

**CANADIAN HYDROGEN PEROXIDE CLASS ACTION  
NATIONAL SETTLEMENT AGREEMENT**

Made as of November 3, 2008

Between

**IRVING PAPER LIMITED, IRVING PULP & PAPER, LIMITED,  
3969410 CANADA INC. C.O.B. AS PARK AVENUE HAIR SALON,  
DISTRIBUTECH INC., STACEY LEAVITT,  
CATALYST PAPER CORPORATION AND BETTY SMITH**

(the "Plaintiffs")

and

**KEMIRA OYJ AND KEMIRA CHEMICALS CANADA INC.**

(the "Settling Defendants")

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**RECITALS**

A. WHEREAS the Proceedings have been commenced by the Plaintiffs in Ontario, Quebec and British Columbia which allege that the Settling Defendants participated in an unlawful conspiracy to raise, fix, maintain or stabilize the price of Hydrogen Peroxide in Canada and/or to allocate markets and customers for the sale of Hydrogen Peroxide in Canada, contrary to Part VI of the *Competition Act* and the common law;

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

C. 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;

D. 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;

E. WHEREAS the Settling Defendants are entering into this Settlement Agreement in order to achieve a final and nation-wide resolution of all claims asserted or which could have been asserted against them by the Plaintiffs in the Proceedings, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;

F. 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;

G. WHEREAS for the purposes of settlement only and contingent on approvals by the Courts as provided for in this Settlement Agreement, the Parties have consented to certification or authorization of the Proceedings as class proceedings and have consented to a Settlement Class and a Common Issue in each of the Proceedings; and

H. 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;

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 Proceedings be settled and dismissed on the merits with prejudice as to the Settling Defendants only, 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) *Account* means an interest bearing trust account at a Canadian Schedule 1 bank in Ontario under the control of Siskinds LLP for the benefit of Settlement Class Members.
- (2) *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 claims administration but excluding Class Counsel Fees.
- (3) *BC Class* means all persons resident in British Columbia who, during the Class Period, purchased Hydrogen Peroxide Products, except Excluded Persons.
- (4) *BC Counsel* means Camp Fiorante Matthews.
- (5) *BC Court* means the Supreme Court of British Columbia.

- (6) **Claims Administrator** means Heffler, Radetich & Saitta LLP.
- (7) **Class Counsel** means Ontario Counsel, Quebec Counsel and BC Counsel.
- (8) **Class Counsel Fees** include the fees, disbursements, costs, interest, GST and other applicable taxes or charges of Class Counsel.
- (9) **Class Period** means September 14, 1994 to January 5, 2005.
- (10) **Common Issue** in each Proceeding means: Did the Settling Defendants conspire to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for, Hydrogen Peroxide in Canada during the Class Period? If so, what damages, if any, did Class Members suffer?
- (11) **Courts** means the Ontario Court, the Quebec Court and the BC Court.
- (12) **Defendants** means the entities named as defendants in the Proceedings as set out in Schedule A.
- (13) **Direct Purchaser** means a person or entity in Canada, other than a Distributor, who purchased Hydrogen Peroxide directly from a Settling Defendant.
- (14) **Distributor** means a person or entity in Canada who purchased Hydrogen Peroxide from a Settling Defendant and resold the Hydrogen Peroxide without further processing or including it in any other product.
- (15) **Distribution Protocol** means the plan for distributing the Settlement Amount and accrued interest, in whole or part, as approved by the September 25, 2008 Orders of Justice Rady in the Proceedings.
- (16) **Effective Date** means the date when Final Orders have been received from all Courts approving this Settlement Agreement.
- (17) **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.

(18) **Final Order** means a final judgment entered by a Court in respect of the certification or authorization of a Proceeding as a class proceeding and the approval of this Settlement Agreement once the time to appeal such judgment has expired without any appeal being taken, if an appeal lies, or once there has been affirmation of the certification or authorization of a Proceeding as a class proceeding and the approval of this Settlement Agreement upon a final disposition of all appeals.

(19) **Hydrogen Peroxide** means a clear colourless inorganic liquid used primarily as a bleach or oxidizer. Hydrogen Peroxide is sold in aqueous solutions, typically 35%, 50% or 70% by weight, in different grades or formulations specifically tailored for enhanced performance in a particular application of the product. Unless otherwise noted in this Settlement Agreement, the term “Hydrogen Peroxide” includes Sodium Perborate and/or Sodium Percarbonate.

(20) **Hydrogen Peroxide Products** means Hydrogen Peroxide, products that contain Hydrogen Peroxide, and products the production of which involved the use of Hydrogen Peroxide.

(21) **Manufacturer** means a person or entity in Canada, who purchased Hydrogen Peroxide directly from a Distributor and manufactured a product or products that contain Hydrogen Peroxide and/or products the production of which involved the use of Hydrogen Peroxide.

(22) **Non-Settling Defendant** means a Defendant that is not a Settling Defendant.

(23) **Ontario Class** means all persons in Canada who, during the Class Period, purchased Hydrogen Peroxide Products, except the Excluded Persons and persons who are included in the Quebec Class and the BC Class.

(24) **Ontario Counsel** means Siskinds LLP and Sutts, Strosberg LLP.

(25) **Ontario Court** means the Ontario Superior Court of Justice.

(26) **Opt-Out Deadline** means the date which is sixty (60) days after the date on which the notice of certification and settlement approval is first published.

(27) **Opt-Out Threshold** means a threshold as agreed upon by the Parties in a separate document delivered to the Courts under seal and kept confidential by the Parties and the Court.



(28) ***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.

(29) ***Parties*** means the Plaintiffs, Settlement Class Members and the Settling Defendants.

(30) ***Plaintiffs*** means the individuals and entities named as plaintiffs in the Proceedings as set out in Schedule A.

(31) ***Proceedings*** means Ontario Court File No. 47025 (London), Quebec Court (District of Québec) Action No. 200-06-000056-054 and British Columbia Court File No. L051279 (Vancouver Registry).

(32) ***Purchase Price*** means the sale price paid by Settlement Class Members for Hydrogen Peroxide purchased during the Class Period, less any rebates, delivery or shipping charges, taxes and any other form of discounts.

