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LEGAL DEPARTMENT  
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April 9, 2013

Mr. Vincent Laurella  
Financial Services Tribunal  
5160 Yonge Street  
14th Floor, Box 85  
Toronto ON M2N 6L9

**BY FAX @ 416-226-7750**  
**and REGULAR MAIL**

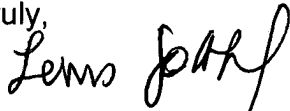
Dear Sir:

**Re: Financial Services Tribunal File No P0521-2013; Navistar Canada Inc., Non-Contributory Retirement Plan – Registration No. 0351684; Application by Navistar International Corporation Canada; Application for Party Status by CAW-Canada and its Locals 127 and 35**

I am counsel to the CAW-Canada and as such I have been retained in connection with the above captioned matter. Please find enclosed three copies of my client's Application for Party Status in this file. As always, please do not hesitate to contact me if I can be of any further assistance.

I advise that a copy of this correspondence and the attached material has been delivered to counsel for the employer/applicant and counsel for the Deputy Superintendent of Pensions.

Yours truly,



**LEWIS GOTTHEIL**  
Counsel, CAW-Canada

LG/ww/cope343

cc. Ken Lewenza, Bob Chernecki, Jeff Wareham, Jim Mitchell  
Cathy Wiebenga (by email: [scottw@cogeco.ca](mailto:scottw@cogeco.ca))  
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Mark Bailey (Counsel for the Deputy Superintendent) ([mark.bailey@fsco.gov.on.ca](mailto:mark.bailey@fsco.gov.on.ca))

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## Form 4 - Application for Party Status

For hearings before the  
Financial Services Tribunal

A person who is interested in actively participating as a party in a proceeding before the Tribunal must complete and file this form with the Registrar, Financial Services Tribunal, 5160 Yonge Street, Box 85, 14th Floor, Toronto, Ontario M2N 6L9 or fax it to (416) 226-7750. The Tribunal will then decide whether party status will be granted, either unconditionally or subject to some limitations on participation in the proceeding. The factors that the Tribunal may consider in deciding whether to grant party status are set out in Rule 37.04 of the Rules of Practice and Procedure for Proceedings Before the Financial Services Tribunal.

Personal information requested is collected under the authority of the Financial Services Commission of Ontario Act, 1997. This information will be used for the purposes of the proceeding and will be available to all parties to the proceeding and will become part of the public record.

You may represent yourself before the Financial Services Tribunal or you may be represented by someone who is licensed under the *Law Society Act* to practice law or to provide legal services in Ontario (i.e. a lawyer or paralegal) or by someone who is not required to be licensed under that Act (e.g. a trade union representative or a friend helping out on a voluntary basis). If you are not sure whether or not a person can act as your representative (e.g. he or she is not a lawyer or a licensed paralegal), you should contact the Law Society of Upper Canada: (416) 947-3315, or 1-800-668-7380, or [lawsociety@lsuc.on.ca](mailto:lawsociety@lsuc.on.ca). The Financial Services Tribunal cannot assist you in obtaining representation and cannot provide you with information about the authority or licence status of a representative.

**NOTE: You are required to fill out ALL sections of this form as completely as possible. Incomplete forms may be returned and may not be processed until they have been properly completed.**

Tribunal File No. P0521-2013

### NAME OF TRIBUNAL FILE

NAVISTAR CANADA INC., NON CONTRIBUTORY RETIREMENT PLAN - REGISTRATION NO. 0351684

### Applicant's Name and Address

<input type="checkbox"/> Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms.	Last name	First name
Company name OR Organization CAW-Canada and its Locals 127 and 35		
Street address Please see attached Schedule "A"		Apt./Unit
City	Province	Postal Code/Zip
Phone number	Ext.	Fax number
Email address		

### Applicant's Representative (if any)

<input checked="" type="checkbox"/> Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms.	Last name Gottheil	First name Lewis
Firm CAW-Canada Legal Department		
Street address 205 Placer Court		Apt./Unit
City Toronto	Province ON	Postal Code/Zip M2H 3H9

**Applicant's Representative (if any) –(continued)**

Phone number	Ext.	Fax number	Email address
(416) 495-3750		(416) 495-3786	gottheil@caw.ca
The Representative is:			
<input checked="" type="checkbox"/> Lawyer			
<input type="checkbox"/> Paralegal licensed to provide legal services			
<input type="checkbox"/> Not required to be licensed under the <i>Law Society Act</i> and its By-Laws			

**What is your interest in the Proceeding and why should the Tribunal grant you party status?**

Describe how the decision will affect your interests (i.e. the nature of your legal interest in the proceeding). Identify clearly what position you intend to take if you are given party status, and whether you will be supporting or opposing the position of anyone who is already a party to the proceeding. Explain the reasons why you think you should be granted party status to participate in the proceeding.

