
**CANADIAN ODD CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

Made as of March 28, 2019

Between

**NEIL GODFREY, THE FANSHAWE COLLEGE OF APPLIED ARTS AND
TECHNOLOGY and CARLOS FOGELMAN**
(the “**Plaintiffs**”)

and

**PHILIPS & LITE-ON DIGITAL SOLUTIONS CORPORATION and
PHILIPS & LITE-ON DIGITAL SOLUTIONS USA, INC.**
(the “**Settling Defendants**”)

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SCHEDULE “A”

PROCEEDINGS

SCHEDULE “B”

FORM OF BC CERTIFICATION FOR SETTLEMENT PURPOSES AND NOTICE
APPROVAL ORDER

SCHEDULE “C”

FORM OF BC SETTLEMENT APPROVAL ORDER

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RECITALS

A. WHEREAS the Proceedings were commenced by the BC Plaintiff in British Columbia, the Quebec Plaintiff in Quebec and the Ontario Plaintiff in Ontario;

B. AND WHEREAS the Proceedings allege, among other things, that the Settling Defendants and certain other Releasees participated in an unlawful conspiracy to fix, raise, maintain, and/or stabilize the price of ODD and ODD Products in Canada and/or to allocate markets and customers for the sale of ODD and ODD Products in Canada, from at least January 1, 2000 through December 31, 2010, contrary to Part VI of the *Competition Act* and the common law and/or the civil law;

C. AND WHEREAS the BC Action was certified as a class proceeding by order of the BC Court dated November 1, 2016, which certification was affirmed by the BC Court of Appeal on August 18, 2017 and is currently under reserve on appeal to the Supreme Court of Canada;

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

E. 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 Releasees or evidence of the truth of any of the Plaintiffs' allegations against the Settling Defendants and other Releasees, which the Releasees expressly deny;

F. 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 Releasees by the Plaintiffs and the Settlement Classes in the Proceedings, and to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation, and the risks associated with trials and appeals;

G. AND WHEREAS the Releasees do not hereby attorn to the jurisdiction of the Courts or any other court or tribunal in respect of any civil, criminal or administrative process except to the extent they have previously done so in the Proceedings and as is expressly provided in this Settlement Agreement with respect to the Proceedings;

H. 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;

I. AND WHEREAS as a result of these settlement discussions and negotiations, the Settling Defendants and the Plaintiffs have entered into this Settlement Agreement, which embodies all of

the terms and conditions of the settlement between the Settling Defendants and the Plaintiffs, both individually and on behalf of the Settlement Classes the Plaintiffs seek to represent, subject to approval of the Courts;

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, and having regard to the value of this Settlement Agreement, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiffs and the Settlement Classes the Plaintiffs seek to represent;

K. 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 and other Releasees who are named as Defendants;

L. AND WHEREAS the Parties consent to certification or authorization of (i) the Proceedings as class proceedings, (ii) the Settlement Classes and (iii) the Common Issue in respect of each of the Proceedings as against the Settling 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 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;

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 the Settlement Class Members were permitted an opportunity to opt out of the Proceedings, the deadline to opt out of the Proceedings has passed, and no Persons validly and timely exercised the right to opt out;

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 Action and BC Action be settled and dismissed with prejudice against the Settling Defendants and other Releasees who are named as Defendants, and the Quebec Action be declared settled out of court with prejudice against Settling Defendants and other Releasees who are named as Defendants, all without costs as to the Plaintiffs, the Settlement Classes the Plaintiffs seek to represent and the Releasees, subject to the approval of the Courts, on the following terms and conditions:

SECTION 1 – DEFINITIONS

For the purposes 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 claims administration but excluding Class Counsel Fees.

