

**DISTRIBUTION PROTOCOL**  
**IN THE MATTER OF THE CANADIAN AIR CARGO PRICE-FIXING CLASS ACTION**  
**SETTLEMENTS**

**INDEX**

GENERAL PRINCIPLES OF THE ADMINISTRATION .....	2
DEFINITIONS .....	3
DISTRIBUTION OF NET SETTLEMENT FUNDS .....	6
Categories of Purchases .....	6
Calculation of Payments .....	7
Sample Calculation .....	7
Distribution .....	8
THE CLAIMS PROCESS .....	9
The Claim.....	9
The Online Claims Portal.....	10
Freight Forwarder Data.....	10
The Claims Filing Process .....	11
Assistance in Filing a Claim .....	12
Audits.....	13
Deficiencies.....	14
Claims Administrator’s Decision.....	14
Appeal of the Claims Administrator’s Decision.....	15
Payment of Claims.....	16
THE CLAIMS ADMINISTRATOR’S DUTIES AND RESPONSIBILITIES .....	17
Supervisory Powers of the Ontario Court.....	17
Investment of Settlement Funds.....	17
Communication, Languages and Translation .....	17
Taxes.....	18
Reporting.....	18
Preservation and Disposition of Claim Submissions .....	18
Assistance to the Claims Administrator.....	18
Confidentiality .....	18

## GENERAL PRINCIPLES OF THE ADMINISTRATION

1. The procedures set forth herein are intended to govern the administration of the settlement agreements entered into with the following Defendants:
  - (a) Deutsche Lufthansa AG, Lufthansa Cargo AG and Swiss International Air Lines Ltd., dated December 30, 2006;
  - (b) Japan Airlines International Co., Ltd., dated July 8, 2010;
  - (c) Scandinavian Airlines System, dated November 26, 2010;
  - (d) Qantas Airways Limited, dated May 6, 2011;
  - (e) Cargolux Airlines International S.A., dated May 10, 2011;
  - (f) Singapore Airlines Ltd. and Singapore Airlines Cargo Pte. Ltd., dated June 24, 2011;
  - (g) Société Air France, Koninklijke Luchtvaart Maatschappij N.V. dba KLM, Royal Dutch Airlines and Martinair Holland N.V., dated September 19, 2011;
  - (h) LAN Airlines S.A. and LAN Cargo S.A., dated December 12, 2011;
  - (i) Polar Air Cargo LLC, dated August 1, 2014;
  - (j) Korean Air Lines Co., Ltd., dated May 25, 2015;
  - (k) Asiana Airlines Inc., dated June 30, 2015;
  - (l) Cathay Pacific Airways Ltd., dated November 27, 2015(collectively, the "Settlement Agreements").
2. The administration shall:
  - (a) implement and conform to the Settlement Agreements, orders of the Courts and this Distribution Protocol;
  - (b) employ secure, paperless, web-based systems with electronic registration and record-keeping wherever possible; and

- (c) rely on the Airfreight Shipping Services sales information provided by the Defendants, IATA, and Freight Forwarders wherever possible.
- 3. Settlement Class Members seeking compensation must disclose and give credit for any compensation received through other proceedings or private out-of-class settlements in relation to their Airfreight Shipping Services, unless by such proceedings or private out-of-class settlements the Settlement Class Member's claim was released in its entirety, in which case the Settlement Class Member shall be deemed ineligible for any further compensation.
- 4. Settlement Class Members who file a Claim can elect to rely on that Claim in respect of any subsequent settlement.

#### **DEFINITIONS**

- 5. The definitions set out in the Settlement Agreements apply to and are incorporated herein. Where a term is defined in both the Settlement Agreements and in this Distribution Protocol, the definition in this Distribution Protocol shall govern.
- 6. For the purpose of this Distribution Protocol:
  - (a) ***Airfreight Shipping Services*** means airfreight cargo shipping services for shipments to or from Canada, but specifically excluding:
    - (i) airfreight cargo shipping services for shipments between Canada and the United States; and
    - (ii) airfreight cargo shipping services provided by integrated air cargo shippers, such as FedEx, UPS, DHL, and TNT, on their own aircraft.For certainty, Airfreight Shipping Services includes airfreight cargo shipping services in which the freight:
    - (i) travelled by truck from Canada to the United States, and then by air from the United States to a third country on a through airway bill;

