the end of October 2015 and claims must be submitted directly to Desjardins.

PBGF Assessments

73. Beyond the contributions made by USSC relating to pension and retirement plans and OPEBs, USSC pays an annual assessment fee to the PBGF administered by the Superintendent. USSC’s 2015 PBGF assessment, which is due no later than September 30, 2015 is approximately \$4.4 million (after sales tax). As part of USSC’s cash conservation measures, the Business Preservation Order sought also contemplates the immediate suspension of all PBGF assessment fees in respect of the DB Registered Plans for the remainder of USSC’s CCAA proceedings.

Suspension of Salary Continuance Payments

74. In conjunction with downsizing initiatives that occurred in 2014, USSC is currently making salary continuance payments, including pension accruals and group benefit coverage, to 18 employees who are no longer actively employed by or providing services to USSC.

75. The total outstanding amount owing by USSC to employees under these salary continuance arrangements is approximately \$727,000. The salary component of these payments is made monthly under USSC regular payroll cycle. The Business Preservation Order sought contemplates the suspension of these payments. Due to payroll processes, it is contemplated that salary continuance payments will be suspended on November 1, 2015.

76. The Business Preservation Plan Order sought would provide that notice to beneficiaries and others of the suspension of supplemental pension payments pursuant to the unfunded RAs and RBCs, the suspension of benefits payable under the OPEB Plan and the suspension of salary continuance payments.

Suspension of Property Tax Payments (City of Hamilton and Haldimand County)

77. USSC pays municipal property taxes in quarterly installments to the City of Hamilton (the “City”) and to the County of Haldimand (“Haldimand”) in the following amounts:

- (a) City: \$1,447,277 per quarter for 2015 (totalling \$5,789,108 annually); and
- (b) Haldimand: \$896,000 per quarter for 2015 (totalling \$3,584,000 annually).

78. USSC has paid all of its municipal property tax obligations to date. The next municipal tax installment payments to the City and Haldimand in the amounts \$1,447,277 and \$896,000 respectively are due on September 30, 2015 to the City, and October 30, 2015 to Haldimand.

79. Pursuant to a settlement agreement between USSC and the City entered into on or around February 27, 2015 (“Hamilton Settlement Agreement”), USSC agreed to permit the City of Hamilton to exercise certain offsets against tax refunds owed to USSC, to pay future utility charges in the ordinary course and to provide a deposit in connection therewith. USSC also agreed to pay future realty taxes in the ordinary course, consistent with its obligations under the

Initial Order. Under that agreement, the City has the ability to seek the intervention of this Court, after the expiration of certain time periods, in the event of non-payment of realty taxes. Attached hereto as **Exhibit “E”** is a copy of the settlement agreement.

80. As outlined above, USSC will be operating with negative cash flow under the Business Preservation Plan, even with the proposed cash conservation measures in place. Payments that it was able to make when the Initial Order was obtained and at the time the Hamilton Settlement Agreement was entered into (including in relation to pension funding and OPEBs, as well as realty tax payments), if made now, would preclude USSC’s viable financial performance for continued operations in 2016. This puts the company in the difficult position of having to identify which payments are directly related to the cost of continued operation of the business and which are not.

81. In developing the Business Preservation Plan, the company endeavoured to be consistent in its decisions affecting stakeholders to the extent reasonably possible. In the context of the suspension of pension funding and OPEB payments, it is the company’s view that realty taxes ought to be suspended at this time as well, notwithstanding any settlement between USSC and the City, subject to the approval of this Court.

82. I am advised by USSC’s counsel that the City and Haldimand will have the benefit of a special priority lien under the provisions of the Municipal Tax Act in relation to any suspended realty tax payments.

83. USSC intends to continue to make all ordinary course utilities payments for services provided by the City and Haldimand, respectively.

USS Supply Agreement Relief

84. As has been noted in prior Court materials filed with this Court, USS also acts a major direct supplier of USSC's raw materials, primarily iron ore and coal. Under USSC's proposed Business Preservation Plan, it is the general intention of USSC to honour the remaining 2015 commitments under these agreements to the extent possible (although some shipments have been or will be delayed). However, as described below, USSC believes it is entitled to relief from certain volume commitments under a Pellet Sale and Purchase Contract between USSC and USS dated March 3, 2015 ("Pellet Agreement") that relate to the Diversion Decision by USS. The Pellet Agreement is not appended because it contains commercially sensitive and confidential information.

85. Specifically, if the proposed Diversion Decision by USS is fully implemented and assuming that USSC will not have sales support from USS for automotive business in 2016, USSC would have in excess of 200,000 tonnes of iron ore that is not required for production in the 2015 shipping season. In my view, USS cannot unilaterally decrease the volume of production at USSC's mills, and on the other hand demand that USSC continue to accept delivery of raw materials that are no longer needed as a result of the Diversion Decision.

86. Under the Pellet Agreement, USSC is required to provide a final forecast of its pellet requirements which constitutes the minimum volume USSC is required to purchase under the Pellet Agreement. On January 29, 2015, USSC provided this final forecast to USS.

87. As evidenced by counsel to USS' recent letter distributed to the Service List on September 4, 2015, appended hereto as Exhibit "A", at least one month before USSC "locked in" to its iron ore commitments under the Pellet Agreement, USS had advised the Monitor that plant loading at USSC would become "an issue" in the future.

88. In June 2015, USS delivered forecast data via its counsel for the second half of 2015, which included pellet volume commitments for the remainder of the year. The pellet volumes in the forecast did not reflect the Diversion Decision. USS confirmed, via its counsel, in writing that this forecast was USS's best available information. Despite its apparent knowledge that it would be implementing the Diversion Decision, USS did not advise USSC of any potential production diversion at the time USSC made its volume commitments under the Pellet Agreement. Moreover, in making these commitments, USSC relied on the production forecast supplied by USS, which contemplated that the Diverted Production would be produced and processed at USSC facilities.

89. I am advised by Roy Collins, Controller at USSC, that by the end of August, 2015, it became clear that there would be a sufficient amount of ore on site to last for several months based on current production levels. Taking into account the Diversion Decision, the USSC delayed shipments of ore and coal originally scheduled for September in order to align delivery of these raw materials with consumption thereof and avoid an unnecessary cash burn of approximately \$27 million.

90. It is USSC's view that the delay of shipments was reasonable in the circumstances, particularly given that the delay was a direct result of the Diversion Decision and consequences expected to flow therefrom. In any event, I am advised by Mr. Collins that even with the delayed September shipments, USSC has taken delivery of approximately 130,000 net tons more of ore to date than it would have if it had maintained a rateable delivery schedule over the same period. Apparently this was made possible by higher levels in the Great Lakes that enabled larger shipments to pass safely and additional shipments in August, among other things.

91. In addition, it is USSC's view that either it is not obligated to meet, or it is appropriate to relieve USSC from, its original delivery schedule and excess iron ore commitments resulting from the Diversion Decision by USS to enable USSC to conserve cash available to the business. USSC will continue its discussions with USS to attempt to come to a consensual resolution of this matter and if no resolution is achieved, will seek direction from this Court.

Amendment to Replacement DIP Financing

92. On July 24, 2015, this Court approved a replacement DIP financing agreement (the "**Replacement DIP Term Sheet**") with Brookfield Capital Partners Ltd. (the "**Replacement DIP Lender**") in the principal amount of \$150 million dollars. In order to effectively implement USSC's Business Preservation Plan, USSC will need a stable source of financing that extends throughout the 2016 calendar year.

93. Currently, the Replacement DIP Term Sheet contemplates a maturity date of January 28, 2016, with the ability of USSC to extend the term of the loan for two 3-month periods up to July 28, 2016 provided that no Event of Default (defined in the DIP Term Sheet) has occurred or is continuing. I have been in discussions with the Replacement DIP Lender to extend the term of the DIP loan to December 31, 2016 in the context of USSC's proposed Business Preservation Plan. The Replacement DIP Lender is supportive of such an extension in principle, subject to the negotiation of amendments acceptable to the Replacement DIP Lender to protect its position in the new circumstances and to court approval of the proposed amendments, once settled. Discussions are ongoing. USSC intends to file supplemental materials in support of a request for Court approval of the amendments together with the Business Preservation Plan once the amendments are finalized.

94. The continued support of the Replacement DIP Lender is essential to USSC and will be of great assistance as it moves forward with its Business Preservation Plan.

USS Critical Supplier Relief

95. Beyond the critical plant loading services provided by USS, the operations of USSC are highly integrated with USS. Specifically, in practice, USS provides the following general categories of services to USSC, including but not limited to:

- (i) **Cash Management:** treasury and risk management, administering sales, receivable and collection processes, and administering purchasing, payable and payment processes, and non-Canadian pension investment;
- (ii) **Operational:** product sales, mill loading, materials management and significant procurement services;
- (iii) **IT Systems to Support Employee Management:** payroll, compensation and employee benefit functions, and personnel recruitment;
- (iv) **IT Systems to Support Financial Services:** computer system infrastructure and financial and accounting service through common software;
- (v) **Other Services:** actuarial, insurance, customs support, and research and development.

96. The above services are performed by USS employees on behalf of USSC from USS's offices and are critical to the continued operation of USSC's business. Given the current degree of integration, it would be impractical, time consuming and costly to repatriate these services to

USSC. USSC does not have the resources or capabilities to take on these services without disruption to operations and significant expansion of its current payroll. Simply put, there is no real alternative service provider that can provide all of the services provided by USS and needed by USSC to continue to run its business in the near term.

97. Accordingly, subject to satisfactory arrangements being settled with USS in advance of the return date of this motion that would confirm USS's agreement to continue to provide the critical goods and services, USSC seeks an order declaring that USS is a critical supplier pursuant to Section 11.4 of the CCAA, directing USSC to continue to supply these intercompany services, and granting USS a charge on USSC's property that is subordinate to the Charges and Permitted Priority Liens (as defined in the Initial Order), but in priority to all other Encumbrances (as defined in the Initial Order).

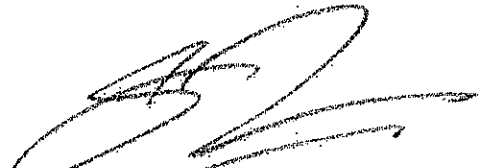
I. Urgency of Relief

98. As describe above, time is of the essence. If the proposed Business Preservation Plan is not implemented now, the cash burn of USSC will be so significant that it would be unreasonable to continue operations (even if it had the cash, which it does not). The relief sought by USSC is intended to provide the company with the necessary breathing space to continue its operations while continuing its restructuring efforts.

99. In the balancing of interests that must be done in a CCAA proceeding, it is respectfully submitted that the conservation measures proposed by USSC in its Business Preservation Plan are appropriate in the circumstances and ought to be granted for immediate implementation.

100. This affidavit is sworn in support of the USSC motion for the relief described above, and for no other or improper purpose.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario,
this 17th day of September, 2015.



Commissioner for Taking Affidavits



WILLIAM E. AZIZ

TAB C

This is Exhibit.....^{"C"}.....referred to in the
affidavit of.....William E. Aziz.....
sworn before me, this.....11th.....
day of.....August.....2016.....

Court File No.: CV-14-10695-00CE.....
A COMMISSIONER FOR TAKING AFFIDAVITS

**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 PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT WITH RESPECT TO
U. S. STEEL CANADA INC.**

**SUPPLEMENTARY AFFIDAVIT OF WILLIAM E. AZIZ
SWORN SEPTEMBER 28, 2015
(Amended and Restated Replacement DIP Term Sheet)**

I, William E. Aziz, of the Town of Oakville, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am the President of BlueTree Advisors II Inc. ("BlueTree"), which has been retained by U. S. Steel Canada Inc. ("USSC" or the "Applicant") to provide my services to USSC as Chief Restructuring Officer ("CRO") of USSC. I report to the board of directors of USSC.
2. In my role as CRO, I have sworn a series of affidavits in these *Companies' Creditors Arrangement Act* ("CCAA") proceedings and as such have personal knowledge of the facts to which I depose, except where I have indicated that I have obtained facts from other sources, in which case I verily believe those facts to be true.
3. I swear this supplementary affidavit in support of USSC's motion for relief, which includes the amendment of a debtor-in-possession ("DIP") financing facility provided by Brookfield Capital Partners Ltd. ("Brookfield").

A. Amended and Restated DIP Term Sheet

4. In my affidavit sworn September 17, 2015 (the “**September 17 Affidavit**”), I referred to a proposed amendment to the current DIP financing agreement (the “**DIP Term Sheet**”) between USSC and Brookfield that would allow USSC continued funding under its DIP facility to December 31, 2016 as it implements its proposed cash conservation and business preservation plan (the “**Business Preservation Plan**”).

5. As a result of recent events, including but not limited to the “**Diversion Decision**” described in my September 17 Affidavit, uncertainty relating to 2016 automotive production, the proposed discontinuation of USSC’s sales and restructuring/recapitalization process (“**SARP**”), and the development of the Business Preservation Plan, an amendment to the DIP Term Sheet was required.

6. With the approval of the Monitor and assistance of Rothschild Inc. (USSC’s financial advisor) and me, USSC has negotiated an amended and restated DIP Term Sheet dated as of September 25, 2015 (the “**Amended and Restated DIP Term Sheet**”), which is attached hereto **Exhibit “A”**. All capitalized terms used in my affidavit and not otherwise defined herein have the meanings provided to them in the Amended and Restated DIP Term Sheet.

7. The Amended and Restated DIP Term Sheet includes the following amendments, among others:

- (a) **Loan Amount:** the Loan Amount has been reduced to \$75 million. Prior fees relating to the commitment fee and exit fee will remain the same and be based on the original loan amount of \$150 million.