- (2) **BC Action** means the BC Action as defined in Schedule A.
- (3) **BC Counsel** means Camp Fiorante Matthews Mogerma LLP.
- (4) **BC Court** means the Supreme Court of British Columbia.
- (5) **BC Plaintiff** means Neil Godfrey.
- (6) **Claims Administrator** means the firm proposed by Class Counsel and appointed by the Courts to administer the Settlement Amount in accordance with the provisions of this Settlement Agreement and the Distribution Protocol as approved by the Courts, and any employees of such firm.
- (7) **Class Counsel** means BC Counsel, Ontario Counsel and Quebec Counsel.
- (8) **Class Counsel Disbursements** include the disbursements 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.
- (9) **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 in relation to legal fees, including the Fonds d'aide aux actions collectives in Quebec for repayment of funding, as a result of this Settlement Agreement.
- (10) **Class Period** means January 1, 2000 through December 31, 2010.
- (11) **Common Issue** in each Proceeding means: Did the Settling Defendants, or any of them, conspire to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for, ODD directly or indirectly in Canada during the Class Period? If so, what damages, if any, are payable by the Settling Defendants, or any of them to the Settlement Class Members?
- (12) **Counsel for the Settling Defendants** means McMillan LLP.
- (13) **Courts** means the BC Court, the Ontario Court and the Quebec Court.
- (14) **Date of Execution** means the date on the cover page as of which the Parties have executed this Settlement Agreement.
- (15) **Defendants** means the entities named as defendants in any of the Proceedings as set out in Schedule A, and any Persons added as defendants in the Proceedings in the future.
- (16) **Distribution Protocol** means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as established by Class Counsel and as approved by the Courts.
- (17) **Documents** means all papers, computer or electronic records, or other materials within the scope of Rule 1-1(1) of the *British Columbia Supreme Court Civil Rules* and any copies, reproductions or summaries of the foregoing, including microfilm copies and computer images.
- (18) **Effective Date** means the date when Final Orders have been received from all Courts approving this Settlement Agreement and the Settlement Amount has been paid to BC Counsel.

(19) **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.

(20) **Final Order** means the later of a final judgment entered by a Court in respect of (i) the certification or authorization of a Proceeding as a class proceeding pursuant to this Settlement Agreement, and (ii) the approval of this Settlement Agreement, in either case 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.

(21) **Non-Settling Defendant** means any Defendant that is not: (i) a Settling Defendant; (ii) a Releasee; (iii) a Settled Defendant; or (iv) a Defendant against whom the Proceedings have been dismissed or discontinued against, either before or after the Effective 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 reason, whether or not such settlement agreement is in existence at the Date of Execution.

(22) **ODD** means any device which reads and/or writes data from and to an optical disk, including but not limited to, CD-ROMs, CD-recordable/rewritable, DVD-ROM, DVD-recordable/rewritable, Blu-Ray, Blu-Ray-recordable/rewritable, and HD DVD, as well as Super Multi-Drives, other combination drives, and optical disk drives designed to be attached externally to computers or other devices.

(23) **ODD Product** means products incorporating ODD, including but not limited to desktop computers, mobile/laptop computers, videogame consoles, CD players/recorders, DVD players/recorders and Blu-Ray disc players/recorders.

(24) **Ontario Action** means the Ontario Action as defined in Schedule A.

(25) **Ontario Counsel** means Siskinds LLP.

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

(27) **Ontario Plaintiff** means the Fanshawe College of Applied Arts and Technology.

(28) **Other Actions** means actions or proceedings, excluding the Proceedings, relating to Released Claims commenced by a Settlement Class Member either before or after the Effective Date, including *Donald Woligroski v. Sony Corporation, et al.* (Court of Queen's Bench of Manitoba, Winnipeg Centre, Court File No. CI-11-01-73945) and *Cindy Retallick v. Sony Corporation, et al.* (Court of Queen's Bench of Saskatchewan, Judicial Centre of Regina, Court File No. 1124 of 2014).

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

(30) **Person** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee,

executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.

(31) ***Plaintiffs*** means the BC Plaintiff, the Ontario Plaintiff and the Quebec Plaintiff.

(32) ***Proceedings*** means the BC Action, the Ontario Action and the Quebec Action as defined in Schedule A.

(33) ***Proportionate Liability*** means the proportion of any judgment that, had the Settling Defendants not settled, the BC Court or Ontario Court, as applicable, would have apportioned to the Releasees.

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

(35) ***Quebec Action*** means the Quebec Action as defined in Schedule A.

(36) ***Quebec Code of Civil Procedure*** means *Code of Civil Procedure of Quebec*, R.S.Q., c.c-25, as amended.

(37) ***Quebec Counsel*** means Consumer Law Group Inc.

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

(39) ***Quebec Plaintiff*** means Carlos Fogelman.

