

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF  
COMPROMISE OR ARRANGEMENT OF  
LAURENTIAN UNIVERSITY OF SUDBURY**

**FOURTH REPORT OF THE MONITOR  
May 27, 2021**

**INTRODUCTION**

1. On February 1, 2021, Laurentian University of Sudbury (“**LU**” or the “**Applicant**”) brought an application (the “**CCAA Application**”) before this Court seeking an initial order pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) to, among other things, obtain a stay of proceedings to allow the Applicant an opportunity to financially and operationally restructure itself.
2. On February 1, 2021, the Court granted the CCAA Application and issued an initial order (the “**Initial Order**”) that, among other things, appointed Ernst & Young Inc. as monitor of the Applicant in these CCAA proceedings (in such capacity, the “**Monitor**”), and approved a stay of proceedings for the initial 10-day period (the “**Stay Period**”) and certain Court ordered super-priority charges.
3. On February 10, 2021, the Court held a comeback hearing, which resulted in the issuance of an amended and restated initial order (the “**Amended and Restated Initial Order**”) that, among other things, approved a debtor-in-possession interim financing arrangement in the amount of \$25 million (the “**DIP Facility**”) and extended the stay of proceedings to April 30, 2021.
4. On March 17, 2021, the Court granted an order setting the transfer ratio for certain commuted value transfer requests and confirming that the PBGF Assessment Payment and the Incremental PBGF Assessment Payment are stayed pursuant to the Amended and Restated Initial Order.

5. On April 29, 2021, the Court granted a brief extension of the Stay Period until May 2, 2021, in order to permit the Court to consider motions heard on April 29 and 30, 2021. On May 2, 2021, the Court granted an order (the “**Stay Extension Order**”) which, among other things, approved an increase in the DIP Facility to a maximum principal amount of \$35 million (the “**Amended DIP Facility**”) and extended the stay of proceedings to August 31, 2021.
6. On May 2, 2021, the Court dismissed motions brought by the University of Thorneloe (“**Thorneloe**”) and the University of Sudbury (“**SU**”) opposing the notices of disclaimer delivered by LU.

## **PURPOSE**

7. The purpose of this report (the “**Fourth Report**”) is to provide information to the Court on:
  - a. The Applicant’s request for an order (the “**Claims Process Order**”) approving:
    - i. a process whereby the Monitor, in conjunction with the Applicant, will:
      - call for certain claims of its creditors (defined in the Claims Process Order as “Claims” and summarized below) and establish certain bar dates by which such Claims must be filed; and
      - determine such Claims for voting and distribution purposes in relation to a plan of compromise or arrangement to be presented by the Applicant at a future date (the “**Plan**”); and
    - ii. a direction to the Applicant and the Monitor to establish a methodology for calculating Compensation Claims (as defined in Claims Process Order), in consultation with LUFA and LUSU, and to bring such methodology and process to the Court for approval by no later than July 30, 2021;
  - b. The Applicant’s request for an order appointing Mr. Louis (Lou) P. Pagnutti as the Chief Redevelopment Officer of LU;
  - c. The Applicant’s request for an order increasing the existing cap on the maximum amount of fees that may be incurred by and paid to independent counsel for the Board (as defined below) in connection with providing advice to the Board during this CCAA proceeding pursuant to the Amended and Restated Initial Order from \$250,000 to \$500,000; and
  - d. The Monitor’s recommendations with respect to the above.

## TERMS OF REFERENCE AND DISCLAIMER

8. In preparing this Fourth Report and making the comments herein, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records and financial information prepared by the Applicant and discussions with senior management of the Applicant (“**Management**”) (collectively, the “**Information**”).
9. Future oriented financial information referred to in this Fourth Report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
10. Unless otherwise indicated, the Monitor’s understanding of factual matters expressed in this Fourth Report concerning the Applicant and its business is based on the Information, and not independent factual determinations made by the Monitor.
11. Capitalized terms not defined in this Fourth Report are as defined in the Pre-Filing Report of the Proposed Monitor, prior reports of the Monitor, the Amended and Restated Initial Order or the proposed Claims Process Order, as applicable.
12. Unless otherwise stated all monetary amounts contained herein are expressed in Canadian dollars.

## BACKGROUND

13. On March 28, 1960, LU was incorporated under *An Act to Incorporate Laurentian University of Sudbury*, S.O. 1960, c. 151 C. 154 (the “**Laurentian Act**”). A copy of the Laurentian Act is attached as Exhibit “A” to the initial affidavit of Dr. Robert Haché (the “**Initial Haché Affidavit**”) sworn January 30, 2021.
14. LU is a non-share capital corporation and a registered charity pursuant to the *Income Tax Act*, R.S.C. 1985, c.1 (the “**Income Tax Act**”). Pursuant to Section 149 of the Income Tax Act, LU is exempt from the payment of income tax because of its status as a registered charity. As a registered charity, LU also receives donations and issues tax receipts to donors.
15. LU is a publicly funded, bilingual and tricultural post-secondary institution. Its operations are located in the City of Greater Sudbury, Ontario. LU has consistently been one of the largest employers in Sudbury.
16. As described in the Initial Haché Affidavit, the governance structure of LU is bi-cameral. It has a Board of Governors (the “**Board**”) and a Senate (the “**Senate**”), both of which

derive their powers from the Laurentian Act. The Board, and the President and Vice-Chancellor generally have powers over the operational and financial management of LU, whereas the Senate is responsible for decisions in respect of educational policy at LU.

