

SCHEDULE "C"

CROSS-BORDER INSOLVENCY PROTOCOL FOR SYSTECH RETAIL SYSTEMS CORP. AND ITS AFFILIATES

This cross-border insolvency protocol (the "Protocol") shall govern the conduct of all parties in interest in the Insolvency Proceedings (as such term is defined below):

A. Background

1. Systech Retail Systems Corp., an Ontario corporation ("Systech"), is the parent company of a North American business that operates, through various Canadian and American subsidiaries and affiliates, in the United States and Canada. Systech and certain of its subsidiaries and affiliates (collectively, the "Systech Companies") are the largest independent provider of retail point of sale field services in North America, with approximately 90% of the Systech Companies' revenue being generated in the United States.
2. The Systech Companies develop, integrate and support point of sale solutions and systems for large North American supermarket, general merchandise and hospitality chains. The Systech Companies provide information technology solutions and services to their clients using new software and hardware peripherals from leading computer manufacturers.
3. The Systech Companies have commenced reorganization cases (collectively, the "U.S. Cases") under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of North Carolina Raleigh Division (the "U.S. Bankruptcy Court"). The Systech Companies are continuing in possession of their respective properties and are operating and managing their businesses, as debtors-in-possession, pursuant to Sections 1107 and 1108 of the U.S. Bankruptcy Code. An Official Committee of Unsecured Creditors has not been appointed, but is expected to be appointed in the U.S. Cases (the "Creditors' Committee").
4. Certain of the Systech Companies, including the parent company, Systech, have assets and carry on business in Canada. Systech and five of its Canadian subsidiaries and affiliates (collectively, the "Applicants") have commenced proceedings (collectively the "Canadian Case") under the *Companies' Creditors Arrangement Act* (the "CCAA") in the Ontario Superior Court of Justice (the "Canadian Court"). The Applicants have sought an order of the Canadian Court (as initially made under the CCAA and as may be subsequently amended or modified, the "CCAA Order") under which (a) the U.S. Cases have been determined to be "foreign proceedings" for the purposes of Section 18.6 of the CCAA; and (b) a stay was granted against actions, enforcements, extra-judicial proceedings or other proceedings until and including February 20, 2003 against the Applicants and their property.
5. The Applicants are parties to both the Canadian Case and the U.S. Cases. For convenience, the U.S. Cases and the Canadian Case are referred to herein collectively as the "Insolvency Proceedings" and the U.S. Bankruptcy Court and the Canadian Court are referred to herein collectively as the "Courts".

B. Purpose and Goals

6. While proceedings are pending in Canada and the United States in respect of the Systech Companies (the "Debtors"), the implementation of basic administrative procedures is necessary to co-ordinate certain activities in the Insolvency Proceedings and ensure the maintenance of the Courts' independent jurisdiction and to give effect to the doctrines of comity and collateral estoppel. Accordingly, this Protocol has been developed to promote the following mutually desirable goals and objectives in both the Canadian Cases and the U.S. Cases:
- harmonize, co-ordinate and minimize and avoid duplication of activities in the Insolvency Proceedings before the Canadian Court and the U.S. Court;
 - promote the orderly and efficient administration of the Insolvency Proceedings to, among other things, maximize the efficiency of the Insolvency Proceedings, reduce the costs associated therewith and avoid duplication of effort;
 - honour the independence and integrity of the Courts and other courts and tribunals of Canada and the United States;
 - promote international co-operation and respect for comity among the Courts, the Debtors, the Committee, the Estate Representatives (as such term is defined in Section E hereinafter) and other creditors and interested parties in the Insolvency Proceedings;
 - facilitate the fair, open and efficient administration of the Insolvency Proceedings; and
 - implement a framework of general principles to address basic administrative issues arising out of the cross-border nature of the Insolvency Proceedings.