(40) ***Released Claims*** means any and all manner of claims, demands, actions, suits, causes of action, charges, cross-claims, counter-claims, demands, judgments, suits, obligations, debts, setoffs, right of recovery, or liabilities for any obligations of any kind whatsoever, whether class, individual, or otherwise in nature, whether personal or subrogated, for damages of any kind (including compensatory, disgorgement, restitutionary, punitive or other damages) whenever incurred, liabilities of any nature whatsoever, including interest, fees, costs, fines, debts, expenses, class administration expenses (including Administration Expenses), penalties, lawyers' fees (including Class Counsel Fees), and Class Counsel Disbursements, known or unknown, suspected or unsuspected, asserted or unasserted, actual or contingent, and liquidated or unliquidated, in law or equity, arising under statute, regulation, contract or otherwise in nature, that any of the Releasers ever had, now have or hereafter can, shall or may have, arising from or relating in any way to any conduct alleged or that could have been alleged in the Proceedings, or arising from the factual predicate of the Proceedings, from the beginning of time to the Date of Execution, whether in Canada or elsewhere, which shall be deemed to include but not be limited to the purchase, sale, pricing, discounting, manufacturing, marketing, offering for sale or distributing of ODD or ODD Products, including, without limitation, any claims for consequential, subsequent or follow-on harm that arises after the date of execution in respect of any agreement, combination or conduct that occurred prior to the Date of Execution. However, the Released Claims do not include claims based on negligence, personal injury, bailment, failure to deliver lost goods, damaged or delayed goods, product defects, breach of warranty, breach of

contract or similar claims between the Parties that do not relate to alleged anti-competitive conduct.

(41) **Releasees** means, jointly and severally, individually and collectively, the Settling Defendants, Koninklijke Philips N.V. (formerly known as Koninklijke Philips Electronics N.V. and incorrectly referred to as Koninlijke Philips Electronics N.V. in the BC Action), Lite-On IT Corporation of Taiwan, Lite-On IT Corporation, Philips Canada Ltd., Philips Electronics North America Corporation and Philips Electronics Ltd., and all of their respective present, future and former, direct and indirect, parents (including holding companies), owners, subsidiaries, divisions, predecessors, successors, affiliates, associates (as defined in the *Canada Business Corporations Act*, RSC 1985, c. C-44), partners, joint ventures, 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, mandataries, shareholders, attorneys, legal or other representatives, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators, insurers, spouses, creditors, beneficiaries and assigns of each of the foregoing (including but not limited to Philips BenQ Digital Storage), but excluding the Non-Settling Defendants. For greater certainty, nothing herein should be construed to preclude the Plaintiffs and Releasors from pursuing any and all claims against BenQ Corporation, BenQ America Corporation, and BenQ Canada Corp., including in respect of any liability of BenQ Corporation based on its former ownership of Philips BenQ Digital Storage.

(42) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members on behalf of themselves and all of their respective present, future and former, direct and indirect, parents (including holding companies), owners, subsidiaries, divisions, predecessors, successors, affiliates, associates (as defined in the *Canada Business Corporations Act*, RSC 1985, c. C-44), partners, joint ventures, 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, mandataries, shareholders, attorneys, legal or other representatives, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators, insurers, spouses, creditors, beneficiaries and assigns of each of the foregoing, excluding the Non-Settling Defendants.

(43) **Settled Defendants** means:

- (a) TEAC Corporation, TEAC America, Inc. TEAC Canada, Ltd., NEC Corporation, NEC Canada, Inc., Hitachi-LG Data Storage, Inc., Hitachi-LG Data Storage Korea, Inc., Hitachi, Ltd., Hitachi Canada, Ltd., Hitachi America Ltd., LG Electronics Inc., LG Electronics Canada, Inc., and LG Electronics USA, Inc.;
- (b) Sony Corporation, Sony Optiarc Inc., Sony Optiarc America Inc., Sony Electronics Inc., Sony Corporation of America, Sony NEC Optiarc Inc., and Sony of Canada Ltd., provided their settlement agreement is finally approved by the necessary Courts and becomes effective in accordance with its terms; and
- (c) any Defendant that executes its own settlement agreement whether before or after the execution of this Settlement Agreement, which settlement agreement is finally

approved by the necessary Courts and becomes effective in accordance with its terms.