17. LU previously had relationships with certain independent federated universities including the University of Sudbury (“**SU**”), the University of Thorneloe (“**Thorneloe**”) and Huntington University (“**Huntington**”) (collectively, the “**Federated Universities**”). On April 1, 2021, LU delivered Notices to Disclaim or Resiliate to each of the Federated Universities pursuant to section 32 of the CCAA (the “**Notices of Disclaimer**”). The Notices of Disclaimer became effective on May 2, 2021.
18. Further background information with respect to the Applicant is described in the Pre-Filing Report.

## **CLAIMS PROCESS**

### **Overview**

19. The Applicant, in conjunction with the Monitor, prepared the draft Claims Process Order that the Applicant is seeking to have approved by this Court. The following is a summary of the terms of the Claims Process Order, including the defined terms used in the order. Readers are cautioned that they should consult the terms of the Claims Process Order in order to determine their rights and obligations under the order and should not solely rely on the following summary.
20. The purpose of the proposed claims process (the “**Claims Process**”) as set out in Claims Process Order is to:
  - a. Authorize the Applicant and the Monitor to call for Claims including;
    - i. Claims against the Applicant (“**Pre-Filing Claims**”) existing or arising as at the date of the Initial Order (the “**Filing Date**”) including any potential indemnification claims of current or former Directors or Officers;
    - ii. Claims arising against the Applicant on or after the Filing Date relating to the termination, repudiation or disclaimer of any contract, lease or other agreement or obligation (“**Restructuring Claims**”); and
    - iii. Claims as against the current and former Directors or Officers of the Applicant (“**D&O Claims**”);

(collectively “**Claims**”),

provided however, that Claims shall not include Excluded Claims (as defined and described below).

- b. Establish a process for notifying creditors of the call for Claims;
  - c. Establish a process for creditors to file their Claims, including the form of proof of claim (“**Proof of Claim**”) to be used;
  - d. Establish certain bar dates by which creditors of the Applicant are required to file their Proofs of Claims;
  - e. Establish a process for the Monitor, in consultation with the Applicant, to adjudicate the Claims filed, including the determination of the nature, amount and validity of any filed Claim;
  - f. Directing the Applicant and the Monitor to consult with representatives of the Laurentian University Faculty Association (“**LUFA**”) and the Laurentian University Staff Union (“**LUSU**”) prior to establishing a Compensation Claim methodology to establish the categories of Compensation Claims and determination of such claims (the “**Compensation Claims Methodology**”); and
  - g. Directing the Applicant to bring a motion to the Court for approval of the Compensation Claims Methodology and Compensation Claim notification process by no later than July 30, 2021.
21. The proposed Claims Process Order provides that any Claim, as determined in accordance with the Claims Process Order shall be final for all purposes including for voting on and/or distributions made to Creditors of the Applicant pursuant to any Plan filed with this Court.
22. Undertaking a claims process at this time will provide useful information to the Applicant, its stakeholders and the Monitor as to the number, nature and value of Claims against the Applicant. This will advance the Applicant’s restructuring efforts as it will facilitate the formulation and negotiation of a Plan and allow sufficient time for Claims to be identified and ultimately adjudicated in advance of a Plan being voted on by the Creditors.

### **Claims Bar Date**

23. The Applicant proposes three Claims Bar Dates, as follows:
- a. Pre-Filing Claims: Creditors will be required to file a Proof of Claim with the Monitor prior to 5:00 pm (prevailing Eastern time) on July 30, 2021 (the “**Pre-Filing Claims Bar Date**”);

- b. Restructuring Claims: Creditors will be required to file a Proof of Claim with the Monitor prior to 5:00 pm (prevailing Eastern time) on the later of:
    - i. July 30, 2021; and
    - ii. the date that is 30 days after the date on which the Monitor sends a Proof of Claim Document Package (as defined below) to a Person with respect to a Restructuring Claim that arose after the Filing Date (the “**Restructuring Claims Bar Date**”); and
  - c. D&O Claims: Creditors will be required to file a Proof of Claim with the Monitor prior to 5:00 pm (prevailing Eastern time) on July 30, 2021 (the “**D&O Claims Bar Date**”).
24. Subject to the authority of the Monitor to waive compliance with certain filing requirements, any Creditors who do not file a Proof of Claim with the Monitor on or before the applicable Claims Bar Date shall:
- a. Be forever barred from making or enforcing any Claim against the Applicants and/or the Directors or Officers, as applicable;
  - b. Not be entitled to vote at any creditors’ meetings in respect of a Plan or to receive any distribution thereunder; and
  - c. Not be entitled to any further notice in and shall not be entitled to participate as a Creditor in these proceedings.
25. The Monitor is of the view that the Pre-Filing Claims Bar Date, the Restructuring Claims Bar Date, and the D&O Claims Bar Date are reasonable in that they provide in excess of 60 calendar days from the date of the proposed Claims Process Order (or at least 30 days for Creditors with Restructuring Claims arising after June 30, 2021) during which Creditors may evaluate their Claims against the Applicant and/or the Directors or Officers and submit the necessary Proofs of Claim.

**Notice to Creditors**

26. Pursuant to the proposed Claims Process Order, the Monitor will send, in English and French, the following documents to each Known Creditor (as defined in the Claims Process Order) with a Claim greater than \$50 by regular mail as soon as practical following the issuance of the Claims Process Order: (a) the Notice to Creditors; (b) the Instruction Letter; and (c) a Proof of Claim form (collectively, the “**Proof of Claim Document Package**”).