- (ii) travelled by air from a third country to the United States, and then by truck from the United States to Canada on a through airway bill; or
  - (iii) the shipping arrangement was made with an integrated air cargo shipper, but the freight was shipped on an air cargo carrier (not on the integrated shipper's own aircraft), including any of the Defendants in the litigation.
- (b) ***Airfreight Shipping Services Purchases*** means the aggregate amount actually paid by Settlement Class Members for Airfreight Shipping Services between January 1, 2000 and September 11, 2006, less any rebates or other form of discounts and taxes.
- (c) ***Claim*** means the electronic or paper form that a Settlement Class Member must complete and submit before the Claims Filing Deadline in order to be considered for settlement benefits under this Distribution Protocol.
- (d) ***Claims Filing Deadline*** means the date by which Claims (and any required supporting documentation) must be electronically submitted in order for Settlement Class Members to be considered for settlement benefits under this Distribution Protocol.
- (e) ***Decision Notice*** shall have the meaning attributed to it in paragraph 40.
- (f) ***Eligible Airfreight Shipping Services Purchases*** shall mean the value of the Settlement Class Member's Airfreight Shipping Services Purchases in respect of which the Settlement Class Member is entitled to settlement benefits in accordance with the Settlement Agreements, orders of the Courts and this Distribution Protocol after the percentages specified in paragraph 12 have been applied;
- (g) ***Fonds Levy*** means the amounts payable to the Fonds d'aide aux actions collectives pursuant to section 42 of *An Act respecting the Class Action*, R.S.Q., c. R-2.1 and calculated in accordance with the governing regulations.

- (h) ***Net Settlement Funds*** means the aggregate of the Settlement Amounts recovered pursuant to the Settlement Agreements, plus accrued interest, less Class Counsel Fees as approved by the Courts, Administration Expenses, taxes (including interest and penalties) accruable with respect to the income earned on the settlement funds, and the Reserve Funds.
- (i) ***Reserve Funds*** means CAD \$2 million, reserved in a trust account for the benefit of the Settlement Class Members.
- (j) ***Settlement Agreements*** has the meaning attributed to it in paragraph 1.
- (k) ***Settlement Class Members*** means all persons who purchased Airfreight Shipping Services between January 1, 2000 and September 11, 2006. The following persons are excluded:
  - (i) the Defendants and their respective parents, employees, subsidiaries, affiliates, officers and directors;
  - (ii) the alleged unnamed co-conspirators: Aerolineas Brasileiras S.A (d/b/a Absa Cargo Airline), Air China Cargo Company Ltd. (d/b/a Air China Cargo), Air China Ltd. (d/b/a Air China), Air Mauritius Ltd., Airways Corporation of New Zealand Ltd. (d/b/a Airways New Zealand), Alitalia Linee Aeree Italiane S.p.A., All Nippon Airways Co., Ltd., DAS Air Ltd. (d/b/a Das Air Cargo), El Al Israel Airlines, Emirates Airlines (d/b/a Emirates), Ethiopian Airlines Corp., EVA Air, Kenya Airways Ltd., Malaysia Airlines, Nippon Cargo Airlines Co., Ltd., Saudi Arabian Airlines, Ltd., South African Airways (Proprietary), Ltd., Thai Airways International Public Co., Ltd., and Viação Aérea Rio-Grandense, S.A., and their respective parents, employees, subsidiaries, affiliates, officers and directors; and

- (iii) persons who opted out of the proceedings.

### **DISTRIBUTION OF NET SETTLEMENT FUNDS**

7. In order to participate in the distribution of the Net Settlement Funds, Settlement Class

Members will be required to:

- (a) expressly consent to the jurisdiction of the Ontario Superior Court of Justice for all purposes relating to the Canadian air cargo litigation, including, without limiting the generality of the foregoing, the enforcement of the Settlement Agreements and the continuing litigation against Air Canada, AC Cargo Limited Partnership and British Airways PLC;
- (b) expressly release the Released Parties (as defined in the Settlement Agreements) in respect of all Released Claims (as defined in the Settlement Agreements); and
- (c) if they have commenced litigation in other jurisdictions against the Released Parties (as defined in the Settlement Agreements) relating to the Released Claims (as defined in the Settlement Agreements—e.g. claims resulting from or relating to the purchase of Airfreight Shipping Services) or if such litigation has been commenced on their behalf, either discontinue or amend that litigation to exclude the Released Claims before filing a Claim, or expressly consent to a dismissal of such litigation when filing a Claim.