- (44) **Settlement Agreement** means this agreement, including the recitals and schedules.
- (45) **Settlement Amount** means CDN \$5,695,000.
- (46) **Settlement Class** or **Settlement Classes** means, in respect of each Proceeding, the settlement class defined in Schedule A.
- (47) **Settlement Class Member** or **Settlement Class Members** means a member or the members of a Settlement Class.
- (48) **Settling Defendants** means Philips & Lite-On Digital Solutions Corporation (incorrectly referred to as Philips & Lite-On Digital Solution Corporation in the Quebec Action) and Philips & Lite-On Digital Solutions USA, Inc.
- (49) **Trust Account** means a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, SC 1991, c 46) held at a Canadian financial institution under the control of BC Counsel or the Claims Administrator, once appointed, for the benefit of the Settlement Class Members or the Settling Defendants, as provided for in this Settlement Agreement.
- (50) **U.S. Litigation** means the class action and other proceedings pending in the United States District Court for the Northern District of California, under the caption *In Re: Optical Disk Drive Products Antitrust Litigation 3:10-md-02143-RS*, including but not limited to all actions transferred by the Judicial Panel for Multidistrict Litigation for coordination involving similar allegations relating to ODD and ODD Products.
- (51) **U.S. Settlement Agreements** includes any settlement reached in the U.S. Litigation with any of the Settling Defendants.

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 BC Action and the Ontario Action as against the Settling Defendants and other Releasees who are named as Defendants, and a declaration of settlement out of court of the Quebec Action as against the Settling Defendants and other Releasees who are named as Defendants.

2.2 Motions Approving Notice and Seeking Certification or Authorization

- (1) As soon as practicable after the Date of Execution, the BC Plaintiff and the Ontario Plaintiff shall bring motions before the BC Court and the Ontario Court for orders approving the notices described in Section 11.1(1), and certifying the BC Action and Ontario Action as class proceedings for settlement purposes as against the Settling Defendants.

(2) As soon as practicable after the BC and Ontario Plaintiffs bring the motions described in Section 2.2(1), the Quebec Plaintiff shall bring a motion before the Quebec Court for orders approving the notices described in Section 11.1(1), and authorizing the Quebec Action as a class proceeding for settlement purposes as against the Settling Defendants.

(3) The BC order approving the notices described in Section 11.1(1) and certifying the BC Action for settlement purposes shall be substantially in the form attached hereto as Schedule B. The Ontario and Quebec orders approving the notices described in Section 11.1(1) and certifying or authorizing the relevant Proceedings (for settlement purposes) shall be agreed upon by the Parties and shall mirror the substance and, to the extent possible, the form of the BC order.

2.3 Motions for Approval of the Settlement

(1) The Plaintiffs shall bring motions before the Courts for orders approving this Settlement Agreement as soon as practicable after:

- (a) the orders referred to in Section 2.2 have been granted; and
- (b) the notices described in Section 11.1(1) have been published.

(2) The BC order approving this Settlement Agreement shall be substantially in the form attached hereto as Schedule C. The Ontario and Quebec orders approving this Settlement Agreement shall be agreed upon by the Parties and shall mirror the substance and, to the extent possible, the form of the BC order.

(3) The Plaintiffs can elect to request that the Courts hold joint hearings seeking approval of this Settlement Agreement pursuant to the Canadian Bar Association's Canadian Judicial Protocol for the Management of Multijurisdictional Class Actions. The Settling Defendants and other Releasees who are named as Defendants will not oppose any such request.

(4) The orders referred to in Section 2.3(1) will be contingent on approval of the Settlement Agreement by all of the Courts, and the terms of the orders will not be effective unless and until the Effective Date.

2.4 Pre-Motion Confidentiality

(1) Until the first of the motions required by Section 2.2(1) is filed or as otherwise agreed by the Parties, 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 or Class Counsel, as the case may be, except as required for the purposes of financial reporting, the preparation of financial records (including tax returns and financial statements), to give effect to the terms of this Settlement Agreement, or as otherwise required by law. The Parties agree that the Settling Defendants are entitled to disclose the terms of the Settlement Agreement to the Releasees and to their respective counsel, auditors and advisors.