27. Known Creditors include:
- a. Creditors who, to the knowledge of the Applicant and the Monitor were owed monies by the Applicant as of the Filing Date, which monies remain unpaid in whole or in part;
  - b. LUFA and LUSU;
  - c. Each of the Federated Universities;
  - d. Any Person who, to the knowledge of the Applicant and the Monitor, commenced a legal or any other type of proceeding against the Applicant prior to the Filing Date; and
  - e. Any Person who is party to a lease, contract or other agreement or obligation of the Applicant which was (to the knowledge of the Applicant and the Monitor) terminated, repudiated, or disclaimed by the Applicant between the Filing Date and the date of the Claims Process Order.
28. A copy of the Proof of Claim Document Package (in English only) is attached hereto as Appendix “A”.
29. The Monitor will publish, as soon as practical following the issuance of the Claims Process Order, the Notice to Creditors, in both English and French, in the Globe and Mail (National Edition) and the Sudbury Star. The Monitor will also publish, as soon as practical, the Notice to Creditors, in French only, in *Le Voyageur*, a Sudbury based French-language newspaper.
30. The Monitor will post an electronic copy of the Proof of Claim Document Package, in both English and French, within five (5) days following the granting of a Claims Process Order on its website at <https://ey.com/ca/Laurentian>.
31. The Monitor will send a Proof of Claim Document Package to each Creditor with a Restructuring Claim by no later than five (5) days following the time the Monitor becomes aware of the Restructuring Claim.
32. In addition, the Monitor will send a Proof of Claim Document Package to any person claiming to be a Creditor as soon as reasonably possible after receipt of a request for the Proof of Claim Document Package.
33. In the Monitor’s view, the identification of Known Creditors, the mailing of the Proof of Claim Document Packages and the newspaper advertisements described above will provide sufficient and timely notification to allow Creditors to submit Proofs of Claim prior the applicable Claims Bar Date.

### **Review of Proofs of Claims**

34. Pursuant to the proposed Claims Process Order, the Monitor will review each Proof of Claim as filed and at any time, may:
  - a. Request additional information from a Creditor;
  - b. Request the Creditor to file a revised Proof of Claim;
  - c. In consultation with the Applicant, attempt to consensually resolve the amount of the Proof of Claim with the Creditor;
  - d. In consultation with the Applicant, accept (in whole or in part) the amount and/or status of the Claim and notify the Creditor in writing; and
  - e. In consultation with the Applicant, pursuant to the provisions of Claims Process Order, by notice or in writing, revise or disallow (in whole or in part) the amount and/or status of any Claim by delivering to the Creditor a notice of revision or disallowance (the “**Notice of Revision or Disallowance**”). For administrative purposes, the Creditor will also be provided at the same time with a notice of dispute form (the “**Dispute Notice**”).
35. Any Creditor who intends to dispute the amount of its Claim as set out in the Notice of Revision or Disallowance must file a Dispute Notice with the Monitor no later than fourteen (14) calendar days after the deemed receipt (pursuant to the provision of the Claims Process Order) of the Notice of Revision or Disallowance from the Monitor.
36. The Monitor is of the view that the period of time to file a Dispute Notice is reasonable as most creditors will have already performed an evaluation of their Claim prior to submitting a Proof of Claim and therefore should be in a position to respond within the time period established. In the event that certain Claims are more complex and require additional time to set out reasons in the Dispute Notice, the Claims Process Order provides the Monitor with the flexibility to extend the period of time.
37. The proposed Claims Process Order also authorizes the Monitor or the Applicant to bring a motion to Court seeking an order appointing a Claims Officer in respect of any and all disputed Claims.
38. Upon receipt of a Dispute Notice, the Monitor, in conjunction with the Applicant, may attempt to consensually resolve the amount of the Claim with the Creditor and if the Claim is not settled within a time period or in a manner satisfactory to the Monitor, the Monitor may, in its sole discretion: (a) refer the dispute to a Claims Officer for determination or (b) on notice to the disputing Creditor, bring the dispute before the Court for determination.

39. Subject to further order of the Court, if the Monitor refers the dispute to a Claims Officer for determination, the Claims Officer shall be empowered to determine the process in which evidence may be brought before him or her as well as any other procedural matters which may arise in respect of the determination of any disputed Claim.
40. The proposed Claims Process Order does not seek the Court appointment of a specific individual as Claims Officer at this time, but provides that the Applicant or the Monitor may bring a motion to the Court for such appointment at a later date.
41. The proposed Claims Process Order provides that the Creditor and the Applicant each have the ability to appeal a Claims Officer's determination by way of a motion to this Court filed within ten (10) calendar days of delivery of the Claims Officer's determination. Any such appeal shall be binding for all purposes and there shall be no further right of appeal, review or recourse from this Court's determination of a Claim.

### **Excluded Claims**

42. Certain Claims (the "**Excluded Claims**") are proposed to be excluded from the requirement to file a Proof of Claim by the applicable Claims Bar Date. The Excluded Claims consist of:
  - a. Claims of Employees for any amounts owing to them in their capacity as a current or former Employee or in respect of any pre-filing or post-filing grievances arising pursuant to a collective agreement or claims of any labour union in respect of claims arising pursuant to the CCAA (the "**Compensation Claims**");
  - b. Claims against the Applicant by any student enrolled with the Applicant during the 2020-21 academic year in respect of amounts owing in respect of rebates, refunds, account credits or other similar amounts that are subject to the existing policies and procedures of the Applicant and in accordance with the Amended and Restated Initial Order; and
  - c. Any claim entitled to the benefit of an existing or future priority charge granted by the Court pursuant to court Order, including the Administration Charge and the DIP Lender's Charge (the "**Charges**").
43. The Applicant and the Monitor recognize that most employees in this case are not in a position to accurately value their potential Compensation Claims against the Applicant due to a lack of necessary information, the complexity of the calculations and that certain claims may require an actuarial valuation. The Applicant and the Monitor anticipate a number of employee-related claims in this matter, including in respect of benefits and supplemental unregistered pension related issues. Given the timeline in which the Applicant is seeking to address its restructuring, the Applicant and the Monitor have considered and proposed a

process to streamline the manner in which individual claims of a similar nature can be determined and adjudicated, if required.

