



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 Proposal of the Superintendent of Financial
Services to Make Orders under sections 55(2), 87(2)(c), and 69(1) (a) and (b) of
the *PBA* relating to the Pension Plan for the Employees of Applied Engineering
and Science (Canada) Limited, Registration Number 1071133

TO: **Applied Engineering and Science (Canada) Limited**
100 Peachtree Street, Suite 420
Atlanta, GA 30303
U.S.A.

Attention: Malcolm Burman
President
Employer and Administrator of the Plan

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER in respect of the Pension Plan for the Employees
of Applied Engineering and Science (Canada) Limited, Registration Number - 1071133, (the
“Plan”) under sections 55(2) and 87(2)(c) of the *PBA*, that Applied Engineering and Science
(Canada) Limited remit all outstanding contributions to the Plan within thirty (30) days.

I ALSO PROPOSE TO MAKE AN ORDER that the Plan be wound up as at April 1,
2006, under section 69(1)(a) and (b) of the *PBA*, and that a wind up report be filed within sixty
(60) days.

REASONS:

- 1) Applied Engineering and Science (Canada) Limited is the employer and administrator of the Plan.
- 2) The Plan is a defined contribution single employer pension plan.

- 3) Section 4(a) of the Plan requires that members make “required contributions” in an amount up to 10% of the member’s base earnings (defined in the Plan as basic salary excluding overtime and bonuses). Section 4(c) of the Plan requires the employer to contribute an amount equal to 50% of the member’s required contributions.
- 4) The Plan requires the employer to remit the employer’s contributions not later than the last day of the month following the end of the month to which the contributions relate.
- 5) The Plan’s custodian has informed the Financial Services Commission of Ontario (“FSCO”) staff that the estimated member monthly contributions were \$875 and that the estimated employer monthly contributions were \$438. The Plan’s custodian has also informed FSCO staff that employer required contributions have not been made since May 2004, although member required contributions (which were reported previously as voluntary contributions) were made by members up to January 31, 2005.
- 6) The Plan administrator has indicated a willingness to wind up the Plan as at April 1, 2006, but to date nothing has been done to wind it up.
- 7) Section 55(2) of the *PBA* states that an employer required to make contributions under a pension plan shall make the contributions in accordance with the prescribed requirements for funding in the prescribed manner and at the prescribed times.
- 8) Section 4(4) 3.1 of Regulation 909, R.R.O. 1990 (the “Regulation”) states that where all the pension benefits provided under the plan are defined contribution benefits, employer contributions for the plan’s fiscal year shall be paid in monthly installments within 30 days after the month for which contributions are payable.
- 9) Section 87(2)(a) of the *PBA* states that the Superintendent of Financial Services (the “Superintendent”) may make an order requiring an administrator to take any action in respect of a pension plan or a pension fund if the Superintendent is of the opinion, upon reasonable and probable grounds, that the pension plan or fund is not being administered in accordance with the *PBA*, the Regulation, or the pension plan.
- 10) The Plan is not being administered in accordance with the *PBA*, the Regulation, and the pension plan because the employer has failed to make contributions since May 2004.
- 11) Section 69(1)(a) of the *PBA* states that the Superintendent by order may require the wind up of a pension plan if there is a suspension or cessation of employer contributions to the pension fund. Section 69(1)(b) of the *PBA* states that the Superintendent by order may require the wind up of a pension plan if the employer fails to make contributions to the pension fund as required by the *PBA* or the Regulation.
- 12) 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 Proposal is served on you.**¹

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 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 PROPOSAL AS DESCRIBED IN THIS NOTICE.

THE ADMINISTRATOR IS REQUIRED TO TRANSMIT a copy of this Notice of Proposal to all members and former members of the Plan, pursuant to section 89(5) of the *PBA*.

DATED at Toronto, Ontario, this 14th day of **July, 2009**.

K. David Gordon
Deputy Superintendent, Pensions

¹ 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 seventh day after the date of mailing.