SECTION 3 – SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

- (1) Within sixty (60) days after the Date of Execution, the Settling Defendants shall cause the Settlement Amount to be paid to BC Counsel for deposit into the Trust Account.
- (2) The Settlement Amount shall be deposited into the Trust Account by wire transfer. BC Counsel shall provide the necessary wire transfer information in writing to Counsel for the Settling Defendants at least thirty (30) days prior to the Settlement Amount becoming due to facilitate compliance with Section 3.1(1) of this Settlement Agreement.
- (3) The Settlement Amount and other consideration to be provided in accordance with the terms of this Settlement Agreement shall be provided in full and final satisfaction of the Proceedings against the Settling Defendants and Releasees who are named as Defendants, and any and all Released Claims as against all the Releasees.
- (4) The Settlement Amount shall be all-inclusive of all amounts, including interest and costs. The Releasees shall have no liability and no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of the Proceedings, this Settlement Agreement or the Released Claims.
- (5) Once a Claims Administrator has been appointed, BC Counsel may transfer the Settlement Amount and interest earned on the Settlement Amount, less taxes paid and any deductions made in accordance with this Settlement Agreement or an order of the Courts on notice to the Settling Defendants, to the Claims Administrator.
- (6) BC Counsel and the Claims Administrator, respectively, shall maintain the Trust Account as provided for in this Settlement Agreement.
- (7) While in control of the Trust Account, each of BC Counsel and the Claims Administrator, respectively, shall not pay out all or any part of the monies in the Trust Account related to this Settlement Agreement, 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 in the Trust Account 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(5), all 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 paid from the Trust Account.
- (3) BC Counsel or the Claims Administrator 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.

(4) Subject to Section 3.2(5), the Releasees 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 on the Settlement Amount or pay any taxes on the monies in the Trust Account.

(5) Notwithstanding Subsections 3.2(1)-3.2(4), if this Settlement Agreement is terminated, the interest earned on the Settlement Amount in the Trust Account shall be paid to the Settling Defendants in accordance with Section 6.3. In such case, the Settling Defendants shall be solely responsible for the payment of all taxes on such interest.

SECTION 4 – COOPERATION

4.1 Extent of Cooperation

(1) Within thirty (30) days of the Effective Date, or at a time mutually agreed upon by the Parties, and subject to any confidentiality order in these Proceedings and the other provisions of this Settlement Agreement, the Settling Defendants shall insofar as such production has not already occurred and production is not prohibited by law, use reasonable efforts to provide to Class Counsel:

- (a) electronic copies of any Documents (including transactional data) that were produced in the U.S. Litigation by the Settling Defendants and Releasees who are named as Defendants including, but not limited to, any such Documents provided to U.S. plaintiffs pursuant to any U.S. Settlement Agreements and any pre-existing translations of such documents;
- (b) to the extent that transactional sales and costs data of the Settling Defendants and other Releasees who are named as Defendants is contained in the production delivered pursuant to Section 4.1(1), bates numbers and/or file name identifying the relevant records;
- (c) electronic copies of transcripts of all depositions of current or former employees, officers or directors of the Releasees taken in the U.S. Litigation, including all exhibits originating from the Settling Defendants, any pre-existing translations, corresponding errata sheets, and confidentiality designation letters;
- (d) electronic copies of any Documents previously produced by the Releasees to the Canadian Competition Bureau or the United States Department of Justice that are relevant to the allegations in the Proceedings (excluding Documents created for the purpose of being so provided), and any pre-existing translations of such Documents;
- (e) reasonable assistance in understanding the transactional sales and cost data produced by the Settling Defendants pursuant to Section 4.1(1) or otherwise in the Proceedings, including a reasonable number of written and/or telephonic communications with Class Counsel and/or the Plaintiffs' experts and between technical personnel;

(f) an evidentiary proffer, provided at a meeting between Counsel for the Settling Defendants and Class Counsel in Canada, or at a location mutually agreed to by the Parties, limited to relevant information with respect to Non-Settling Defendants, of up to seven (7) hours duration, which will not include information originating with the Settling Defendants that is covered by privilege, including solicitor-client, litigation, attorney work product, settlement, common-interest or joint defence privilege, or any other privilege, doctrine or law, relating to the allegations in the Proceedings. The Plaintiffs and Class Counsel agree they will not use the information provided in the proffer under this paragraph for any purpose other than the pursuit of the Proceedings, and will not publicize any information beyond that which is reasonably necessary for the prosecution of the Proceedings or as otherwise required by law. Further, absent a Court order, Class Counsel will not attribute any information obtained from the proffer to the Settling Defendants and/or Counsel for the Settling Defendants. Notwithstanding the foregoing and other terms of this Settlement Agreement, Class Counsel may use information obtained from the proffer as guidance to obtain evidence to prosecute the Proceeding against Non-Settling Defendants. The Parties agree that the proffer itself is settlement privileged, does not constitute evidence, that there shall be no audio or video recording or written transcription or record of any statements made or information provided by Counsel for the Settling Defendants at the proffer, and that Class Counsel may only make written notes of their own thoughts and impressions at the proffer for the purpose of formulating legal advice, pursuing litigation and/or for the purpose of advancing settlement discussions in the interests of the Settlement Classes.