(33) ***Quebec Class*** means all individuals resident in Quebec who, during the Class Period, purchased Hydrogen Peroxide Products, as well as any legal person resident in Quebec established for a private interest, partnership or association which, at all times between May 6, 2004 and May 5, 2005, had under its direction or control no more than 50 persons bound to it by a contract of employment who, during the Class Period, purchased Hydrogen Peroxide Products, except Excluded Persons.

(34) ***Quebec Counsel*** means Siskinds Desmeules s.e.n.c.r.l.

(35) ***Quebec Court*** means the Superior Court of Quebec.

(36) ***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, 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, in law, under statute or in equity, that Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, relating in any way to any conduct anywhere, from the beginning of time to the date hereof, in respect of the purchase, sale,

pricing, discounting, marketing or distributing of Hydrogen Peroxide Products, or relating to any conduct alleged (or which could have been alleged) in the Proceedings including, without limitation, any such claims which have been asserted or could have been asserted, whether in Canada or elsewhere, as a result of the purchase of Hydrogen Peroxide Products. However, nothing herein shall be construed to release any claims that are not related to the allegations made in the Proceedings or Other Actions, including any claims arising from any alleged product defect, breach of contract, or similar claim between the Parties relating to Hydrogen Peroxide Products.

(37) **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 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.

(38) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members and their respective parents, subsidiaries, affiliates, predecessors, successors, heirs, executors, administrators, insurers and assigns.

(39) **Settlement Agreement** means this agreement, including the recitals and schedules.

(40) **Settlement Amount** means CDN \$3,600,000.

(41) **Settlement Class** means, in respect of each Proceeding, the settlement class defined in Schedule A.

(42) **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.

(43) **Settling Defendants** means Kemira OYJ and Kemira Chemicals Canada Inc.

(44) **Sodium Perborate** means a white, odourless, water-soluble chemical compound. It crystallizes as monohydrate or tetrahydrate. Sodium Perborate undergoes hydrolysis in contact with water, producing hydrogen peroxide and borate. Sodium Perborate serves as a source of active

oxygen in many detergents, cleaning products, and laundry bleaches. Sodium Perborate also is present in some tooth bleach formulas. Sodium Perborate has antiseptic properties and can act as a disinfectant.

(45) ***Sodium Percarbonate*** means a white crystalline water-soluble chemical compound. Sodium Percarbonate is an ingredient in a number of home and laundry cleaning products. Sodium Percarbonate offers many of the same functional benefits of liquid hydrogen peroxide. Sodium Percarbonate dissolves into water rapidly to release oxygen and provides powerful cleaning, bleaching, stain removal, and deodorizing capabilities. Sodium Percarbonate is effective as a disinfectant on both bacteria and viruses.

(46) ***U.S. Litigation*** means the class action proceeding pending in the United States District Court for the Eastern District of Pennsylvania, under the caption *In re Hydrogen Peroxide Antitrust Litigation*, 05-MDI-1682, 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**

The Parties shall use their best efforts to effectuate this settlement and to secure the prompt, complete and final dismissal with prejudice of the Proceedings as against the Settling Defendants.

### **2.2 Motions for Approval**

(1) As soon as practicable 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 Ontario order certifying the Proceeding and approving the Settlement Agreement referred to in section 2.2(1) shall be in the form attached hereto as Schedule B except that paragraphs 1, 4, 8-11, 22-25, 28-30 and 32-34 of the Ontario order need only be substantially in the form set out in Schedule B. The Quebec and British Columbia orders authorizing or certifying the Proceedings

and approving the Settlement Agreement referred to in section 2.2(1) shall be agreed upon by the Parties and shall mirror the substance and, where possible, the form of the Ontario order.

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

### **2.3 Pre-Motion Confidentiality**

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 written 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) or as otherwise required by law.

## **SECTION 3 – SETTLEMENT BENEFITS**

### **3.1 Payment of Settlement Amount**

(1) No later than November 5, 2008, the Settling Defendants shall pay the Settlement Amount to Siskinds LLP for deposit into the Account, in full satisfaction of the Released Claims against the Releasees.

(2) 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.

(3) Siskinds LLP shall maintain the Account as provided for in this Settlement Agreement. Siskinds LLP shall not pay out all or part of the monies in the 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 Account.

(2) Subject to section 3.2(3), all taxes payable on any interest which accrues on the Settlement Amount in the 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 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 Account.

(3) The Settling Defendants shall have no responsibility to make any filings relating to the 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 Account, unless this Settlement Agreement is terminated, in which case the interest earned on the Settlement Amount in the 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 Cooperation**

(1) It is understood and agreed that all documents and information provided by the Settling Defendants to 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. The scope of the Settling Defendants' cooperation under this Settlement Agreement shall be limited to an alleged unlawful conspiracy to fix, raise, maintain or stabilize price, allocate markets or customers or restrict output or capacity, of Hydrogen Peroxide sold in North America during the Class Period. Notwithstanding anything else in this Settlement Agreement, the Settling Defendants shall not be required as part of their cooperation under this Settlement Agreement to provide information or documents relating solely to the sale, pricing, marketing, customers, capacity or production of Hydrogen Peroxide outside North America.

(2) Within thirty (30) days of the Effective Date or at a time mutually agreed upon by the Parties, the Settling Defendants shall:

- (a) Through a meeting between counsel for the Settling Defendants and Class Counsel, provide an evidentiary proffer, which will include information originating with the Settling Defendants and being within their possession, custody or control relating to the allegations in the Proceedings including, without limitation, the dates, locations, subject matter, and participants in any meetings between competitors;
- (b) Make reasonable best efforts to provide existing electronic transactional data for sales by the Settling Defendants of Hydrogen Peroxide delivered in Canada during

the Class Period. The Settling Defendants represent that they have some electronic transactional data relating to sales by the Settling Defendants of Hydrogen Peroxide during the Class Period, which data includes Purchase Price information. Counsel for the Settling Defendants has informed Class Counsel that the Settling Defendants do not have complete transactional data for their sales of Hydrogen Peroxide during the Class Period. Counsel for the Settling Defendants agree to be reasonably available as necessary to respond to Class Counsel's questions regarding the electronic transactional data produced by the Settling Defendants. If counsel for the Settling Defendants are unable to provide an adequate response to Class Counsel's questions, the Settling Defendants shall request that an employee of the Settling Defendants be reasonably available to Class Counsel to respond to Class Counsel's questions. The inability of the employee to respond to Class Counsel's questions or the failure of the employee to agree to make him or herself available to or otherwise cooperate with the Plaintiffs shall not constitute a breach or violation of this Settlement Agreement;

