

**LITHIUM ION BATTERIES CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

Made as of October 15, 2015

Between

**KHURRAM SHAH and ALPINA HOLDINGS INC.,
JONATHAN CRUZ and JORDAN COHEN**

(the “Plaintiffs”)

and

NEC CORPORATION and NEC TOKIN CORPORATION

(the “Settling Defendants”)

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RECITALS

A. WHEREAS the Proceedings have been commenced by the BC Plaintiff in British Columbia, the Quebec Petitioner in Quebec and the Ontario Plaintiffs in Ontario;

B. AND WHEREAS the Ontario Proceeding alleges that the Settling Defendants participated in an unlawful conspiracy to fix, raise, maintain, and/or stabilize the price of Lithium Batteries and/or Lithium Battery Products from at least January 1, 2000 until at least December 31, 2011, contrary to Part VI of the *Competition Act* and the common law and/or civil law;

C. AND WHEREAS the Settling Defendants were not named in the BC Proceeding or the Quebec Proceeding, and whereas the Settling Defendants assert that any claims against them are barred as a matter of jurisdiction under Canadian law;

D. AND WHEREAS the Settling Defendants did not attorn to the jurisdiction of the Ontario Court and were successful in a motion contesting jurisdiction, by way of Reasons for Decision of Justice Perell, dated April 23, 2015 and the Ontario Plaintiffs filed an appeal of the decision of Perell, J.;

E. AND WHEREAS pending the approval of this Settlement Agreement, the Ontario Plaintiffs have agreed to abandon their appeal of the decision of Perell, J. and the appeal was abandoned by Order of the Court of Appeal dated July 14, 2015. However, in the event that this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the Ontario Plaintiffs will seek to have their appeal reconstituted;

F. AND WHEREAS since the Settling Defendants have never attorned to the jurisdiction of the BC Court or the Quebec Court for the purposes of these Proceedings, and whereas the Settling Defendants maintain that they do not conduct business in Canada in relation to Lithium Batteries and/or Lithium Battery Products and would have grounds to challenge service *ex juris* in the jurisdiction of the BC Court and the Quebec Court in the event that they ever were named as defendants in those Proceedings;

G. AND WHEREAS the Settling Defendants do not admit, through the execution of this Settlement Agreement, any allegation of unlawful conduct alleged in the Proceedings or otherwise;

H. AND WHEREAS despite their belief that they are not liable in respect of the claims as alleged in the Proceedings and have good and reasonable defences in respect of jurisdiction and the merits, the Settling Defendants are entering into this Settlement Agreement in order to achieve a final and nationwide resolution of all claims asserted or which could have been asserted against the Settling Defendants by the Plaintiffs in the Proceedings, and to avoid further expense, inconvenience, the distraction of burdensome and protracted litigation, and the risks associated with trials and appeals;

I. AND WHEREAS counsel for the Settling Defendants and Class Counsel have engaged in arms-length settlement discussions and negotiations, resulting in this Settlement Agreement with respect to the Proceedings;

J. AND WHEREAS the Plaintiffs and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, and having regard to the burdens and expense in prosecuting the Proceedings, including the risks and uncertainties associated with trials and appeals, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiffs and the classes they seek to represent;

K. AND WHEREAS the Plaintiffs, Class Counsel and the Settling Defendants agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Settling Defendants or evidence of the truth of any of the Plaintiffs' allegations against the Settling Defendants, which the Settling Defendants expressly deny;

L. AND WHEREAS the Parties therefore wish to, and hereby do, finally resolve on a national basis, without admission of liability, all of the Proceedings as against the Settling Defendants;

M. AND WHEREAS the Plaintiffs assert that they are adequate class representatives for the Settlement Classes and will seek to be appointed representative plaintiffs in their respective Proceedings;

N. AND WHEREAS for the purpose of implementing this Settlement Agreement, the BC Plaintiff and Quebec Petitioner shall amend their pleading in respect of the BC Proceeding and the Quebec Proceeding so as to name the Settling Defendants as defendants for the sole purpose of implementing this Settlement Agreement and contingent on approvals by the Courts as provided for in this Settlement Agreement, on the express understanding that the Settling Defendants shall be subsequently removed as parties and the Settling Defendants shall reserve all of their existing procedural, substantive and jurisdictional rights and defences in the event that this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason;

O. AND WHEREAS the Settling Defendants are prepared to submit to the jurisdiction of the Courts for the sole purpose of implementing this Settlement Agreement and contingent on approvals by the Courts as provided for in this Settlement Agreement, on the express understanding that such a submission or attornment shall be deemed to have no effect and the Settling Defendants shall be subsequently removed as parties and the Settling Defendants shall reserve all of their existing procedural, substantive and jurisdictional rights and defences in the event that this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason;

P. AND WHEREAS the Parties consent to certification or authorization (i) of the Proceedings as class proceedings, (ii) of the Settlement Classes and (iii) of a Common Issue in respect of each of the Proceedings for the sole purpose of implementing this Settlement Agreement and contingent on approvals by the Courts as provided for in this Settlement Agreement, on the express understanding that such certification or authorization shall not derogate from the respective rights of the Parties in the event that this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason; and

Q. AND WHEREAS for the purposes of settlement only and contingent on approvals by the Courts as provided for in this Settlement Agreement, the Plaintiffs have consented to a dismissal of the Ontario Proceeding and BC Proceeding without costs as against the Settling Defendants,

and a settlement without costs and without reservation of the Quebec Proceeding as against the Settling Defendants; and

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Ontario Proceeding and BC Proceeding be settled and dismissed as to the Settling Defendants only, and the Quebec Proceeding be settled without reservation as against the Settling Defendants, all without costs as to the Plaintiffs, the classes they seek to represent or the Settling Defendants, subject to the approval of the Courts, on the following terms and conditions:

SECTION 1 - DEFINITIONS

For the purpose of this Settlement Agreement only, including the recitals and schedules hereto:

- (1) ***Administration Expenses*** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiffs, Class Counsel or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices and the costs of claims administration, but excluding Class Counsel Fees.
- (2) ***Approval Hearings*** means the hearings to approve the motions brought by Class Counsel for the Courts' approval of the settlement provided for in this Settlement Agreement.
- (3) ***BC Counsel*** means Camp Fiorante Matthews Mogerma.
- (4) ***BC Court*** means the Supreme Court of British Columbia.
- (5) ***BC Plaintiff*** means Jonathan Cruz.
- (6) ***BC Proceeding*** means the proceeding commenced by the BC Plaintiff before the BC Court that is identified in Schedule "A" to this Settlement Agreement.
- (7) ***BC Settlement Class*** means the settlement class in respect of the BC Proceeding that is defined in Schedule "A" to this Settlement Agreement.
- (8) ***Class Counsel*** means BC Counsel, Ontario Counsel and Quebec Counsel.