- (b) **Extension Options:** the Amended and Restated DIP Term Sheet now provides USSC with an initial option to extend the term of the loan for a period of six-months (from January 28, 2016 to July 28, 2016) (the “**First Extension Option**”) and a second option to extend the term until December 31, 2016 (the “**Second Extension Option**”). In each case, Brookfield’s consent is required before USSC can exercise each extension option and a fee of \$1.5 million, being two percent (2%) of the Loan Amount, is payable as consideration for each extension.
- (c) **Term:** in addition to the prior repayment triggers contained in the original DIP Term Sheet, the DIP facility must be repaid if USSC terminates its Business Preservation Plan or USSC decides to liquidate its assets.
- (d) **Amendment and Waiver Fee:** Brookfield is entitled to an amendment and waiver fee in the amount of \$1.5 million, being 2% of the Loan Amount.
- (e) **Monitoring and Agreed Budgets** additional budget compliance provisions have been incorporated, including that USSC’s Updated Weekly Budgets and Updated Monthly Budgets must be submitted for approval to Brookfield (previously only Monitor approval was required).
- (f) **Milestones:** USSC is required to meet certain “milestones” in respect of its restructuring, including: (i) Court approval of the Business Preservation Plan by September 30, 2015, and (ii) commencement of a new SARP by May 31, 2016 (along with certain milestones within the new SARP).
- (g) **Condition Precedents to Funding:** before any advances are made to USSC: (i) the Business Preservation Plan developed by USSC must be in form and substance satisfactory to Brookfield, and (ii) the Court must have approved the

Business Preservation Order, without any modifications that are not acceptable to Brookfield.

- (h) **Initial Limitation on Advances:** USSC will be able to request advances up to \$25 million under the DIP facility before the expiry of all applicable appeal periods related to the Business Preservation Plan Order and any appeals being fully disposed of with no further right of appeal or leave to appeal (the “**Appeal Period**”). After the expiry of the Appeal Period, this “cap” will be removed.
- (i) **Collateral Coverage Covenant:** a new collateral coverage covenant has been included which requires that at all times USSC’s Liquidation Value (as defined therein) less the amount of all charges or liens in priority to the DIP Lender’s Charge must be equal to or greater than \$100 million plus the amount of all outstanding advances that have been made.
- (j) **Additional Affirmative Covenants:** additional affirmative covenants require USSC to comply with its Business Preservation Plan, Collateral Coverage Covenant (described above), the new restructuring milestones, as well as maintain a minimum cash balance of \$15 million.
- (k) **Additional Events of Default:** additional events of default have also been included to align with the additional covenants added to the agreement, including additional events of default if USS terminates or breaches the Intercompany Transactions (unless such termination or breach is contemplated by the Business Preservation Plan or has a de minimis impact on the Borrower’s financial condition, operations or ability to comply with the Term Sheet, the Business Preservation Plan or any Restructuring Court Orders) and if there is an adverse variance of actual cash flows from the Agreed Weekly Budget or the Initial

Agreed Monthly Budget by an amount exceeding \$50 million measured on a cumulative basis.

- (l) **New mandatory repayment:** after the occurrence of a Default or Event of Default, USSC must repay the Loan Amount by the amount that cash on hand exceeds \$30 million at any time.

8. The priority of the Brookfield's DIP Lender Charge will remain the same in respect of advances as under the previous DIP Term Sheet, with the exception that, subject to Court approval, Brookfield's DIP Lender Charge will now rank in priority to any purchase money security interests ("PMSI") in respect of inventory. USSC is not aware of any PPSA registrants that currently hold PMSIs in respect of USSC's inventory.

9. The amendments set out in the Amended and Restated DIP Term Sheet were a product of extensive negotiations between USSC and Brookfield and are necessary in light of the change in circumstances facing USSC. The proposed DIP enables USSC to continue operations under its proposed Business Preservation Plan and will afford USSC additional stability going forward.

10. As is evident by the amendments, the proposed Amended and Restated DIP Term Sheet focuses on the immediate implementation of USSC's proposed Business Preservation Plan and contains new protective covenants in favour of Brookfield to preserve its position as DIP lender. As described in my September 17 Affidavit, the Business Preservation Plan contemplates significant cash conservation measures, including among others, the immediate suspension of all contributions to USSC's defined benefit registered pension plans (other than normal cost contributions), supplementary pension payments to beneficiaries under unfunded retirement benefit contracts and individual retiring allowances, and the near-term suspension of other post-employment benefit ("OPEB") premiums and payments to beneficiaries under USSC's OPEB

plans. Even with the benefit of these cash conservation measures, USSC estimates that it will deplete cash balances at the rate of approximately \$6 to \$8 million per month.

11. Under the terms of the DIP Order issued in respect of the original DIP Term Sheet, the obligations owing in respect of the DIP Term Sheet are secured by a charge on all present and after-acquired property, assets and undertakings of the Borrower, subject in priority only to the Administration Charge Part 1, the D&O Charge and certain specific Permitted Priority Liens described in the DIP Term Sheet (the “**Replacement DIP Lender’s Charge**”). The Replacement DIP Lender’s Charge will also secure obligations under the Amended and Restated DIP Term Sheet and will have the same priority, including priority over any claims arising in respect of any cash conservation measures taken under the Business Preservation Plan.

12. Rothschild has prepared a forecast of the projected availability under the revised DIP facility through to the end of the July 2016, the time of USSC’s First Extension Option. A copy of the forecast is attached hereto as **Exhibit “B”**.

13. As can be seen by the forecast, at certain times (such as in January, February and March, 2016), USSC will have very limited “excess” availability under the DIP facility. It is necessary and prudent to maintain a cushion to enable USSC to meet any unforeseen working capital or other liquidity needs. Although I understand that certain stakeholders oppose the cash conservation measures proposed in the Business Preservation Plan, USSC does not have the necessary funds to be able to pay these obligations at this time, and no other stakeholder has proposed an alternative source of funding that will allow USSC to continue to operate as it pursues its restructuring goals.

14. The Board of Directors of USSC, a majority of which are independent persons with significant restructuring and steel industry experience, has approved the proposed Amended and

Restated DIP Term Sheet, subject to court approval, after having received recommendations from its legal counsel, Financial Advisor and me.

15. Given the importance of continued stability and access to committed financing throughout 2016, I recommend the approval of the Amended and Restated DIP Term Sheet, and I understand that the Monitor will be filing a report in the near future with its analysis and recommendations regarding the proposed Amended and Restated DIP Term Sheet.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario,
this 28th day of September, 2015.



Commissioner for Taking Affidavits

)
)
)
)
)
)
)
)
)
)
)


WILLIAM E. AZIZ

This is Exhibit B referred to in the affidavit of William E. Aziz sworn before me, this 28th day of September, 2015.

S. J. [Signature]

A COMMISSIONER FOR TAKING AFFIDAVITS

(COND'S)	Sep-16	Oct-16	Nov-16	Dec-16	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16
EBITDA	(\$8)	(\$12)	(\$13)	(\$12)	(\$10)	(\$8)	(\$6)	(\$7)	(\$7)	(\$9)	(\$10)
Δ in Working Capital and other	32	16	(21)	(21)	(3)	23	26	36	20	13	(19)
Capital expenditures	(4)	(1)	(1)	(1)	(2)	(2)	(2)	(2)	(4)	(3)	(5)
FCF (pre-DIP)	\$21	\$3	(\$35)	(\$34)	(\$14)	\$13	\$18	\$28	\$9	\$0	(\$33)
DIP draw / (repayment)	-	10	-	32	10	-	-	-	-	-	-
DIP interest / fees	(2)	(0)	(0)	(0)	(2)	(1)	(1)	(1)	(1)	(1)	(2)
Net cash flow	\$19	\$12	(\$35)	(\$3)	(\$6)	\$13	\$17	\$27	\$9	(\$0)	(\$35)
Closing cash	57	70	35	32	25	38	55	82	91	91	55
DIP balance drawn	-	10	10	42	52	52	52	52	52	52	52
Additional DIP availability ⁽¹⁾	\$75	\$65	\$65	\$33	\$17	\$18	\$20	\$23	\$23	\$23	\$0

Note

(1) DIP availability calculated based on the Collateral Coverage Covenant in the Amended DIP agreement

IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH
RESPECT TO U. S. STEEL CANADA INC.

Court File No. CV-14-10695-00CL

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

Proceeding Commenced at Toronto

AFFIDAVIT OF WILLIAM E. AZIZ

McCarthy Tétrault LLP
Toronto Dominion Bank Tower
Toronto, ON M5K 1E6
Fax: (416) 868-0673

James Gage LSUC#: 346761
Tel: (416) 601-7539
Email: jgage@mccarthy.ca

Paul Steep LSUC#: 21869L
Tel: (416) 601-7998
Email: psteep@mccarthy.ca

Sharon Kour LSUC#: 58328D
Tel: (416) 601-8305
Email: skour@mccarthy.ca

Kelly Peters LSUC#: 59914W
Tel: (416) 601-8281
Email: kpeters@mccarthy.ca

Lawyers for U. S. Steel Canada Inc.
14885081

TAB D

This is Exhibit "D" referred to in the affidavit of William E. Aziz sworn before me, this 11th day of August 2016.

AMENDED AND RESTATED INTERIM FINANCING TERM SHEET

Dated as of November 4, 2015

A COMMISSIONER FOR TAKING AFFIDAVITS

WHEREAS the Lender and the Loan Parties are party to an Interim Financing Term Sheet dated July 16, 2015 (the "Original Term Sheet");

AND WHEREAS due to a number of changes in circumstances that have arisen since the Original Term Sheet was executed and the DIP Order was issued, the Borrower has requested and the Lender and the other Loan Parties have agreed to amend and restate the Original Term Sheet on the terms and subject to the conditions set forth herein.

NOW THEREFORE the Lender hereby offers to provide funding to the Borrower in the context of its proceedings (the "CCAA Proceedings") under the Companies' Creditors Arrangement Act (Canada) (the "CCAA") commenced before the Ontario Superior Court of Justice (Commercial List) (the "Court") in accordance with the terms set out herein.

Amounts herein are in Canadian dollars. Capitalized terms have the meanings given to them in this Term Sheet.

Borrower: U.S. Steel Canada Inc. (the "Borrower").

Guarantor: Unconditional guarantees shall be given by:

- (a) All existing and future direct or indirect wholly owned subsidiaries of the Borrower that are also debtor companies in the CCAA Proceedings (collectively with the Borrower, the "CCAA Debtors"); and
(b) All other existing and future direct or indirect wholly owned subsidiaries of the Borrower unless otherwise agreed by the Lender (as defined below) (collectively with the CCAA Debtors other than the Borrower, the "Guarantors" and collectively with the CCAA Debtors including the Borrower, the "Loan Parties").

Lender: Brookfield Capital Partners Ltd. (the "Lender").

Committed Amount and Facility Structure: A super priority (debtor in possession) delayed draw term credit facility (the "Facility") up to a maximum principal amount of \$75,000,000 (the "Loan Amount"), advanced in accordance with the terms herein and subject to the conditions hereof.

All obligations of the Loan Parties under this Term Sheet, including in respect of the Facility, the Loan Amount and any interest, fees, expenses or other amounts owing in respect thereof shall be secured by a Court-ordered first priority lien and charge against all the assets of the Borrower and the other CCAA Debtors, subject only to (i) the Administration Charge Part 1 (as defined below), (ii) the D&O Charge (as defined below) and the Permitted Priority Liens (as defined below), and (iii) such other Liens as the Lender may agree to in writing.

Term: All amounts owing in respect of the Facility shall be repaid in full (without the Lender being required to make demand on the Borrower or the other

Loan Parties or to give any notice, except as required by the DIP Order (defined below) or the Business Preservation Plan Order (defined below)) on the earlier of (i) a demand for repayment of the Facility by the Lender following the occurrence of any Event of Default hereunder which has not been cured in accordance with the Loan Documents; (ii) January 28, 2016 or, if the First Extension Option (defined below) is exercised, July 28, 2016 or, if the Second Extension Option (defined below) is exercised, December 31, 2016, or such other date as the Borrower and the Lender may agree to in writing; (iii) the completion of the sale of all or substantially all of the assets of the Borrower in the aggregate; (iv) the effective date of any plan of any compromise or arrangement filed by the Borrower in the CCAA Proceedings; (v) the date on which the Borrower's Business Preservation Plan (defined below) is terminated; and (vi) the date on which the Borrower decides to commence liquidation of its assets under the CCAA or otherwise (the earliest of such dates being the "**Maturity Date**").

Purpose: To provide for the short-term liquidity needs of the Borrower while under CCAA protection.

Closing: Closing shall occur as soon as reasonably possible following the issuance of the Business Preservation Plan Order, which shall be obtained by no later than October 28, 2015, unless otherwise agreed in writing by the Lender.

Use of Proceeds: The Borrower is authorized to use the Loan Amount: (i) to provide working capital and for other general corporate purposes of the CCAA Debtors; (ii) to make payments necessary to comply with the initial order granted in the CCAA proceedings, as amended and restated (the "**Initial Order**"); (iii) to provide guarantees, letters of credit, and other forms of credit support related to the CCAA Debtors' business and operations, (iv) to repay drawings on the Borrower's existing DIP facility and unpaid interest, fees and expenses, if any, and (v) to pay interest, fees and expenses payable under the Facility and this Term Sheet, in each case provided that the amounts expended in respect of the foregoing paragraphs (i) to (v) shall be consistent with the applicable Agreed Budget.

Commitment Fee: The Borrower has paid to the Lender or its designated affiliate an amount equal to 3% of \$150,000,000 (the "**Original Loan Amount**") as a commitment fee (the "**Commitment Fee**") in accordance with the Original Term Sheet as amended by the letter from the Lender to the Borrower dated July 30, 2015, which Commitment Fee (i) was earned upon acceptance by the Borrower of the Original Term Sheet and receipt by the Borrower of notice in writing from the Lender that the diligence condition in paragraph (a) of the "Conditions Precedent to Initial Funding" had been waived or satisfied and (ii) was payable within one business day following the day that the DIP Order was issued, unless otherwise agreed by the Lender.