C. Comity and Independence of the Courts

7. The approval and implementation of this Protocol shall not divest or diminish the Canadian Court's and the U.S. Court's independent jurisdiction over the subject matter of the Canadian Cases and U.S. Cases. By approving and implementing this Protocol, neither the Canadian Court, the U.S. Court, the Debtors nor any creditors or interested parties shall be deemed to have approved or engaged in any infringement on the sovereignty of Canada or the United States.
8. The Canadian Court shall have sole and exclusive jurisdiction and power over the conduct of the Canadian Cases and the hearing and determination of matters arising in the Canadian Cases. The U.S. Court shall have sole and exclusive jurisdiction and power over the conduct of the U.S. Cases and the hearing and determination of matters arising in the U.S. Cases.
9. In accordance with the principles of comity and independence established in paragraphs 6 and 7 above, nothing contained herein shall be construed to:
- increase, decrease or otherwise modify the independence, sovereignty or jurisdiction of the Canadian Court, the U.S. Court or any other court or tribunal in Canada or the United States, including the ability of any such court or tribunal to provide appropriate relief under applicable law on an *ex parte* or "limited notice" basis;
 - require the Canadian Court to take any action that is inconsistent with its obligations under the laws of Canada;

- require the U.S. Court to take any action that is inconsistent with its obligations under the laws of the United States;
 - require the Debtors, the Committee, or the Estate Representatives to take any action or refrain from taking any action that would result in a breach of any duty imposed on them by any applicable law; or
 - authorize any action that requires the specific approval of one or both of the Courts under the CCAA or the Bankruptcy Code after appropriate notice and a hearing (except to the extent that such action is specifically described in this Protocol).
10. The Debtors, the Committee, the Estate Representatives and their respective employees, members, agents and professionals shall respect and comply with the independent, non-delegable duties imposed upon them by the Bankruptcy Code, the CCAA Order and other applicable laws, regulation or orders of tribunals of competent jurisdiction.

D. Co-operation

11. To assist in the efficient administration of the Insolvency Proceedings, the Debtors and the Committee shall (a) co-operate with each other in connection with actions taken in both the Canadian Court and the U.S. Court and (b) take any other appropriate steps to co-ordinate the administration of the Canadian Cases and the U.S. Cases for the benefit of the Debtors' respective estates and stakeholders.
12. To harmonize and co-ordinate the administration of the Insolvency Proceedings, the Canadian Court and the U.S. Court each shall use its best efforts to co-ordinate activities with and defer to the judgment of the other Court, where appropriate and feasible:
- (a) The Courts shall use their best efforts to co-ordinate activities in the Insolvency Proceedings so that the subject matter of any particular action, suit, request, application, contested matter or other proceeding may be determined in one Court only.
 - (b) The Canadian Court and the U.S. Court may communicate with one another with respect to any matter relating to the Insolvency Proceedings.
 - (c) The Canadian Court and the U.S. Court may conduct joint hearings with respect to any matter relating to the conduct, administration, determination or disposition of any aspect of the U.S. Cases or the Canadian Cases if both Courts determine and agree that such joint hearings are necessary or advisable to facilitate the proper and efficient conduct of the Insolvency Proceedings. With respect to any such joint hearings, unless otherwise ordered by both Courts, the following procedures shall be followed:
 - A telephone or video link shall be established so that both the Canadian Court and the U.S. Court shall be able to simultaneously hear the proceedings in the other Court.
 - Submissions or applications by any party that are or become the subject of a joint hearing of the Courts (collectively, "Pleadings") shall be made or filed initially only with the Court in which such party is appearing and seeking relief. Promptly after the scheduling of any joint hearing, the party submitting such pleadings to one Court shall file courtesy copies with the other Court. In any event, Pleadings seeking relief from both Courts must be filed with both Courts.