- (9) ***Class Counsel Disbursements*** include the disbursements, administration expenses, and applicable taxes incurred by Class Counsel in the prosecution of the Proceedings, as well as any adverse costs awards issued against the Plaintiffs in any of the Proceedings.
- (10) ***Class Counsel Fees*** means the fees of Class Counsel, and any applicable taxes or charges thereon, including any amounts payable by Class Counsel or the Settlement Class Members to any other body or Person, including the Fonds d'aide aux recours collectifs in Quebec.
- (11) ***Class Period*** means January 1, 2000 to December 31, 2011.
- (12) ***Common Issue*** means: Did the Settling Defendants conspire to fix, raise, maintain, and/or stabilize the price of Lithium Batteries and/or Lithium Battery Products directly or indirectly in Canada during the Class Period? If so, what damages, if any, did Settlement Class Members suffer?
- (13) ***Courts*** means the BC Court, the Ontario Court and the Quebec Court.
- (14) ***Defendants*** means the entities named as defendants in the Proceedings as set out in Schedule "A" to this Settlement Agreement, and any Persons added as defendants in the Proceedings in the future. For greater certainty, for the purpose of this Settlement Agreement, Defendants includes, without limitation, the Settling Defendants.
- (15) ***Documents*** means all papers, computer or electronic records, or other materials within the scope of Rule 1.03(1) and Rule 30.01(1) of the Ontario *Rules of Civil Procedure* and any copies, reproductions or summaries of the foregoing, including microfilm copies and computer images.
- (16) ***Effective Date*** means the date immediately following the date upon which the Final Orders have been received from all Courts approving this Settlement Agreement.
- (17) ***Execution Date*** means the date of the execution of this Settlement Agreement by counsel for all the Plaintiffs and the Settling Defendants.
- (18) ***Excluded Person*** means each Defendant, the directors and officers of each Defendant, the subsidiaries or affiliates of each Defendant, the entities in which each Defendant or

any of that Defendant's subsidiaries or affiliates have a controlling interest and the legal representatives, heirs, successors and assigns of each of the foregoing, and those Persons who validly and timely opt-out of the Proceedings in accordance with the orders of the applicable Court.

- (19) ***Final Order*** means a final order, judgment or equivalent decree entered by a Court in respect of the certification or authorization of a Proceeding as a class proceeding for the purposes of this settlement and/or approval of this Settlement Agreement and implementing it in accordance with its terms, once the time to appeal such order has expired without any appeal being taken (if an appeal lies), or if the order is appealed, once there has been affirmation of the order, judgment or equivalent decree upon a final disposition of all appeals.
- (20) ***Lithium Batteries*** means lithium-ion rechargeable batteries.
- (21) ***Lithium Battery Products*** means any products containing Lithium Batteries.
- (22) ***Non-Settling Defendant*** means a Defendant that (i) is not the Settling Defendants, and (ii) has not entered into a settlement with the Plaintiffs in the Proceedings, whether or not such settlement agreement is in existence at the Execution Date, and includes any Defendant that terminates its own settlement agreement in accordance with its terms or whose settlement otherwise fails to take effect for any reasons, whether or not such settlement agreement is in existence at the Execution Date.
- (23) ***Notice of Certification and Approval Hearings*** means the form or forms of notice, agreed to by the Plaintiffs and the Settling Defendants, or such other form or forms of notice as may be approved by the Courts, which informs the Settlement Class of: (i) the certification or authorization of the Proceedings as class proceedings; (ii) the dates and locations of the Approval Hearings; (iii) the principal elements of the Settlement Agreement; (iv) the process by which Settlement Class Members may object to the settlement; (v) the process by which Settlement Class Members can opt out of the Proceedings; and (vi) the Opt-Out Deadline.
- (24) ***Notice of Settlement Approval*** means the form or forms of notice, agreed to by the Plaintiffs and the Settling Defendants, or such other form or forms of notice as may be

approved by the Courts, which informs the Settlement Class of the approval of the Settlement Agreement.

- (25) ***Ontario Counsel*** means Siskinds LLP and Sotos LLP.
- (26) ***Ontario Court*** means the Ontario Superior Court of Justice.
- (27) ***Ontario Plaintiffs*** means Khurram Shah and Alpina Holdings Inc.
- (28) ***Ontario Proceeding*** means the proceeding commenced by the Ontario Plaintiffs before the Ontario Court as identified in Schedule “A” to this Settlement Agreement.
- (29) ***Ontario Settlement Class*** means the settlement class in respect of the Ontario Proceeding that is defined in Schedule “A” to this Settlement Agreement.
- (30) ***Opt-Out Deadline*** means the date which is sixty (60) days after the date on which the Notice of Certification and Approval Hearings is first published.
- (31) ***Other Actions*** means actions or proceedings, other than the Proceedings, relating to Released Claims commenced by a Settlement Class Member either before or after the Effective Date.
- (32) ***Party and Parties*** means the Plaintiffs, Settlement Class Members and the Settling Defendants.
- (33) ***Person*** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated associate, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.
- (34) ***Plaintiffs*** means the BC Plaintiff, the Ontario Plaintiffs, and the Quebec Petitioner.
- (35) ***Proceeding and Proceedings*** means the BC Proceeding, the Ontario Proceeding and the Quebec Proceeding as defined in Schedule “A” to this Settlement Agreement.

- (36) ***Proportionate Liability*** means that proportion of any judgment that, had the Settling Defendants not settled, the BC or the Ontario Court, as applicable, would have apportioned to the Releasees.
- (37) ***Quebec Counsel*** means Consumer Law Group and Rochon Genova LLP.
- (38) ***Quebec Court*** means the Superior Court of Quebec.
- (39) ***Quebec Petitioner*** means Jordan Cohen.
- (40) ***Quebec Proceeding*** means the proceeding commenced by the Quebec Petitioner before the Quebec Court identified in Schedule “A” to this Settlement Agreement.
- (41) ***Quebec Settlement Class*** means the settlement class in respect of the Quebec Proceeding that is identified in Schedule “A” to this Settlement Agreement.
- (42) ***Released Claims*** means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, including any claims for consequential, subsequent or follow-on harm that arises after the Class Period, damages of any kind (including compensatory, punitive or other damages) whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses (including Administration Expenses), penalties, and lawyers’ fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity, that any of the Releasers ever had, now have or hereafter can, shall or may have arising from or relating in any way to an alleged unlawful conspiracy to fix, raise, maintain, and/or stabilize the price of Lithium Batteries and/or Lithium Battery Products in Canada during the Class Period, or relating to any conduct alleged in the Proceedings. However, nothing herein shall be construed to release: (a) any claims involving any negligence, personal injury, breach of contract, bailment, failure to deliver lost goods, damaged or delayed goods, product defect, securities, or other similar claim relating to Lithium Batteries and/or Lithium Battery Products; and (b) claims brought (whether before or after the Effective Date) outside of Canada relating to purchases of Lithium Batteries and/or Lithium Battery Products outside of Canada.