(2) The obligation to provide Documents pursuant to Section 4.1(1) shall be a continuing obligation to the extent Documents that are required to be provided under Section 4.1(1) are identified by the Settling Defendants following the initial productions pursuant to this Settlement Agreement, but in no event shall the Settling Defendants be obliged to provide Documents in addition to those listed in Section 4.1(1).

(3) Documents provided to Class Counsel in accordance with this Section 4.1(1) will be provided in the format in which they were produced in the U.S. Litigation, to the Canadian Competition Bureau or the United States Department of Justice, and will include any pre-existing and non-privileged electronic coding. In addition, where the documents previously produced in the U.S. Litigation contain bates stamps on their face, a field will be produced containing the corresponding bates stamps of the first page of each document.

(4) Nothing in this Settlement Agreement shall require or be construed to require the Releasees, or any of their present, former or future officers, directors or employees to perform any act, including the production or disclosure of any Documents or information:

- (a) which would violate or breach any federal, provincial, state, local or foreign law (including without limitation, any privacy or bank secrecy law, and including common law, civil law, statutes, policies, rules and regulations);
- (b) which would violate or breach any Court or regulatory order, directive, instruction (including, without limitation, any protective order granted in the U.S. Litigation, and instructions or directives from the U.S. Department of Justice or any other

regulatory authority or governmental body in Canada, the United States, the United Kingdom or any other jurisdiction), in any applicable jurisdiction, including but not limited to Canada, and the United States; or

- (c) which is subject to solicitor-client privilege, litigation privilege or any other privilege, doctrine or law; or
- (d) not within the possession, custody or control of the Releasees;

(5) If Counsel for the Settling Defendants have produced a relevant privilege log in the U.S. Litigation, the Settling Defendants will provide Class Counsel with a copy of such log.

(6) If any Documents protected by any privilege and/or any privacy law or other order, regulatory directive, rule or law of this or any applicable jurisdiction including but not limited to Canada and the United States 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) Subject to the rules of evidence, any Court order with regard to confidentiality and the other provisions of this Settlement Agreement, the Settling Defendants agree to use reasonable efforts to provide or obtain affidavits for use at trial or otherwise in the Proceedings for the sole purpose of supporting the submission into evidence of any information, transactional data and/or Documents provided by the Releasees in accordance with this Settlement Agreement and for the prosecution of the Proceedings. If, and only if, a Court should determine that affidavits are inadequate for the purpose of submitting into evidence of the information, transactional data and/or Documents produced by the Releasees, the Settling Defendants agree to use reasonable efforts to make available for testimony at trial or otherwise appropriate current officers, directors and/or employees of the Releasees, as is reasonably necessary for the prosecution of the Proceedings and, specifically, for the purpose of admitting into evidence any information, transactional data and/or Documents provided by the Settling Defendants to Class Counsel pursuant to Section 4.1 herein. The Plaintiffs will work to minimize any burden on the Releasees pursuant to this section.

(8) The obligations of the Settling Defendants to cooperate as particularized in this Section 4 shall not be affected by the release provisions contained in Section 7.1 of this Settlement Agreement. If Class Counsel reach a settlement with all of the Non-Settling Defendants or obtain final judgment against each of them in each of the Proceedings, then all obligations under this Section 4 shall cease and this Section 4 shall be of no further force or effect.

(9) The Plaintiffs may exercise any rights they have to seek to obtain discovery in the Proceedings as against knowledgeable officers, directors and/or employees of the Settling Defendants, if such individual(s) fails to cooperate in accordance with Subsection 4.1(7) and the provisions of this Settlement Agreement.