- Any party intending to rely on written evidentiary materials in support of a submission to the Canadian Court or the U.S. Court in connection with any joint hearing or application (collectively "Evidentiary Materials") shall file such materials, which shall be identical insofar as possible and shall be consistent with the procedural and evidentiary rules and requirements of each Court, in advance of the time of such hearing or the submission of such application. If a party has not previously appeared in or attorned or does not wish to attorn to the jurisdiction of either Court, it shall be entitled to file such materials without, by the act of filing, being deemed to have attorned to the jurisdiction of the Court in which such material is filed, so long as it does not request in its materials or submissions any affirmative relief from the Court to which it does not wish to attorn;
 - If a party has not previously appeared in or otherwise attorned to the jurisdiction of a Court, it shall be entitled to file Pleadings or Evidentiary Materials in connection with the joint hearing without being deemed to have attorned to the jurisdiction of the Court by virtue of filing such Pleadings or Evidentiary Materials, provided that the party does not request any affirmative relief from such Court.
 - The Justice of the Canadian Court and the Judge of the U.S. Court shall be entitled to communicate with each other in advance of any joint hearing, with or without counsel being present, to (i) establish guidelines for the orderly submission of pleadings, Evidentiary Materials and other papers and the rendering of decisions by the Canadian Court and the U.S. Court and (ii) address any related procedural or administrative matters.
 - The Justice of the Canadian Court and the Judge of the U.S. Court shall be entitled to communicate with each other after any joint hearing, with or without counsel present, for the purposes of (i) determining whether consistent rulings can be made by both Courts, (ii) co-ordinating the terms of the Courts' respective rulings and (iii) addressing any other procedural or administrative matter.
 - To the extent desirable and not inconsistent with (a) the principles, terms and procedures of this Protocol, and (b) comity, the Courts may use the Guidelines for Court-to-Court Communications in Cross-Border cases developed by the American Law Institute's Transnational Insolvency Project, a copy of which is attached hereto as Schedule "A".
13. Notwithstanding the terms of paragraph 11 above, the Protocol recognizes that the Canadian Court and the U.S. Court are independent courts. Accordingly, although the Courts will seek to co-operate and co-ordinate with each other in good faith, each of the Courts shall be entitled at all times to exercise its independent jurisdiction and authority with respect to (a) matters presented to such Court and (b) the conduct of the parties appearing in such matters.

E. Retention and Compensation of Estate Representatives and Professionals

14. Except as provided in paragraph 18 below, the Monitor Parties (as such term is defined below) and any other estate representatives appointed in the Canadian Cases (collectively, the "Canadian Representatives") shall be subject to the sole and exclusive jurisdiction of the Canadian Court with respect to all matters, including: (a) the Canadian Representatives' tenure in office; (b) the retention and compensation of the Canadian Representatives; (c) the Canadian Representatives' liability, if any, to any person or entity, including the Canadian Debtors and any third parties, in connection with the Insolvency Proceedings; and (d) the hearing and determination of any other matters relating to the Canadian Representatives arising in the Canadian Cases under the CCAA or other applicable

Canadian law. Except as otherwise provided herein, the Canadian Representatives and their Canadian counsel and any other Canadian professionals shall not be required to seek approval of their retention in the U.S. Court. Additionally, except as provided herein, the Canadian Representatives and their Canadian counsel and other Canadian professionals (a) shall be compensated for their services solely in accordance with the CCAA and other applicable Canadian law or orders of the Canadian Court and (b) shall not be required to seek approval of their compensation in the U.S. Court.