- (c) Produce the following non-privileged documents originating with the Settling Defendants and being within their possession, custody or control, which are relevant to the allegations raised in the Proceedings:
  - (A) Price announcements for Hydrogen Peroxide in North America during the Class Period;
  - (B) All pre-existing business documents provided by the Settling Defendants to any grand jury, the United States Department of Justice, the European Commission, the Competition Bureau, or any other state, federal or international government or administrative agency, without geographic limitation, concerning the allegations raised in the Proceedings, excluding documents created for the purpose of being so provided; and
  - (C) To the extent not included in the above categories, any documents provided by the Settling Defendants in the U.S. Litigation, including but not limited to, any documents provided to counsel for the plaintiffs in the U.S Litigation pursuant to the settlement agreement entered into between the plaintiffs in the U.S. Litigation and Kemira OYJ and Kemira Chemicals Canada Inc., dated December 28, 2007.

The obligation to produce documents pursuant to this section shall be a continuing obligation to the extent documents are identified following the initial productions. The Settling Defendants make no representation that they have, can or will produce a complete set of documents within any of the categories of information or documents described herein, and the failure to do so shall not constitute a breach or violation of this Settlement Agreement.

(3) Following the Effective Date, the Settling Defendants shall, at the request of Class Counsel, upon reasonable notice, and subject to any legal restrictions, make best efforts to make available two employee(s) of the Settling Defendants who have knowledge of the allegations raised in the Proceedings, to provide information regarding the allegations raised in the Proceedings in a personal interview with Class Counsel and/or experts retained by Class Counsel. The employees shall be made available at a location chosen by the Settling Defendants within their sole discretion. Costs incurred by, and the expenses of, the employees of the Settling Defendants in relation to such interviews shall be the responsibility of the Settling Defendants. If the employee(s) refuses to provide information, or otherwise cooperate, the Settling Defendants shall use best efforts to make him/her available for an interview with Class Counsel and/or experts retained by Class Counsel. The failure of the employee(s) to agree to make him or herself available, or to otherwise cooperate, with the Plaintiffs shall not constitute a violation of this Settlement Agreement.

(4) Subject to the rules of evidence, any court order with respect to confidentiality and the other provisions of this Settlement Agreement, the Settling Defendants agree to produce at trial and/or discovery or through acceptable affidavits or other testimony, (i) a current representative qualified to establish for admission into evidence the Settling Defendants' sales of Hydrogen Peroxide delivered in Canada during the Class Period and (ii) current representatives as Class Counsel and the Settling Defendants, acting reasonably, agree would be necessary to support the submission into evidence of any information provided by the Settling Defendants in accordance with the Settlement Agreement that Class Counsel and the Settling Defendants, acting reasonably, agree may be reasonably necessary for the prosecution of the Proceedings and may be presented to the Courts.

(5) Nothing in this Settlement Agreement shall be construed to require the Settling Defendants or any present or former officer, director or employee of the Settling Defendants to perform any act,

including the transmittal or disclosure of any information, which would violate any federal, provincial, state, local privacy law, or any law of a foreign jurisdiction.

(6) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Settling Defendants to disclose or produce any documents or information prepared by or for counsel for 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 a Settling Defendant.

(7) 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.

(8) The Settling Defendants' obligations to cooperate as particularized in section 3.3 shall not be affected by the release provisions contained in section 7 of this Settlement Agreement. The Settling Defendants' obligations to cooperate shall cease at the date of final judgment in the Proceedings against all Defendants. In the event the Settling Defendants materially breach section 3.3, Class Counsel may move before the Courts to either enforce the terms of this Settlement Agreement or set aside the approval of this Settlement Agreement or part thereof.

(9) It is understood and agreed that all documents and information provided by the Settling Defendants in accordance with this Settlement Agreement are properly designated by the Settling Defendants as Level A Confidential Information within the meaning of the May 23, 2008 Order of Justice Rady in the Proceedings (the "Confidentiality Order") and, in any event, shall be treated by the Parties and given the same protections of confidentiality as if they were Confidential Information designated at Level A within the meaning of the Confidentiality Order.



(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, Class Counsel agree to exercise good faith in seeking cooperation from the Settling Defendants and to avoid seeking information that is unnecessary, cumulative or duplicative and agree otherwise to avoid imposing undue or unreasonable burden or expense on the Settling Defendants.

#### **SECTION 4 – DISTRIBUTION OF THE SETTLEMENT AMOUNT AND ACCRUED INTEREST**

##### **4.1 Distribution Protocol**

Subject to any amendments ordered by the Courts, the Settlement Class Members shall be compensated pursuant to the Distribution Protocol. The monies in the Account shall be held by Siskinds LLP for the benefit of the Settlement Class Members and, after the Effective Date, shall be transferred by Siskinds LLP to the Claims Administrator for payment in accordance with the Distribution Protocol.

##### **4.2 No Responsibility for Administration or Fees**

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 Account including, but not limited to, Administration Expenses and Class Counsel Fees.

#### **SECTION 5 – OPTING-OUT**

##### **5.1 Procedure**

(1) A person may opt-out of the Proceedings by sending a written election to opt-out, signed by the person or the person's designee, by pre-paid mail, courier or fax to the Claims Administrator at an address to be identified in the Final Orders and the notice contemplated by section 11 of this Settlement Agreement.

(2) An election to opt-out will only be effective if it is actually received by the Claims Administrator on or before the Opt-Out Deadline.

(3) In addition to a written election to opt-out, a person who wishes to opt-out must provide to the Claims Administrator, on or before the Opt-Out Deadline:

- (a) the person's full name, current address and telephone number;
- (b) the name(s) of each entity from whom the person purchased Hydrogen Peroxide during the Class Period;
- (c) for each such entity, the information in the person's possession concerning the Purchase Price and volume of sales of Hydrogen Peroxide purchased during the Class Period; and
- (d) for each such entity, a statement indicating whether the person resold the Hydrogen Peroxide purchased from that entity without further processing or including it in any other product.