### **Categories of Purchases**

8. For the purposes of distributing the Net Settlement Funds, Settlement Class Members

will be categorized based on their position in the distribution chain:

- (a) ***Direct Purchaser Shipper*** means a Settlement Class Member who purchased Airfreight Shipping Services direct from an air cargo carrier, for shipments by that Settlement Class Member;
- (b) ***Freight Forwarder*** means a Settlement Class Member who purchased Airfreight Shipping Services direct from an air cargo carrier, for resale to Shippers; and
- (c) ***Shipper*** means a Settlement Class Member who purchased Airfreight Shipping Services from a Freight Forwarder.

9. Settlement Class Members may fall into more than one category.

### Calculation of Payments

10. Subject to paragraphs 14, 16, and 23, the Net Settlement Funds will be distributed to Settlement Class Members *pro rata* (or proportionally) based on the value of the Settlement Class Member's Eligible Airfreight Shipping Services Purchases as against the value of all claimants' Eligible Airfreight Shipping Services Purchases. For the purposes of the distribution, Eligible Airfreight Shipping Services Purchases shall be calculated in accordance with paragraph 12.
11. The value of a Settlement Class Member's Airfreight Shipping Services Purchases will be converted to CAD from the original currency, at the average Bank of Canada rate for that currency between January 1, 2000 and September 11, 2006.
12. For the purpose of paragraph 10, the value of the Eligible Airfreight Shipping Services Purchases will be calculated as follows:
  - (a) Direct Purchaser Shippers – multiplying the value of the Settlement Class Member's Airfreight Shipping Services Purchases by 100%.
  - (b) Shippers – multiplying the value of the Settlement Class Member's Airfreight Shipping Services Purchases by 75%.
  - (c) Freight Forwarders – multiplying the value of the Settlement Class Member's Airfreight Shipping Services Purchases by 25%.
  - (d) Freight Forwarders who provide customer information respecting their customers' Airfreight Shipping Services Purchases to the Claims Administrator, in accordance with paragraphs 22 and 23 – multiplying the value of the Settlement Class Member's Airfreight Shipping Services Purchases by 35%.

### Sample Calculation

13. If a Settlement Class Member purchased \$10,000 of Airfreight Shipping Services directly from an air cargo carrier and \$20,000 of Airfreight Shipping Services from a Freight Forwarder, its Airfreight Shipping Services Purchases for the purposes of determining its *pro rata* share of the Net Settlement Funds would be calculated as follows:
  - (a)  $\$10,000 \times 1.00$  (representing the categorization of the purchaser as a Direct Purchaser Shipper) = \$10,000;

- (b)  $\$20,000 \times .75$  (representing the categorization of the purchaser as a Shipper) = \$15,000;
- (c)  $\$10,000 + \$15,000 = \$25,000$ .

**Distribution**

14. Class Counsel reserve the right to apply to the Courts to have the Reserve Funds applied against future disbursements and/or future adverse costs awards.
15. If the *pro rata* distribution would result in Settlement Class Members receiving an amount that is beyond any reasonable estimate of expected damages (based on available evidence), Class Counsel will seek further direction from the Ontario Court with respect to the distribution of the Net Settlement Funds.
16. Notwithstanding any other provision in this Distribution Protocol, subject to further order of the Ontario Court following the adjudication of all claims, all valid Claims will be assigned a minimum value of \$20. The \$20 valuation target is not an estimate of any damages suffered. It is a minimum administrative threshold designed to maintain a feasible economic and administrative platform for the settlement distribution. As part of any distribution of any subsequent settlements and/or court awards, Settlement Class Members whose *pro rata* entitlement was less than \$20 will have to account for the fact that their claim was increased beyond their *pro rata* entitlement.
17. Settlement benefits payable to members of the Quebec Settlement Class will be subject to deductions in respect of the Fonds Levy.
18. To the extent that the full Net Settlement Funds are not paid out due to uncashed cheques, residual interest or otherwise, such monies shall be held in trust pending further order of the Ontario Court.