15. The Monitor and its respective officers, directors, employees, counsel and agents, wherever located (collectively, the "Monitor Parties"), shall be entitled to the same protections and immunities in the United States as those granted to them under the CCAA and the CCAA Order. In particular, except as otherwise provided in any subsequent order entered in the Canadian Cases, the Monitor Parties shall incur no liability or obligations as a result of the CCAA Order, the appointment of the Monitor or carrying out of the provisions of the CCAA and the CCAA Order by the Monitor Parties, except as any such liability arising from actions of the Monitor Parties constituting gross negligence or wilful misconduct.
16. Except as provided in paragraph 19 below, any estate representatives appointed in the U.S. Cases, including any examiners or trustees appointed in accordance with section 1104 of the Bankruptcy Code (collectively the "U.S. Representatives" and, together with the Canadian Representatives, the "Estate Representatives"), shall be subject to the sole and exclusive jurisdiction of the U.S. Court with respect to all matters, including: (a) the U.S. Representatives' tenure in office; (b) the retention and compensation of the U.S. Representatives; (c) the U.S. Representatives' liability, if any, to any person or entity, including the U.S. Debtors and any third parties, in connection with the Insolvency Proceedings; and (d) the hearing and determination of any other matters relating to the U.S. Representatives arising in the U.S. Cases under the Bankruptcy Code or other applicable laws of the United States. The U.S. Representatives and their U.S. counsel and other U.S. professionals shall not be required to seek approval of their retention in the Canadian Court. Additionally, the U.S. Representatives and their U.S. counsel and other U.S. professionals (a) shall be compensated for their services solely in accordance with the Bankruptcy Code and other applicable laws of the United States or orders of the U.S. Court and (b) shall not be required to seek approval of their compensation in the Canadian Court.
17. Any Canadian professionals retained by the Canadian Debtors or any Canadian legal or financial advisors retained by any lenders providing debtor-in possession financing to the Debtors for activities performed in Canada or in connection with the Canadian Cases (collectively, the "Canadian Professionals") shall be subject to the procedures and standards for retention and compensation applicable in the Canadian Court under the CCAA, the CCAA Order and any other applicable Canadian law or orders of the Canadian Court and shall not be required to seek approval of their retention or compensation in the U.S. Court.
18. Any professionals retained by the U.S. Debtors or the Committee for activities performed in the United States or in connection with the U.S. Cases (collectively, the "U.S. Professionals") shall be subject to the procedures and standards for retention and compensation applicable in the U.S. Court under the Bankruptcy Code and any other applicable laws of the United States or orders of the U.S. Court and shall not be required to seek approval of their retention or compensation in the Canadian Court.
19. Notwithstanding anything above to the contrary, any financial advisor retained by the U.S. Debtors (the "U.S. Advisor"): (a) shall be required to obtain the approval of its retention as financial advisor to the U.S. Debtors in the U.S. Court in accordance with section 327 of the Bankruptcy Code; (b) shall be subject to the procedures and standards for review and approval of compensation and reimbursement of expenses applicable in the U.S. Court under the Bankruptcy Code and any other

applicable laws of the United States or orders of the U.S. Court for all services performed by the U.S. Advisor for the Debtors as financial advisor to the U.S. Debtors; and (c) shall disclose to the U.S. Court compensation received, if any, in the Canadian Cases.

F. Notice

20. Notice of any motion, application or other pleading or paper filed in one or both of the Insolvency Proceedings and notice of any related hearings or other proceedings mandated by applicable law in connection with the Insolvency Proceedings or the Protocol shall be given by appropriate means (including, where circumstances warrant, by courier, telecopier or other electronic forms of communication) to the following: (a) all creditors and other interested parties in accordance with the practice of the jurisdiction where the papers are filed or the proceedings are to occur; and (b) to the extent not otherwise entitled to receive notice under subpart (a) of this sentence, counsel to the Committee, counsel to the Monitor, the Bankruptcy Administrator and such other parties as may be designated by either of the Courts from time to time. Notice in accordance with this paragraph shall be given by the party otherwise responsible for effecting notice in the jurisdiction where the underlying papers are filed or the proceedings are to occur. In addition to the foregoing, upon request, the Debtors shall provide the Canadian Court or the U.S. Court, as the case may be, with copies of all orders, decision, opinions or similar papers issued by the other Court in the Insolvency Proceedings.

G. Joint Recognition of Stays of Proceedings Under the CCAA and the Bankruptcy Code

21. The U.S. Court hereby recognizes the validity of the stay of proceedings and actions against the Canadian Debtors, their directors and their assets under the CCAA and the CCAA Order (the "Canadian Stay"). In recognition of the importance of the Canadian Stay to the successful completion of the Insolvency Proceedings for the benefit of the Debtors and their respective estates, the U.S. Court shall extend and enforce the Canadian Stay in the U.S. (to the same extent that such stay of proceedings and actions is applicable in Canada) to prevent adverse actions against the assets, rights and holdings of the Canadian Debtors in the U.S. In implementing the terms of this paragraph, the U.S. Court may consult with the Canadian Court regarding (a) the interpretation and application of the Canadian Stay and any orders of the Canadian Court modifying or granting relief from the Canadian Stay and (b) the enforcement of the Canadian Stay in the United States.
22. The Canadian Court hereby recognizes the validity of the stay of proceedings and actions against the U.S. Debtors and their assets under section 362 of the Bankruptcy Code (the "U.S. Stay"). In recognition of the importance of the U.S. Stay to the successful completion of the Insolvency Proceedings for the benefit of the Debtors and their respective estates, the Canadian Court shall extend and enforce the U.S. Stay in Canada (to the same extent that such stay of proceedings and actions is applicable in the United States) to prevent adverse actions against the assets, rights and holdings of the U.S. Debtors in Canada. In implementing the terms of this paragraph, the Canadian Court may consult with the U.S. Court regarding (a) the interpretation and application of the U.S. Stay and any orders of the U.S. Court modifying or granting relief from the U.S. Stay and (b) the enforcement of the U.S. Stay in Canada.
23. Nothing contained herein shall affect or limit the Debtors' or other parties' rights to assert the applicability or non-applicability of the Canadian Stay or the U.S. Stay to any particular proceeding, property, asset, activity or other matter, wherever pending or located.