Amendment & Waiver Fee: The Borrower shall pay to the Lender or its designated affiliate an amount equal to 2% of the Loan Amount as an amendment and waiver fee (the "**Amendment & Waiver Fee**"), which Amendment & Waiver Fee (i) the Borrower acknowledges and agrees was earned on September 25, 2015, upon service by the Borrower of this Term Sheet on the service list for the

CCAA Proceedings, and (ii) shall be payable as soon as reasonably possible after the issuance of the order of the Court approving this Term Sheet and the business preservation plan of the Borrower (the "**Business Preservation Plan Order**") and, in any event, no later than two (2) business days after the date hereof, or, if the Business Preservation Plan Order is not issued, then the Amendment & Waiver Fee shall be payable on the day that the Borrower learns that the Business Preservation Plan Order will not be issued, unless such Amendment & Waiver Fee is waived in writing by the Lender.

Monitoring Fee:

The Borrower shall pay to the Lender or its designated affiliate a monthly monitoring fee equal to 0.1% of the Loan Amount (the "**Monitoring Fee**"), which Monitoring Fee shall be due and payable monthly in arrears on the same day as interest on the Loan Amount is payable.

Extension Option:

No later than 15 days prior to January 28, 2016, the Borrower may request and the Lender may agree to extend the Maturity Date for a period of six (6) months from January 28, 2016 to July 28, 2016 (the "**First Extension Option**") provided that the Borrower may only request the First Extension Option if no Default or Event of Default has occurred and is continuing, such request is accompanied by an Agreed Budget (defined below) in form and substance satisfactory to the Lender and in consideration of a payment by the Borrower of a fee equal to 2% of the Loan Amount, which shall be payable on January 28, 2016; and no later than 15 days prior to July 28, 2016, the Borrower may request and the Lender may agree to extend the Maturity Date for a period of five (5) months and three (3) days from July 28, 2016 to December 31, 2016 (the "**Second Extension Option**") provided that the Borrower may only request the Second Extension Option if no Default or Event of Default has occurred and is continuing, such request is accompanied by an Agreed Budget (defined below) in form and substance satisfactory to the Lender and in consideration of a payment by the Borrower of a fee equal to 2% of the Loan Amount, which shall be payable on July 28, 2016.

Exit Fee:

When the Facility is fully repaid and terminated, whether on the Maturity Date or otherwise and whether as a result of acceleration or otherwise, the Borrower shall pay to the Lender or its designated affiliate an amount equal to 2% of the Original Loan Amount as an exit fee (the "**Exit Fee**"), which Exit Fee was earned upon acceptance by the Borrower of the Original Term Sheet.

Interest Rate:

The Loan Amount shall bear interest, which shall be calculated by the Lender monthly (and communicated to the Borrower on the last business day of such month), compounded daily, and be payable in arrears on the second business day of each month, at an annual rate of interest equal to 11% plus the greater of (i) the CDOR Rate (defined below) on the day interest is calculated or (ii) 1%.

Upon the occurrence of an Event Default, subject to applicable law, all amounts then owing under or in respect of the Facility will bear interest at the applicable interest rate plus 4% *per annum*.

For the purposes hereof, "**CDOR Rate**" means for any particular day the rate of interest equal to the average rate applicable to Canadian Dollar

bankers' acceptances of a one (1) month duration quoted by Bloomberg, rounded to the nearest 1/100th of 1% (with .005% being rounded up), at approximately 11:00 a.m. (Toronto time), on such day, provided that if such rate is not available from Bloomberg on such day as contemplated, then the CDOR Rate on such day shall be calculated as the average of the rates for such duration applicable to Canadian Dollar bankers' acceptances quoted by five of the banks listed in Schedule I of the Bank Act (Canada) selected by the Lender as of 11:00 a.m. (Toronto time) on such day, which determination shall be conclusive in the absence of manifest error.

All interest will be calculated on the basis of a 365 day year and actual days elapsed.

Expenses:

All legal fees, disbursements and other out-of-pocket expenses of the Lender arising from or in connection with the Original Term Sheet, this Term Sheet, the Facility or the CCAA Proceedings (including due diligence, negotiation of this Term Sheet and related documentation, preparation for and attendance at Court and on-going monitoring and administration) are for the account of the Borrower whether or not Closing occurs. Expenses shall be paid by the Borrower forthwith upon receipt of the Lender's invoices. Any expenses incurred prior to Closing and not paid prior to Closing shall be paid on Closing. Any expenses incurred after Closing shall be paid in the ordinary course within such period of time as is acceptable to the Lender in its sole discretion and in any event on the Maturity Date. The obligation to pay expenses shall be secured by the Lender's Charge (defined below) and the secured guarantees given by the Guarantors.

Agreed Budgets:

Attached hereto as Schedule "A" are the following:

1. A rolling 13-week period detailed budget (the "**Initial Agreed Weekly Budget**"), which is in form and substance satisfactory to the Lender; and
2. A 12-month period detailed budget (the "**Initial Agreed Monthly Budget**"), which is in form and substance satisfactory to the Lender.

Every four weeks, the Borrower will provide the Lender with an updated weekly budget of the following 13 week period in a reasonably similar form to the Agreed Weekly Budget attached as Schedule "A" hereto (as updated, the "**Updated Weekly Budget**") describing the Borrower's updated cash flow requirements which must be prepared by the Borrower in good faith and approved by Ernst & Young Inc. in its capacity as Court appointed monitor (the "**Monitor**") in the CCAA Proceedings. An Updated Weekly Budget which has been approved by the Monitor and does not result in the occurrence of an Updated Budget Default (as defined below) may be submitted to the Lender for approval and, once such approval (which shall be at the sole discretion of the Lender) has been given in writing, shall be the "**Agreed Weekly Budget**" for the purpose of this Term Sheet. In addition, the Lender may from time to time require the Borrower to provide an updated monthly budget for the following 12 month period (but not to extend past the Maturity Date that applies if the Second Extension Option is exercised) in a reasonably similar form to the Agreed Monthly Budget attached as Schedule "A" hereto (the "**Updated Monthly Budget**") describing the Borrower's updated cash flow requirements, which must be prepared in good faith and approved by the Monitor. The Borrower shall

deliver an Updated Monthly Budget within three (3) business days following the request therefor. An Updated Monthly Budget which has been approved by the Monitor and does not result in an Updated Budget Default may be submitted to the Lender for approval and, once such approval (which shall be at the sole discretion of the Lender) has been given in writing, shall be the "**Agreed Monthly Budget**" for the purpose of this Agreement. The Lender shall provide written notice to the Borrower indicating that an Updated Weekly Budget or an Updated Monthly Budget has resulted in the occurrence of an Updated Budget Default by the close of business on the fifth (5th) business day following receipt by the Lender of such Updated Weekly Budget or an Updated Monthly Budget, failing which such Updated Weekly Budget or an Updated Monthly Budget shall be deemed not to have resulted in the occurrence of an Updated Budget Default. The Agreed Weekly Budget and the Agreed Monthly Budget in effect from time to time are referred to as the "**Agreed Budgets**".

Business Preservation Plan:

The Borrower shall have developed, in consultation with the Monitor and its financial advisors, a Business Preservation Plan to address the status of the sale and recapitalization process approved by the Court on April 2, 2015 (the "**SARP**") and certain decisions of U.S. Steel Inc. relating to Intercompany Transactions (as defined in the Initial Order) and related matters, which Business Preservation Plan shall be in form and substance satisfactory to the Lender (the "**Business Preservation Plan**"), and which shall address, inter alia, the Borrower's operations from the date the Business Preservation Plan Order is issued until December 31, 2016, the Borrower's plans with respect to the commencement of a new sales and recapitalization process, if any, and such other matters as the Borrower, in consultation with the Monitor and its financial advisors and with the consent of the Lender, deems expedient.

Milestones:

The Borrower shall meet each of the following milestones (the "**Milestones**"):

- (a) The Business Preservation Plan shall have been approved by the Court by October 28, 2015;
- (b) A new sales and recapitalization process ("**New SARP**") shall have been developed by the Borrower, which shall be in form and substance satisfactory to the Lender and shall be approved by the Court by May 31, 2016;
- (c) Non-binding bids in respect of the New SARP shall have been received by August 31, 2016; and
- (d) binding offers in respect of the New SARP shall have been received by October 31, 2016.

Advances:

Provided that no Default or Event of Default has occurred and the Conditions Precedent have been satisfied, the Lender will make advances ("**DIP Advances**") not to exceed the Loan Amount at any time to the Borrower under the Facility on the terms set out herein.

The Borrower may request a DIP Advance by providing notice (a "**Draw Request**") to the Lender before 9:00 a.m. Eastern Standard Time on the

second business day prior to the date the DIP Advance is to be made. Each Draw Request shall be accompanied by the Weekly Reporting (defined below) for such week.

DIP Advances shall be deposited into a bank account to be designated by the Borrower (the "**Borrower's Account**") and utilized by the Borrower in accordance with the terms of this Agreement. Each advance shall be in a minimum amount of \$10,000,000 and increments of \$1,000,000 thereafter. The Borrower's Account shall be subject to a first priority security interest in favour of the Lender (subject to the Administration Charge Part 1, the D&O Charge and the Permitted Priority Liens).

For greater certainty, the Borrower's Account must be a separate segregated account of the Borrower at a financial institution approved by the Lender.

Security:

The Loan Parties shall execute and deliver or cause to be executed and delivered such loan and collateral security documentation as may be required by the Lender in its discretion, including without limitation such loan agreements, guarantees, security agreements, financing statements, opinions or other documents and information, in form and substance satisfactory to the Lender, as the Lender may require (collectively, the "**Loan Documents**").

The Loan Documents shall contain terms consistent with this Term Sheet, and may contain such additional terms as the Lender requires, acting reasonably.

All obligations of the CCAA Debtors (including the Borrower) under or in connection with the Facility, the Original Term Sheet and this Term Sheet and any other Loan Documents shall be secured by a Court-ordered charge (the "**Lender's Charge**"), over all present and after-acquired property, assets and undertakings of the Borrower, including for greater certainty, any insurance proceeds payable to the Borrower pursuant to section 21 of the Initial Order or otherwise. The Lender's Charge shall rank in priority to all liens, charges, mortgages, encumbrances and security interests of any kind whatsoever granted to other creditors, interest holders, lien holders and claimants subject in priority only to:

- (a) a Court-ordered administration charge on the assets of the CCAA Debtors to secure payment of professional fees in an aggregate amount not to exceed \$6,500,000 (the "**Administration Charge Part 1**");
- (b) a directors and officers liability charge on the assets of the CCAA Debtors in an amount not to exceed \$39,000,000 (the "**D&O Charge**"); and
- (c) (i) specific purchase-money security interests or financing leases granted to secure Permitted Debt, and in respect of which the Lender has received confirmation by way of subordination or as to its limited or specific nature, all of which is to be satisfactory to the Lender; (ii) statutory super priority deemed trusts and liens for unpaid employee source deductions; (iii) those liens evidenced by

the registrations listed in Schedule "B" hereto; (iv) cash collateral in the amount pledged by the Borrower from time to time in respect of letters of credit issued on its behalf from time to time in the ordinary course of business, provided however that such amount shall not exceed \$12,000,000.00 without the prior written consent of the Lender; and (v) such other permitted liens as may be agreed to in writing by the Lender (collectively, the "**Permitted Priority Liens**").

For greater certainty, the Lender's Charge shall be in priority to all liens, charges, mortgages, encumbrances and security interests of any kind whatsoever other than the Administration Charge Part 1, the D&O Charge and the Permitted Priority Liens.

Conditions Precedent to Initial Funding:

Each of the following conditions precedent shall have been satisfied before the Lender is obligated to provide the initial funding under the Facility:

- (a) The Lender shall have successfully completed due diligence to its satisfaction in respect of the Loan Parties.
- (b) The Court shall have issued an order (the "**DIP Order**"), inter alia, approving the making of the loans as set out in the Original Term Sheet, providing that the Lender shall be an unaffected creditor for the purposes of any plan of compromise and arrangement filed by the Borrower, and granting the Lender's Charge, such DIP Order to be in form and substance satisfactory to the Lender.
- (c) The motion for the DIP Order, in form and substance satisfactory to the Lender, shall have been served on such parties as are required by the Lender in its sole discretion at least five (5) business days prior to the hearing date of the motion for the issuance of the DIP Order unless waived in writing by the DIP Lender.
- (d) The DIP Order shall not have been amended, restated or modified in any manner that is not acceptable to the Lender.
- (e) The Lender shall have received the Initial Agreed Weekly Budget and the Initial Agreed Monthly Budget, and the same shall be in form and substance acceptable to the Lender and the Monitor.
- (f) The Lender shall be satisfied that the Borrower has complied with and is continuing to comply in all material respects with all applicable laws, regulations and policies in relation to their business.
- (g) The Lender shall be satisfied that there are no liens, mortgages, charges, encumbrances, hypothecs, security interests, trusts or other interests of any kind or nature whatsoever ("**Liens**") ranking ahead of the Lender's Charge, except as provided for herein.
- (h) The Lender shall have received this Term Sheet and any other Loan Documents, duly executed by all the parties thereto.
- (i) All fees, expenses and other costs payable in accordance with this Term Sheet and any other Loan Documents shall have been paid to

the Lender, or shall be paid immediately upon funding.