## **5.2 Opt-Out Report**

The Claims Administrator shall use the information provided by the Settling Defendants pursuant to section 12.2 to supplement and confirm the information received pursuant to section 5.1(3). Within thirty (30) days of the Opt-Out Deadline, the Claims Administrator shall provide to the Settling Defendants and Class Counsel, to the extent that such information is known by the Claims Administrator, the following information in respect of each person, if any, who has opted out of the Proceedings:

- (a) the person's full name, current address and telephone number;
- (b) the reasons for opting out;
- (c) the name(s) of each entity from whom the person purchased Hydrogen Peroxide during the Class Period;
- (d) for each such entity, the Purchase Price and volume of Hydrogen Peroxide purchased during the Class Period;
- (e) for each such entity, a statement indicating whether the person resold the Hydrogen Peroxide purchased from that entity without further processing or including it in any other product; and

- (f) a copy of all information provided by that person in the opting-out process.

### **5.3 Right to Terminate Based on Opt-Outs**

- (1) The Settling Defendants may terminate this Settlement Agreement in the event that the volume of Hydrogen Peroxide purchased by Settlement Class Members who opt-out of the Proceedings exceeds the Opt-Out Threshold.
- (2) To terminate the Settlement Agreement, the Settling Defendants shall give a written notice of termination to Class Counsel no later than twenty-one (21) days after the receipt of the report required by section 5.2.

## **SECTION 6 – TERMINATION OF SETTLEMENT AGREEMENT**

### **6.1 Right of Termination**

- (1) In the event that:
  - (a) the Opt-Out Threshold is exceeded and the Settling Defendants provide written notice of termination in accordance with section 5.3(2);
  - (b) any Court declines to approve this Settlement Agreement or any material part hereof;
  - (c) any Court approves this Settlement Agreement in a materially modified form; or
  - (d) any orders approving this Settlement Agreement made by the Ontario Court, the British Columbia Court or the Quebec Court do not become Final Orders;

this Settlement Agreement shall be terminated and, except as provided for in Section 6.4, it 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.

- (2) Any order, ruling or determination made by any Court with respect to Class Counsel's fees and disbursements or with respect to the Distribution Protocol or with respect to the Opt-Out Procedure 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 terminated:**

- (a) no motion to certify or authorize any of the Proceedings as a class action on the basis of this Settlement Agreement or to approve this Settlement Agreement, which has not been heard, shall proceed;
- (b) any order certifying or authorizing a Proceeding as a class action 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, including the definitions of the Settlement Class and the Common Issue, 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 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 the Settling Defendants with a written certification by Class Counsel of such destruction. Nothing contained in this paragraph 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.

### **6.3 Allocation of Monies in the Account Following Termination**

If the Settlement Agreement is terminated, Siskinds LLP shall return to the Settling Defendants all monies in the Account including interest, but less the costs of notice expended in accordance with sections 11 and 13, within thirty (30) business days of the relevant termination event in section 6.1. The Settling Defendants and Plaintiffs expressly reserve all of their respective rights if this Settlement Agreement is terminated.

### **6.4 Survival of Provisions After Termination**

(1) If this Settlement Agreement is terminated the provisions of sections 3.2, 3.3(1), (7) and (9), 6, 9, 12.2(5) and 13, 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 3.2, 3.3(1), (7) and (9), 6, 9, 12.2(5) and 13 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.

(2) The Settling Defendants and Plaintiffs expressly reserve all of their respective rights if this Settlement Agreement does not become effective or if this Settlement Agreement is terminated.

## **SECTION 7 – RELEASES AND DISMISSALS**

### **7.1 Release of Releasees**

Upon the Effective Date, and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Settlement Agreement, the Releasers forever and absolutely release the Releasees from the Released Claims.

### **7.2 Release by Releasees**

Upon the Effective Date, each Releasee forever and absolutely releases each of the other Releasees from any and all claims for contribution or indemnity with respect to the Released Claims.

### **7.3 Covenant Not To Sue**

Notwithstanding section 7.1, 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 Releasers do not

release the Releasees but instead covenant and undertake not to make any claim in any way or to threaten, commence, or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

#### **7.4 No Further Claims**

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 any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto, except for the continuation of the Proceedings against the Non-Settling Defendants or unnamed co-conspirators.

#### **7.5 Dismissal of the Proceedings**

The Proceedings shall be dismissed with prejudice and without costs as against the Settling Defendants.

#### **7.6 Dismissal of Other Actions**

- (1) Each Settlement Class Member, who does not opt-out, shall be deemed to consent to the dismissal, without costs and with prejudice, of his, her or its Other Actions against the Releasees.
- (2) All Other Actions commenced in Ontario, Quebec or British Columbia by any Settlement Class Member, who does not opt-out, shall be dismissed against the Releasees, without costs and with prejudice.

### **SECTION 8 – BAR ORDER AND OTHER CLAIMS**

#### **8.1 Bar Order**

A bar order shall be granted by each of the Courts providing for the following:

- (a) 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, by any Non-Settling Defendant or any other person or party, against a

Releasee, or by a Releasee against any Non-Settling Defendant, 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);

- (b) if the Courts ultimately determine that there is a right of contribution and indemnity between the Defendants, the Plaintiffs and the Settlement Class Members shall restrict their joint and several claims against the Non-Settling Defendants such that the Plaintiffs and the Settlement Class Members shall be entitled to claim and recover from the Non-Settling Defendants on a joint and several basis only those damages (including punitive damages) arising from and allocable to the sales of the Non-Settling Defendants;
- (c) a Non-Settling Defendant may, on motion to the Courts determined as if the Settling Defendants remained parties to the Proceedings, and on at least ten (10) days notice to counsel for the Settling Defendants, and not to be brought unless and until the action against the Non-Settling Defendants has been certified and all appeals or times to appeal have been exhausted, seek Orders for the following:
  - (A) documentary discovery and an affidavit of documents in accordance with the *Rules of Civil Procedure* O.Reg. 194 from each of the Settling Defendants;
  - (B) oral discovery of a representative of each of the Settling Defendants, the transcript of which may be read in at trial;
  - (C) leave to serve a request to admit on each Settling Defendant in respect of factual matters; and/or
  - (D) the production of a representative of each of the Settling Defendants to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.

