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Order No. 9660-U

**IN THE MATTER OF THE**

Canada Labour Code

- and -

National Automobile, Aerospace,  
Transportation and General Workers  
Union of Canada (CAW - Canada),

applicant union,

- and -

Air Canada and  
Aeroplan Canada Inc.,

respondent employers.

**WHEREAS** the National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada) (CAW -Canada or the union) is the certified bargaining agent for a bargaining unit of:

*"all employees of Air Canada, within the territorial limits of Canada, primarily engaged in customer sales and service functions, or in discrete units primarily performing such functions, excluding any persons performing management functions, or employed in a confidential capacity in matters relating to industrial relations as required by the Canada Labour Code."* (CIRB order 8011-U)

**AND WHEREAS** the union has filed an application with the Canada Industrial Relations Board (the Board) for a declaration of a sale of business with respect to the transfer of a portion of the business of Air Canada to Aeroplan Canada Inc., pursuant to sections 44, 45, and 46 of the Code, and an application for a bargaining unit review under sections 18 and 18.1 of the *Canada Labour Code (Part I - Industrial Relations)*;

**Order No. 9660-U**

**AND WHEREAS** the Board, following a review of the application and consideration of the submissions of the parties concerned, is satisfied that the transfer of a portion of the business of Air Canada to Aeroplan Canada Inc. constitutes a sale of business for the purposes of sections 44 and 45 of the *Code*;

**AND WHEREAS** the Board takes note that the parties have discussed the issues arising from the sale of business pursuant to section 18.1(2) of the *Code* with the assistance of a Board officer, and entered into a Memorandum of Settlement on or about May 21, 2009 respecting the transfer of employees, the determination of bargaining units and related questions arising from the sale of business and consequent review of the structure of the bargaining units;

**AND WHEREAS**, in the Memorandum of Settlement, the parties have agreed that:

- a) no changes are required with respect to the current certification order between the union and Air Canada (Board order 8011-U) and that the current certification order should continue to apply to Air Canada employees;
- b) as of June 1, 2009, Aeroplan Canada Inc. is the sole employer of employees working at Aeroplan who were formerly employed by Air Canada in the bargaining unit represented by the union; the union is the exclusive bargaining agent in respect of those employees; and the terms of the existing collective agreement between Air Canada and the union are binding on Aeroplan Canada Inc.; and
- c) a separate certification order should be issued by the Board, with the same bargaining unit description as that which appears in Board order 8011-U, to recognize the union as the certified bargaining agent of the employees of Aeroplan Canada Inc.;

**AND WHEREAS**, having reviewed the Memorandum of Settlement and the submissions of the parties, the Board is satisfied that the current bargaining unit in respect of the employees of Air Canada, as described in Board order 8011-U, remains appropriate for collective bargaining and is of full force and effect;

**AND WHEREAS** the Board is satisfied that the creation of a separate bargaining unit in respect of the employees of Aeroplan Canada Inc., is required to give effect to the consequences of the sale of business, and that the bargaining unit agreed upon by the parties is appropriate for collective bargaining;

**NOW THEREFORE**, in consideration of the foregoing, the Canada Industrial Relations Board orders that the National Automobile, Aerospace Transportation and General Workers Union of Canada (CAW - Canada) be, and is hereby certified to be, the bargaining agent for a unit comprised of:

**Order No. 9660-U**

*"all employees of Aeroplan Canada Inc., within the territorial limits of Canada, primarily engaged in customer sales and service functions, or in discrete units primarily performing such functions, excluding any persons performing management functions, or employed in a confidential capacity in matters relating to industrial relations as required by the Canada Labour Code."*

**ISSUED** at Ottawa this 1st day of June, 2009, by the Canada Industrial Relations Board.

  
Elizabeth MacPherson  
Chairperson

**Reference: File No. 27359-C**