- (43) **Releasees** means, jointly and severally, individually and collectively, the Settling Defendants, and all of their respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives, and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing, excluding always the Non-Settling Defendants and any affiliates of the Non-Settling Defendants.
- (44) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members, on behalf of themselves and any Person or entity claiming by or through them as a parent, subsidiary, affiliate, predecessor, successor, shareholder, partner, director, owner of any kind, agent, principal, employee, contractor, attorney, heir, executor, administrator, insurer, devisee, assignee, or representative of any kind.
- (45) **Settlement Agreement** means this agreement, including the recitals and schedules.
- (46) **Settlement Amount** means the sum of fifty thousand Canadian dollars (CDN \$50,000).
- (47) **Settlement Class** means, in respect of each of the Proceedings, the settlement class defined in Schedule A.
- (48) **Settlement Class Member** means a member of a Settlement Class who does not validly opt-out of that Settlement Class in accordance with orders of the Courts.
- (49) **Settling Defendants** means NEC Corporation and NEC Tokin Corporation.
- (50) **Trust Account** means an interest-bearing trust account at a Canadian Schedule 1 bank under the control of Siskinds LLP, for the benefit of the Settlement Class Members or the Settling Defendants, as provided for in this Settlement Agreement.
- (51) **U.S. Litigation** means the class action proceeding pending in the United States District Court for the Northern District of California, under the caption *In Re: Lithium Ion Batteries Antitrust Litigation*, 13-MDL-2420, and includes all actions transferred by the

Judicial Panel for Multidistrict Litigation for coordination, all actions pending such transfer, and all actions that may be transferred in the future.

SECTION 2 - SETTLEMENT APPROVAL

2.1 Best Efforts

(1) The Parties shall use their best efforts to implement this settlement and to secure the prompt, complete and final dismissal with prejudice of the Proceedings as against the Settling Defendants in the BC Proceeding and the Ontario Proceeding, and a prompt, complete declaration of settlement out of court of the Quebec Proceeding as against the Settling Defendants in the Quebec Proceeding.

2.2 Motions for Approval

(1) At a time mutually agreed to by the Parties after the Settlement Agreement is executed, the Plaintiffs shall bring motions before the Courts for orders approving the notices described in section 11, certifying or authorizing each of the Proceedings commenced in their respective jurisdictions as a class proceeding (for settlement purposes) and approving this Settlement Agreement.

(2) The Plaintiffs are not required to disseminate the Notice of Certification and Approval Hearings until after the earlier of a decision denying certification of the Ontario Proceeding or the notice that follows a successful certification order in the Ontario Proceeding.

(3) At or before the motions described in section 2.2(1), the Plaintiffs shall bring a motion for an order to amend the statement of claim or equivalent originating process in the BC Proceeding and the Quebec Proceeding to add the Settling Defendants as defendants. The Settling Defendants shall consent to such amendments and shall not assert any limitation or other objections solely for the purposes of implementing this Settlement Agreement. Counsel for the Settling Defendants shall further accept service of the amended statement of claim or equivalent originating process naming the Settling Defendants as defendants in each Proceeding solely for the purposes of implementing this Settlement Agreement. In the event that the Settlement Agreement is not approved, is terminated or otherwise fails to take effect, the Plaintiffs shall consent to the removal of the Settling Defendants as parties and the Settling Defendants shall be entitled to assert all of their procedural, substantive and jurisdictional rights and defences that

existed prior to this Settlement Agreement in connection with jurisdiction, service, limitations, and otherwise at law.

(4) This Settlement Agreement shall only become final on the Effective Date.

2.3 Pre-Motion Confidentiality

(1) Until the first of the motions required by section 2.2 is brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior consent of counsel for the Settling Defendants and Class Counsel, as the case may be, except as required for the purposes of financial reporting or the preparation of financial records (including tax returns and financial statements), as otherwise required by law, or as otherwise required to give effect to the terms of this Settlement Agreement.

2.4 Sequence of Motions

(1) The Plaintiffs in British Columbia and Quebec shall not proceed with the Approval Hearings unless and until the Ontario Court approves this Settlement Agreement. The Approval Hearings motions may be filed in British Columbia and Quebec, but BC Counsel and Quebec Counsel agree to seek any adjournment of their Approval Hearings required to permit the Ontario Court to first render its decision on the Approval Hearings before it. The Settling Defendants may agree to waive this provision.

(2) Notwithstanding section 2.4(1) of this Settlement Agreement, the Plaintiffs can elect to request that the Courts hold joint Approval Hearings pursuant to the Canadian Bar Association's Canadian Judicial Protocol for the Management of Multijurisdictional Class Actions. The Settling Defendants will not oppose any such request.

SECTION 3 - SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

(1) Within fifteen (15) days of the Execution Date, the Settling Defendants shall pay the Settlement Amount to Siskinds LLP for deposit into the Trust Account, in full satisfaction of the Released Claims against the Releasees.

(2) The Settling Defendants shall deposit the Settlement Amount into the Trust Account by wire transfer. Siskinds LLP shall provide the necessary wire transfer information to counsel for

the Settling Defendants with reasonable advance notice so that the Settling Defendants have a reasonable period of time to comply with section 3.1(1) of this Settlement Agreement.

(3) The Settling Defendants shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement.

(4) Siskinds LLP shall maintain the Trust Account as provided for in this Settlement Agreement. Siskinds LLP shall not pay out all or part of the monies in the Trust Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Courts obtained after notice to the Settling Defendants.

3.2 Taxes and Interest

(1) Except as hereinafter provided, all interest earned on the Settlement Amount shall accrue to the benefit of the Settlement Classes and shall become and remain part of the Trust Account.

(2) Subject to section 3.2(3), all Canadian taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be the responsibility of the Settlement Classes. Class Counsel shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Trust Account.

(3) The Settling Defendants shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned by the Settlement Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement terminated, in which case the interest earned on the Settlement Amount in the Trust Account shall be paid to the Settling Defendants who, in such case, shall be responsible for the payment of all taxes on such interest.

3.3 Intervention in the U.S. Litigation

(1) The Settling Defendants shall not oppose any application that may be brought by or on behalf of the Plaintiffs to intervene in the U.S. Litigation in order to gain access to discovery Documents produced, deposition or other transcripts, or other Documents that might be filed in

the U.S. Litigation, including any discovery that may be subject to a protective order that are relevant to the Proceedings. However, it is understood and agreed that the Settling Defendants do not have any obligation to bring such an application.

SECTION 4 - COOPERATION

4.1 Extent of Cooperation

(1) Within fifteen (15) days of the Effective Date or at a time mutually agreed upon by the Parties, the Settling Defendants agree to use reasonable efforts to:

- (a) provide electronic copies of any Documents produced by the Settling Defendants in the U.S. Litigation, including any Documents produced by the Settling Defendants pursuant to any U.S. settlement agreement, and any pre-existing translations of those Documents; and
- (b) provide electronic copies of any Documents produced by the Settling Defendants to the United States Department of Justice concerning the allegations raised in the Proceedings, including any pre-existing translations of those Documents, but excluding any Documents created for the purpose of being so provided.