The Settling Defendants retain all rights to oppose such motion, including any such motion brought at trial seeking an order requiring the Settling Defendants to produce a representative to testify at trial;

- (d) on any motion brought pursuant to section 8.1(c), 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 timely be provided by the Settling Defendants to the Plaintiffs and Class Counsel;
- (f) the Courts will retain an ongoing supervisory role over the discovery process and the Settling Defendants will attorn to the jurisdiction of the Courts for these purposes; and
- (g) a Non-Settling Defendant may effect service of the motion(s) referred to in section 8.1(c) on a Settling Defendant by service on counsel of record for the Settling Defendants in the Proceedings.

## **8.2 Claims Against Other Entities Reserved**

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.

## **SECTION 9 – EFFECT OF SETTLEMENT**

### **9.1 No Admission of Liability**

Whether or not this Settlement Agreement 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 deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by any Settling Defendant, 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**

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.

### **9.3 No Further Litigation**

No Class Counsel, nor anyone currently or hereafter employed by, associated with, 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 Defendants or unnamed co-conspirators. Moreover, these persons may not divulge to anyone 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 such information is otherwise publicly available or unless ordered to do so by a court.

## **SECTION 10 – CERTIFICATION OR AUTHORIZATION FOR SETTLEMENT ONLY**

- (1) The Parties agree that the Proceedings shall be certified or authorized as class proceedings 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 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.

## **SECTION 11 – NOTICE TO SETTLEMENT CLASSES**

### **11.1 Notices Required**

The proposed Settlement Classes shall be given notice of: (i) hearings at which the Courts will be asked to certify or authorize the Proceedings as class proceedings and approve the Settlement

Agreement; and (ii) the certification or authorization of the Proceedings as class proceedings and the approval of this Settlement Agreement if granted by the Courts.

### **11.2 Form and Distribution of Notices**

The form of the notices referred to in section 11.1 and the manner of their publication and distribution shall be as agreed to by the Parties and approved by the Courts.

## **SECTION 12 – ADMINISTRATION AND IMPLEMENTATION**

### **12.1 Mechanics of Administration**

Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement and Distribution Protocol shall be determined by the Courts on motions brought by Class Counsel.

### **12.2 Information and Assistance**

- (1) The Settling Defendants will make reasonable best efforts to compile a list of the names and addresses of persons in Canada who purchased Hydrogen Peroxide from them during the Class Period.
- (2) The information required by section 12.2(1) shall be delivered to the Class Counsel within fifteen (15) business days of the Date of Execution.
- (3) Class Counsel may use the information provided under section 12.2(2) to advise persons in Canada who purchased Hydrogen Peroxide from the Settling Defendants during the Class Period of this Settlement Agreement and the date of the approval hearings before the Courts.
- (4) Each Settling Defendant will make reasonable best efforts to provide the Purchase Price paid by each of its customers in Canada during the Class Period. This information shall be provided to Class Counsel within fifteen (15) days of the Date of Execution, and shall be used to facilitate the claims administration process established in accordance with section 4 of this Settlement Agreement and to determine whether the Settling Defendants may terminate this Settlement Agreement pursuant to section 5.3 of this Settlement Agreement.

(5) All information provided to Class Counsel or the Claims Administrator by the Settling Defendants shall be kept strictly confidential by the Claims Administrator and Class Counsel except as otherwise provided for in section 12.2(4). If this Settlement Agreement is terminated, all information provided by the Settling Defendants pursuant to section 12.2 shall be dealt with in accordance with section 6.2(1)(d) and no record of the information so provided shall be retained by Class Counsel in any form whatsoever.

### **SECTION 13 – CLASS COUNSEL FEES AND ADMINISTRATION EXPENSES**

(1) Siskinds LLP shall pay the costs of the notices referred to in section 11 of this Settlement Agreement and any costs associated with receiving the Opt-Out Notices out of the Account.

(2) Class Counsel may seek the Courts' approval to pay Class Counsel Fees and Administration Expenses contemporaneous with seeking approval of this Settlement Agreement. It is understood that for the purposes of Class Counsel Fees, the Settlement Amount includes the amount of CDN \$350,000 in respect of costs.

(3) Except as provided in section 13(1), Class Counsel Fees and Administration Expenses may only be paid out of the Account after the Effective Date.

(4) 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.

### **SECTION 14 – MISCELLANEOUS**

#### **14.1 Motions for Directions**

(1) Any Class Counsel or Settling Defendant may apply to the Courts for directions in respect of the implementation and administration of this Settlement Agreement or Distribution Protocol.

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

#### **14.2 Releasees Have No Liability for Administration**

The Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement or Distribution Protocol.

#### **14.3 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.

#### **14.4 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, the act may be done on the next day that is not a holiday.

#### **14.5 Ongoing Jurisdiction**

- (1) Each of the Courts shall retain exclusive jurisdiction over each Proceeding commenced in its jurisdiction, the Parties thereto and the Class Counsel Fees in those Proceedings.
- (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.

#### **14.6 Governing Law**

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

#### **14.7 Entire Agreement**

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.

#### **14.8 Amendments**

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.

#### **14.9 Binding Effect**

This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Settling Defendants, 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 Releasers and each and every covenant and agreement made herein by the Settling Defendants shall be binding upon all of the Releasees.

#### **14.10 Counterparts**

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 signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

#### **14.11 Negotiated Agreement**

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.

#### **14.12 Language**

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, the Settling Defendants shall prepare a French translation of the Settlement Agreement including Schedule A but excluding Schedule B at their own expense. The Parties agree that such translation is for convenience only. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall be considered.

#### **14.13 Transaction**

The present 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.

#### **14.14 Recitals**

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

#### **14.15 Schedules**

The Schedules annexed hereto form part of this Settlement Agreement.

#### **14.16 Acknowledgements**

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 with respect to the first Party's decision to execute this Settlement Agreement.