## THE CLAIMS PROCESS

### The Claim

19. The Claim shall require the following:
  - (a) a declaration by the Settlement Class Member of the dollar value and currency of its Airfreight Shipping Services Purchases;
  - (b) an option for the Settlement Class Member to rely on defendant, International Air Transport Association (“IATA”), and/or Freight Forwarder data;
  - (c) a declaration that the Settlement Class Member is expressly submitting to the jurisdiction of the Ontario Court for the purposes of the Canadian air cargo litigation in order to participate in the distribution of the Net Settlement Funds;
  - (d) information that will allow the Claims Administrator to determine the proportion of Airfreight Shipping Services Purchases that were made in the capacity of a Direct Purchaser Shipper, a Freight Forwarder, and/or a Shipper;
  - (e) a declaration that the Settlement Class Member has not commenced litigation relating to Airfreight Shipping Services in another jurisdiction; or that any litigation relating to Airfreight Shipping Services commenced by the Settlement Class Member in another jurisdiction has been discontinued or amended to exclude claims relating to Airfreight Shipping Services;
  - (f) disclosure regarding whether the Settlement Class Member has received compensation through other proceedings or private out-of-class settlements in relation to its Airfreight Shipping Services and/or whether the Settlement Class Member’s claims in relation to its Airfreight Shipping Services have been released, and details of the compensation received and the claims released;

- (g) authorization to the Claims Administrator to contact the Settlement Class Member or its representative, as the Claims Administrator deems appropriate, for more information and/or to audit the Claim;
- (h) a declaration that the information submitted in the Claim is true and correct;
- (i) a release in favour of the Released Parties in respect of all Released Claims (as those terms are defined in the Settlement Agreements); and
- (j) if the Claim is submitted by a third-party on behalf of a Settlement Class Member (including a parent company claiming on behalf of a subsidiary or affiliate), the third-party must provide a signed statement from that Settlement Class Member authorizing the third-party to file the Claim on its behalf.

#### **The Online Claims Portal**

- 20. The Claims Administrator shall create an online claims portal that Settlement Class Members can access in order to file a Claim and shall provide the necessary administrative support to enable Settlement Class Members to do so.
- 21. The online claims portal shall contain fields that require the Settlement Class Member to provide all applicable information required as part of the Claim, in accordance with paragraph 19 above.

#### **Freight Forwarder Data**

- 22. The Claims Administrator shall send a notice, by direct mail or email, to the Freight Forwarders identified in the customer information produced by the Defendants and/or the IATA prior to the outset of the claims process, informing Freight Forwarders of this Distribution Protocol and requesting that the Freight Forwarders provide the following information (in Microsoft Excel or Microsoft Access format) respecting their customers' Airfreight Shipping Services Purchases to the Claims Administrator: (i) customer name and address (including a corporate contact name and email address, if applicable); and (ii)

the aggregate amount paid by the customer for Airfreight Shipping Services (excluding any rebates, taxes, and any other form of discounts).

23. The notice will highlight the additional compensation available to Freight Forwarders in exchange for provision of this customer information: if a Freight Forwarder provides its customer information and a declaration indicating that the Freight Forwarder has provided substantially all of its available and relevant customer information, the value of the Freight Forwarder's Eligible Airfreight Shipping Services Purchases will be calculated by multiplying the value of the Settlement Class Member's Airfreight Shipping Services Purchases by 35%.
24. The Claims Administrator retains the right, at its sole discretion and on written notice to the Freight Forwarder, to refrain from multiplying the value of a Freight Forwarder's Airfreight Shipping Services Purchases by 35%, if the information provided is not in a usable format or if the Claims Administrator reasonably believes that the Freight Forwarder has not provided substantially all of its available and relevant customer information.