(2) The obligation to produce Documents pursuant to section 4.1(1) shall be a continuing obligation to the extent additional Documents are identified by the Settling Defendants following the initial productions pursuant to this Settlement Agreement.

(3) The Settling Defendants make no representation regarding and shall bear no liability with respect to the accuracy of or that they have, can or will produce a complete set of any of the Documents described in section 4.1(1), and the failure to do so shall not constitute a breach or violation of this Settlement Agreement.

(4) Nothing in this Settlement Agreement shall be construed to require the Settling Defendants to perform any act, including the transmittal or disclosure of any information, which would violate the law of this or any jurisdiction.

(5) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Settling Defendants or any representative or employee of the Settling Defendants to disclose or

produce any Documents or information prepared by or for counsel for the Settling Defendants, or that is not within the possession, custody or control of the Settling Defendants, or to disclose or produce any Documents or information in breach of any order, regulatory directive, rule or law of this or any jurisdiction, or subject to solicitor-client privilege, litigation privilege, or any other privilege, or to disclose or produce any information or Documents they obtained on a privileged or co-operative basis from any party to any action or proceeding who is not the Releasees.

(6) If any Documents protected by any privilege and/or any privacy law or other rule or law of this or any applicable jurisdiction are accidentally or inadvertently produced, such Documents shall be promptly returned to the Settling Defendants and the Documents and the information contained therein shall not be disclosed or used directly or indirectly, except with the express written permission of the Settling Defendants, and the production of such Documents shall in no way be construed to have waived in any manner any privilege or protection attached to such Documents.

(7) The Settling Defendants' obligations to cooperate as particularized in this section shall not be affected by the release provisions contained in section 7 of this Settlement Agreement. Unless this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reasons, the Settling Defendants' obligations to cooperate shall cease at the date of final judgment in the Proceedings against all Defendants.

(8) In the event that the Settling Defendants materially breach this section 4.1, the Plaintiffs may move before the Courts to enforce the terms of this Settlement Agreement or seek such other remedy that is available at law.

(9) The provisions set forth in section 4.1 are the exclusive means by which the Plaintiffs, the Settlement Class Members and Class Counsel may obtain discovery, information, or Documents from the Settling Defendants or their current or former officers, directors or employees, and the Plaintiffs, the Settlement Class Members and Class Counsel agree that they shall not pursue any other means of discovery against, or seek to compel the evidence of, the Settling Defendants or their current or former officers, directors, employees, agents, or counsel, whether in Canada or elsewhere and whether under the rules or laws of this or any other Canadian or foreign jurisdiction.

(10) A material factor influencing the Settling Defendants' decision to execute this Settlement Agreement is their desire to limit the burden and expense of this litigation. Accordingly, the Plaintiffs and Class Counsel agree to exercise good faith in seeking cooperation from the Settling Defendants, agree not to seek information that is unnecessary, cumulative or duplicative and agree otherwise to avoid imposing undue or unreasonable burden or expense on the Settling Defendants.

4.2 Limits on Use of Documents

(1) It is understood and agreed that all Documents and information made available or provided by the Settling Defendants to the Plaintiffs and Class Counsel under this Settlement Agreement shall be used only in connection with the prosecution of the claims in the Proceedings, and shall not be used directly or indirectly for any other purpose, except to the extent that the Documents or information are publicly available. The Plaintiffs and Class Counsel and Settlement Class Members agree that they will not disclose the Documents and information provided by the Settling Defendants except to (i) experts, consultants, or third-party service providers retained by them in connection with the Proceedings who have agreed to comply with the provisions of this Settlement Agreement and any confidentiality orders issued pursuant to section 4.2(2), (ii) to the extent that the Documents or information are publicly available, (iii) as evidence in the Proceedings, or (iv) as otherwise required by law. Subject to the foregoing, Class Counsel shall take reasonable precautions to ensure and maintain the confidentiality of such Documents and information, and of any work product of Class Counsel that discloses such Documents and information, except to the extent that the Documents or information are publicly available.

(2) In the event that a Person applies for an order requiring the Plaintiffs or Class Counsel to disclose or produce any Documents or other information provided by the Settling Defendants as cooperation under this Settlement Agreement, Class Counsel shall notify the Settling Defendants of such application promptly upon becoming aware of it in order that the Settling Defendants may intervene to oppose such disclosure or production. In no circumstances shall the Plaintiffs or Class Counsel apply for or consent to such an application for disclosure or production.

SECTION 5 - OPTING-OUT

5.1 Procedure

(1) Persons seeking to opt-out of the Proceedings must do so by sending a written election to opt-out, signed by the Person or the Person's designee, by pre-paid mail, courier, fax or email to the appropriate Class Counsel at an address to be identified in the notice contemplated by section 11. Residents of Quebec must also send the written election to opt-out by pre-paid mail or courier to the Quebec Court at an address to be identified in the notice described in section 11.

(2) Any potential Settlement Class Member who validly opts out of the Proceedings shall not be able to participate in the Proceedings and no further right to opt out of the Proceedings will be provided.

(3) An election to opt-out will only be effective if it is postmarked on or before the Opt-Out Deadline to the designated address in the notice described in section 11. Where the postmark is not visible or legible, the election to opt-out shall be deemed to have been postmarked four business days prior to the date that it is received by Class Counsel.

(4) The written election to opt-out must contain the following information in order to be valid:

- (a) the Person's full name, current address and telephone number;
- (b) if the Person seeking to opt-out is a corporation, the name of the corporation and the position of the Person submitting the request to opt-out on behalf of the corporation;
- (c) a statement to the effect that the Person wishes to be excluded from the Proceedings; and
- (d) the reasons for opting out.

(5) Quebec Class Members who have commenced proceedings or commence proceedings and fail to discontinue such proceedings by the Opt-Out Deadline shall be deemed to have opted out. Quebec Counsel warrant and represent that, to the best of their knowledge, no such action has been commenced as of the Execution Date.

SECTION 6 - NON-APPROVAL OR TERMINATION OF SETTLEMENT AGREEMENT

6.1 Right of Termination

(1) In the event that:

- (a) the BC Court in the BC Proceeding or the Quebec Court in the Quebec Proceeding declines to permit the amendment of the statement of claim or other equivalent originating process to add the Settling Defendants as defendants;
- (b) any Court declines to certify or authorize the Settlement Class;
- (c) any Court declines to dismiss or declare settled out of court the Proceedings against the Settling Defendants and any Court declines to approve this Settlement Agreement or any material part hereof;
- (d) any Court approves this Settlement Agreement in a materially modified form;
- (e) any Court issues a settlement approval order that is materially inconsistent with the terms of the Settlement Agreement; or
- (f) any orders approving this Settlement Agreement made by the Courts do not become Final Orders.

the Plaintiffs and the Settling Defendants shall have the right to terminate this Settlement Agreement (except that only the Settling Defendants will have the right to terminate under sections 6.1(1)(c) above) by delivering a written notice pursuant to section 14.17, within thirty (30) days following an event described above.