H. Rights to Appear and Be Heard

24. The Debtors, their creditors and other interested parties in the Insolvency Proceedings, including the Committee, the Estate Representatives, and the Bankruptcy Administrator shall have the right and standing to (a) appear and be heard in either the Canadian Court or the U.S. Court in the Insolvency Proceedings to the same extent as creditors and other interested parties domiciled in the forum country, subject to any local rules or regulations generally applicable to all parties appearing in the forum and (b) file notices of appearance or other papers with the Clerk of the Canadian Court or the U.S. Court in the Insolvency Proceedings; provided, however, that any appearance or filing may subject a creditor or interested party to the jurisdiction of the Court in which the appearance or filing occurs; provided further, that appearance by the Committee in the Canadian Cases shall not form a basis for personal jurisdiction in Canada over the members of the Committee. Notwithstanding the foregoing, and in accordance with the policies set forth in paragraphs 13 and 15 above: (a) the Canadian Court shall have jurisdiction over the U.S. Representatives and the Bankruptcy Administrator solely with respect to the particular matters as to which the U.S. Representatives or the Bankruptcy Administrator appear before the Canadian Court; and (b) the U.S. Court shall have jurisdiction over the Canadian Representatives solely with respect to the particular matters as to which the Canadian Representatives appear before the U.S. Court.

I. Effectiveness; Modification

25. This Protocol shall become effective only upon its approval by both the Canadian Court and the U.S. Court.
26. This Protocol may not be supplemented, modified, terminated or replaced in any manner except upon the approval of both the Canadian Court and the U.S. Court after notice and a hearing. Notice of any legal proceeding to supplement, modify, terminate or replace this Protocol shall be given in accordance with paragraph 19 above.

J. Procedure for Resolving Disputes Under the Protocol

27. Disputes relating to the terms, intent or application of this Protocol may be addressed by interested parties to either the U.S. Court, the Canadian Court or both Courts upon notice in accordance with paragraph 20 above. In rendering a determination in any such dispute, the Court to which the issue is addressed: (a) shall consult with the other Court; and (b) may, in its sole and exclusive discretion, either (i) render a binding decision after such consultation, (ii) defer to the determination of the other Court by transferring the matter, in whole or in part, to the other Court or (iii) seek a joint hearing of both Courts in accordance with paragraph 11(c) above. Notwithstanding the foregoing, in making a determination under this paragraph, each Court shall give due consideration to the independence, comity and inherent jurisdiction of the other Court established under existing law.
28. In implementing the terms of paragraphs 12, 21, 22 and 27 above and the other provisions of the Protocol, the Canadian Court and the U.S. Court may, in their sole discretion, provide advice or guidance to each other with respect to legal issues in accordance with the following procedures:
- The Canadian Court or the U.S. Court, as applicable, shall provide any such advice or guidance to the other Court in writing.
 - Copies of such written advice or guidance shall be served by the applicable Court in accordance with paragraph 20 hereof.

The Debtors, the Committee, the Estate Representatives, the and any other affected or interested party shall be entitled to make submissions to the appropriate Court in response to or in connection with any written advice or guidance received from the other Court.

K. Preservation of Rights

29. Neither the terms of this Protocol nor any actions taken under the terms of this Protocol shall prejudice or affect the powers, rights, claims and defenses of the Debtors and their estates, the Committee, the Estate Representatives, the Bankruptcy Administrator or any of the Debtors' creditors under applicable law, including the CCAA and the Bankruptcy Code and the orders of the Courts.