(10) Subject to Sections 4.1(9) and 4.1(11), the provisions set forth in this Section 4.1 are the exclusive means by which the Plaintiffs, Class Counsel and Settlement Class Members may

obtain discovery or information or Documents from the Releasees or their current or former officers, directors, employees, agents or counsel. The Plaintiffs, Class Counsel and Settlement Class Members agree that they shall not pursue any other means of discovery against, or seek to compel the evidence of, the Releasees 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.

(11) 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.

(12) A material factor influencing the decision by the Settling Defendants 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 to avoid seeking information that is unnecessary, cumulative or duplicative and agree otherwise to avoid imposing undue, unreasonable or disproportionate burden or expense on the Releasees.

(13) The scope of the Settling Defendants' cooperation under this Settlement Agreement shall be limited to an alleged conspiracy to fix, raise, maintain or stabilize prices, allocate markets or customers or restrict output or capacity, of ODD and ODD Products sold in Canada during the Class Period, subject to Sections 4.1(1) and 4.1(2).

4.2 Intervention in the U.S. Litigation

(1) The Settling Defendants and other Releasees shall not oppose any application by or on behalf of the Plaintiffs to intervene in the U.S. Litigation in order to gain access to discovery Documents and other Documents and information subject to the stipulated Protective Order granted in the U.S. Litigation that are relevant to the Proceedings and such application is not otherwise inconsistent with the terms of this Settlement Agreement, including Section 4.1(9). However, it is agreed that the Settling Defendants and other Releasees have no obligation to bring or otherwise participate in such an application.

4.3 Limits on Use of Documents

(1) It is understood and agreed that all Documents and information made available or provided by the Settling Defendants or Releasees to the Plaintiffs and Class Counsel under this Settlement Agreement, including under Section 4.1(1), 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 or become publicly available.

(2) The Plaintiffs and Class Counsel agree they will not disclose the Documents and information provided by the Settling Defendants beyond what is reasonably necessary for the prosecution of the Proceedings or as otherwise required by law, and acknowledge that they are bound by the implied and deemed undertaking, Rule 30.1 of the Ontario *Rules of Civil Procedure* and the equivalent rules in other provinces, except to the extent that the Documents or information are or become publicly available. 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.

(3) 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 such information is or becomes otherwise publicly available or unless ordered to do so by a court or as otherwise provided in this Section 4.

(4) If, in the course of the Proceedings, the Plaintiffs, the Settlement Class Members or Class Counsel, acting reasonably, conclude that it is reasonably necessary to disclose or produce or file Documents obtained from the Releasees and:

- (a) such disclosure is not otherwise prohibited by the Settlement Agreement;
- (b) there is not already a confidentiality order issued in the Proceedings that applies to the Documents and information provided as cooperation under this Settlement Agreement,

Class Counsel shall provide Counsel for the Settling Defendants with advance written description of the Documents sought to be disclosed, produced or filed, promptly and in any event at least thirty (30) days in advance of the proposed disclosure, production or filing, in order that the Settling Defendants or other Releasees may bring a motion for the purpose of obtaining a sealing or confidentiality order or similar relief, or take such steps as they deem necessary to protect their interests in respect of such information or Documents.

(5) If, in the course of the Proceedings, a Person requests disclosure or production of information or Documents obtained from the Releasees (whether or not the Person applies for an order), and:

- (a) such disclosure is not otherwise prohibited by the Settlement Agreement;
- (b) there is not already a confidentiality order issued in the Proceedings that applies to the Documents and information provided as cooperation under this Settlement Agreement,

Class Counsel shall promptly provide Counsel for the Settling Defendants with advance written description of the Documents or other information that is the subject of the request for disclosure or production, in order that the Settling Defendants or other Releasees may bring a motion for the purpose of obtaining a sealing or confidentiality order or similar relief, or take such steps as they deem necessary to protect their interests in respect of such information or Documents.