44. In order to ensure a fair, consistent and efficient process for dealing with Compensation Claims, the Applicant and the Monitor are of the view that it would be in the best interests of the employees for a methodology to be developed to govern the calculation of such claims and for the Compensation Claims Methodology to be approved by the Court. The Applicant and the Monitor intend to consult with LUFA and LUSU in respect of the development of the Compensation Claims Methodology and intend to bring the proposed methodology to the Court for approval by no later than July 30, 2021. At that time, the Applicant and the Monitor will also propose a process to notify individual employees of their individual Compensation Claims pursuant to the Compensation Claims Methodology and to validate personal data utilized in calculating individual Compensation Claims.
45. As set out above, Compensation Claims include any amounts owing in respect of grievances. Pursuant to the Mediator Appointment Order, the resolution of all outstanding grievances are to be addressed as part of the Mediation. A process is currently underway to resolve the outstanding grievances and ascertain any monetary claims against the Applicant related to these grievances. It is expected that such monetary amounts will be included as part of the Compensation Claims Methodology.
46. Excluded Claims also includes any amount owing to a student enrolled with the Applicant during the 2020-21 academic year in respect of student account credits. Student account credits often arise when a student pays tuition amounts by the due date and then is subsequently credited with Ontario Student Assistance Program funding or other scholarships. In certain cases, refunds are issued in respect of these credits. In other cases, the credits are applied against tuition fees for future courses. The Amended and Restated Initial Order provided a limited exception to the stay of proceedings permitting the Applicant to pay such amounts to students in the ordinary course subject to the existing policies and procedures of the Applicant. The limited exception to the stay was ordered by the Court in recognition of the fact that students are particularly vulnerable and that ceasing to process such credits in the normal manner could cause harm. The Applicant has continued to deal with student account credits in the ordinary course and therefore, it is the Applicant's and the Monitor's view that students should not be required to file Proofs of Claim in respect of such amounts.
47. For greater certainty, students not enrolled in the 2020-21 academic year who may have legacy student account credits from prior years are not subject to the limited exception to the stay and have been included in the list of Known Creditors to receive a Proof of Claim Document Package and will be required to participate in the Claims Process.

## **Compensation Claims**

48. As set out above, the Claims Process Order provides that parties with a potential Compensation Claim are not subject to the requirement to file a Proof of Claim by the applicable Claims Bar Date. However, the proposed Claims Process Order provides that the Applicant and the Monitor, in consultation with representatives of LUFA and LUSU, shall:
  - a. Establish the primary categories of claims to be covered in a Compensation Claims process;
  - b. Determine what information is required and how the information required to calculate Compensation Claims can be compiled from the Applicant and third-party service providers;
  - c. Establish the Compensation Claims Methodology to calculate the Compensation Claims; and
  - d. Consider alternative procedures for notification and claim processing.
49. The proposed Claims Process Order further provides that the Applicant shall bring a motion to Court by no later than July 30, 2021 seeking approval of:
  - a. The Compensation Claims Methodology; and
  - b. A process for notification of Employees and claims processing.
50. The Monitor expects that the process for notification to the Employees will include: (a) confirming with the Employee their personal information used in calculating their Compensation Claim; and (b) communicating to the Employee the resulting amount of their Compensation Claim calculated based on the Court approved Compensation Claims Methodology.
51. The proposed process and Compensation Claims Methodology, once approved by the Court, is intended to deal with the Compensation Claims of all current and former union and non-union Employees.
52. The Applicant and the Monitor provided a draft of the Claims Process Order to the pre-filing lenders, the DIP Lender, LUFA and LUSU. The Monitor discussed the form of order with LUFA and LUSU and understands that both unions are supportive of the Claims Process Order. The Monitor further understands that the DIP Lender is supportive.
53. The Applicant and the Monitor have engaged in multiple discussions with the pre-filing lenders and their advisors in respect of the draft Claims Process Order. During the course of these discussions, the Monitor agreed to provide weekly updates to the pre-filing lenders

with respect to Claims received and the status of the Monitor's review of Claims. On May 26, 2021, the Applicant and the Monitor received e-mail correspondence from counsel to Toronto-Dominion Bank (the "**TD Bank**") setting out a proposed amendment to the Claims Process Order. TD Bank has since filed a factum with a slightly revised proposal:

**THIS COURT ORDERS** that the Monitor shall consult with the Pre-Filing Lenders and such other stakeholders as it deems appropriate (the "**Consultation Parties**") with respect to each Claim or portion thereof in excess of \$5 million which the Monitor proposes to accept (each a "**Material Acceptance**") and shall provide the Consultation Parties with not less than 10 days' prior written notice of its proposal to accept any such Claim (a "**Material Acceptance Notice**"). Any Consultation Party who has received a Material Acceptance Notice and who objects to the proposed Material Acceptance referenced therein may apply to this Court within such 10 day period for review of the proposed Material Acceptance, provided if no such application is brought within such 10 day period the Monitor shall be entitled to proceed with the proposed Material Acceptance. Each Material Acceptance Notice shall include sufficient information (subject to such confidentiality restrictions as the Monitor may reasonably require) with respect to the Claim proposed to be accepted and the basis for the proposed Material Acceptance so that the Consultation Parties can reasonably assess the proposed Material Acceptance.