#### **The Claims Filing Process**

25. Settlement Class Members will be encouraged to complete and submit a Claim electronically using the online claims portal. Subject to further order of the Ontario Court, claims must be submitted to the online claims portal on or before the Claim Filing Deadline.
26. Where a Settlement Class Member has been identified by the Defendants, IATA, and/or a Freight Forwarder, the Claims Administrator shall provide to the Settlement Class Member, in writing, by e-mail or regular mail, his, her or its personal user name and password to permit that Settlement Class Member access to the online claims portal. Where the Defendants, IATA, and/or Freight Forwarder(s) have also provided

customer information in respect of the Settlement Class Member, the fields in the online claims portal requiring the Settlement Class Member to provide the value of the Settlement Class Member's Airfreight Shipping Services Purchases shall be automatically populated with the information provided by the the Defendants, IATA, and/or Freight Forwarder(s), as applicable.

27. The online claims portal shall permit Settlement Class Members to supplement or elect not to rely on the information provided by the Defendants, IATA, and/or the Freight Forwarder(s).
28. If a Settlement Class Member does not have internet access or is otherwise unable to submit a Claim using the online claims portal, the Settlement Class Member can register over the telephone with the Claims Administrator and the Claims Administrator shall send the Settlement Class Member a hardcopy claim form by mail. Subject to the direction of the Ontario Court, the completed and executed hardcopy Claim must be submitted to the Claims Administrator postmarked no later than the Claims Filing Deadline.
29. Where a Settlement Class Member has purchase records for Airfreight Shipping Services for at least two years during the period January 1, 2000 to September 11, 2006, the Settlement Class Member can use such records to extrapolate its Airfreight Shipping Services Purchases for the remainder of the period January 1, 2000 to September 11, 2006. If the Settlement Class Member's Claim is audited pursuant to paragraphs 32 to 35, the Settlement Class Member must provide a sworn statement explaining the basis for and calculation of the extrapolation of purchases.

**Assistance in Filing a Claim**

30. Settlement Class Members can contact the Claims Administrator or Class Counsel, at no charge, for assistance in the completion of their Claim.

31. Settlement Class Members may utilize third-party claims services, a lawyer of their own choosing, or similar services to file Claims. If a Settlement Class Member chooses to use a third-party claims service, a lawyer of their own choosing, or similar services (excluding the Claims Administrator or Class Counsel), the Settlement Class Members will be responsible for any expenses arising from those additional and individual services.

### **Audits**

32. The Claims Administrator will audit all Claims where the Settlement Class Member has relied in whole or in part on its own purchase records, and the value of that portion of the Settlement Class Member's Eligible Airfreight Shipping Services Purchases (calculated pursuant to paragraph 12) exceeds CDN \$50,000.
33. The Claims Administrator can elect to audit any other Claim where the Settlement Class Member has relied in whole or in part on its own purchase records.
34. The Claims Administrator shall audit Claims representing at least 50% of the total value of Claims in which Settlement Class Members relied in whole or in part on their own purchase records and at least 10% of all such Claims.
35. An audit shall require proof of the Settlement Class Member's Airfreight Shipping Services Purchases:
  - (a) proof of purchase of the Settlement Class Member's Airfreight Shipping Services Purchases might include invoices, receipts, air way bills, purchase records, historical accounting records, or comparable verification that is acceptable to the Claims Administrator;
  - (b) Settlement Class Members who cannot satisfy the evidentiary requirements of (a) can provide a declaration attesting to the purchase and value of the purchase, together with a credit card statement, a bank statement, cancelled cheque, wire transfer confirmations, or comparable verification that is acceptable to the Claims Administrator; or

(c) where a Settlement Class Member has extrapolated its Airfreight Shipping Services Purchases, the Settlement Class Member must provide a sworn statement explaining the basis for and calculation of the extrapolation of purchases.

36. At its sole discretion, the Claims Administrator can reject a Claim, in whole or in part, where, in the Claims Administrator's view, the Settlement Class Member has submitted insufficient or false information or has otherwise engaged in fraudulent conduct.