(2) Except as provided for in section 6.3, if the Settling Defendants or the Plaintiffs exercise their right to terminate, the Settlement Agreement shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.

- (3) Any order, ruling or determination made by any Court with respect to:
- (a) the opt-out process; or
 - (b) Class Counsel Fees or Class Counsel Disbursements,

shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

6.2 If Settlement Agreement is Terminated

- (1) If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason:
- (a) no motion to certify for authorize any of the Proceedings as a class proceeding on the basis of this Settlement Agreement, or to approve this Settlement Agreement, which has not been decided, shall proceed;
 - (b) any order certifying or authorizing a Proceeding as a class proceeding on the basis of the Settlement Agreement or approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and anyone shall be estopped from asserting otherwise;
 - (c) any prior certification or authorization of a Proceeding as a class proceeding on the basis of this Settlement Agreement, including the definitions of the Settlement Class and the Common Issue pursuant to this Settlement Agreement, shall be without prejudice to any position that any of the Parties may later take on any issue in the Proceedings or any other litigation; and
 - (d) within ten (10) days of such termination having occurred, Class Counsel shall destroy all Documents or other materials provided by the Settling Defendants under this Settlement Agreement or containing or reflecting information derived from such Documents or other materials received from the Settling Defendants and, to the extent Class Counsel has disclosed any Documents or information provided by the Settling Defendants to any other Person, shall recover and destroy

such Documents or information. Class Counsel shall provide Counsel to the Settling Defendants with a written certification by Class Counsel of such destruction. Nothing contained in this section 6.2 shall be construed to require Class Counsel to destroy any of their work product. However, any Documents or information provided by the Settling Defendants, or received from the Settling Defendants in connection with this Settlement Agreement, may not be disclosed to any Person in any manner or used, directly or indirectly, by Class Counsel or any other Person in any way for any reason, without the express prior written permission of the Settling Defendants. Class Counsel shall take appropriate steps and precautions to ensure and maintain the confidentiality of such Documents, information and any work product of Class Counsel derived from such Documents or information.

(2) If the Settlement Agreement is terminated, Siskinds LLP shall, within thirty (30) business days of the written notice advising that the Settlement Agreement has been terminated in accordance with its terms, return to the Settling Defendants the Settlement Amount, plus all accrued interest thereon and less taxes paid on interest, any costs actually incurred or payable with respect to the notices required by section 11.1, and any costs of translation required by section 14.11 that have actually been incurred or are payable.

6.3 Survival of Provisions After Non-Approval of Settlement Agreement

(1) If this Settlement Agreement is terminated or otherwise fails to take effect for any reason, the provisions of sections 2.2(3), 3.2(3), 6.2, 9.1, 9.2, 11.1 and 11.2, and the definitions and schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and schedules shall survive only for the limited purpose of the interpretation of sections 2.2(3), 3.2(3), 6.2, 9.1, 9.2, 11.1 and 11.2 within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

SECTION 7- RELEASES AND DISMISSALS

7.1 Release of Releasees

(1) Upon the Effective Date, subject to section 7.2 and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Settlement Agreement, the Releasors forever and absolutely release the Releasees from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have.

7.2 Covenant Not To Sue

(1) Notwithstanding section 7.1, upon the Effective Date, for any Settlement Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasors do not release the Releasees, but instead covenant and undertake not to make any claim in any way or to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

7.3 No Further Claims

(1) Upon the Effective Date, the Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against the Settling Defendants or any other Person who may claim contribution or indemnity or other claims over relief from the Settling Defendants, in respect of any Released Claim, except for the continuation of the Proceedings against the Non-Settling Defendants or unnamed co-conspirators that are not Releasees or, if the Proceedings are not certified or authorized, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against any Non-Settling Defendants or unnamed co-conspirators that is not a Releasee.

7.4 Dismissal of the Proceedings

(1) Upon the Effective Date, the BC Proceeding and the Ontario Proceeding shall be dismissed, with prejudice and without costs, as against the Settling Defendants.

(2) Upon the Effective Date, the Quebec Proceeding shall be settled, without costs and without reservation as against the Settling Defendants, and the Parties shall sign and file a declaration of settlement out of court in the Quebec Court.

7.5 Dismissal of Other Actions

(1) Upon the Effective Date, each member of the BC Settlement Class and the Ontario Settlement Class shall be deemed to irrevocably consent to the dismissal, without costs and with prejudice, of his, her or its Other Actions against the Releasees.

(2) Upon the Effective Date, all Other Actions commenced in British Columbia or Ontario by any Settlement Class Member shall be dismissed against the Releasees, without costs and with prejudice.

(3) Upon the Effective Date, and subject to Article 1008 of the *Quebec Code of Civil Procedure*, each member of the Quebec Settlement Class shall be deemed to irrevocably consent to the discontinuance of his, her or its Other Actions commenced in Quebec against the Releasees, without costs and without reservation.

7.6 Claims Against Other Entities Reserved

(1) Except as provided herein, this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by Settlement Class Members against any Person other than the Releasees.

7.7 Material Term

(1) For the avoidance of doubt and without in any way limiting the ability of the Parties to assert that other terms in this Settlement Agreement are material terms (subject to section 6.1(3)), the releases and reservation of rights contemplated in this section 7 shall be considered a material term of the Settlement Agreement and the failure of any Court to approve the releases and/or and reservation of rights contemplated herein shall give rise to a right of termination pursuant to section 6.1 of the Settlement Agreement.

SECTION 8 - BAR ORDER AND OTHER CLAIMS

8.1 British Columbia and Ontario Bar Order

(1) Bar orders shall be granted by the BC Court and the Ontario Court providing for the following:

(a) If the BC Court or Ontario Court, as applicable, ultimately determines that there is a right of contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise:

(i) all claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims which were or could have been brought in the Proceedings or otherwise by any Non-Settling Defendant, any named or unnamed co-conspirator that is not the Settling Defendants or any other Person or party against the Settling Defendants, or by the Settling Defendants against any Non-Settling Defendant or any named or unnamed co-conspirator that is not the Settling Defendants, are barred, prohibited and enjoined in accordance with the terms of this section (unless such claim is made in respect of a claim by a Person who has validly opted out of the Proceedings);

(ii) the BC and Ontario Plaintiffs and Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or Party that is not the Settling Defendants that portion of any damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs (including investigative costs claimed pursuant to section 36 of the *Competition Act*) that corresponds to the Proportionate Liability of the Settling Defendants proven at trial or otherwise;