54. The additional language proposed by TD Bank requires the Monitor to consult with the pre-filing lenders and any other stakeholders as the Monitor deems appropriate (the "**Consultation Parties**") with respect to each Claim in excess of \$5 million which the Monitor proposes to accept and to provide the Consultation Parties with not less than 10 days' prior written notice of the intent to accept such Claim (and presumably provide the legal and factual basis for the Monitor's proposed acceptance of the Claim). Any Consultation Party who objects to the acceptance of such claim by the Monitor may then apply to the Court within the 10-day period for a review of the proposed acceptance.
55. The Monitor notes the following areas of concern with respect to the proposed addition to the Claims Process Order:
  - a. The proposed amendment will lead to confusion. The process set out in the Claims Process Order does not contemplate the Monitor issuing written "acceptances" of claims. As is typical in other CCAA claims processes, Claims that are accepted do not receive written notice of such acceptance. In this case, it is contemplated that a future order in respect of a Plan and calling of a creditor meeting will provide that to the extent that the Monitor has not issued a Notice of Revision or Disallowance by a specified date, all Proofs of Claim are deemed to be accepted. In the Monitor's

view, requiring the Monitor to “accept” any Claim in excess of \$5 million in writing at this stage, will lead to confusion amongst Creditors and a significant increase in inquiries from other Creditors as to whether their Claim has been accepted or not, requiring further Monitor action and increased costs;

- b. The proposal effectively removes the role of a Claims Officer for any Claim over \$5 million. If any Consultation Party opposes the Monitor’s acceptance of a Claim over \$5 million, the result is that the Claim will be directly referred to the Court for determination rather than a Claims Officer. The result will be increased litigation and increased cost versus the expeditious summary process that is typical in CCAA claims processes;
- c. The proposal eliminates the ability of the Monitor to negotiate and settle Claims in the ordinary course. In the Monitor’s view, it is unlikely that a Creditor would be willing to negotiate or ultimately settle a claim with a value in excess of \$5 million where any settlement and intended acceptance by the Monitor is subject to further review by other stakeholders and can simply be sent to the Court for determination;
- d. In the Monitor’s experience, Claims are often settled for amounts that reflect various risks and costs associated with the litigation of a Claim. If the settlement of a Claim is opposed and the Monitor’s assessment of the Claim is required to be justified in Court, the Monitor will either have to disclose its assessment of the strengths and weaknesses of the Claim and the litigation risk associated with the Claim or a cumbersome procedure will need to be developed where the Monitor can share its assessment with the Court under seal;
- e. Consultation Parties is defined to include “the Pre-Filing Lenders and such other stakeholders as it [the Monitor] deems appropriate”. The Monitor is not in a position to determine which stakeholders should be Consultation Parties. If the class of Consultation Parties is not defined in advance, the Monitor will effectively be required to publish the proposed acceptance of any Claim over \$5 million and allow any stakeholder to object, or face a legal challenge for its failure to do so. In the Monitor’s view, this greatly increases the likelihood of having to go to Court on every Claim over \$5 million;
- f. In the event that a material number of Claims over \$5 million are opposed by any one of the Consultation Parties, the process to obtain a determination of such Claims by the Court could result in significant delay to the resolution of such Claims, delaying the ability to have meaningful discussion and negotiation with respect to a Plan and potentially requiring the Applicant to secure additional DIP financing; and

- g. Overall, the above factors are likely to make the Claims Process more expensive and inefficient.

## **APPOINTMENT OF CHIEF REDEVELOPMENT OFFICER**

56. The Applicant is seeking an order appointing Mr. Louis (Lou) P. Pagnutti as the Chief Redevelopment Officer of LU (in such capacity, the “**CRO**”), to assist the Applicant in undertaking a comprehensive review of its governance and policies and beginning the process of re-building LU’s relationships with its stakeholders, including unions, faculty, staff, students, donors, research-granting agencies, lenders and the communities served by LU.
57. In response to feedback from its stakeholders, the Applicant has determined that it would be beneficial to retain the services of an individual who is independent of the Board and LU Management and who has significant depth of experience in the governance, operations and business functions of complex organizations and an ability to work effectively with many stakeholders.

### **CRO Scope of Work and Terms of Engagement**

58. LU has entered into an engagement letter dated May 17, 2021 (the “**CRO Engagement Letter**”) with Mr. Pagnutti to act as CRO, subject to the appointment of the CRO by this Court. Pursuant to the CRO Engagement Letter, the CRO will work with and support the President and Vice-Chancellor of LU, the executive team of LU, and the Monitor, with respect to the following activities:
  - a. Consultation with the Board with respect to LU’s strategic direction;
  - b. Engagement in meaningful consultations with any and all stakeholders of LU;
  - c. Consultation with LU and its advisors, including the Monitor, with respect to (i) the business functions of LU to identify areas of strength, weaknesses, opportunities and threats in the current operations of LU and to provide guidance and recommendations for the implementation of best practices; and (ii) LU’s existing internal policies and procedures;
  - d. Consultation with LU and its advisors regarding the development of the Plan;
  - e. Provision of assistance to LU and its management team with respect to information requests, communications with faculty, staff and students and all stakeholders;
  - f. Provision of such other assistance and services as are consistent with the role of CRO and/or the above-described services; and

- g. Any other duties, tasks or actions that are necessary, or may be necessary, as mutually agreed, to assist LU and facilitate the remainder of its CCAA restructuring.
59. The CRO will be compensated at an hourly rate of \$650/hour (up to a maximum of 80 hours each month) plus applicable taxes and the reimbursement of reasonable out-of-pocket expenses. The CRO Engagement Letter does not provide for any type of “success fee” based on the restructuring of LU.