### **Deficiencies**

37. If, during claims processing, the Claims Administrator finds that deficiencies exist in a Claim or other information is required, the Claims Administrator shall notify the Settlement Class Member, by email or regular mail, of the deficiencies. The Claims Administrator shall allow the Settlement Class Member thirty (30) days from the date of such notice to correct the deficiencies. If the deficiencies are not corrected within the thirty (30) day period, the Claims Administrator shall reject the Claim without prejudice to the right of the Settlement Class Member to cure the deficiencies, provided the Settlement Class Member is able to meet the Claims Filing Deadline and other requirements set forth herein.

38. A deficiency shall not include missing the Claims Filing Deadline. Subject to further order of the Ontario Court, the Claims Administrator shall not accept Claims postmarked or electronically submitted after the Claims Filing Deadline.

### **Claims Administrator's Decision**

39. In respect of each Settlement Class Member who has filed a Claim in accordance with this Distribution Protocol, the Claims Administrator shall:

(a) decide whether the Settlement Class Member is eligible to receive settlement benefits payable out of the Net Settlement Funds in accordance with the Settlement Agreements, orders of the Courts and this Distribution Protocol;

- (b) make a determination of the value of the Settlement Class Member's Airfreight Shipping Services Purchases in respect of which the Settlement Class Member is entitled to settlement benefits in accordance with the Settlement Agreements, orders of the Courts and this Distribution Protocol;
- (c) make a determination of the proportion of Airfreight Shipping Services Purchases that were made in the capacity of a Direct Purchaser Shipper, a Freight Forwarder, and/or a Shipper;
- (d) make a determination whether the claim was made by a Freight Forwarder which provided its customer data in accordance with paragraphs 22 and 23.

40. The Claims Administrator shall send to the Settlement Class Member, by email or regular mail, a decision as to the approval or rejection of the Claim and the determination of the Airfreight Shipping Services Purchases and their categorization (the "Decision Notice"). Where the Claims Administrator has rejected all or part of the Claim of the Settlement Class Member (including where the Claims Administrator has recategorized the purchases or refrained from multiplying the value of a Freight Forwarder's Airfreight Shipping Services Purchases by 35%), the Claims Administrator shall include in the Decision Notice its grounds for rejecting all or part of the Claim.

41. The Claims Administrator's decision will be binding upon the Settlement Class Member, subject to the Settlement Class Member's right to appeal, as outlined in paragraphs 42 to 47.

#### **Appeal of the Claims Administrator's Decision**

42. Settlement Class Members shall be granted thirty (30) days from the date of the Decision Notice to appeal the rejection (in whole or in part) of their Claims.

43. Appeals will be determined by the Ontario Court or a third-party designated by the Ontario Court.

44. Appeals will be on the basis of written submissions, supported by the documentation provided to the Claims Administrator by the Settlement Class Member as part of the claims process. Settlement Class Members are not permitted to provide any new documentation as part of the appeal. Any new documentation provided as part of the appeal will not be provided to the Ontario Court for consideration.
45. The Claims Administrator must provide to the Ontario Court a copy of the documentation provided by the Settlement Class Member with the Claim or in response to requests for additional information, the Decision Notice, and any other information that might be reasonably useful in the determination of the appeal, and make written submissions to the Ontario Court as is reasonably necessary.
46. Notwithstanding the foregoing, the Ontario Court, acting in its sole discretion, can request oral submissions (to be provided via teleconference or videoconference, as requested by the Ontario Court) from the Settlement Class Member and/or Claims Administrator.
47. The decision on the appeal is final and binding and shall not be subject to any further appeal or review whatsoever.

**Payment of Claims**

48. As soon as practicable after the claims evaluations and any appeals are completed, the Claims Administrator shall report to Class Counsel and the Ontario Court the particulars of the proposed distribution to each eligible Settlement Class Member.
49. The Claims Administrator shall make arrangements to pay approved Claims as expeditiously as possible. Payments of settlement benefits to Settlement Class Members will be made by cheque or, at the Claims Administrator's discretion, wire transfer.



## **THE CLAIMS ADMINISTRATOR'S DUTIES AND RESPONSIBILITIES**

### **Supervisory Powers of the Ontario Court**

50. The Claims Administrator shall administer the Settlement Agreements and this Distribution Protocol under the ongoing authority and supervision of the Ontario Court.