#### **14.17 Authorized Signatures**

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.

#### **14.18 Notice**

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 Plaintiffs and for Class Counsel:

Charles M. Wright

**Siskinds LLP  
Barristers and Solicitors  
680 Waterloo Street  
London, ON N6A 3V8**

Telephone: 519-660-7753  
Facsimile: 519-672-6065  
Email: charles.wright@siskinds.com

Harvey T. Strosberg, Q.C.

**Sutts, Strosberg LLP  
Barrister and Solicitors  
600-251 Goyeau Street  
Windsor, ON N9A 6V4**

Telephone: 519-258-9333  
Facsimile: 519-258-9527  
Email: harvey@strosbergco.com

J. J. Camp, Q.C.

**Camp Fiorante Matthews**  
4<sup>th</sup> Floor, Randall Building  
555 West Georgia Street,  
Vancouver, BC V6B 1Z6

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

Simon Hébert

**Siskinds Desmeules s.e.n.c.r.l.**  
Les promenades du Vieux-Quebec  
43 rue Buade, bureau 320  
Quebec City, QC G1R 4A2

Telephone: 418-694-2009  
Facsimile: 418-694-0281  
Email: simon.hebert@siskindsdesmeules.com

For Settling Defendants:

Sandra A. Forbes

**Davies Ward Phillips & Vineberg LLP**  
1 First Canadian Place, 44<sup>th</sup> Floor  
Toronto ON Canada M5X 1B1

Telephone: 416-863-5574  
Facsimile: 416-868-0871  
Email: sforbes@dwpv.com

#### 14.19 Date of Execution

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

**IRVING PAPER LIMITED, IRVING PULP &  
PAPER, LIMITED, 3969410 CANADA INC.  
C.O.B. AS PARK AVENUE HAIR SALON,  
DISTRIBUTECH INC., STACEY LEAVITT,  
CATALYST PAPER CORPORATION AND  
BETTY SMITH**

By:   
Name: Siskinds LLP  
Title: Ontario Counsel

By: \_\_\_\_\_  
Name: Sutts, Strosberg LLP  
Title: Ontario Counsel



J. J. Camp, Q.C.

**Camp Fiorante Matthews**  
4<sup>th</sup> Floor, Randall Building  
555 West Georgia Street,  
Vancouver, BC V6B 1Z6

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

Simon Hébert

**Siskinds Desmeules s.e.n.c.r.l.**  
Les promenades du Vieux-Quebec  
43 rue Buade, bureau 320  
Quebec City, QC G1R 4A2

Telephone: 418-694-2009  
Facsimile: 418-694-0281  
Email: simon.hebert@siskindsdesmeules.com

For Settling Defendants:

Sandra A. Forbes

**Davies Ward Phillips & Vineberg LLP**  
1 First Canadian Place, 44<sup>th</sup> Floor  
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Telephone: 416-863-5574  
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DISTRIBUTECH INC., STACEY LEAVITT,  
CATALYST PAPER CORPORATION AND  
BETTY SMITH**

By: \_\_\_\_\_  
Name: Siskinds LLP  
Title: Ontario Counsel

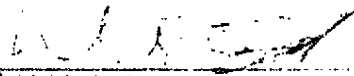
By: Harvey T. Strosberg  
Name: Sutts, Strosberg LLP  
Title: Ontario Counsel

By:   
Name: Siskinds Desmeules s.e.n.c.r.l  
Title: Quebec Counsel

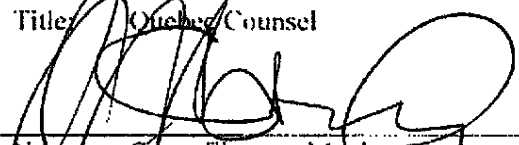
By: \_\_\_\_\_  
Name: Camp Fiorante Matthews  
Title: BC Counsel

**KEMIRA OYJ AND KEMIRA CHEMICALS  
CANADA INC.**

By: \_\_\_\_\_  
Name: Davies Ward Phillips & Vineberg  
LLP  
Title: Canadian Counsel

By: 

Name: Siskinds Desmeules s.e.n.c.r.l  
Title: Quebec Counsel

By: 

Name: Camp Fiorante Mathews  
Title: BC Counsel

**KEMIRA OYJ AND KEMIRA CHEMICALS  
CANADA INC.**

By: \_\_\_\_\_

Name: Davies Ward Phillips & Vineberg  
LLP  
Title: Canadian Counsel

By:   
Name: Siskinds Desmeules s.e.n.c.r.l  
Title: Quebec Counsel

By: \_\_\_\_\_  
Name: Camp Fiorante Matthews  
Title: BC Counsel

**KEMIRA OYJ AND KEMIRA CHEMICALS  
CANADA INC.**

*Davies Ward Phillips  
& Vineberg LLP / S. Taylor*  
By: \_\_\_\_\_  
Name: Davies Ward Phillips & Vineberg  
LLP  
Title: Canadian Counsel

## SCHEDULE A – PROCEEDINGS

Proceeding	Plaintiffs	Defendants	Settlement Class
<p>Ontario Superior Court of Justice Court File No.47025 (the “Ontario Action”)</p>	<p>Irving Paper Limited, Irving Pulp &amp; Paper, Limited, 3969410 Canada Inc. c.o.b. as Park Avenue Hair Salon, Distributech Inc., Stacey Leavitt</p>	<p>Atofina Chemicals Inc., Arkema Inc., Arkema Canada Inc., Arkema S.A., FMC Corporation, FMC of Canada Ltd., Solvay Chemicals Inc., Solvay S.A., Degussa Corporation, Degussa A.G., Degussa Canada Inc., EKA Chemicals, Inc., EKA Canada Inc., Akzo Nobel Chemicals International B.V., Kemira OYJ, and Kemira Chemicals Canada Inc.</p>	<p>All persons in Canada who purchased Hydrogen Peroxide Products during the Class Period, except the Excluded Persons and persons who are included in the Quebec Class and the BC Class.</p>
<p>Superior Court of Quebec (District of Québec), File No. 200-06-000056-054 (the “Quebec Action”)</p>	<p>Betty Smith</p>	<p>Atofina Chemicals Inc., Arkema Inc., Arkema Canada Inc., Arkema S.A., FMC Corporation, FMC of Canada Ltd., Solvay Chemicals Inc., Solvay S.A., Degussa Corporation, Degussa A.G., Degussa Canada Inc., EKA Chemicals, Inc., EKA Canada Inc., Akzo Nobel Chemicals International B.V., Kemira OYJ, and Kemira Chemicals Canada Inc.</p>	<p>All individuals resident in Quebec who purchased Hydrogen Peroxide Products during the Class Period, as well as any legal person resident in Quebec established for a private interest, partnership or association which, at all times between May 6, 2004 and May 5, 2005, had under its direction or control no more than 50 persons bound to it by a contract of employment who purchased Hydrogen Peroxide Products during the Class Period, except</p>