### **Credentials of the CRO**

60. Mr. Pagnutti was born and raised in Sudbury and is well-known in the Sudbury community. He is an alumni of LU with an Honours Bachelor of Commerce degree from LU. Mr. Pagnutti has been a significant personal donor to LU for many years in both a financial and non-financial capacity.
61. Mr. Pagnutti is a highly experienced business professional having held senior leadership roles in Canada and globally and having had responsibility in managing and overseeing business functions in a large and complex organization.
62. Mr. Pagnutti is currently a director on the Board of BCE and Bell Canada and DLA Piper International LLP and DLA Piper Global. He has previously served on the boards of Sunnybrook Hospital Foundation and Pathways to Education (a program dedicated to helping youth from low-income communities graduate from high school and pursue post-secondary education).
63. Prior to taking on his current corporate director roles, most of Mr. Pagnutti’s career was spent with Ernst & Young (“EY”). Most recently, he served as Global Managing Partner, Business Enablement. Based in London, UK, he was responsible for overseeing the strategy and execution for all global functions including finance, corporate development, risk management, shared services, talent hubs and technology. Prior to that, Mr. Pagnutti served as Area Managing Partner – Asia Pacific based in Hong Kong and before that as Chairman and CEO of EY Canada. Mr. Pagnutti retired from EY in 2020.
64. The Monitor notes that Mr. Pagnutti’s prior experience was with the same professional services firm as the Monitor. As set out above, Mr. Pagnutti is currently retired from EY and has not had an active role in EY Canada since 2010 or in EY Global since September 2020. As a result, the Monitor is satisfied that there is no conflict of interest or lack of independence between Mr. Pagnutti and the Monitor.
65. The Applicant and the Monitor have consulted with the pre-filing lenders, LUFA and LUSU with respect to the proposed appointment of the CRO. The Monitor facilitated introductory calls between representatives of LUFA and LUSU and Mr. Pagnutti. These

parties were provided with drafts of the CRO Engagement Letter and court materials. Mr. Pagnutti's former relationship with EY has been transparent throughout these discussions. It is the Monitor's understanding that these stakeholders support the appointment of the CRO. The Applicant has also advised the Ministry of Colleges and Universities ("MCU") of the proposed appointment of the CRO and the Monitor understands that MCU has not expressed any concerns.

66. It is the Monitor's view that not only does the proposed CRO have the necessary skills and experience to complete the duties and obligations set out in the CRO Engagement Letter, but that Mr. Pagnutti's ties to LU and the Sudbury community uniquely position him to do so.

### **FEES OF INDEPENDENT COUNSEL TO BOARD**

67. The Amended and Restated Initial Order provided that the fees and disbursements of independent counsel to the Board ("**Board Counsel**") paid by the Applicant from and after the date of the Initial Order shall not exceed the aggregate amount of \$250,000 plus HST.
68. During the last four months, Board Counsel has been busy advising the Board in respect of various matters including the appropriate provision of oversight and direction to Management during a period in which the Applicant has dealt with a significant number of complex issues. Board Counsel has also provided advice to the Board in respect of its commitment to renewed and enhanced governance, leadership and accountability. It has also assisted the Board in managing discussions with a number of important stakeholders.
69. At this time, the Board is seeking an increase in the cap on Board Counsel fees and disbursements to an aggregate of \$500,000 plus GST.
70. There remain a number of important steps that need to be taken in order to achieve a successful restructuring and the Board will play an active role. In the Monitor's view, the efforts of Board Counsel have assisted in advancing the Applicant's restructuring efforts to date and will be helpful going forward. Accordingly, the increase in the cap is appropriate.

### **RECOMMENDATIONS AND CONCLUSIONS**

71. The Monitor has assisted and continues to assist the Applicant in its efforts to restructure, in cooperation and consultation with the Applicant's advisors. The Monitor is of the view that the Applicant is working diligently and in good faith and continues to progress towards a stage in which the Applicant can develop a Plan for consideration by its Creditors. A

process and Order for the determination of Claims on a timely basis will allow the Applicant to further advance its development of a Plan.

72. The Monitor is of the view that the proposed Claims Process, including the Monitor's role in administering the Claims Process, provides for a fair, reasonable and efficient process to determine the validity, quantum and status of Claims, is appropriate given the Monitor's role as an independent court officer and is consistent with processes utilized in similar CCAA proceedings.
73. The Monitor also believes that the appointment of Mr. Louis (Lou) P. Pagnutti as CRO is appropriate in the circumstances and will assist LU in progressing its restructuring including reviewing and improving its governance and policies and beginning to re-build its relationships with its stakeholders.
74. The Monitor is also of the view that the proposed increase to the maximum amount of professional fees incurred by independent counsel to the Board and payable by the Applicant from \$250,000 to \$500,000 is reasonable given the increased involvement of Board Counsel arising as a result of the Claims Process and other matters to be undertaken in the current phase of the restructuring.
75. For the reasons stated herein, the Monitor supports the Applicant's motion for approval of the Claims Process Order, the appointment of the CRO and the increase to the maximum amount of professional fees and disbursements incurred by independent counsel to the Board.

All of which is respectfully submitted this 27<sup>th</sup> day of May, 2021.