SCHEDULE "A"

The American Law Institute

TRANSNATIONAL INSOLVENCY PROJECT

PRINCIPLES OF COOPERATION IN TRANSNATIONAL
INSOLVENCY CASES AMONG THE MEMBERS OF THE
NORTH AMERICAN FREE TRADE AGREEMENT

***Appendix 2: Guidelines Applicable to Court-to-Court Communications in
Cross-Border Cases***

Submitted by the Council to the Members of The American Law Institute
for Discussion at the Seventy-Seventh Annual Meeting
on May 15, 16, 17, and 18, 2000

The Executive Office
THE AMERICAN LAW INSTITUTE
4025 Chestnut Street
Philadelphia, Pa. 19104-3099

Appendix 2

Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases

Introduction:

One of the most essential elements of cooperation in cross-border cases is communication among the administering authorities of the countries involved. Because of the importance of the courts in insolvency and reorganization proceedings, it is even more essential that the supervising courts be able to coordinate their activities to assure the maximum available benefit for the stakeholders of financially troubled enterprises.

These Guidelines are intended to enhance coordination and harmonization of insolvency proceedings that involve more than one country through communications among the jurisdictions involved. Communications by judges directly with judges or administrators in a foreign country, however, raise issues of credibility and proper procedures. The context alone is likely to create concern in litigants unless the process is transparent and clearly fair. Thus, communication among courts in cross-border cases is both more important and more sensitive than in domestic cases. These Guidelines encourage such communications while channeling them through transparent procedures. The Guidelines are meant to permit rapid cooperation in a developing insolvency case while ensuring due process to all concerned.

The Guidelines at this time contemplate application only between Canada and the United States, because of the very different rules governing communications with and among courts in Mexico. Nonetheless, a Mexican Court might choose to adopt some or all of these Guidelines for communications by a *sindico* with foreign administrators or courts.

A Court intending to employ the Guidelines - in whole or part, with or without modifications - should adopt them formally before applying them. A Court may wish to make its adoption of the Guidelines contingent upon, or temporary until, their adoption by other courts concerned in the matter. The adopting Court may want to make adoption or continuance conditional upon adoption of the Guidelines by the other Court in a substantially similar form, to ensure that judges, counsel, and parties are not subject to different standards of conduct.

The Guidelines should be adopted following such notice to the parties and counsel as would be given under local procedures with regard to any important procedural decision under similar circumstances. If communication with other courts is urgently needed, the local procedures, including notice requirements, that are used in urgent or emergency situations should be employed, including, if appropriate, an initial period of effectiveness, followed by further consideration of the Guidelines at a later

time. Questions about the parties entitled to such notice (for example, all parties or representative parties or representative counsel) and the nature of the court's consideration of any objections (for example, with or without a hearing) are governed by the Rules of Procedure in each jurisdiction and are not addressed in the Guidelines.

The Guidelines are not meant to be static, but are meant to be adapted and modified to fit the circumstances of individual cases and to change and evolve as the international insolvency community gains experience from working with them. They are to apply only in a manner that is consistent with local procedures and local ethical requirements. They do not address the details of notice and procedure that depend upon the law and practice in each jurisdiction. However, the Guidelines represent approaches that are likely to be highly useful in achieving efficient and just resolutions of cross-border insolvency issues. Their use, with such modifications and under such circumstances as may be appropriate in a particular case, is therefore recommended.

Guideline 1

Except in circumstances of urgency, prior to a communication with another Court, the Court should be satisfied that such a communication is consistent with all applicable Rules of Procedure in its country. Where a Court intends to apply these Guidelines (in whole or in part and with or without modifications), the Guidelines to be employed should, wherever possible, be formally adopted before they are applied. Coordination of Guidelines between courts is desirable and officials of both courts may communicate in accordance with Guideline 8(d) with regard to the application and implementation of the Guidelines.

Guideline 2

A Court may communicate with another Court in connection with matters relating to proceedings before it for the purposes of coordinating and harmonizing proceedings before it with those in the other jurisdiction.

Guideline 3

A Court may communicate with an Insolvency Administrator in another jurisdiction or an authorized Representative of the Court in that jurisdiction in connection with the coordination and harmonization of the proceedings before it with the proceedings in the other jurisdiction.