- (iii) the BC and Ontario Plaintiffs and Settlement Class Members shall limit their claims against the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or Party that is not the Settling Defendants to include, and shall be entitled to recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or Party that is not the Settling Defendants, only such claims for damages (including punitive damages, if any), restitutionary award, disgorgement of profits, costs, and interest attributable to the aggregate of the several liability of the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or Party that is not the Settling Defendants to the BC and Ontario Plaintiffs and Settlement Class Members, if any, and, for greater certainty, the BC and Ontario Settlement Class Members shall be entitled to claim and recover on a joint and several basis as between the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any Person or Party that is not the Settling Defendants, to the extent provided by law; and
 - (iv) the BC or Ontario Courts shall have full authority to determine the Proportionate Liability of the Settling Defendants at the trial or other disposition of the relevant Proceedings, whether or not the Settling Defendants remain in the relevant Proceedings or appear at the trial or other disposition, and the Proportionate Liability of the Settling Defendants shall be determined as if the Settling Defendants are parties to the relevant Proceedings and any determination by the Court in respect of the Proportionate Liability of the Settling Defendants shall only apply to the relevant Proceedings and shall not be binding on the Settling Defendants in any other proceedings.
- (b) A Non-Settling Defendant may, on motion to the BC or Ontario Court, as appropriate, determined as if the Settling Defendants remained parties to the relevant Proceedings, and on at least thirty (30) days' notice to Counsel for the Settling Defendants, and not to be brought unless and until the relevant Proceeding against

the Non-Settling Defendants has been certified and all appeals or times to appeal have been exhausted, seek Orders for the following:

- i. documentary discovery and an affidavit of documents (list of documents in British Columbia) from the Settling Defendants in accordance with the relevant rules of civil procedure;
 - ii. oral discovery of a representative of the Settling Defendants, the transcripts of which may be read in at trial;
 - iii. leave to serve a request to admit (notice to admit in British Columbia) on the Settling Defendants in respect of factual matters; and/or
 - iv. the production of a representative of the Settling Defendants to testify at trial, with such witness or witnesses to be subject to cross-examination by counsel for the Non-Settling Defendant.
- (c) The Settling Defendants retain all rights to oppose any motion brought under section 8.1(1)(b), including on the basis that the Courts lack jurisdiction over the Settling Defendants. For greater certainty, a motion brought under section 8.1(1)(b) includes any such motion brought at trial seeking an order requiring the Settling Defendants to produce a representative to testify at trial. Moreover, nothing herein restricts the Settling Defendants from seeking a protective order to maintain confidentiality and protection of proprietary information in respect of Documents to be produced and/or for information obtained from discovery in accordance with section 8.1(1)(b).
- (d) On any motion brought pursuant to section 8.1(1)(b), the Court may make such Orders as to costs and other terms as it considers appropriate.
- (e) To the extent that such an order is granted and discovery is provided to a Non-Settling Defendant, a copy of all discovery provided, whether oral or documentary in nature, shall be provided by the Settling Defendants to the Class Counsel within ten (10) days of such discovery being provided to a Non-Settling Defendant.

8.2 Quebec Waiver or Renunciation of Solidarity Order

(1) A waiver of renunciation of solidarity shall be granted by the Quebec Court providing for the following:

- (a) the Quebec Petitioner and the Settlement Class Members in the Quebec Proceeding expressly waive and renounce the benefit of solidarity against the Non-Settling Defendants with respect to the facts, deeds or other conduct of the Settling Defendants;
- (b) the Quebec Petitioner and the Settlement Class Members in the Quebec Proceeding shall henceforth only be able to claim and recover damages, including punitive damages, interest and costs (including investigative costs claimed pursuant to s. 36 of the *Competition Act*) attributable to the conduct of the Non-Settling Defendants, the sales by the Non-Settling Defendants, and/or other applicable measure of Proportionate Liability of the Non-Settling Defendants;
- (c) any claims in warranty or any other claim or joinder of parties to obtain any contribution or indemnity from the Settling Defendants or relating to the Released Claims shall be inadmissible and void in the context of the Quebec Proceeding; and
- (d) the ability of Non-Settling Defendants to seek discovery from the Settling Defendants shall be determined according to the provisions of the *Code of Civil Procedure*, and the Settling Defendants shall retain and reserve all of their rights to oppose such discovery under the *Code of Civil Procedure* and on the basis that the Courts lack jurisdiction over the Settling Defendants.

8.3 Material Term

(1) For the avoidance of doubt and without in any way limiting the ability of the Parties to assert that other terms in this Settlement Agreement are material terms (subject to section 6.1(3)), the Parties acknowledge that the bar orders and the waiver or renunciation of solidarity contemplated herein shall be considered a material term of the Settlement Agreement and the failure of any Court to approve the bar orders and the waiver of renunciation of solidarity

contemplated herein shall give rise to a right to termination pursuant to section 6.1(2) of the Settlement Agreement.

8.4 Claims Against Other Entities Reserved

(1) Except as provided herein, this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by Settlement Class Members against any Person other than the Settling Defendants.

SECTION 9 - EFFECT OF SETTLEMENT

9.1 No Admission of Liability

(1) The Plaintiffs and the Settling Defendants expressly reserve all of their rights if this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason. Further, whether or not this Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, Documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Settling Defendants, or of the truth of any of the claims or allegations contained in the Proceedings or any other pleading filed by the Plaintiffs.

9.2 Agreement Not Evidence

(1) The Parties agree that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, Documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law or as provided in this Settlement Agreement.

9.3 No Further Litigation

(1) No Class Counsel, nor anyone currently or hereafter employed by, or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect

to any claim made or action commenced by any Person which relates to or arises from the Released Claims, except in relation to the continued prosecution of the Proceedings against any Non-Settling Defendant or unnamed co-conspirators that are not Releasees or, if the Proceedings are not certified or authorized, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against any Non-Settling Defendant or unnamed co-conspirator that is not a Releasee. Moreover, neither Class Counsel, nor anyone currently or hereafter employed by, or a partner with Class Counsel, may divulge to anyone for any purpose, or use for any purpose, any information obtained in the course of the Proceedings or the negotiation and preparation of this Settlement Agreement, except to the extent that such information is otherwise publicly available or unless ordered to do so by a court in Canada, or in the case of information obtained in the course of the Proceedings, for the purposes of the continued prosecution of the Proceedings against any Non-Settling Defendant or unnamed co-conspirators that are not Releasees or, if the Proceedings are not certified or authorized, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against any Non-Settling Defendant or unnamed co-conspirator that is not a Releasee.

(2) For greater certainty, section 9.3(1) shall be inoperative to the extent that it requires any lawyer who is a member of the Law Society of British Columbia to breach his or her obligations under section 3.2-10 of the Law Society of British Columbia's *Code of Professional Conduct for British Columbia* by refraining from participation or involvement in any claim or action in a British Columbia court.

SECTION 10 - CERTIFICATION OR AUTHORIZATION FOR SETTLEMENT ONLY

10.1 Settlement Class and Common Issue

(1) The Parties agree that the Proceedings shall be certified or authorized as class proceedings as against the Settling Defendants solely for purposes of settlement of the Proceedings and the approval of this Settlement Agreement by the Courts.

(2) The Plaintiffs agree that, in the motions for certification or authorization of the Proceedings as class proceedings for settlement purposes and for the approval of this Settlement Agreement, the only common issue that they will seek to define is the Common Issue and the only classes that they will assert are the Settlement Classes.