- (j) The Lender shall be satisfied that no Material Adverse Change (defined below) in the financial condition, operation or prospects of the Borrower shall have occurred after the date of this Term Sheet.
- (k) The Lender shall have received evidence satisfactory to it, in its sole discretion, that the Borrower's Account has been opened by the Borrower.
- (l) No Default or Event of Default shall have occurred and be continuing.
- (m) The Business Preservation Plan shall be in form and substance satisfactory to the Lender.
- (n) The Court shall have issued the Business Preservation Plan Order, inter alia, approving this Term Sheet and the making of the loans as set out herein, providing that the Lender's Charge shall secure all obligations under this Term Sheet and approving the Borrower's Business Preservation Plan, such Business Preservation Plan Order to be in form and substance satisfactory to the Lender.
- (o) The motion for the Business Preservation Plan Order, in form and substance satisfactory to the Lender, shall have been served on such parties as are required by the Lender in its sole discretion at least five (5) business days prior to the hearing date of the motion for the issuance of the Business Preservation Plan Order.
- (p) The Business Preservation Plan Order shall not have been amended, restated or modified in any manner that is not acceptable to the Lender.
- (q) The Lender shall have received the initial Liquidation Value calculation and the same shall be in form and substance acceptable to the Lender, including in respect of format, assumptions used, applicable discounts applied, and such other factors and matters as may be required by the Lender at its sole discretion.
- (r) The DIP Order and the Business Preservation Order shall have been registered on title in respect of any real property of the Borrower and the Lender shall have received evidence of such registration that is satisfactory to the Lender at its sole discretion.

Initial Limitation on Advances:

Advances shall not exceed \$25,000,000 until all applicable appeal periods related to the Business Preservation Plan Order shall have expired and any appeal or motion for leave to appeal shall have been fully disposed of with no further right of appeal or leave to appeal.

Conditions Precedent to All Fundings:

Each of the following conditions precedent shall have been satisfied before the Lender is obligated to provide a funding under the Facility:

- (a) The Lender shall have received a written Draw Request.

- (b) No Default or Event of Default shall have occurred and be continuing.
- (c) The representations and warranties set out herein shall be true and correct on the date of the Advance.
- (d) The Loan Parties shall be in compliance with all terms of this Term Sheet, the DIP Order, the Business Preservation Plan Order and any other orders of the Court.

Collateral Coverage Covenant:

At all times, Liquidation Value (defined below) minus the amount of all claims secured by the Administration Charge Part 1, the D&O Charge and such other line items as are reflected in Schedule "C" must be equal to or greater than \$100,000,000 plus the amount of all outstanding Advances made pursuant to this Term Sheet and any interest, fees and expenses owing in respect of this Term Sheet.

Optional Prepayment:

The Borrower may prepay any amounts outstanding under the Facility at any time prior to the Maturity Date, provided that any prepayment shall be of at least \$10,000,000 and shall only be made upon two (2) days prior written notice to the Lender. Amounts prepaid may not be redrawn.

Mandatory Prepayment:

Unless otherwise consented to in writing by the Lender, the Borrower shall make the following mandatory prepayments of the Loan Amount at the time of receipt of the net cash proceeds of any of the following, in an amount equal to 100% of the net cash proceeds: (i) upon receipt of net cash proceeds from the issuance by any of the Loan Parties of any indebtedness other than (a) trade payables incurred in the ordinary course of business and (b) capital leases and purchase money security interests for equipment (and, for greater certainty, excluding inventory) incurred in the ordinary course of business up to an aggregate maximum amount of \$10,000,000 ((a) and (b) collectively "**Permitted Debt**", which, for greater certainty, shall not include any purchase money security interests for inventory); (ii) upon receipt of insurance proceeds or condemnation awards unless the Loan Parties reinvest such proceeds in similar assets prior to the earlier of the Maturity Date and 90 days from the receipt of such proceeds; (iii) upon receipt of net proceeds of the sale, transfer, lease or other disposition of any of the Loan Parties' property, assets or undertakings outside the ordinary course of business (including any liquidation of inventory or other working capital) where such net proceeds of sale exceed \$25,000 in the aggregate; (v) after the occurrence of a Default or an Event of Default, if at any time the Borrower shall have a cash balance in excess of \$30,000,000 for any reason, including net proceeds of the sale, transfer, lease or other disposition of any of the Loan Parties' property, assets or undertakings (including inventory sales or other working capital realizations in the ordinary course of business), the Borrower shall pay all cash in excess of \$30,000,000 to the Lender until all amounts owing in respect of this Term Sheet or any other Loan Documents are paid in full; and (v) upon receipt of any income tax refunds. A prepayment pursuant to (i) to (v) above shall result in a permanent reduction of the Loan Amount.

Representations and Warranties:

The Borrower represents and warrants to the Lender, upon which the Lender relies in entering into this Term Sheet, that:

- (a) Subject to the granting of the DIP Order and the Business Preservation Plan Order, the transactions contemplated by this Term Sheet (i) are within the powers of the Borrower and the other Loan Parties, (ii) have been duly authorized by all necessary corporate and, if required, shareholder approval; (iii) constitute legal, valid and binding obligations of the Borrower and the other Loan Parties; and (iv) do not require the consent or approval of, or any other action by, any governmental authority.
- (b) This Term Sheet has been duly executed and delivered by or on behalf of the Borrower and the other Loan Parties.
- (c) The business operations of the Borrower and the other Loan Parties have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which business has been or is being carried on.
- (d) The Borrower and the other Loan Parties have obtained all material licenses and permits required for the operation of their businesses, which licenses and permits remain in full force and effect. No proceedings have been commenced or threatened to revoke or amend any of such licenses or permits.
- (e) The Borrower and the other Loan Parties have complied with their obligations for payroll, source deductions, current normal cost pension liabilities, and sales taxes, and is not in arrears in respect of these obligations.
- (f) All factual information provided by or on behalf of the Borrower and the other Loan Parties to the Lender for the purposes of or in connection with this Term Sheet or any transaction contemplated herein is true and accurate in all material respects on the date as of which such information is dated or certified.

Affirmative Covenants:

The Borrower and the other Loan Parties covenant and agree to do the following:

- (a) Pay when due all principal, interest, fees, expenses or other amounts payable by the Borrower or the other Loan Parties under this Term Sheet and the Loan Documents on the dates and in the amounts and manner as set forth herein or therein.
- (b) Allow the Lender or its agents and advisors on reasonable notice during regular business hours to enter on and inspect each of its assets and properties, and provide the Lender and its agents or advisors on reasonable notice and during normal business hours full access to the books and records of the Borrower and cause management thereof to fully co-operate with the Lender, its agents and advisors accordingly.

- (c) Keep the Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower, including in respect of each of the sales processes being conducted by the CCAA Debtors in the CCAA Proceedings.
- (d) Provide the Lender with (i) no less than five (5) days' notice of any motion, application or other filing to be brought or made by the Borrower or any other Loan Party in the CCAA Proceedings or, where it is not practically possible to do so, as much notice as is possible prior to any such filing; (ii) notice immediately after learning of any motion, application or other filing to be brought or made by any other person in the CCAA Proceedings or otherwise; and (iii) drafts of any materials (including draft orders) to be served by the Borrower or any other Loan Party at least five (5) days prior to any such service to give the Lender a reasonable opportunity to review and comment on such draft materials before service of such materials or, where it is not practically possible to do so, as much opportunity in the circumstances.
- (e) Seek the Lender's approval of any order in the CCAA Proceedings that affects this Term Sheet, the Facility, or the Loan Documents and only seek to obtain such orders as are in form and substance satisfactory to the Lender, acting reasonably.
- (f) Deliver to the Lender the cash flow projections as set out herein, and such other reporting and other information from time to time reasonably requested by the Lender.
- (g) Conduct all activities and use all the proceeds of the Facility in a manner consistent with the restrictions set out herein and in accordance with the Agreed Budgets in all material respects to the extent reasonably practicable in the circumstances.
- (h) Comply with the provisions of the court orders made in connection with the CCAA (collectively, the "**Restructuring Court Orders**" and each a "**Restructuring Court Order**").
- (i) Preserve, renew and keep in full force its corporate existence and its material licenses, permits, and approvals required in respect of its business, properties, assets or any activities or operations carried out therein.
- (j) Maintain the insurance, in existence on the date hereof, with respect to the collateral subject to the Lender's Charge.
- (k) Cause the Lender to be listed as the loss payee on all property and casualty insurance policies of the Loan Parties on or before July 29, 2015 and provide copies of such insurance policies so endorsed;
- (l) Forthwith notify the Lender of the occurrence of any Event of Default, or of any event or circumstance that may, with the passage of time, constitute an Event of Default (a "**Default**").

- (m) Subject to the Restructuring Court Orders, comply in all material respects with all applicable laws, rules and regulations applicable to their businesses, including, without limitation, environmental laws.
- (n) Provide the Reporting (defined below) in the form and at the times required by this Term Sheet.
- (o) Provide the Lender with copies of all bids received by the Phase 2 Bid Deadline, whether or not such bid is a Qualified Bids (each as defined in the Sale and Restructuring/Recapitalization Process Order dated April 2, 2015), and all other relevant documents within two (2) business days of receipt of the same and provide the Lender with timely updates regarding developments in any sales processes being conducted by the Borrower.
- (p) Receive and hold in trust, segregated from all other funds of the Loan Parties, for the benefit of the Lender, any and all tax refunds which are expected to be received from the Canada Revenue Agency, or any provincial tax authority, by the Borrower (or any Loan Party) (the "**Tax Refunds**"), and immediately upon receipt of any such Tax Refund, turn it over to the Lender to be applied as a mandatory prepayment in accordance with this term sheet.
- (q) Comply in all material respects with the Business Preservation Plan.
- (r) Comply with the Collateral Coverage Covenant.
- (s) Maintain a minimum cash balance of \$15,000,000 (the "**Minimum Cash Balance**")
- (t) Meet each of the Milestones.

Negative Covenants:

The Borrower covenants and agrees, and covenants and agrees to cause the Loan Parties and its other affiliates and subsidiaries, not to do the following, other than with the prior written consent of the Lender:

- (a) Transfer, lease or otherwise dispose of all or any part of its property, assets or undertaking out of the ordinary course of business and in any case proceeds of such transfer, lease or disposition shall be subject to the provisions herein under the paragraph entitled "Mandatory Prepayment" to the extent applicable; provided that such disposition or transfer shall be permitted if the Facility and all other amounts due hereunder are repaid in full upon such disposition or transfer from the proceeds thereof.
- (b) Repudiate or terminate any material contract without the prior written consent of the Lender which would reasonably be expected to result in a Material Adverse Change in the financial condition, operation or prospects of the Borrower.

- (c) Make any payment (i) in respect of existing (pre-filing) debt or obligation, or (ii) out of the ordinary course of business, in each case other than as set out in the Agreed Budgets or as may otherwise be permitted by a Restructuring Court Order and is consented to in writing by the Lender.
- (d) Create or permit indebtedness other than existing (pre-filing) debt, this Facility and Permitted Debt.
- (e) Create any new Liens or permit any Liens to exist on any of its properties or assets other than the Lender's Charge, the Administration Charge Part 1, the Administration Charge (Part 2) (as defined in the Initial Order), the D&O Charge, the Permitted Priority Liens, and purchase money security interests in equipment perfected prior to the date of the Initial Order.
- (f) Carry out any changes to the composition (including the addition, removal or replacement of any directors or officers) of the Board of Directors or the other officers, including the Chief Restructuring Officer, of the Borrower or any of the other Loan Parties.
- (g) Permit or become subject to any Court order changing the scope of authority of the Chief Restructuring Officer.
- (h) Increase any termination or severance entitlement or pay any termination or severance pay whatsoever.
- (i) Make any payments by way of any key employee retention program, except those under the KERP in existence as of the date hereof.
- (j) Increase compensation or pay any bonuses, other than pursuant to (i) the Borrower's short term incentive plan ("**STIP**"), consistent with past practices, (ii) the Borrower's long term incentive plan ("**LTIP**"), consistent with past practices, or (iii) any other arrangements or agreements governing the payment of compensation or bonuses (such as retention/bonus letters, increases to vacation entitlements or RRSP contribution matchings) consistent with past practices to directors, senior officers and management.
- (k) Change its name, amalgamate, consolidate with or merge into, or enter into any similar transaction with any other entity.
- (l) Seek an order sanctioning any plan of compromise or arrangement or approving any other restructuring transaction or sale that (i) purports to affect the rights of the Lender under this Term Sheet or the other Loan Documents or (ii) does not provide for the indefeasible payment in full in cash of the obligations outstanding in respect of the Facility, this Term Sheet or the other Loan Documents or (iii) is not consistent with or contravenes any provision of this Term Sheet or the other Loan

Documents.

- (m) Make a public announcement in respect of, enter into any agreement or letter of intent with respect to, attempt to consummate or support any third party's attempt to consummate any material transaction or material agreement outside the ordinary course of business unless such transaction satisfies, in full, all of the obligations hereunder and all of the obligations that have priority over the Lender's Charge.

Additional Financial and Other Reporting:

On or before 5:00 p.m. on the Wednesday of each week for the week ending the immediately preceding Friday, each of the Loan Parties shall deliver to the Lender the following reporting (the "**Weekly Reporting**"):

- (a) A statement of receipts and disbursements for each week including a variance analysis from the Agreed Weekly Budget for all variance (favourable or unfavourable) of greater than 10% for any one line item (on a weekly and cumulative basis);
- (b) A statement of billed accounts receivable, accrued work in process, accounts payable and statutory priority claims;
- (c) A calculation of the liquidation value of the Borrower's accounts receivable and inventory provided in the form attached hereto as Schedule "C", using the recovery assumptions (including taking into account all costs associated with such liquidation, including, inter alia, professional fees, restructuring costs and holding costs) as are set out therein and prepared in consultation with the Monitor (the "**Liquidation Value**"); and
- (d) Such other information as the Lender may reasonably require.

Each of the Loan Parties shall deliver the following reporting to the Lender ("**Additional Reporting**"):

- (e) Within 30 days of the end of each fiscal month, monthly interim financial statements (which shall include balance sheet and income statements compared against the previous year for such month and year to date);
- (f) Within 90 days of the end of their fiscal year, annual accountant prepared financial statements signed by an authorized officer of the applicable Loan Party; and
- (g) Such other information as the Lender may reasonably require.

The Weekly Reporting and the Additional Reporting are referred to as the "**Reporting**".

