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**IN THE MATTER OF** the *Pension Benefits Act*, R.S.O. 1990,  
c. P.8, as amended (the "*PBA*");

**AND IN THE MATTER OF** a Notice of Intended Decision of the  
Superintendent of Financial Services to consent under section  
62.1(5) of the *PBA* to a payment out of the pension fund for the  
**Voith Canada Inc. Hourly Paid Employees' Pension Plan**,  
Registration Number **0289496** (the "*Plan*").

**TO:** Voith Canada Inc.  
PO Box 1411  
3040 Black Creek Road  
Wilson NC 27893  
USA

**Attention:** Laura Wilson  
HR Director FRS North America

### **NOTICE OF INTENDED DECISION**

**I INTEND TO CONSENT**, under section 62.1(5) of the *PBA*, to the payment out of the pension fund for the Plan to Voith Canada Inc., in the amount of \$25,873 as at September 13, 2011 plus investment earnings thereon to the date of payment.

#### **I INTEND TO CONSENT FOR THE FOLLOWING REASONS:**

1. **Voith Canada Inc. (the Company)** is the employer and administrator as defined in the Plan (the "*Employer*").
2. The Plan is wound up effective December 12, 2008.
3. The Plan had a liability under section 75 of the *PBA* on wind up.
4. The Company has funded the liability under section 75 of the *PBA*.
5. The latest report prepared by an actuary and filed by the Company as administrator of the Plan under section 32(1) of Regulation 909, R.R.O. 1990, as amended (the Regulation)

shows that there is no further amount to be funded. It also shows that there is money remaining in the pension fund in the amount of \$25,873.

6. In these circumstances, section 32(4) of the Regulation states that the money remaining in the pension fund may be paid to the employer in accordance with section 62.1 of the PBA as if that money was an overpayment into the pension fund by the Company within the meaning of section 62.1(1)(b) of the PBA.
7. Section 62.1(4) of the PBA states that if an employer makes an overpayment into the pension fund the application to the Superintendent of Financial Services for reimbursement for the payment must be made before the later of, (a) 24 months after the date on which the employer made the overpayment; and (b) six months after the date on which the administrator, acting reasonably, becomes aware of the overpayment.

The Company's application for the overpayment was made on August 26, 2013, which in my view is within twenty-four months after the date on which the Company made the overpayment, i.e., September 13, 2011.

I am satisfied that the Company's application for overpayment has been filed within the time limits set out in 62.1(4) of the PBA.

8. Such further and other reasons as may come to my attention.

**YOU ARE ENTITLED TO A HEARING** by the Financial Services Tribunal (the "Tribunal") pursuant to section 89(6) of the *PBA*. **To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Intended Decision is served on you.**<sup>1</sup>

**YOUR WRITTEN NOTICE** must be delivered to:

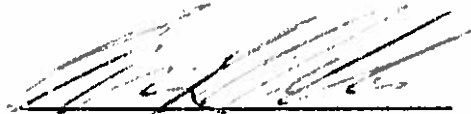
Financial Services Tribunal  
5160 Yonge Street  
14th Floor  
Toronto, Ontario  
M2N 6L9

Attention: The Registrar

**FOR FURTHER INFORMATION** on a Form for the written notice, please see the Tribunal website at [www.fstontario.ca](http://www.fstontario.ca) or contact the Registrar of the Tribunal by phone at 416-590-7294, toll free at 1-800-668-0128, ext. 7294, or by fax at 416-226-7750.

**IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY  
CARRY OUT THE INTENDED DECISION AS DESCRIBED IN THIS NOTICE.**

DATED at Toronto, Ontario, this 17<sup>th</sup> day of December 2013.



Brian Mills  
Deputy Superintendent, Pensions

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<sup>1</sup> Note – Pursuant to section 112 of the *PBA* any Notice, order or other document is sufficiently given, served or delivered if delivered personally or sent by regular mail and any document sent by regular mail shall be deemed to be given, served or delivered on the fifth day after the date of mailing.