(3) The Parties agree that the certification or authorization of the Proceedings as against the Settling Defendants for the purpose of implementing the Settlement Agreement, shall not derogate in any way from the rights of the Plaintiffs as against the Non-Settling Defendants, except as expressly set out in this Settlement Agreement.

SECTION 11 - NOTICE TO SETTLEMENT CLASSES

11.1 Notices Required

(1) The proposed Settlement Classes shall be given the following notices: (i) the Notice of Certification and Approval Hearings; (ii) the Notice of Settlement Approval, if the Courts grant approval of the Settlement Agreement; (iii) notice if this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect; and (iv) such further notice as may be directed by the Courts.

11.2 Form and Distribution of Notices

(1) The form of Notices referred to in section 11.1 and the manner and extent of publication and distribution shall be as agreed to by the Plaintiffs and Settling Defendants or in such form or manner as approved by the Courts.

SECTION 12 – ADMINISTRATION AND IMPLEMENTATION

12.1 Mechanics of Administration

(1) Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement and the distribution protocol shall be determined by the Courts on motions brought by Class Counsel.

(2) The Settling Defendants shall not have any responsibility, financial obligations or liability whatsoever with respect to the investment, distribution or administration of monies in the Trust Account including, but not limited to, Administration Expenses and Class Counsel Fees.

SECTION 13 - CLASS COUNSEL FEES, DISBURSEMENTS AND ADMINISTRATION EXPENSES

13.1 Class Counsel Fees, Disbursements and Administration Expenses

(1) The Settling Defendants shall not be liable for any fees, disbursements or taxes of any of Class Counsel's, the Plaintiffs' or Settlement Class Members' respective lawyers, experts, advisors, agents or representatives.

(2) Siskinds LLP shall pay the costs of the notices required by section 11.1 and any costs of translation required by section 14.11 from the Trust Account, as they become due. The Settling Defendants shall not have any responsibility for the costs of the notices or translation.

(3) Class Counsel may seek the Courts' approval to pay Class Counsel Disbursements and Class Counsel Fees contemporaneous with seeking approval of this Settlement Agreement. Class Counsel Disbursements and Class Counsel Fees shall be reimbursed and paid solely out of the Trust Account after the Effective Date. No Class Counsel Fees shall be paid from the Trust Account prior to the Effective Date.

(4) Except as provided herein, Administration Expenses may only be paid out of the Trust Account after the Effective Date.

(5) In the event that some of the funds remain in the Trust Account after payment of Class Counsel Disbursements, Class Counsel Fees and Administrative Expenses, Class Counsel shall seek direction from the Courts regarding the distribution of the remaining funds.

(6) Class Counsel reserve the right to bring motions to the Courts for reimbursement out of the Trust Account for any future Class Counsel Disbursements.

SECTION 14 - MISCELLANEOUS

14.1 Motions for Directions

(1) Class Counsel or the Settling Defendants may apply to the Ontario Court and/or such other Courts as may be required for directions in respect of the interpretation, implementation and administration of this Settlement Agreement. Unless a Court orders otherwise, motions for directions that do not relate solely to matters affecting the BC Proceeding or the Quebec Proceeding shall be determined by the Ontario Court.

- (2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties.

14.2 Headings, etc.

In this Settlement Agreement:

- (a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and
- (b) the terms “this Settlement Agreement”, “hereof”, “hereunder”, “herein”, and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

14.3 Computation of Time

In the computation of time in this Settlement Agreement, except where a contrary intention appears,

- (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a holiday as “holiday” is defined in the *Rules of Civil Procedure*, RRO 1990, Reg 194, the act may be done on the next day that is not a holiday.

14.4 Ongoing Jurisdiction

(1) Each of the Courts shall retain exclusive jurisdiction over each Proceeding commenced in its jurisdiction, the Plaintiffs and Class Counsel Fees in that proceeding.

(2) No Party shall ask a Court to make any order or give any direction in respect of any matter of shared jurisdiction unless that order or direction is conditional upon a complimentary order or direction being made or given by the other Court(s) with which it shares jurisdiction over that matter.

(3) Notwithstanding sections 14.4(1) and (2), the Ontario Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement, and the Plaintiffs, Settlement Class Members and Settling Defendants attorn to the jurisdiction of the Ontario Court for such purposes. Issues related to the administration of the Settlement Agreement, the Trust Account, and other matters not solely related to the BC Proceeding or the Quebec Proceeding shall be determined by the Ontario Court.

14.5 Governing Law

(1) This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.

14.6 Entire Agreement

(1) This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

14.7 Amendments

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto, and any such modification or amendment must be approved by the Courts with jurisdiction over the matter to which the amendment relates.

14.8 Binding Effect

(1) This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Settling Defendants, the Settlement Class Members, the Releasors, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiffs shall be binding upon all Releasors and each and every covenant and agreement made herein by the Settling Defendants shall be binding upon all of the Releasees.

14.9 Counterparts

(1) This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or PDF signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

14.10 Negotiated Agreement

(1) This Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

14.11 Language

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais. Nevertheless, if required by the Courts, Class Counsel and/or a translation firm selected by Class Counsel shall prepare a French translation of the Settlement Agreement, the cost of which shall be paid from the Settlement Amount. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

14.12 Transaction

(1) This Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Civil Code of Quebec*, and the Parties are hereby renouncing to any errors of fact, of law and/or of calculation.

14.13 Recitals

(1) The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

14.14 Schedules

(1) The schedules annexed hereto form part of this Settlement Agreement.

14.15 Acknowledgements

(1) Each of the Parties hereby affirms and acknowledges that:

- (a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;
- (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;
- (c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
- (d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of this Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

14.16 Authorized Signatures

(1) Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified above their respective signatures and their law firms.

14.17 Notice

(1) Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication or document shall be provided by email, facsimile or letter by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

For the Plaintiffs and for Class Counsel in the Proceedings:

Charles M. Wright and Linda Visser
Siskinds LLP
Barristers and Solicitors
680 Waterloo Street
London, ON N6A 3V8

Telephone: 519-672-2121
Facsimile: 519-672-6065
Email: charles.wright@siskinds.com
linda.visser@siskinds.com

Jeff Orenstein
Consumer Law Group Inc.
1030 rue Berri, Suite 102
Montreal, Quebec H2L 4C3

Telephone: 514-266-7863
Facsimile: 514-868-9690
Email: jorenstein@clg.org

Joel Rochon
Rochon Genova LLP
121 Richmond Street West, Suite 900
Toronto, ON M5H 2K1

Telephone: 416-548-9874
Facsimile: 416-363-0263
Email: jrochon@rochongenova.com

For Settling Defendants:

Eric R. Hoaken and Ian Matthews
Lax O'Sullivan Scott Lisus LLP
Suite 2750, 145 King Street West
Toronto, ON M5H 1J8

Telephone: 416-598-1744
Facsimile: 416.598-3730
Email: ehoaken@counsel-toronto.com
imatthews@counsel-toronto.com

David Sterns and Jean Marc Leclerc
Sotos LLP
Barristers and Solicitors
180 Dundas Street West, Suite 1250
Toronto, ON M5G 1Z8

Telephone: 416-977-0007
Facsimile: 416-977-0717
Email: dsterns@sotosllp.com
jleclerc@sotosllp.com

Reidar Mogerman and David Jones
Camp Fiorante Matthews Mogerman
Barristers and Solicitors
#400-856 Homer Street
Vancouver, BC V6B 2W5

Telephone: 604-689-7555
Facsimile: 604-689-7554
Email: rmogerman@cfmlawyers.ca
djones@cfmlawyers.ca

14.18 Date of Execution

(1) The Parties have executed this Settlement Agreement as of the date on the cover page.