Indemnity:

The Borrower agrees to indemnify and hold harmless the Lender and each of its directors, officers, employees, agents, attorneys, advisors and affiliates (all such persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever which may be incurred by or asserted against or involve any Indemnified Person as a result of the Original Term Sheet, this Term Sheet or any other Loan Documents and, upon demand, to pay and reimburse any Indemnified Person for any legal or other out-of-pocket expenses incurred in connection with, investigating, defending or preparing to defend any such action, suit, proceeding or claim.

The indemnities granted under this Term Sheet shall survive any termination of the Facility.

Events of Default:

The occurrence of any one or more of the following events shall constitute an event of default ("**Event of Default**"):

- (a) The issuance of an order dismissing the CCAA Proceedings or lifting the stay in the CCAA Proceedings to permit the enforcement of any security against the Borrower, or the appointment of a receiver and manager, receiver, interim receiver or similar official or the making of a bankruptcy order against the Borrower or any other Loan Party.
- (b) The issuance of an order granting a Lien having priority over the Lender's Charge, other than the Administration Charge Part 1, the D&O Charge and the Permitted Priority Liens.
- (c) The issuance of an order adversely impacting the rights and interests of the Lender, without the prior written consent of the Lender, including any order that relieves the Borrower or any of the other Loan Parties from compliance with the terms of this Term Sheet or the Loan Documents or any order that amends or vacates any material provision of the DIP Order or the Business Preservation Plan Order.
- (d) Failure of the Borrower or any of the other Loan Parties to pay any amounts when due and owing hereunder or under the Loan Documents, or to comply with this Term Sheet and the Loan Documents including for greater certainty, failure to comply with any Affirmative Covenant or Negative Covenant set out herein.
- (e) The Borrower or any of the other Loan Parties ceases or threatens to cease to carry on business in the ordinary course as it is carried on as of the date hereof (including ceasing or threatening to cease carrying on business in the ordinary course at its facility in Hamilton, Ontario or at its facility in Nanticoke, Ontario), except where such cessation is consented to in writing by the Lender.
- (f) An Updated Weekly Budget or an Updated Monthly Budget contemplates or forecasts an adverse change or changes from the then existing Agreed Budgets and such change(s) constitute a Material Adverse Change (an "**Updated Budget Default**") or is not

delivered to the Lender within two (2) business days of the requisite timeframe for delivery set out herein. Without limiting the foregoing, an Updated Budget Default shall occur if an Updated Weekly Budget or an Updated Monthly Budget forecasts that borrowings under the Facility will exceed the Loan Amount.

- (g) Any representation or warranty by the Borrower or any of the other Loan Parties herein or in any Loan Documents shall be incorrect or misleading in any material respect when made.
- (h) Any change in the business, assets, or conditions, financial or otherwise, of the Borrower or any of the other Loan Parties, or any adverse development in the CCAA Proceedings, in each case that will in the Lender's judgment, acting reasonably, materially impair the Borrower's or any of the other Loan Parties' financial condition, operations or ability to comply with its obligations under this Term Sheet, any Loan Documents, or any Restructuring Court Order (a "**Material Adverse Change**").
- (i) Any material violation or breach of any Restructuring Court Order by any of the Loan Parties.
- (j) Failure of the Borrower or any of the other Loan Parties to perform or comply with any term or covenant of this Term Sheet or any other Loan Documents.
- (k) Borrowings under the Facility exceed the Loan Amount at any time without the prior written consent of the Lender.
- (l) Revocation or cancellation by the counterparty of any contract to which the Borrower or any of the Loan Parties is a party which has or would reasonably be expected to result in a Material Adverse Change.
- (m) Any change to the composition of the Board of Directors or officers of the Borrower or any of the other Loan Parties that is not acceptable to the Lender.
- (n) The removal, termination, replacement or material change in the scope or extent of the authority of the CRO.
- (o) Any proceeding, motion or application is commenced or filed by the Borrower or any of the other Loan Parties, or if commenced by another party, is not diligently opposed by the Borrower and the other Loan Parties, seeking the invalidation, subordination or other challenging of the terms of the Facility, the Lender's Charge, this Term Sheet, or any of the other Loan Documents.
- (p) Any plan of compromise or arrangement is sanctioned or any other restructuring transaction or sale is consummated by any of the Loan Parties that (i) purports to affect the rights of the Lender under this Term Sheet or the other Loan Documents or (ii) does not provide for the indefeasible payment in full in cash of the obligations outstanding in respect of the Facility, this Term Sheet

or the other Loan Documents or (iii) is not consistent with or contravenes any provision of this Term Sheet or the other Loan Documents, in each case unless the Lender has consented thereto in writing.

- (q) If either of the United Steel Workers Local 1005 or Local 8782 (each a “**Union**” and together the “**Unions**”) takes any step or initiates any proceedings intended to or which could otherwise obtain for that Union a lawful entitlement to strike (including any step seeking the appointment of a conciliation officer under section 18(1) of the Labour Relations Act (Ontario)) or if any event occurs which may provide a Union with a lawful entitlement to strike (including if the Ontario Minister of Labour appoints a conciliation officer in respect of or in any way related to any of the Loan Parties or if a Union requests a “No Board” report be issued by the Ministry of Labour (that is, a report informing the Union and such Loan Party that the Minister of Labour does not consider it advisable to appoint a conciliation board)) unless, prior to the Union obtaining a lawful entitlement to strike as a result of any of the foregoing (together with any other steps or events necessary to be in lawful position to strike), the applicable Loan Party obtains a Court order staying the Union’s entitlement to strike or staying any further step that would be required to occur before the Union is in a lawful position to strike.
- (r) If any lawful or unlawful strike, work stoppage, work slowdown or any other form of labour disruption occurs involving any employees of the Loan Parties.
- (s) Any of the Loan Parties are required by any governmental entity to make expenditures or pay damages, fines, claims, cost or expenses in the aggregate in excess of \$5,000,000 at any time on a consolidated basis to remediate or in respect of any environmental liabilities, which shall include any liability, obligation, response, remedial or removal cost, investigation, feasibility study cost, capital cost or other cost and expense, including any fine, penalty, sanction or interest incurred as a result of or related to any claim, investigation, proceeding or demand by any governmental authority against any Loan Party, including arising under or related to any law relating to the environment or in connection with any substance which is or is deemed under any applicable law to be, alone or in combination, hazardous, hazardous waste, toxic, a pollutant, a contaminant or source of pollution or contamination whether in, at, on, under, from or about or in the vicinity of any real or personal property owned by any of the Loan Parties.
- (t) The delivery of any rolling 13-week period detailed budget purporting to be the Updated Weekly Budget or any 12-month period detailed budget purporting to be the Updated Monthly Budget that is not acceptable to the Lender, acting reasonably, unless remedied in two (2) business days.
- (u) Failure to deliver the Reporting within three (3) business days of the date such Reporting is due under this Term Sheet.

- (v) The existence of an adverse variance of actual cash flows from the Initial Agreed Weekly Budget or the Initial Agreed Monthly Budget by an amount exceeding \$50,000,000 measured on a cumulative basis from, but not including, the date hereof.
- (w) Any material deviation from the Business Preservation Plan.
- (x) The termination or breach of any Intercompany Transactions by U.S. Steel Inc. unless (a) such termination or breach is contemplated by the Business Preservation Plan or (b) such termination or breach has a de minimis impact on the Borrower's financial condition, operations, or ability to comply with this Term Sheet, the Business Preservation Plan or any Restructuring Court Orders.
- (y) If at any time the Borrower has a cash balance less than the Minimum Cash Balance.
- (z) If at any time the Borrower breaches the Collateral Coverage Covenant.
- (aa) If the Borrower fails to meet any of the Milestones.

Remedies:

Upon the occurrence of an Event of Default, and subject to the Restructuring Court Orders and such cure periods as may be granted by the Loan Documents, the Lender may take any or all of the following steps:

- (a) Declare the obligations in respect of the Loan Documents to be immediately due and payable and cease making any further advances under the Facility.
- (b) Apply to a court for the appointment of a receiver, an interim receiver or a receiver and manager of the undertaking, property and assets of the Borrower or any of the other Loan Parties, or for the appointment of a trustee in bankruptcy of the Borrower or any of the other Loan Parties.
- (c) Apply to the court for an order, on terms satisfactory to the Monitor and the Lender, providing the Monitor with the power, in the name of and on behalf of the Borrower or any other CCAA Debtor, to take all necessary steps in the CCAA Proceedings.
- (d) Exercise the powers and rights of a secured party under the *Personal Property Security Act* (Ontario) or any legislation of similar effect.
- (e) Exercise all such other rights and remedies under the Loan Documents, the Restructuring Court Orders and applicable law

Taxes:

All payments by the Borrower or any other Loan Party hereunder or under any other Loan Documents shall be made free and clear of and without reduction for or on account of any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature

whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or political subdivision of a country (collectively, "**Taxes**"); provided, however, that if any Taxes are required by applicable law to be withheld ("**Withholding Taxes**") from any amount payable to the Lender, the amounts so payable to the Lender shall be increased to the extent necessary to yield to the Lender on a net basis after the payment of all Withholding Taxes the amount payable under this Term Sheet or the other Loan Documents at the rate provided herein or therein and the Borrower and the other Loan Parties shall provide evidence satisfactory to the Lender that the applicable Taxes have been withheld and remitted.

Further Assurances:

The Borrower shall and shall cause all of the other Loan Parties, at the Borrower's expense, from time to time to, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents (including, without limitation, certificates, declarations, affidavits, reports and opinions) and things as the Lender may reasonably request for the purpose of giving effect to this Term Sheet.

**Entire Agreement;
Conflict:**

This Term Sheet currently constitutes the entire agreement between the parties relating to the subject matter hereof and is binding on the parties in accordance with its terms. To the extent that there is any inconsistency between this Term Sheet and any of the other Loan Documents once executed, this Term Sheet shall govern unless such Loan Document specifically states otherwise.

**Amendments and
Waivers:**

No waiver or delay on the part of the Lender in exercising any right or privilege hereunder or under any other Loan Document will operate a waiver hereof and thereof unless made in writing.

Assignment:

The Lender may assign this Term Sheet and its rights and obligations hereunder, in whole or in part, to any party, subject to (i) providing the Monitor with reasonable evidence that such assignee has the financial capacity to fulfill the obligations of the Lender hereunder, and (ii) the consent of the Borrower, unless either (A) an Event of Default has occurred and is continuing or (B) the assignee is an affiliate of the Lender or a fund managed by the Lender. Neither this Term Sheet nor any right and obligation hereunder may be assigned by the Borrower.

**Counterparts and
Facsimile Signatures:**

This Term Sheet may be executed in any number of counterparts and by facsimile or other electronic transmission.

Confidentiality:

The Borrower and the other Loan Parties shall not disclose the existence nor the terms of this Term Sheet without the prior written consent of the Lender.

**Governing Law and
Jurisdiction:**

This Term Sheet shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

Expiry:

This offer to finance shall expire at 5:00 p.m. Eastern Standard Time on November 5, 2015 unless this Term Sheet is executed by the Borrower and the Guarantors and delivered to the Lender by that time.

[Remainder of page intentionally blank]

BROOKFIELD CAPITAL PARTNERS LTD.

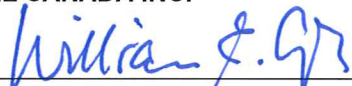
Per: _____

Name: David Nowak

Title: Authorized Signatory

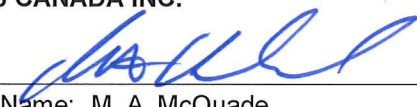
Agreed to this 5 day of November, 2015:

U.S. STEEL CANADA INC.

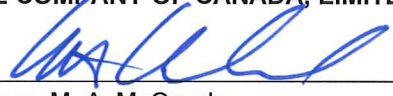
Per: 
Name: William E. Aziz
Title: Authorized Signatory

As Guarantors:

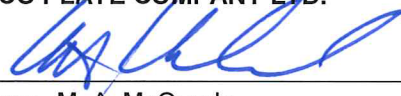
4347226 CANADA INC.

Per: 
Name: M. A. McQuade
Title: Authorized Signatory

THE STEEL COMPANY OF CANADA, LIMITED

Per: 
Name: M. A. McQuade
Title: Authorized Signatory

THE STELCO PLATE COMPANY LTD.

Per: 
Name: M. A. McQuade
Title: Authorized Signatory

TAB E

**AMENDING AND EXTENSION AGREEMENT TO AMENDED AND RESTATED
INTERIM FINANCING TERM SHEET**

THIS AMENDING AND EXTENSION AGREEMENT is made as of the 25th day of January, 2016 (the "Amending and Extension Agreement")

AMONG:

This is Exhibit..... "E"referred to in the
affidavit of..... William E. Aziz
sworn before me, this..... 11th
day of..... August 2016

U.S. Steel Canada Inc. (the "Borrower"),
-and-
4347226 Canada Inc.,
The Steel Company of Canada, Limited, and
The Stelco Plate Company Ltd. (collectively, the "Guarantors"),
-and-
Brookfield Capital Partners Ltd. (the "Lender")

A COMMISSIONER FOR TAKING AFFIDAVITS

WHEREAS the Borrower, the Guarantors and the Lender are party to that certain Amended and Restated Interim Financing Term Sheet dated as of November 4, 2015 (the "DIP Agreement");

AND WHEREAS the Borrower has requested, and the Lender is prepared to agree to extend the Maturity Date of the DIP Agreement pursuant to the First Extension Option in consideration of (i) the payment of an extension fee equal to 2% of the Loan Amount and (ii) the amendments to the DIP Agreement more fully set out herein;

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

Article 1 - INTERPRETATION

- 1.1 All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the DIP Agreement.