**ERNST & YOUNG INC., in its capacity as  
Monitor of the Applicant, and not in  
its corporate or personal capacity**

Per:



**Sharon S. Hamilton, CPA, CA, CIRP, LIT  
Senior Vice President**

APPENDIX "A"  
PROOF OF CLAIM DOCUMENT PACKAGE

## NOTICE TO CREDITORS

Court File No.: CV-21-656040-00CL

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF **LAURENTIAN UNIVERSITY OF SUDBURY**  
("LU" or the "Applicant")

#### **NOTICE OF THE CLAIMS PROCESS AND CLAIMS BAR DATE FOR THE APPLICANT IN THE CCAA PROCEEDINGS**

**NOTICE IS HEREBY GIVEN** that, pursuant to an Order of the Court made on May [28], 2021, (the "**Claims Process Order**") a claims process has been commenced for the purpose of identifying and determining certain claims against the Applicant. Capitalized terms under this Notice that are not otherwise defined herein have the meaning ascribed to them in the Claims Process Order (a copy of which is available on the Monitor's Website).

**PLEASE TAKE NOTICE** that the claims process applies to Claims, as described in the Claims Process Order. The claims process has called for *Pre-Filing Claims, Restructuring Claim and, D&O Claims*. Any creditor who has not received a Claims Package and who believes that he or she has a Claim against the Applicant, under the Claims Process Order must contact the Monitor in order to obtain a Proof of Claim form or visit the Monitor's Website.

**PLEASE TAKE NOTICE** that Employees will not be receiving a Claims Package and do not need to complete a Proof of Claim at this time. Compensation Claims of Employees will be determined by a Court-approved Compensation Claims Methodology at a later date.

**THE PRE-FILING CLAIMS BAR DATE is 5:00 p.m. (Toronto Time) on July 30, 2021.** This bar date applies to all Pre-filing Claims, which does not include Restructuring Claims or Compensation Claims. Proofs of Claim must be completed and filed with the Monitor using the procedures required in the Claims Process Order so that they are received by the Monitor on or before the Pre-Filing Claims Bar Date.

**THE RESTRUCTURING CLAIMS BAR DATE is 5:00 p.m. (Toronto Time) on the date that is the later of: (i) July 30, 2021, and (ii) the date that is 30 days after the date on which the Monitor sends a Proof of Claim Document Package to the Creditor with respect to such Restructuring Claim.** Proofs of Claim in respect of Restructuring Claims must be completed and filed with the Monitor using the procedures required in the Claims Process Order so that they are received by the Monitor on or before the Restructuring Claims Bar Date.

**THE D&O CLAIMS BAR DATE is 5:00 p.m. (Toronto Time) on July 30, 2021.** This bar date applies to all D&O Claims, which does not include Restructuring Claims or Compensation Claims. Proofs of Claim must be completed and filed with the Monitor using the procedures required in the Claims Process Order so that they are received by the Monitor on or before the D&O Claims Bar Date.

**HOLDERS OF CLAIMS WHO DO NOT FILE A PROOF OF CLAIM BY THE PRE-FILING CLAIMS BAR DATE, RESTRUCTURING CLAIMS BAR DATE OR D&O CLAIMS BAR DATE SHALL BE FOREVER EXTINGUISHED AND BARRED FROM ASSERTING THEIR CLAIMS AGAINST THE APPLICANT OR THE DIRECTORS AND OFFICERS OF THE APPLICANT.**

**CREDITORS REQUIRING INFORMATION** or claims documentation may contact the Monitor. The Monitor's contact details for additional information relating to the Initial Order, the CCAA Proceedings, or the Claims Process is:

Ernst & Young Inc.  
Court-appointed Monitor of Laurentian University of Sudbury  
Ernst & Young Tower  
100 Adelaide Street West, P.O. Box 1  
Toronto, Ontario M5H 0B3

Hotline: 1-888-338-1766 / 1-416-943-3057  
Email: [LaurentianUniversity.monitor@ca.ey.com](mailto:LaurentianUniversity.monitor@ca.ey.com)  
Website: <http://www.ey.com/ca/Laurentian>

## INSTRUCTION LETTER

Court File No.: CV-21-656040-00CL

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF **LAURENTIAN UNIVERSITY OF SUDBURY** ("LU" or the "**Applicant**")

---

## INSTRUCTION LETTER

---

### CLAIMS PROCESS

By Order of the Ontario Superior Court of Justice (Commercial List) dated May 28, 2021 ("**Claims Process Order**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), the Applicant and Ernst & Young Inc., in its capacity as Court-appointed Monitor of the Applicant (in such capacity, the "**Monitor**"), have been authorized to conduct a claims process (the "**Claims Process**"). A copy of the Claims Process Order and other public information concerning these proceedings can be obtained from the Monitor's website at: <http://www.ey.com/ca/Laurentian>

This letter provides general instructions for completing a Proof of Claim form. Defined terms not defined within this instruction letter shall have the meaning ascribed thereto in the Claims Process Order.

The Claims Process is intended to identify and determine the amount of certain Claims against the Applicant or the Directors or Officers of the Applicant.

Current and former Employees with Compensation Claims and other Excluded Claims do not need to complete a Proof of Claim at this time.

Please review the Claims Process Order for the full terms of the Claims Process.

All notices and inquiries with respect to the Claims Process should be directed to the Monitor by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below:

Ernst & Young Inc.  
Court-appointed Monitor of Laurentian University of Sudbury

Ernst & Young Tower  
100 Adelaide Street West, P.O. Box 1  
Toronto, Ontario M5H 0B3

Hotline: 1-888-338-1766 / 1-416-943-3057  
Email: LaurentianUniversity.monitor@ca.ey.com

## **FOR CREDITORS SUBMITTING A PROOF OF CLAIM**

If you believe that you have a Claim (excluding Compensation Claim) against the Applicant, you must complete and file a Proof of Claim form with the Monitor.