Guideline 4

A Court may permit a duly authorized Insolvency Administrator to communicate with a foreign Court directly, subject to the approval of the foreign Court, or through an Insolvency Administrator in the other jurisdiction or through an authorized Representative of the foreign Court on such terms as the Court considers appropriate.

Guideline 5

A Court may receive communications from a foreign Court or from an authorized Representative of the foreign Court or from a foreign Insolvency Administrator and should respond directly if the communication is from a foreign Court (subject to Guideline 7 in the case of two-way communications) and may respond directly or through an authorized Representative of the Court or through a duly authorized Insolvency Administrator if the communication is from a foreign Insolvency Administrator, subject to local rules concerning ex parte communications.

Guideline 6

Communications from a Court to another Court may take place by or through the Court:

- (a) Sending or transmitting copies of formal orders, judgments, opinions, reasons for decision, endorsements, transcripts of proceedings, or other documents directly to the other Court and providing advance notice to counsel for affected parties in such manner as the Court considers appropriate;
- (b) Directing counsel or a foreign or domestic Insolvency Administrator to transmit or deliver copies of documents, pleadings, affidavits, factums, briefs, or other documents that are filed or to be filed with the Court to the other Court in such fashion as may be appropriate and providing advance notice to counsel for affected parties in such manner as the Court considers appropriate;
- (c) Participating in two-way communications with the other Court by telephone or video conference call or other electronic means, in which case Guideline 7 should apply.

Guideline 7

In the event of communications between the Courts in accordance with Guidelines 2 and 5 by means of telephone or video conference call or other electronic means, unless otherwise directed by either of the two Courts:

- (a) Counsel for all affected parties should be entitled to participate in person during the communication and advance notice of the communication should be given to all parties in accordance with the Rules of Procedure applicable in each Court;
- (b) The communication between the Courts should be recorded and may be transcribed. A written transcript may be prepared from a recording of the communication which, with the approval of both Courts, should be treated as an official transcript of the communication;

- (c) Copies of any recording of the communication, of any transcript of the communication prepared pursuant to any Direction of either Court, and of any official transcript prepared from a recording should be filed as part of the record in the proceedings and made available to counsel for all parties in both Courts subject to such Directions as to confidentiality as the Courts may consider appropriate.
- (d) The time and place for communications between the Courts should be to the satisfaction of both Courts. Personnel other than Judges in each Court may communicate fully with each other to establish appropriate arrangements for the communication without the necessity for participation by counsel unless otherwise ordered by either of the Courts.

Guideline 8

In the event of communications between the Court and an authorized Representative of the foreign Court or a foreign Insolvency Administrator in accordance with Guidelines 3 and 5 by means of telephone or video conference call or other electronic means, unless otherwise directed by the Court:

- (a) Counsel for all affected parties should be entitled to participate in person during the communication and advance notice of the communication should be given to all parties in accordance with the Rules of Procedure applicable in each Court;
- (b) The communication should be recorded and may be transcribed. A written transcript may be prepared from a recording of the communication which, with the approval of the Court, can be treated as an official transcript of the communication;
- (c) Copies of any recording of the communication, of any transcript of the communication prepared pursuant to any Direction of the Court, and of any official transcript prepared from a recording should be filed as part of the record in the proceedings and made available to the other Court and to counsel for all parties in both Courts subject to such Directions as to confidentiality as the Court may consider appropriate;
- (d) The time and place for the communication should be to the satisfaction of the Court. Personnel of the Court other than Judges may communicate fully with the authorized Representative of the foreign Court or the foreign Insolvency Administrator to establish appropriate arrangements for the communication without the necessity for participation by counsel unless otherwise ordered by the Court.