Article 2 - AMENDMENTS

- 2.1 The section of the DIP Agreement entitled "Agreed Budgets" shall be amended by deleting the words "Every four weeks" at the beginning of the fourth full paragraph in that section and replacing those words with "On or before 5:00 p.m. on the Wednesday of each week (unless waived or extended by the Lender in writing at the request of the Borrower)".
- 2.2 The text in Paragraph (b), (c) and (d) of the section of the DIP Agreement entitled "Milestones" is deleted in its entirety and replaced with:
- "(b) A new sales and recapitalization process ("New SARP") shall have been developed by the Borrower, which shall be in form and substance satisfactory to the Lender and shall be approved by the Court by January 12, 2016;
 - (c) Non-binding letters of intent or non-binding bids in respect of the New SARP shall have been received by no later than March 15, 2016;

- (d) Binding offers in respect of the New SARP shall have been received by no later than May 31, 2016; and
 - (e) Notwithstanding any other provision of this Term Sheet, the Maturity Date shall occur automatically upon Court approval of a plan, proposal or agreement authorizing the Borrower or any third party to liquidate or otherwise dispose of any material portion of the Borrower's assets where no going concern outcome is contemplated (a "**Liquidation**") and, at the option of the Lender, the Maturity Date shall occur immediately upon acceptance by the Borrower of a Liquidation proposal, arrangement or agreement in respect of the Borrower or its assets or the announcement by the Borrower of any intention to seek approval of or to commence a Liquidation. "
- 2.3 The section of the DIP Agreement entitled "Affirmative Covenants" shall be amended by adding the following as new paragraph (o.1) after paragraph (o) of that section:
- "(o.1) Provide the Lender with copies of all bids, LOIs and binding offers received in respect of the New SARP, whether or not such bids are Qualified LOIs or Qualified Bids (each as defined in the Sale and Investment Solicitation Process approved by the Court on January 12, 2016), and all other relevant documents within two (2) business days of receipt of the same and provide the Lender with timely updates regarding developments in any sale process being conducted by the Borrower."
- 2.4 The section of the DIP Agreement entitled "Events of Default" shall be amended by deleting paragraph (v) in its entirety and replacing it with the new paragraph (v) set out below and by adding the following as new paragraphs (bb) and (cc) after paragraph (aa) of that section:
- "(v) The existence of an adverse variance of actual cash flows from the Agreed Weekly Budget in effect for the week ended immediately prior to the date on which the first DIP Advance has been made, by an amount exceeding \$40,000,000, measured on a cumulative basis from, but not including, the date thereof.
- (bb) The Court of Appeal of Ontario issues an order varying, amending or reversing any portion of the Business Preservation Plan Order or orders a new hearing in respect of any aspect of the Business Preservation Plan Order.
- (cc) The lifting of the stay to make a bankruptcy or receivership order or to permit the hearing of any bankruptcy petition or receivership application in respect of the Borrower, even if such order, petition or application is stayed, provided however that the lifting of the stay to permit the filing of a bankruptcy petition or receivership application in respect of the Borrower shall not be an Event of Default."
- 2.5 The section of the DIP Agreement entitled "Additional Financial and Other Reporting" shall be amended by deleting the word "and" at the end of paragraph (c), deleting the "." at the end of paragraph (d) and adding the following as new paragraph (e) and (f) after paragraph (d) of that section:
- "(e) A detailed report in respect of all transactions between United States Steel Corporation and the Borrower in relation to the Transition Arrangements approved by the Court pursuant to the Transition Arrangements Approval Order of October 9, 2014; and
- (f) the Updated Weekly Budget."

Article 3 - CONDITIONS TO EFFECTIVENESS

- 3.1 The extension of the Maturity Date and the amendments set out in Article 2 of this Amending and Extension Agreement shall become effective upon satisfaction of the following conditions precedent:
- (a) Each of the Loan Parties shall have delivered to the Lender an executed copy of this Amending and Extension Agreement;
 - (b) The Borrower shall have paid an extension fee equal to 2% of the Loan Amount by wire transfer of immediately available funds to the account specified by the Lender; and
 - (c) The Court shall have issued an order approving this Amending and Extension Agreement.

Article 4 - MISCELLANEOUS

- 4.1 The Borrower shall pay all costs incurred by the Lender in preparing this Amending and Extension Agreement.
- 4.2 The execution, delivery and performance of this Amending and Extension Agreement shall not, except as expressly provided for herein, constitute an amendment of any provision of, or operate as an amendment of any right, power or remedy of the Lender under the DIP Agreement or any other Loan Documents.
- 4.3 On and after this date, each reference in the DIP Agreement to "this Term Sheet" or similar references in the Loan Documents and any and all other agreements, documents and instruments delivered by the Borrower or a Guarantor or any other Person shall mean and be a reference to the DIP Agreement as amended by this Amending and Extension Agreement. Except as specifically amended by this Amending and Extension Agreement, the DIP Agreement shall remain in full force and effect and is hereby ratified and confirmed.
- 4.4 This Amending and Extension Agreement shall be interpreted and the rights and liabilities of the parties hereto shall be determined in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 4.5 Save as expressly amended by this Amending and Extension Agreement, all other terms and conditions of the DIP Agreement remain in full force and effect.
- 4.6 This Amending and Extension Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures provided by electronic transmission or facsimile shall be valid and binding.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Amending and Extension Agreement to be executed by their duly authorized representatives as of the date first written above.

U.S. STEEL CANADA INC.

By: _____



Name: William E. Aziz

Title: Chief Restructuring Officer

4347226 CANADA INC.

By: _____

Name:

Title:

THE STEEL COMPANY OF CANADA, LIMITED

By: _____

Name:

Title:

THE STELCO PLATE COMPANY LTD.

By: _____

Name:

Title:

BROOKFIELD CAPITAL PARTNERS LTD.

By: _____

Name:

Title:

IN WITNESS WHEREOF, the parties hereto have caused this Amending and Extension Agreement to be executed by their duly authorized representatives as of the date first written above.

U.S. STEEL CANADA INC.

By: _____
Name: William E. Aziz
Title: Chief Restructuring Officer

4347226 CANADA INC.

By:  _____
Name: Michael A. McQuade
Title: Authorized Signatory

THE STEEL COMPANY OF CANADA, LIMITED

By:  _____
Name: Michael A. McQuade
Title: Authorized Signatory

THE STELCO PLATE COMPANY LTD.

By:  _____
Name: Michael A. McQuade
Title: Authorized Signatory

BROOKFIELD CAPITAL PARTNERS LTD.

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Amending and Extension Agreement to be executed by their duly authorized representatives as of the date first written above.

U.S. STEEL CANADA INC.

By: _____
Name: William E. Aziz
Title: Chief Restructuring Officer

4347226 CANADA INC.

By: _____
Name: Michael A. McQuade
Title: Authorized Signatory

THE STEEL COMPANY OF CANADA, LIMITED

By: _____
Name: Michael A. McQuade
Title: Authorized Signatory

THE STELCO PLATE COMPANY LTD.

By: _____
Name: Michael A. McQuade
Title: Authorized Signatory

BROOKFIELD CAPITAL PARTNERS LTD.

By: _____
Name: David Nowak
Title: Authorized Signatory

TAB F

**SECOND AMENDING AND EXTENSION AGREEMENT TO
AMENDED AND RESTATED INTERIM FINANCING TERM SHEET**

THIS SECOND AMENDING AND EXTENSION AGREEMENT is made as of the 15th day of July, 2016 (the "Second Amending and Extension Agreement")

AMONG:

This is Exhibit....."F".....referred to in the

U.S. Steel Canada Inc. (the "Borrower"), affidavit of.....William E. Aziz.....

-and- sworn before me, this.....11th.....

4347226 Canada Inc., day of.....August.....2016..

The Steel Company of Canada, Limited, and
The Stelco Plate Company Ltd. (collectively, the "Guarantors"),

A COMMISSIONER FOR TAKING AFFIDAVITS

-and-

Brookfield Capital Partners Ltd. (the "Lender")

WHEREAS the Borrower, the Guarantors and the Lender are party to that certain Amended and Restated Interim Financing Term Sheet dated as of November 4, 2015 as amended by the Amending and Extension Agreement to Amended and Restated Term Sheet dated as of the 25th day of January, 2016 (the "DIP Agreement");

AND WHEREAS the Borrower has requested, and the Lender is prepared to agree to extend the Maturity Date of the DIP Agreement pursuant to the Second Extension Option in consideration of (i) the payment of an extension fee equal to 2% of \$30,000,000, being the amended Loan Amount pursuant to the terms hereof and (ii) the amendments to the DIP Agreement more fully set out herein;

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

Article 1 - INTERPRETATION

- 1.1 All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the DIP Agreement.

Article 2 - AMENDMENTS

- 2.1 The section of the DIP Agreement entitled "Committed Amount and Facility Structure" shall be amended by deleting the amount "\$75,000,000" in the first sentence of that section and replacing that amount with "\$30,000,000". For greater certainty, from and after the date hereof, the Loan Amount under the Facility made available pursuant to the DIP Agreement shall be reduced to \$30,000,000 and no further amounts shall be available to the Borrower in respect of the Facility.
- 2.2 The section of the DIP Agreement entitled "Milestones" shall be amended by deleting the word "and" at the end of Paragraph (d), adding the word "and" at the end of Paragraph (e) and adding the below text following Paragraph (e):
- (f) The Borrower shall have selected, from the bids submitted pursuant to the New SARP (as amended by the Court) at least one successful bid for the assets or business of the Borrower and have signed an agreement with respect to such bid that is in form and

substance satisfactory to the Lender (the "**Successful Bid**") on or before November 1, 2016;

Article 3 - CONDITIONS TO EFFECTIVENESS

- 3.1 The extension of the Maturity Date and the amendments set out in Article 2 of this Second Amending and Extension Agreement shall become effective upon satisfaction of the following conditions precedent:
- (a) Each of the Loan Parties shall have delivered to the Lender an executed copy of this Second Amending and Extension Agreement;
 - (b) The Borrower shall have paid an extension fee equal to 2% of \$30,000,000, being the amended Loan Amount by wire transfer of immediately available funds to the account specified by the Lender; and
 - (c) The Court shall have issued an order approving this Second Amending and Extension Agreement.

Article 4 - MISCELLANEOUS

- 4.1 The Borrower shall pay all costs incurred by the Lender in preparing this Second Amending and Extension Agreement.
- 4.2 The execution, delivery and performance of this Second Amending and Extension Agreement shall not, except as expressly provided for herein, constitute an amendment of any provision of, or operate as an amendment of any right, power or remedy of the Lender under the DIP Agreement or any other Loan Documents.
- 4.3 On and after this date, each reference in the DIP Agreement to "this Term Sheet" or similar references in the Loan Documents and any and all other agreements, documents and instruments delivered by the Borrower or a Guarantor or any other Person shall mean and be a reference to the DIP Agreement as amended by this Second Amending and Extension Agreement. Except as specifically amended by this Second Amending and Extension Agreement, the DIP Agreement shall remain in full force and effect and is hereby ratified and confirmed.
- 4.4 This Second Amending and Extension Agreement shall be interpreted and the rights and liabilities of the parties hereto shall be determined in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 4.5 Save as expressly amended by this Second Amending and Extension Agreement, all other terms and conditions of the DIP Agreement remain in full force and effect.
- 4.6 This Second Amending and Extension Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures provided by electronic transmission or facsimile shall be valid and binding.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Second Amending and Extension Agreement to be executed by their duly authorized representatives as of the date first written above.

U.S. STEEL CANADA INC.

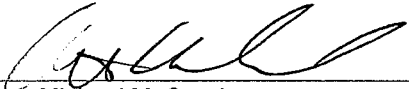
By:

A handwritten signature in black ink that reads "William E. Aziz". The signature is written in a cursive style with a large, stylized initial "W".


Name: William E. Aziz

Title: Chief Restructuring Officer

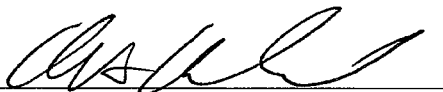
4347226 CANADA INC.

By: 
Name: Michael McQuade
Title: Authorized Signatory


THE STEEL COMPANY OF CANADA, LIMITED

By: 
Name: Michael McQuade
Title: Authorized Signatory

THE STELCO PLATE COMPANY LTD.

By: 
Name: Michael McQuade
Title: Authorized Signatory

BROOKFIELD CAPITAL PARTNERS LTD.

By:  _____
Name: David Nowak
Title: Authorized Signatory

TAB G

This is Exhibit..... "G"..... referred to in the
affidavit of..... William F. Aziz.....
sworn before me, this..... 11th.....
day of..... August..... 20 16

.....
The Ontario Health Insurance Plan ("OHIP") provides basic medical and emergency services for all Ontario residents.

The Province of Ontario maintains a number of additional public programs that provide prescription drug coverage for Ontarians in addition to OHIP:

1. individuals over age 65 living in Ontario, are entitled to prescription drug coverage under the Ontario Drug Benefit ("ODB") Program. Generally, the ODB Program covers most of the cost of approximately 4,400 prescription medications listed on the ODB Formulary as well as some nutrition products and some diabetic testing agents. ODB has an annual \$100.00 deductible and a "co-payment" of \$6.11 for each time a prescription is filled. For low income seniors there is no deductible and the co-payment is \$2.00 for each time a prescription is filled.
2. individuals under age 65 living in Ontario, may be entitled to prescription drug coverage under the Trillium Program. Generally, the Trillium Program is available to Ontarians under age 65 who spend a large portion of their income on prescription medication that is not covered under private insurance. The Trillium Program provides coverage for drugs listed on the ODB Formulary less a deductible amount, which is approximately 4% of household combined net income for most people.

3. individuals living in Ontario may also be entitled to additional prescription drug coverage under:
 - (a) (the Exceptional Access Program, which covers drugs not covered by the ODB Program in certain circumstances;
 - (b) the Special Drugs Program, which provides coverage for certain serious diseases and conditions; or
 - (c) the New Drugs Funding Program for Cancer Care, which provides coverage for newer cancer drugs.

The Province of Ontario also maintains the Assistive Devices Program (“ADP”) which provides funding toward the cost of over 8,000 specialized pieces of equipment or supplies for those with long-term physical disabilities. ADP may cover part of the cost of prostheses, wheelchairs/mobility aids, monitors and test strips for insulin-dependent diabetics.