Proceeding	Plaintiffs	Defendants	Settlement Class
British Columbia Supreme Court File No. L051279 (Vancouver Registry) (the "BC Action")	Catalyst Paper Corporation	Atofina Chemicals Inc., Arkema Inc., Arkema Canada Inc., Arkema S.A., FMC Corporation, FMC of Canada Ltd., Solvay Chemicals Inc., Solvay S.A., Degussa Corporation, Degussa A.G., Degussa Canada Inc., EKA Chemicals, Inc., EKA Canada Inc., Akzo Nobel Chemicals International B.V., Kemira OYJ, and Kemira Chemicals Canada Inc.	Excluded Persons.  All persons resident in British Columbia who purchased Hydrogen Peroxide Products during the Class Period, except Excluded Persons.

**SCHEDULE B**

Court File No. 47025

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

The Honourable Madam )  
Justice Rady ) of , the day  
) of , 2008

**BETWEEN:**

IRVING PAPER LIMITED, IRVING PULP & PAPER, LIMITED,  
3969410 CANADA INC. c.o.b. as  
PARK AVENUE HAIR SALON, DISTRIBUTECH INC. and  
STACEY LEAVITT

Plaintiffs

- and -

ATOFINA CHEMICALS INC., ARKEMA INC., ARKEMA CANADA INC.,  
ARKEMA S.A., FMC CORPORATION, FMC of CANADA, LTD., SOLVAY CHEMICALS  
INC., SOLVAY S.A., DEGUSSA CORPORATION, DEGUSSA A.G., DEGUSSA CANADA  
INC., EKA CHEMICALS, INC., EKA CHEMICALS CANADA INC., AKZO NOBEL  
CHEMICALS INTERNATIONAL B.V., KEMIRA OYJ,  
and KEMIRA CHEMICALS CANADA INC.

Defendants

Proceeding under the *Class Proceedings Act*, 1992

**ORDER**

**THIS MOTION** made by the Plaintiffs for an Order certifying this action as a class proceeding for settlement purposes as it relates to the Defendants, Kemira OYJ and Kemira Chemicals Canada Inc. (the "Settling Defendants"), and approving the Settlement Agreement entered into with the Settling Defendants was heard this day at the Court House, 80 Dundas Street, London, Ontario.

**ON READING** the materials filed, including the settlement agreement attached to this Order as Schedule "A" (the "Settlement Agreement"), and on hearing the submissions of counsel for the Plaintiffs and counsel for the Settling Defendants.

**AND ON BEING ADVISED** that a) the Plaintiffs consent to this order; b) the Settling Defendants consent to this order; and c) the Non-Settling Defendants take no position on this Order:

1. **THIS COURT ORDERS AND DECLARES** that for the purposes of this Order the definitions set out in the Settlement Agreement and the Administration of the Settlement Agreements apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that this action be certified as a class proceeding as against the Settling Defendants for settlement purposes only.

3. **THIS COURT ORDERS** that the Settlement Class be defined as:

All persons in Canada who purchased Hydrogen Peroxide Products during the Class Period, except the Excluded Persons and persons who are included in the Quebec Class and the BC Class.

4. **THIS COURT ORDERS** that Irving Paper Limited, Irving Pulp & Paper, Limited, and Distributech Inc. be appointed as the representative plaintiffs for the Settlement Class.

5. **THIS COURT ORDERS** that the following issue is common to the Settlement Class:

Did the Settling Defendants conspire to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for, Hydrogen Peroxide in Canada during the Class Period? If so, what damages, if any, did the Class Members suffer?

6. **THIS COURT DECLARES** that the Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class.

7. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to s. 29 of the *Class Proceedings Act*, 1992 and shall be implemented in accordance with its terms.

8. **THIS COURT DECLARES** that the Settlement Agreement is incorporated by reference into and forms part of this Order and is binding upon the representative plaintiffs and all Settlement Class Members.



9. **THIS COURT ORDERS** that Settlement Class Members who wish to opt-out of this action must do so by sending a written election to opt-out, together with the information required in the Settlement Agreement, to the Claims Administrator, postmarked on or before the date which is sixty (60) days from the date of the first publication of the Notice of Certification and Settlement Approval.
10. **THIS COURT ORDERS** that any Settlement Class Member who has validly opted-out of this action is not bound by the Settlement Agreement and shall no longer participate or have the opportunity in the future to participate in this action.
11. **THIS COURT ORDERS** that any Settlement Class Member who has not validly opted-out of this action is bound by the Settlement Agreement and may not opt-out of this action in the future.
12. **THIS COURT ORDERS AND DECLARES** that each Settlement Class Member who has not validly opted-out of this action shall consent and shall be deemed to have consented to the dismissal as against the Releasees of any Other Actions he, she or it has commenced, without costs and with prejudice.
13. **THIS COURT ORDERS AND DECLARES** that each Other Action commenced in Ontario by any Settlement Class Member who has not validly opted-out of this action shall be and is hereby dismissed against the Releasees, without costs and with prejudice.
14. **THIS COURT ORDERS AND DECLARES** that this Order, including the Settlement Agreement, is binding upon each Settlement Class Member who has not validly opted-out of this action including those persons who are minors or mentally incapable and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of this action.
15. **THIS COURT ORDERS AND DECLARES** that each Releasor who has not validly opted-out of this action has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.