### **Investment of Settlement Funds**

51. The settlement funds shall be held in an interest-bearing trust account at a Canadian Schedule 1 bank or equivalent in Canada.

### **Communication, Languages and Translation**

52. The Claims Administrator shall establish a toll-free number for calls from Canada.
53. The Claims Administrator shall establish a call centre capable of receiving international calls from Settlement Class Members worldwide.
54. The Claims Administrator shall dedicate sufficient personnel to respond to Settlement Class Members' inquiries (including in the call centre) in English or French, as the Settlement Class Member elects.
55. The Claims Administrator shall arrange for translation services with respect to responding to Settlement Class Members' inquiries in additional languages, on an as-needed basis.
56. All written communications from the Claims Administrator to a Settlement Class Member shall be transmitted via email if an email address has been provided, or if an email address has not been provided, by regular mail.
57. The Claims Administrator shall have no responsibility for locating Settlement Class Members for any mailing returned to the Claims Administrator as undeliverable.
58. The Claims Administrator shall have the discretion, but is not required, to reissue payments to Settlement Class Member returned as undeliverable under such policies and procedures as the Claims Administrator deems appropriate. Any costs associated with

locating current address information for the Settlement Class Member shall be deducted from that Settlement Class Member's settlement benefits.

**Taxes**

59. The Claims Administrator shall take all reasonable steps to minimize the imposition of taxes upon the Net Settlement Funds and shall have the discretion to pay any taxes imposed on such monies out of the Net Settlement Funds.

**Reporting**

60. The Claims Administrator shall provide regular reports to Class Counsel regarding the administration.
61. The Claims Administrator shall provide any reports requested by the Ontario Court.

**Preservation and Disposition of Claim Submissions**

62. The Claims Administrator shall preserve, in hard copy or electronic form, as the Claims Administrator deems appropriate, the submissions relating to a Claim, until the case has been finally resolved and all settlement monies or court awards have been paid out to Settlement Class Members, and at such time shall destroy the submissions by shredding, deleting, or such other means as will render the materials permanently illegible.

**Assistance to the Claims Administrator**

63. The Claims Administrator shall have the discretion to enter into such contracts and obtain financial, accounting, and other expert assistance as are reasonably necessary in the implementation of the Settlement Agreements and this Distribution Protocol.

**Confidentiality**

64. All information received from Defendants, IATA, Freight Forwarders, or the Settlement Class Members is collected, used, and retained by the Claims Administrator pursuant to the protections of the *Personal Information Protection and Electronic Documents Act*, SC 2000 c 5 and may be used by the Claims Administrator for the sole purpose of

administering the Settlement Agreements, including evaluating a Settlement Class Member's eligibility under the Settlement Agreements and this and any future Distribution Protocol. The sales information provided by Defendants and IATA and the information provided by Settlement Class Members is strictly private and confidential. Information concerning Settlement Class Members shall not be disclosed without the express written consent of the relevant Settlement Class Member, except in accordance with the Settlement Agreements, orders of the Ontario Court and/or this Distribution Protocol. Any identifying information about Settlement Class Members will be kept confidential and redacted from any materials filed with the Court as part of the settlement administration process, unless otherwise directed by the Court or in accordance with this Distribution Protocol. Prior to implementing the Distribution Protocol, the Claims Administrator shall execute an undertaking that (i) confirms its commitment to abide by the obligations set out in this paragraph; (ii) reconfirms the Confidentiality Undertaking executed by it on December 10, 2015 (the "2015 Undertaking"); and (iii) for greater certainty, confirms that the 2015 Undertaking applies to Customer Information (as defined therein) provided by any Defendant, IATA or Freight Forwarders.

65. The Claims Administrator shall provide a report listing the particulars of the proposed distribution to each eligible Settlement Class Member (i.e. name of Settlement Class Member and distribution payment made to the Settlement Class Member), including identifying information respecting Settlement Class Members who reside outside Canada, to Class Counsel, the Non-Settling Defendants, the Settled Defendants and, if requested, the Courts. Such report shall be treated as if it were produced in the litigation and subject to all of the ensuing protections, including those in the *Rules of Civil Procedure*, RRO 1990, Reg. 194.