TAB H

This is Exhibit "H" referred to in the
affidavit of William E. Aziz
sworn before me, this 11th
day of August 2016.

Court File No. CV-14-10695-00CL

A COMMISSIONER FOR TAKING AFFIDAVITS

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.)

WEDNESDAY, THE 23RD

JUSTICE WILTON-SIEGEL)

DAY OF DECEMBER, 2015



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 WITH RESPECT TO
U. S. STEEL CANADA INC.
("USSC")

TRANSITION FUND ORDER

THIS MOTION, made by Ernst & Young Inc. in its capacity as the monitor of USSC (the "Monitor"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Seventeenth Report of the Monitor dated December 18, 2015 (the "Monitor's Seventeenth Report"), and on hearing the submissions of counsel for the Monitor, counsel for the United Steelworkers (the "USW"), counsel for the court-appointed representatives of all non-USW active and retiree beneficiaries of USSC ("Representative Counsel"), counsel for the Superintendent of Financial Services in his capacity as Administrator of the Pension Benefits Guarantee Fund and Her Majesty the Queen in right of Ontario as Represented by the Minister of Finance (the "Province"), and such other counsel as were present, no other person appearing although duly served as appears from the affidavit of service of Raj Sahni sworn December 18, 2015.

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. THIS COURT ORDERS that terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Monitor's Report and in the Transition Fund Memorandum. The following terms shall have the following meanings:

- (a) **"Green Shield"** means Green Shield Canada and its affiliates (including Green Shield Benefits Association).
- (b) **"OPEB Beneficiaries"** means any former salaried or unionized employee, a surviving spouse of a deceased former salaried or unionized employee, or any other Person, who was entitled to post-employment benefits under, and in accordance with the terms of, the Suspended USSC OPEB Plan immediately prior to the OPEB Claims Suspension Date.
- (c) **"OPEB Claims Suspension Date"** means October 9, 2015.
- (d) **"Suspended USSC OPEB Plan"** means the post-employment benefit plan maintained by USSC, payments under which were suspended by USSC after obtaining the authorization of this Court by Order dated October 9, 2015, including, without limiting the generality of the foregoing, coverage for prescription drugs, dental, other medical, hospital and vision benefits for eligible former salaried and unionized employees of USSC and their eligible spouses and dependents, which benefits were administered through Green Shield on an administrative service only basis, but, for greater certainty, excluding life insurance benefits for former salaried and unionized employees of USSC provided pursuant to a group insurance policy between USSC and Desjardins Financial Security Life Assurance Company under Policy number 530005.

- (e) **“Tranche 2 Application Form”** means the form to be used by OPEB Beneficiaries to apply for benefits under Tranche 2 of the Transition Fund, substantially in the form attached hereto as Schedule “B”.
- (f) **“Transition Fund”** means a fund established by the Province in the total amount of \$3 million to assist OPEB Beneficiaries in addressing critical health needs and to help them to transition to available programs, such as the Trillium Drug Program, after the OPEB Suspension Date.
- (g) **“Transition Fund Letter”** means the letter to OPEB Beneficiaries regarding the Transition Fund substantially in the form attached hereto as Schedule “C”.
- (h) **“Transition Fund Memorandum”** means the Transition Fund Memorandum substantially in the form attached hereto as Schedule “A”.

TRANSITION FUND

3. THIS COURT ORDERS that:

- (a) the Transition Fund Memorandum, the Tranche 2 Application Form and the Transition Fund Letter are hereby approved;
- (b) the operation and administration of the Transition Fund in accordance with the Transition Fund Memorandum is hereby approved;
- (c) the terms set forth on Appendix “A” and Appendix “B” of the Transition Fund Memorandum may be amended without further Order of the Court upon the written consent of the Province, the USW, Representative Counsel and the Monitor;
- (d) OPEB Beneficiaries who apply for funding from the Transition Fund shall be deemed to consent to the use by Green Shield and the Monitor of any personal and health information that is received by, provided to or maintained by the Monitor and/or Green Shield in connection with the Suspended USSC OPEB Plan or the Transition Fund, including for purposes of assessing any application for

benefits under the Transition Fund (including without limitation: (i) for assessing the applicant's eligibility and entitlement, and (ii) for deciding if payment will be made in respect of such application) and for administering any applicable benefits; and

- (e) the Monitor shall have no obligation to independently verify information contained in any application form or otherwise provided by any OPEB Beneficiary in connection with the Transition Fund.

ASSISTANCE OF THE MONITOR

4. THIS COURT ORDERS that the Monitor is hereby authorized and empowered to do the following in connection with the Transition Fund, as more particularly described in the Transition Fund Memorandum:

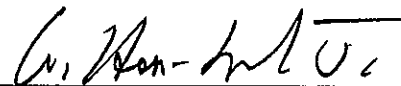
- (a) create a log of the claims/requests for coverage submitted by OPEB Beneficiaries to the Monitor under Tranche 2 of the Transition Fund;
- (b) verify that the Tranche 2 Application Form has been completed and signed, and determine whether the information provided in the Tranche 2 Application Form meets the Tranche 2 eligibility criteria set forth on Appendix "B" of the Transition Fund Memorandum (the "**Tranche 2 Eligibility Criteria**"), provided that the Monitor will not be required to inquire into, or to independently verify, such information;
- (c) forward all claims/requests for coverage that appear to meet the Tranche 2 Eligibility Criteria to Green Shield;
- (d) forward any reports prepared by Green Shield that have been provided to the Monitor regarding the administration of the Transition Fund to designated representatives of the USW and Representative Counsel (the "**Retiree Representatives**");

- (e) convene periodic meetings with the Province, the Retiree Representatives and, if agreed by the Province and the Retiree Representatives, Green Shield to discuss the administration of the Transition Fund;
- (f) report other information concerning the Transition Fund on the Monitor's Website (<http://www.ey.com/ca/ussc>) from time to time, as may be agreed by the Province, the Retiree Representatives and the Monitor; and
- (g) take such other steps or actions as the Monitor may deem necessary or desirable in connection with the Transition Fund.

5. THIS COURT ORDERS that the fees and expenses of the Monitor in carrying out the functions and actions contemplated by this Order shall be paid by USSC. The fees and expenses of Representative Counsel in carrying out the functions and actions contemplated by this Order shall be paid by USSC in accordance with the fee arrangements made between USSC and Representative Counsel and any revisions thereto.

6. THIS COURT ORDERS that the Monitor shall incur no liability or obligation as a result of carrying out the functions, steps and actions provided in paragraph 4 hereof, or otherwise acting pursuant to this Order. Nothing in this Order shall limit or derogate from the protections afforded the Monitor by previous Orders of this Court, the CCAA, or any applicable legislation.

7. THIS COURT ORDERS that the Monitor, the Province, the USW and the Representative Counsel may, at any time, and with such notice as the Court may require, seek advice and direction from the Court in respect of the Transition Fund, the Transition Fund Memorandum or this Order.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:



DEC 23 2015

SCHEDULE A

TRANSITION FUND MEMORANDUM

Background

U.S. Steel Canada Inc. (“USSC”) provided vision, dental, prescription drugs, hospital accommodation and other health services (referred to herein, with the exception of life insurance benefits, as “OPEBs”) to eligible retirees, and their eligible spouses and beneficiaries (“OPEB Beneficiaries”) on a self-insured “pay as you go” basis. OPEBs available to eligible retirees differed in some respects depending on whether the eligible retirees were unionized or salaried prior to retirement, and they differed among the unionized employees depending on the terms of the applicable collective agreements.

Retirees or service providers (e.g. dentists, pharmacies) submitted OPEB claims directly to Green Shield Canada (together with its affiliates, “Green Shield”). Green Shield adjudicated eligibility and then paid eligible benefits to retirees or reimbursed service providers, as applicable.

Benefit payments were governed by an “administrative services only” (“ASO”) agreement between Green Shield and USSC.

USSC filed for *Companies’ Creditors Arrangement Act* (“CCAA”) protection on September 16, 2014. The court-appointed monitor of USSC in the CCAA proceedings is Ernst & Young Inc. (in such capacity, the “Monitor”).

The payment of the OPEBs by USSC was suspended effective after October 9, 2015 pursuant to authorization received by USSC under a court order. As a result of the suspension of OPEBs and the impact on OPEB Beneficiaries, the Province of Ontario (the “Province”) announced that, to assist OPEB Beneficiaries in addressing critical health needs, and to help them transition to available programs such as the Trillium Drug Program, the Province is providing \$3 million for the establishment of a transition fund (the “Transition Fund”). The Transition Fund has the support of the United Steelworkers (the “USW”), counsel to the court-appointed representatives of the non-USW active and retired beneficiaries of USSC (the “Representative Counsel”), the Monitor and USSC.

The OPEB plan provided by USSC until payments thereunder were suspended by USSC on October 9, 2015 is referred to herein as the “Suspended USSC OPEB Plan”.

Transition Fund Operation

1. The Province has entered or will enter into a transfer payment agreement with Green Shield Benefits Association pursuant to which the Province will establish the Transition Fund for the payment of eligible claims to eligible OPEB Beneficiaries on the terms set out therein.
2. The Transition Fund will be available commencing on January 1, 2016 and will continue until the earlier of: (a) March 31, 2016; and (b) the date on which the amounts

comprising the Transition Fund have been used in full. For greater certainty, funding from each Tranche of the Transition Fund will be discontinued once the amounts comprising that Tranche of the Transition Fund have been used.

3. Claims for OPEBs required on an emergency basis before the Transition Fund is in operation may be reviewed and considered for coverage in accordance with the coverage criteria applicable to the Transition Fund.
4. The structure of Transition Fund benefit coverage and payment regime is as follows:
 - (a) **Tranche 1:** Up to \$2.5 million of the Transition Fund will be used to pay for prescription medications in accordance with the coverage terms and criteria listed on the attached Appendix "A", including that payment will be limited to a maximum in respect of each OPEB Beneficiary to a 30 day supply of each prescription medication. Submission and administration of claims under Tranche 1 will occur as follows:
 - (i) OPEB Beneficiaries that meet the Tranche 1 eligibility criteria listed on the attached Appendix "B" and/or their service providers will be entitled to submit claims for prescriptions directly to Green Shield following the same process used under the Suspended USSC OPEB Plan.
 - (ii) Green Shield will process and adjudicate the claim based on the Tranche 1 coverage criteria listed on the attached Appendix "A".
 - (iii) Green Shield will pay eligible claims directly to the OPEB Beneficiary or the service provider, as applicable.
 - (iv) By applying for and accepting coverage under Tranche 1 of the Transition Fund, each OPEB Beneficiary that receives coverage under Tranche 1 agrees to, and will be deemed to have undertaken to reimburse the Transition Fund in the event he/she receives funding for an eligible benefit from both the Transition Fund and another source.
 - (b) **Tranche 2:** Up to \$500,000 of the Transition Fund will be used for other dental and health benefits in accordance with the coverage terms and criteria set out in the attached Appendix "A." Submission and administration of claims under Tranche 2 will occur as follows:
 - (i) OPEB Beneficiaries experiencing economic hardship that meet the Tranche 2 eligibility criteria listed on the attached Appendix "B" will be entitled to submit a claim/request for coverage to the Monitor in accordance with the Tranche 2 Application Form attached as Schedule "B" to the Court Order (as defined below) (the "**Tranche 2 Application Form**"). The Monitor will log the receipt of Tranche 2 Application Forms duly received by the Monitor and check that the information provided by the OPEB Beneficiary on the Tranche 2 Application Form meets the Tranche 2 eligibility criteria listed on the attached as Appendix "B". The Monitor will not be required to independently verify the information or

take any steps, other than checking that the information in the Tranche 2 Application Form has been completed and the form has been signed.

- (ii) Each Tranche 2 Application Form must also attach a Green Shield benefits claim form for use by Green Shield in evaluating and adjudicating the claim. There will be no ability to submit claims through Green Shield's online claims reporting system.
 - (iii) If the OPEB Beneficiary meets the Tranche 2 eligibility criteria listed in the attached Appendix "B", the Monitor will forward the claim/request for coverage to Green Shield, which will process and adjudicate the claim to determine if the claim meets the coverage criteria listed on the attached Appendix "A".
 - (iv) Green Shield will pay eligible claims directly to the OPEB Beneficiary or the service provider, as applicable.
 - (v) By applying for and accepting coverage under Tranche 2 of the Transition Fund, each OPEB Beneficiary that receives coverage under Tranche 2 agrees to and will be deemed to have undertaken to reimburse the Transition Fund in the event he/she receives funding for an eligible benefit from both the Transition Fund and another source, and the OPEB Beneficiary will be required to confirm such undertaking in its Tranche 2 Application Form.
5. Claims for which coverage is available under the Transition Fund will be paid in the order in which Green Shield completes the evaluation of the claims.
 6. The administration costs of Green Shield will be paid from an administrative cost provision provided by the Province to Green Shield on terms agreed between them to reimburse Green Shield for the costs of administering the Transition Fund.
 7. Green Shield will report weekly to the Province on the operation of the Transition Fund on terms agreed with the Province, and the Province will provide a copy of such reports to the Monitor.
 8. The Monitor will forward such reports to designated representatives of the USW and Representative Counsel (the "**Retiree Representatives**").
 9. The Monitor will convene periodic telephone calls with the Province, the Retiree Representatives and, if agreed by the Province and the Retiree Representatives, Green Shield, to discuss the administration of the Transition Fund, including but not limited to the number of claims received and the number and nature of claims not meeting the criteria under either Appendix "A" or Appendix "B", and the amounts being paid. If concerns arise with respect to the criteria, all parties will consider whether any such criteria should be amended, and whether, in light of the concerns, a claim should be re-adjudicated. For clarity, the Monitor will not provide the identity of any claimant to USSC, the USW, the Representative Counsel or the Province unless authorized by the claimant or ordered by the Court.