Guideline 9

A Court may conduct a joint hearing with another Court. In connection with any such joint hearing, the following should apply, unless otherwise ordered or unless otherwise provided in any previously approved Protocol applicable to such joint hearing:

- (a) Each Court should be able to simultaneously hear the proceedings in the other Court.
- (b) Evidentiary or written materials filed or to be filed in one Court should, in accordance with the Directions of that Court, be transmitted to the other Court or made available electronically in a publicly accessible system in advance of the hearing. Transmittal of such material to the other Court or its public availability in an electronic system should not subject the party filing the material in one Court to the jurisdiction of the other Court.
- (c) Submissions or applications by the representative of any party should be made only to the Court in which the representative making the submissions is appearing unless the representative is specifically given permission by the other Court to make submissions to it.
- (d) Subject to Guideline 7(b), the Court should be entitled to communicate with the other Court in advance of a joint hearing, with or without counsel being present, to establish Guidelines for the orderly making of submissions and rendering of decisions by the Courts, and to coordinate and resolve any procedural, administrative, or preliminary matters relating to the joint hearing.
- (e) Subject to Guideline 7(b), the Court, subsequent to the joint hearing, should be entitled to communicate with the other Court, with or without counsel present, for the purpose of determining whether coordinated orders could be made by both Courts and to coordinate and resolve any procedural or nonsubstantive matters relating to the joint hearing.

Guideline 10

The Court should, except upon proper objection on valid grounds and then only to the extent of such objection, recognize and accept as authentic the provisions of statutes, statutory or administrative regulations, and rules of court of general application applicable to the proceedings in the other jurisdiction without the need for further proof or exemplification thereof.

Guideline 11

The Court should, except upon proper objection on valid grounds and then only to the extent of such objection, accept that Orders made in the proceedings in the other jurisdiction were duly and properly made or entered on or about their respective dates and accept that such Orders require no further proof or exemplification for purposes of

the proceedings before it, subject to all such proper reservations as in the opinion of the Court are appropriate regarding proceedings by way of appeal or review that are actually pending in respect of any such Orders.

Guideline 12

The Court may coordinate proceedings before it with proceedings in another jurisdiction by establishing a Service List that may include parties that are entitled to receive notice of proceedings before the Court in the other jurisdiction ("Non-Resident Parties"). All notices, applications, motions, and other materials served for purposes of the proceedings before the Court may be ordered to also be provided to or served on the Non-Resident Parties by making such materials available electronically in a publicly accessible system or by facsimile transmission, certified or registered mail or delivery by courier, or in such other manner as may be directed by the Court in accordance with the procedures applicable in the Court.

Guideline 13

The Court may issue an Order or issue Directions permitting the foreign Insolvency Administrator or a representative of creditors in the proceedings in the other jurisdiction or an authorized Representative of the Court in the other jurisdiction to appear and be heard by the Court without thereby becoming subject to the jurisdiction of the Court.

Guideline 14

The Court may direct that any stay of proceedings affecting the parties before it shall, subject to further order of the Court, not apply to applications or motions brought by such parties before the other Court or that relief be granted to permit such parties to bring such applications or motions before the other Court on such terms and conditions as it considers appropriate. Court-to-Court communications in accordance with Guidelines 6 and 7 hereof may take place if an application or motion brought before the Court affects or might affect issues or proceedings in the Court in the other jurisdiction.

Guideline 15

A Court may communicate with a Court in another jurisdiction or with an authorized Representative of such Court in the manner prescribed by these Guidelines for purposes of coordinating and harmonizing proceedings before it with proceedings in the other jurisdiction regardless of the form of the proceedings before it or before the other Court wherever there is commonality among the issues and/or the parties in the proceedings. The Court should, absent compelling reasons to the contrary, so communicate with the Court in the other jurisdiction where the interests of justice so require.

Guideline 16

Directions issued by the Court under these Guidelines are subject to such amendments, modifications, and extensions as may be considered appropriate by the Court for the purposes described above and to reflect the changes and developments from time to time in the proceedings before it and before the other Court. Any Directions may be supplemented, modified, and restated from time to time and such modifications, amendments, and restatements should become effective upon being accepted by both Courts. If either Court intends to supplement, change, or abrogate Directions issued under these Guidelines in the absence of joint approval by both Courts, the Court should give the other Courts involved reasonable notice of its intention to do so.

Guideline 17

Arrangements contemplated under these Guidelines do not constitute a compromise or waiver by the Court of any powers, responsibilities, or authority and do not constitute a substantive determination of any matter in controversy before the Court or before the other Court nor a waiver by any of the parties of any of their substantive rights and claims or a diminution of the effect of any of the Orders made by the Court or the other Court.