All Proofs of Claim for Pre-Filing Claims (Claims against the Applicant arising prior to February 1, 2021) must be received by the Monitor before 5:00 p.m. (Toronto Time) on July 30, 2021 (the "**Pre-Filing Claims Bar Date**"), subject to the provisions of the Claims Process Order.

All Proofs of Claim for Restructuring Claims must be received by the Monitor on the date that is the later of: (i) July 30, 2021, and (ii) thirty (30) calendar days following the date on which the Monitor sends a Claims Package with respect to such Restructuring Claim (the "**Restructuring Claims Bar Date**"), subject to the provisions of the Claims Process Order. If you do not file a Proof of Claim in respect of any such Restructuring Claim by the Restructuring Claims Bar Date, any Restructuring Claim that you may have shall be forever extinguished and barred.

All Proofs of Claim for D&O Claims must be received by the Monitor before 5:00 p.m. (Toronto Time) on July 30, 2021 (the "**D&O Claims Bar Date**"), subject to the provisions of the Claims Process Order.

All Claims denominated in a foreign currency shall be converted to Canadian Dollars at the Bank of Canada Canadian Dollar Daily Exchange Rate in effect as of the date of the Initial Order.

## **ADDITIONAL FORMS**

Additional Proof of Claim forms can be obtained from the Monitor's website at <http://www.ey.com/ca/Laurentian> or by contacting the Monitor.

DATED this \_\_\_ day of May, 2021

**PROOF OF CLAIM**

Court File No.: CV-21-656040-00CL

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF **LAURENTIAN UNIVERSITY OF SUDBURY**  
("LU" or the "Applicant")

---

**PROOF OF CLAIM**

---

**1. PARTICULARS OF CREDITOR**

Full Legal Name of Creditor:	
Full Mailing Address of Creditor:	
Telephone Number of Creditor:	
E-mail Address of Creditor:	
Attention (Contact Person):	

**2. PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED THE CLAIM, IF APPLICABLE:**

- (a) Have you acquired this Claim by assignment?    Yes        No      
(if yes, attach documents evidencing assignment)

a. Full Legal Name of original creditor(s):

\_\_\_\_\_

**3. PROOF OF CLAIM**

**THE UNDERSIGNED CERTIFIES AS FOLLOWS:**

That I am a Creditor [or hold the position of \_\_\_\_\_ of the Creditor] and have knowledge of all the circumstances connected with the Claim described herein;

That I have knowledge of all the circumstances connected with the Claim described and set out below;

The Applicant was and is still indebted to the Creditor as follows:

*Any Claims denominated in a foreign currency shall be filed in such currency and will be converted to Canadian Dollars at rate as set out in the Claims Process Order.*

	<b>Class of Claim Against the Applicant</b>  (Pre-Filing Claims, Restructuring Claim)	<b>Amount of Claim Against the Applicant</b>  (include the foreign currency if not Canadian dollars)
1.		\$
2.		\$
<b>TOTAL AMOUNT OF CLAIMS</b>		\$

**4. NATURE OF CLAIM**

***(CHECK AND COMPLETE APPROPRIATE CATEGORY)***

- Total Unsecured Claim of \$ \_\_\_\_\_
- Total Secured Claim of \$ \_\_\_\_\_

In respect of this debt, I hold security over the assets of LU valued at \$ \_\_\_\_\_, the particulars of which security and value are attached to this Proof of Claim form.

*(If the Claim is secured, provide full particulars of the security, including the date on which the security was given the value for which you ascribe to the assets charged by your security, the basis for such valuation and attach a copy of the security documents evidencing the security.)*

**5. PARTICULARS OF CLAIM:**

The particulars of the undersigned's total Claims (including Pre-Filing Claims, Restructuring Claims or any D&O Claims) are attached.

*Provide full particulars of the Claim(s) and supporting documentation you are asserting a Claim against, the amount, description of transaction(s) or agreement(s) giving rise to the Claim(s), name of any guarantor(s) which has guaranteed the Claim(s), and amount*

*of Claim(s) allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed. In the event that any part of your claim also includes a claim amount against the Directors and Officers, please particularize the exact amount claimed against the Directors and Officers and the accompanying legal analysis. If you fail to sufficiently explain the legal analysis in respect of any claim against the Directors and Officers, that portion of the claim will be revised or disallowed.*

## **FILING OF CLAIM**

For Pre-Filing Claims, this Proof of Claim must be returned to and received by the Monitor by 5:00 p.m. (Toronto Time) on the Pre-Filing Claims Bar Date (July 30, 2021).

For Restructuring Claims, this Proof of Claim must be returned to and received by the Monitor by 5:00 p.m. (Toronto Time) on the date that is the later of: (i) July 30, 2021, and (ii) thirty (30) calendar days following the date on which the Monitor sends a Claims Package with respect to such Restructuring Claim.

For D&O Claims, this Proof of Claim must be returned to and received by the Monitor by 5:00 p.m. (Toronto Time) on the D&O Claims Bar Date (July 30, 2021).

In each case, completed forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email to the Monitor at the following address:

Ernst & Young Inc.  
Court-appointed Monitor of Laurentian University of Sudbury  
Ernst & Young Tower  
100 Adelaide Street West, P.O. Box 1  
Toronto, Ontario M5H 0B3

Hotline: 1-888-338-1766 / 1-416-943-3057  
Email: [LaurentianUniversity.monitor@ca.ey.com](mailto:LaurentianUniversity.monitor@ca.ey.com)

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Witness Name:

Name of Creditor: \_\_\_\_\_

Signature of Creditor:

\_\_\_\_\_  
*If Creditor is other than an individual, print name  
and title of authorized signatory*

Name: \_\_\_\_\_

Title: \_\_\_\_\_