10. Court approval of the Transition Fund operation, including the criteria, will be sought by the Monitor with the consent of the USW, the Representative Counsel and the Province. The court order sought shall provide that the criteria and coverage terms listed on Appendix "A" and Appendix "B" may be amended with the written consent of the Monitor, the USW, Representative Counsel and the Province.
11. USSC will have no direct role in the administration of benefits payable from the Transition Fund but will provide such reasonable assistance as may be requested.

APPENDIX "A"

BENEFIT COVERAGE CRITERIA

Tranche 1 – Coverage Criteria

- Prescription drugs included in the Suspended USSC OPEB Plan and not covered by Ontario Drug Benefit Program, Trillium Drug Program or other available sources of coverage (e.g. spousal insurance), provided that:
 - i. the supply for each prescription drug to the applicable OPEB Beneficiary is for thirty days or less; and
 - ii. the conditions set out in "Coverage Conditions", noted below, are satisfied; and
 - iii. the applicable OPEB Beneficiary meets the eligibility criteria listed with respect to Tranche 1 in Appendix "B".

Tranche 2 – Coverage Criteria

- Dental claims that would have been covered under the Suspended USSC OPEB Plan provided that they are for (a) dental extractions and endodontics, (b) major dental services in emergency situations; or (c) the repair of dental appliances, provided that:
 - i. the conditions set out in "Coverage Conditions", noted below, are satisfied; and
 - ii. the applicable OPEB Beneficiary meets the eligibility criteria listed with respect to Tranche 2 in Appendix "B".
- Other health expense claims that would have been covered under the Suspended USSC OPEB Plan, provided that the coverage sought:
 - i. is necessary for sustaining life or maintaining self-sufficiency, including repairs or modifications to walkers, wheelchairs or prosthetics;
 - ii. is necessary for preventing a prolonged stay in a hospital (including hospital-style beds at home); or
 - iii. supplements government-funded programs or grants for necessary medical equipment, such as ostomy supplies or wheelchairs;

and provided further that, in each case:

- iv. the conditions set out in "Coverage Conditions", noted below, are satisfied; and
- v. the applicable OPEB Beneficiary meets the eligibility criteria listed with respect to Tranche 2 in Appendix "B".

Coverage Conditions

The payment of eligible expenses under Tranche 1 and Tranche 2 are subject to the following conditions:

- i. Payments may be made only to OPEB Beneficiaries that meet the eligibility criteria on Appendix "B" and the coverage criteria on this Appendix "A".

- ii. Coverage is limited to claims for covered expenses incurred between October 10, 2015 and March 31, 2016 inclusive, and for which a claim has been received on or before the termination of the Transition Fund, as contemplated in section 2 of the Transition Fund Memorandum.
- iii. Coverage under the Transition Fund shall not exceed the coverage provided under the Suspended USSC OPEB Plan as of October 9, 2015.
- iv. Claims are subject to the same deductibles that were applicable under the Suspended USSC OPEB Plan as of October 9, 2015.
- v. The OPEB Beneficiary making the claim has no alternative public or private sources, such as a spouse's insurance, available to cover the payment of the claims.

Claims that are Out of Scope

For greater certainty, the following types of claims fall outside the scope of coverage by the Transition Fund:

- i. Routine or Preventative Dental – like regular check-up, teeth cleaning, fluoride
- ii. Routine Vision Care – like regular eye exam
- iii. Routine Hearing Care – like regular hearing test
- iv. Paramedical services – like massage therapy, orthotics, physiotherapy
- v. Semi-private hospital
- vi. Travel insurance
- vii. Out-of province medical costs
- viii. Psychological counseling

APPENDIX "B"

TRANSITION FUND ELIGIBILITY CRITERIA

To be eligible for payment of a claim from the Transition Fund, an eligible OPEB Beneficiary must:

- **For Tranche 1:**
 - be a retiree of USSC or his/her eligible spouse or eligible dependent who was eligible for OPEBs under the Suspended USSC OPEB Plan as of October 9, 2015; and
 - have a valid Ontario health card.
- **For Tranche 2:**
 - be a retiree of USSC or his/her eligible spouse or eligible dependent who was eligible for OPEBs under the Suspended USSC OPEB Plan as of October 9, 2015;
 - have a valid Ontario health card; and
 - declare that:
 - he/she is either unable to pay for the benefit or that payment for the benefit will cause economic hardship;
 - the benefit is medically necessary;
 - there is no provincial plan or insurance plan that will pay for the benefit described above, or if there is a provincial plan or insurance plan that might pay for the benefit described above, the person has applied to that plan or is in the process of applying to that plan; and
 - he/she undertakes to reimburse the Transition Fund in the event he/she receives funding for the benefit from both the Transition Fund and another source.

The Monitor will review Tranche 2 applications for compliance with the Tranche 2 eligibility criteria in accordance with section 4(b)(iii) of the Transition Fund Memorandum. Coverage determinations for applications under both Tranche 1 and Tranche 2 of the Transition Fund will be made in accordance with the benefit coverage criteria set out in Appendix "A".

SCHEDULE B

TRANCHE 2 APPLICATION FORM

**TRANSITION FUND FOR ELIGIBLE USSC RETIREES
AND THEIR ELIGIBLE SPOUSES AND DEPENDANTS**

Applicant Information

1. Name: _____
2. Address: _____
3. Telephone Number(s): _____
4. Email Address: _____
5. Green Shield USSC Health Plan Identification Number: _____

Benefit Applied For (state nature of expense claimed)

Medical Professional Providing Benefit

CERTIFICATION

Please check each of the following if the following is true:

- I am a retiree of U.S. Steel Canada Inc. or the eligible spouse or eligible dependent of a retiree of U.S. Steel Canada Inc. and I was eligible to receive post-employment benefits under the USSC post-employment benefit plan as of October 9, 2015.
- I have a valid Ontario health card.
- The benefit described above is medically necessary.
- I am not able to pay the benefit described above, or paying for it would cause me economic hardship
- there is no provincial plan or insurance plan that will pay for the benefit described above, or there is a provincial plan or insurance plan that might pay for the benefit described above and I have applied to the plan or am in the process of applying to the plan
- I have attached to this Application Form a completed Green Shield benefits claim form

I, the undersigned Applicant, certify the contents hereof to be true, and I undertake to reimburse the Transition Fund for any payment I receive from the Transition Fund if I receive funding for the benefit described above from both the Transition Fund and another source.

Applicant Signature

Witness Signature

Submit this form

by fax to: 416.943.2887

by e-mail to: ussc.monitor@ca.ey.com

by mail to: Ernst & Young Inc.

222 Bay St.

P.O. Box 251

Toronto, ON M5K 1J7 Canada

Attention:

Green Shield Benefits Claim Form must be attached

SCHEDULE C

TRANSITION FUND LETTER

On October 9, 2015, U.S. Steel Canada Inc. ("USSC") obtained a court order authorizing it to suspend payment of certain health benefits ("OPEBs") for USSC retirees and their eligible spouses and beneficiaries ("OPEB Beneficiaries") until further order of the court as part of a cash conservation and business preservation plan. As a result, the USSC OPEB plan was suspended as of that date. Life insurance coverage was not suspended.

The Province of Ontario is providing \$3 million for a transition fund (the "Transition Fund") to assist OPEB Beneficiaries in addressing critical health needs and to help them transition to available programs such as the Trillium Drug Program or to permit them time to obtain individual health insurance. The Transition Fund and benefits will be administered by Green Shield Canada and its affiliates ("Green Shield"). The Transition Fund is not a continuation or restoration of the USSC OPEB plan, which remains suspended at this time. USSC is not involved in the administration or funding of the Transition Fund.

When Does The Transition Fund Start? The Transition Fund will be operational January 1, 2016 and will cover eligible claims arising after October 9, 2015. If you have an urgent and immediate need for a health care benefit before January 1, 2016, please contact your USW representative or, if you were a non-USW employee, Koskie Minsky LLP or the Stel Salaried Pensioners Organization (websites are listed below). These critical needs may be eligible for coverage in accordance with the criteria applicable to the Transition Fund.

When Will It End? March 31, 2016 or when the Transition Fund runs out, whichever is sooner.

What Will The Transition Fund Be Used For? The Transition Fund will be used in 2 ways: a) **Prescription Benefit:** up to \$2.5 million to be used to pay for a maximum 30 day supply of certain prescription medications; and b) – **Dental and Other Benefits:** up to \$500,000 to be used for certain dental and other benefits. Please refer to Appendix A of the Transition Fund Memorandum (available at the websites noted below) for details as to what is covered under the Prescription Benefit and the Dental and Other Benefits or contact Koskie Minsky LLP or the USW.

Who is Eligible to Apply to the Transition Fund? To be eligible you must: a) be a retiree of USSC or his/her eligible spouse or beneficiary who was eligible for OPEBs under the USSC OPEBs plan as of October 9, 2015; b) have a valid Ontario health card; c) be applying for a benefit that is not covered by an alternative source of coverage (e.g. spousal insurance coverage); and d) undertake to reimburse the Transition Fund in the event you receive funding for a benefit from both the Transition Fund and another source.

How Do I Apply for The Prescription Benefit? As of January 1, 2016, you will be able to submit claims for prescription medications to Green Shield following the same process used under the suspended USSC OPEB plan. Green Shield will review the claim and, if it is for a prescription drug that would have been covered under the USSC OPEB plan and there is no alternative source of coverage to pay for the drug (i.e. spousal insurance), Green Shield will issue payment for a maximum 30 day supply of the drug. Coverage is subject to availability of funds in the Transition Fund and subject to the claimant meeting all other eligibility and coverage criteria.

How Do I Apply For A Dental or Other Benefit? To be eligible for payment of a Dental or Other Benefit: a) the benefit must be medically necessary; b) you must not be able to pay for the emergency benefit or, paying for it would cause you economic hardship; c) the benefit must be one which was available under the USSC

OPEBs plan; d) there must be no alternative source of coverage (e.g. spousal insurance coverage) that will pay for it; and e) if there is a provincial plan or you are the member of an insurance plan that might pay for it, you must have applied to the plan or be in the process of applying to the plan.

If these criteria are met, you can submit a Dental and Other Benefit Application Form (attaching a Green Shield Claim Form) to the Monitor in the USSC CCAA proceeding, Ernst & Young. If the Monitor is satisfied that you meet the eligibility criteria based on the information you have provided in the Application Form, your request will be forwarded to Green Shield to determine if your request is eligible for payment. If you are eligible and the benefit you have applied for is covered, Green Shield will issue payment for the benefit, provided there are sufficient funds available in the Transition Fund at the time.

Please note: the Dental and Other Benefits are intended to assist OPEB Beneficiaries who have critical health needs and who are not able to pay for them. The Dental and Other Benefits will not pay for routine, preventative or supplementary health care such as routine or preventative dental, routine hearing care, routine vision care, paramedical services like massage therapy, orthotics or physiotherapy, semi-private hospital, travel insurance, or psychological counseling.

How Will My Personal Information Be Used? If you apply for funding from the Transition Fund, Green Shield will access personal information from the USSC OPEBs plan to adjudicate your request. An application for funding includes you or your pharmacist submitting a prescription for payment. Personal information will also be used by the Monitor and by Green Shield to ascertain eligibility for funding from the Transition Fund. By submitting a prescription or other application for payment to the Transition Fund, you will be consenting to the use of your personal information in these ways.

What If I Want to Purchase an Individual Insurance Plan from Green Shield? Green Shield may permit you to enroll in any Green Shield product without requiring a medical assessment for up to 60 days after the Prescription Benefit portion of the Transition fund ends. Please note that if you would like to purchase individual insurance with a different carrier than Green Shield, you may have other deadlines to apply, some of which may have already passed.

Where can I find more information? The Transition Fund Memorandum, the Application Form and Green Shield Claim Form are available on the following websites: Ernst & Young www.ey.com/ca/usw; Local 1005 www.uswa1005.ca; Local 8782 www.uswa8782.com; Koskie Minsky LLP www.kmlaw.ca/usscrepcounsel/; Stel Salaried Pensioners Organization - www.stel-salaried-pensioners.org.

If you do not have access to the internet, please call Koskie Minsky at their toll-free phone number at 1-866-777-6341 or call you USW Local as follows:

Local 1005:

Tony McLaughlin (905)547-1417 ext. 4 mclaughlin@uswa1005.ca	Ron Wells (905)547-1417 ext. 3 ron.wells@uswa1005.ca
---	--

Local 8782:

Terry Barnard 519-587-2000 ext. 225 wsib@uswa8782.com	Mark Talbot 519-587-2000 ext. 301 vp@uswa8782.com
---	---

IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT Court File No. CV-14-10695-00CL
WITH
RESPECT TO U. S. STEEL CANADA INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

TRANSITION FUND ORDER

BENNETT JONES LLP
100 King Street West, Suite 3400
Toronto, Ontario
M5X 1A4

Kevin Zych LSUC# 33129T
Tel: (416) 777-5738
Email: zychk@bennettjones.com

Raj Sahni LSUC#: 42942U
Tel: (416) 777-4804
Email: sahnir@bennettjones.com

Lawyers for the Monitor

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

Proceeding commenced at Toronto

**RESPONDING MOTION RECORD
(Lifting of the Suspension of Payment of OPEBs)**

McCarthy Tétrault LLP

Suite 5300, Toronto Dominion Bank Tower
Toronto ON M5K 1E6
Fax: (416) 868-0673

James D. Gage LSUC#: 34676I

Tel: (416) 601-7539
Email: jgage@mccarthy.ca

Paul Steep LSUC#: 21869L

Tel: (416) 601-7998
Email: psteep@mccarthy.ca

Heather Meredith LSUC#: 48354R

Tel: 416.601.8342
Email: hmeredith@mccarthy.ca

Sharon Kour LSUC#: 58328D

Tel: 416.601.8305
Email: skour@mccarthy.ca

Lawyers for the Applicant,
U. S. Steel Canada Inc.