The CAW-Canada and its Locals 127 and 35 were at all times material to this file, and remain the collective bargaining agent of hourly and salaried employees, respectively, of the applicant at its production and office facilities in Chatham, Ontario. As such, the CAW-Canada and its Locals 127 and 35 ("the Union") have been parties to successive collective agreements covering hourly and salaried employees, respectively the last of which expired on or about June 30, 2009.

The above noted pension plan was/is incorporated by reference into these collective agreements and was the subject of collective bargaining from time to time.

The Union understands that early in 2009, there were approximately 786 active CAW represented employees who were members of the applicant's defined benefit plan. The Union has a legal duty to represent all employees of the applicant as of June 30, 2009, as well as those employees who were terminated by the applicant prior to June 30, 2009 due to the layoffs referred to in the Notice of Intended Decision herein. The Union intends to support the confirmation of the Intended Decision of the Deputy Superintendent of Pensions in all respects. The Union opposes the positions taken by the applicant company. The Union is in a position to make a constructive contribution to the hearing because it may call viva voce evidence, submit documents, and offer evidentiary proof with respect to the events outlined in the Reasons of the Deputy Superintendent of Pensions, including events relating to the sequential layoffs of workers, collective bargaining, and company communications, all of which demonstrate the concerted deliberate plan of the applicant to radically restructure and reorganize its Chatham facility and ultimately close the facility.

In sum, the Union as a bargaining agent has a legal interest in a dispute concerning a pension plan it has bargained, has a duty to represent many, if not all of the affected employee/plan members, and will be of useful assistance to this Tribunal when the Tribunal makes its determination.

### **Nature of Party Status Sought**

Indicate whether you wish to have full party status or are seeking only to play a more limited role. If you are seeking only a limited role, what type of participation are you seeking? (e.g. to call evidence? to cross-examine witnesses? to make submissions/arguments?)

The CAW-Canada and its Locals 127 and 35 seek full party status, and accordingly the Union seeks the right to call evidence, cross-examine witnesses and make argument/submissions.

### **What do you want the Tribunal to decide or order?**

Explain as precisely as possible what decision you want the Tribunal to make if you are given party status. Use point form if desired.

The CAW-Canada and its Locals 127 and 35 respectfully request that the Tribunal confirm and uphold the Superintendent's Notice of Proposal or Intended Decision dated March 7, 2013.

**French and Accessibility Requirements**

A person has the right to communicate with the Registrar's office and at hearings in French as provided in the *French Language Services Act*. If a person intends to communicate in French as a party in a proceeding, the person shall indicate this intention in the Application for Party Status or in a letter filed with the Registrar as early as is practicable.

Do you intend to communicate in French?


- Yes
- No

Do you have any accessibility requirements for the proceeding? (e.g., wheel chair access, sign language interpreter, visual aids, or any other accommodation)

- Yes
- No

If yes, please describe

**Signature**

Applicant Name (please print)	Applicant Signature	Date (yyyy/mm/dd)
CAW Canada and its Locals 127 and 35		2013/04/09
Representative Name (please print)	Representative Signature	Date (yyyy/mm/dd)
Lewis Gottheil		2013/04/09

**Schedule "A"**

1. National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada)  
205 Placer Court  
Toronto, ON M2H 3H9

Attention: Lewis Gottheil, Counsel

Tel: 416-495-3750  
Fax: 416-495-3786  
Email: [Gottheil@caw.ca](mailto:Gottheil@caw.ca)

2. CAW-Canada Local 127  
280 Merritt Avenue  
Chatham, ON N7M 3G1

Attention: Rick Reaume, President

Tel: 519-354-3450  
Fax: 519-354-7460  
Email: [rreaume.local127@bellnet.ca](mailto:rreaume.local127@bellnet.ca)

3. CAW-Canada Local 35  
P.O. Box 1139  
Chatham, ON N7M 5L8

Attention: Joe Steele, President

Tel: 519-380-9170  
Email: [joe.steele@continental-corporation.com](mailto:joe.steele@continental-corporation.com)