KHURRAM SHAH and ALPINA HOLDINGS INC., on their own behalf and on behalf of the Settlement Class, by their counsel

Name of Authorized Signatory: Linda Visser

Signature of Authorized Signatory: 
Siskinds LLP
Ontario Counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____
Sotos LLP
Ontario Counsel

JONATHAN CRUZ, on his own behalf and on behalf of the Settlement Class, by his counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____
Camp Fiorante Matthews Mogerman
BC Counsel

14.18 Date of Execution

(1) The Parties have executed this Settlement Agreement as of the date on the cover page.

KHURRAM SHAH and **ALPINA HOLDINGS INC.**, on their own behalf and on behalf of the Settlement Class, by their counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

Siskinds LLP
Ontario Counsel

Name of Authorized Signatory: _____

DAVID STEANS

Signature of Authorized Signatory: _____


Sotos LLP
Ontario Counsel

JONATHAN CRUZ, on his own behalf and on behalf of the Settlement Class, by his counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

Camp Fiorante Matthews Mogeran
BC Counsel

14.18 Date of Execution

(1) The Parties have executed this Settlement Agreement as of the date on the cover page.

KHURRAM SHAH and **ALPINA HOLDINGS INC.**, on their own behalf and on behalf of the Settlement Class, by their counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

Siskinds LLP
Ontario Counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

Sotos LLP
Ontario Counsel

JONATHAN CRUZ, on his own behalf and on behalf of the Settlement Class, by his counsel

Name of Authorized Signatory: _____

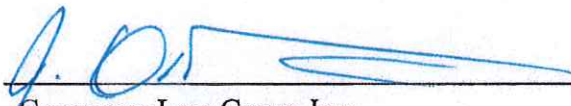
Reidar Mogerma

Signature of Authorized Signatory: _____


Camp Fiorante Matthews Mogerma
BC Counsel

JORDAN COHEN, on his own behalf and on behalf of the Settlement Class, by his counsel

Name of Authorized Signatory: Jeff Orenstein

Signature of Authorized Signatory: 
Consumer Law Group Inc.
Quebec Counsel

Name of Authorized Signatory: JOEL P. ROCHON

Signature of Authorized Signatory: 
Rochon Genova LLP
Quebec Counsel

NEC CORPORATION and NEC TOKIN CORPORATION, by their counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____
Lax O'Sullivan Scott Lisus LLP

JORDAN COHEN, on his own behalf and on behalf of the Settlement Class, by his counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

Consumer Law Group Inc.
Quebec Counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

Rochon Genova LLP
Quebec Counsel

NEC CORPORATION and NEC TOKIN CORPORATION, by their counsel

Name of Authorized Signatory: _____

Eric R. Hoaker

Signature of Authorized Signatory: _____



Lax O'Sullivan Scott Lisus LLP

SCHEDULE A – PROCEEDINGS

Proceeding	Plaintiffs	Defendants	Settlement Class
Ontario Superior Court of Justice Court File No. CV-13-483540-00CP (the “Ontario Proceeding”)	Khurram Shah and Alpina Holdings Inc.	LG Chem, Ltd., LG Chem America, Inc., Panasonic Corporation, Panasonic Corporation of North America, Panasonic Canada Inc., Sanyo Electric Co., Ltd., Sanyo North America Corporation, Sanyo Energy (U.S.A.) Corporation, Sony Corporation, Sony Energy Devices Corporation, Sony Electronics, Inc., Sony of Canada Ltd., Samsung SDI Co., Ltd., Samsung SDI America, Inc., Samsung Electronics Canada Inc., Hitachi, Ltd., Hitachi Maxell, Ltd., Maxell Corporation of America, Maxell Canada, GS Yuasa Corporation, NEC Corporation, NEC Tokin Corporation, NEC Canada, Toshiba Corporation, Toshiba America Electronic Components, Inc., and Toshiba of Canada Limited	All persons in Canada who purchased Lithium Batteries and/or Lithium Battery Products in Canada during the Class Period, except the Excluded Persons and persons who are included in the BC Settlement Class and the Quebec Settlement Class.
Superior Court of Quebec (District of Montreal), File No. 500-06-000632-121 (the “Quebec Proceeding”)	Jordan Cohen	LG Chem Ltd., LG Chem America, Inc., Panasonic Corporation, Panasonic Corporation of North America, Panasonic Canada Inc., Sanyo Electric Co., Ltd., Sanyo North America Corporation, Sony Corporation, Sony of Canada Ltd., Sony Energy Devices Corporation, Sony Electronics, Inc., Samsung SDI Co., Ltd. Samsung SDI America, Inc., Hitachi,	All individuals in Quebec who purchased Lithium Batteries and/or Lithium Battery Products in Canada during the Class Period, as well as any legal Person resident in Quebec established for a private interest, partnership or association which had under its direction or control no more than

Proceeding	Plaintiffs	Defendants	Settlement Class
		Ltd., Hitachi Canada, Ltd., Hitachi Maxell, Ltd., Maxell Corporation of America	50 Persons bound to it by a contract of employment who, during the Class Period, purchased Lithium Batteries and/or Lithium Battery Products in Canada during the Class Period, except the Excluded Persons.
British Columbia Supreme Court File No. VLC-S-S-128141 (Vancouver Registry) (the “BC Proceeding”)	Jonathan Cruz	LG Chem Ltd., LG Chem America, Inc., Panasonic Corp., Panasonic Corporation of North America, Sanyo Electric Co., Ltd., Sanyo North America Corporation, Panasonic Canada Inc., Samsung SDI Co. Ltd., Samsung SDI America, Inc., Samsung SDI Mexico, S.A. de C.V., Samsung SDI (Hong Kong) Ltd., Tianjin Samsung SDI Co., Ltd., Shanghai Samsung SVA Electronic Devices Co., Ltd., Samsung Electronics Canada Inc., Sony Corporation, Sony Energy Devices Corporation, Sony Electronics Inc., Sony of Canada Ltd., Hitachi, Ltd., Hitachi Canada, Ltd., Hitachi-Maxell Ltd., Maxell Corporation of America and Maxell Canada	All persons in British Columbia who purchased Lithium Batteries and/or Lithium Battery Products in Canada during the Class Period, except the Excluded Persons.