16. **THIS COURT ORDERS** that each Releasor who has not validly opted-out of this action 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 any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto, except for the continuation of the Proceedings against the Non-Settling Defendants or unnamed co-conspirators.
17. **THIS COURT ORDERS AND DECLARES** that the Releasees have released and shall be conclusively deemed to have forever and absolutely released each of the other from any and all claims for contribution and indemnity with respect to the Released Claims.
18. **THIS COURT ORDERS AND DECLARES** that the use of the terms “Releasors” and “Released Claims” in this Order does not constitute a release of claims by those Settlement Class Members who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors.
19. **THIS COURT ORDERS AND DECLARES** that each Settlement Class Member who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors covenants and undertakes not to make any claim in any way nor to threaten, commence, or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.
20. **THIS COURT ORDERS** that 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, by any Non-Settling Defendant or any other person or party, against a Releasee, or by a Releasee against any Non-Settling Defendant, are barred, prohibited and enjoined in accordance with the terms of this Order (unless such claim is made in respect of a claim by a person who has validly opted-out of this action).
21. **THIS COURT ORDERS** that if the Courts ultimately determine that there is a right of contribution and indemnity between the Defendants, the Plaintiffs and the Settlement Class

Members shall restrict their joint and several claims against the Non-Settling Defendants such that the Plaintiffs and the Settlement Class Members shall be entitled to claim and recover from the Non-Settling Defendants on a joint and several basis only those damages (including punitive damages) arising from and allocable to the sales of the Non-Settling Defendants.

22. **THIS COURT ORDERS** that a Non-Settling Defendant may, on motion to the Court determined as if the Settling Defendants remained parties to this action, and on at least ten (10) days notice to counsel for the Settling Defendants, and not to be brought unless and until the action against the Non-Settling Defendants has been certified and all appeals or times to appeal have been exhausted, seek Orders for the following:

- (A) documentary discovery and an affidavit of documents in accordance with the *Rules of Civil Procedure* O.Reg. 194 from each of the Settling Defendants;
- (B) oral discovery of a representative of each of the Settling Defendants, the transcript of which may be read in at trial;
- (C) leave to serve a request to admit on each Settling Defendant in respect of factual matters; and/or
- (D) the production of a representative of each of the Settling Defendants to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.

The Settling Defendants retain all rights to oppose such motion(s). Notwithstanding any provision in this Order, on any motion brought pursuant to this paragraph 22, the Court may make such Orders as to costs and other terms as it considers appropriate.

23. **THIS COURT ORDERS** that a Non-Settling Defendant may effect service of the motion(s) referred to in paragraph 22 above on a Settling Defendant by service on counsel of record for the Settling Defendants in this action.

24. **THIS COURT ORDERS** that for purposes of enforcement of this Order, this Court will retain an ongoing supervisory role and the Settling Defendants will attorn to the jurisdiction of this Court for these purposes.

25. **THE COURT ORDERS** that, except as provided herein, this Order does not affect any claims or causes of action that any Settlement Class Member has or may have against the Non-Settling Defendants or unnamed co-conspirators in this action.
26. **THIS COURT ORDERS** that the Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement.
27. **THIS COURT ORDERS** that the Settlement Agreement be administered and the Settlement Amount be distributed in accordance with the September 25, 2008 Orders of Justice Rady issued in this action, subject to any amendments ordered by the Court.
28. **THIS COURT ORDERS** that the compensation available in the Upstream Purchasers Settlement Fund shall be equal to 94% of the Settlement Amount plus accrued interest less (a) proportionate Class Counsel Fees, disbursements and taxes, (b) proportionate costs of notice, and (c) costs of administering the Upstream Purchasers Settlement Fund.
29. **THIS COURT ORDERS** that if after all approved payments are made to the Upstream Purchasers there remains monies in the Upstream Purchasers Settlement Fund by virtue of the failure of Upstream Purchasers to cash the cheques received as compensation for their claims, or otherwise, the monies remaining in the Upstream Purchasers Settlement Fund shall be distributed to the Canadian Forestry Association.
30. **THIS COURT ORDERS** that the compensation available in the Downstream Purchaser Settlement Fund shall be equal to 6% of the Settlement Amount plus accrued interest less (a) proportionate Class Counsel Fees, disbursements and taxes, (b) proportionate costs of notice, (c) costs of administering the Downstream Purchasers Settlement Fund, and (d) obligations by Quebec Class Members to the Fonds d'Aide. The Downstream Purchasers Settlement Fund will be distributed in equal shares to the following organizations:
  - (a) Sentinel Bioactive Paper Network;
  - (b) Canadian Association of Food Banks; and
  - (c) Invest in Kids.

31. **THIS COURT ORDERS** that Settlement Class Members shall submit a claim form to the Claims Administrator on or before the date which is ninety (90) days from the date of the first publication of the Notice of Certification and Settlement Approval and any Settlement Class Member who fails to do so shall not share in any distribution made in accordance with the Distribution Protocol with respect to settlements already approved unless the Court orders otherwise.
32. **THIS COURT ORDERS** that the Short-Form and Long-Form Notice of Certification and Settlement Approval to class members are hereby approved in the forms attached hereto as Schedules "C" and "D" respectively.
33. **THIS COURT ORDERS** that the Plan of Dissemination of the Short-Form and Long-Form Notice of Certification and Settlement Approval is hereby approved in the form attached hereto as Schedule "E".
34. **THIS COURT ORDERS** that the Non-Settling Defendants shall send by direct mail a copy of the Long-Form Notice of Certification and Settlement Approval to each of their Direct Purchaser customers in Canada who purchased Hydrogen Peroxide between September 14, 1994 and January 5, 2005, and provide confirmation to Class Counsel of doing so within 7 days of the first publication of the Notice of Certification and Settlement Approval. The Plaintiffs shall provide the Non-Settling Defendants 7 days advance notice of the first publication of the Notice of Certification and Settlement Approval.
35. **THIS COURT ORDERS AND ADJUDGES** that this action be and is hereby dismissed against the Settling Defendants without costs and with prejudice.
36. **THIS COURT ORDERS** that approval of the Settlement Agreement is contingent upon approval by the Quebec Court and the British Columbia Court and this Order shall have no force and effect if such approval is not secured in Quebec and British Columbia.

Date:

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(Signature of judge, officer or registrar)