(6) If the Settling Defendants or other Releasees bring a motion under Section 4.3(4) or 4.3(5) of this Settlement Agreement to obtain a sealing or confidentiality order or similar relief, the Plaintiffs and Class Counsel:

- (a) shall not oppose reasonable positions taken by the Settling Defendants or other Releasees;
- (b) shall not consent to disclosure or production or an order granting similar relief;

- (c) shall not disclose, produce or file the information or Documents until such motion has been decided and all applicable appeal periods have expired, subject to Section 4.3(6)(d); and
- (d) may provide, on an interim basis, Documents to counsel for the Non-Settling Defendants provided that counsel for the Non-Settling Defendants agree and give assurances that, until the motion brought by the Settling Defendants or other Releasees has been decided and all applicable appeal periods have expired, the Documents will remain with external counsel and will only be disclosed to independent expert(s) retained by a Non-Settling Defendant for the purposes of the Proceedings, as well as secretarial, clerical or other support personnel of such expert(s) to whom disclosure is reasonably necessary and who agree in advance to be bound by the same confidentiality and destruction obligations set out in Section 4 and Section 6.2(1)(d). An independent expert may not be an employee of a Plaintiff or Defendant in the Proceedings or a competitor of the Settling Defendants.

SECTION 5– DISTRIBUTION OF THE SETTLEMENT AMOUNT AND ACCRUED INTEREST

5.1 Distribution Protocol

- (1) After the Effective Date, at a time wholly within the discretion of Class Counsel, but on notice to the Settling Defendants, Class Counsel will make an application seeking orders from the Courts approving the Distribution Protocol.
- (2) The Distribution Protocol shall require Settlement Class Members seeking compensation to give credit for any compensation received through other proceedings or in out-of-class settlements, unless by such proceedings or out-of-class settlements the Settlement Class Member's claim was released in its entirety, in which case the Settlement Class Member shall be deemed ineligible for any further compensation.

5.2 No Responsibility for Administration or Fees

- (1) The Releasees shall not have any responsibility, financial obligations or liability whatsoever with respect to:
 - (a) the investment, distribution or administration of monies in the Trust Account including, but not limited to, Administration Expenses, Class Counsel Disbursements and Class Counsel Fees; or
 - (b) the administration of the Distribution Protocol.

SECTION 6 – NON-APPROVAL OR TERMINATION OF SETTLEMENT AGREEMENT

6.1 Right of Termination

- (1) In the event that:
 - (a) any Court declines to certify or authorize the Proceedings for settlement purposes as against the Settling Defendants or does so in a materially modified form;
 - (b) the BC Court declines to dismiss the BC Action against the Settling Defendants or other Releasees who are named as Defendants;
 - (c) the Ontario Court declines to dismiss the Ontario Action against the Settling Defendants or other Releasees who are named as Defendants;
 - (d) the Quebec Court declines to declare settled out of court the Quebec Action against the Settling Defendants or other Releasees who are named as Defendants;
 - (e) any Court declines to approve this Settlement Agreement or any material part hereof;
 - (f) any Court approves this Settlement Agreement in a materially modified form;
 - (g) any orders approving this Settlement Agreement made by the Courts do not become Final Orders or are issued in a materially modified form or are materially inconsistent with the terms of this Settlement Agreement; or
 - (h) the Settlement Amount is not paid in accordance with Section 3.1(1);

the Plaintiffs and the Settling Defendants shall have the right to terminate this Settlement Agreement, except only the Plaintiffs shall have the right to terminate this Settlement Agreement under Subsection (h) and only the Settling Defendants shall have the right to terminate this Settlement Agreement under Subsections (b), (c) and (d). The right to terminate shall be exercised by delivering a written notice within thirty (30) days following an event described above.

(2) Except as provided for in Section 6.4, if the Settling Defendants or the Plaintiffs exercise their right to terminate, this 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 or in any other way for any reason.

- (3) Any order, ruling or determination made (or rejected) by any Court with respect to:
 - (a) Class Counsel Fees or Class Counsel Disbursements;
 - (b) the Distribution Protocol; or
 - (c) documentary confidentiality;

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 by all of the Courts, is terminated in accordance with its terms or otherwise fails to take effect for any reason:
 - (a) no motion to certify or 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) the Parties will cooperate in seeking to have any issued order certifying or authorizing a Proceeding as a class proceeding on the basis of the Settlement Agreement, or approving this Settlement Agreement, 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, shall be without prejudice to any position that any of the Parties or Releasees 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 other Releasees under this Settlement Agreement or containing or reflecting information derived from such Documents or other materials. To the extent Class Counsel has disclosed any Documents or information provided by the Settling Defendants or Releasees to any other Person, Class Counsel shall endeavour to recover and destroy such Documents or information. Class Counsel shall provide Counsel for the Settling Defendants with a written certification of such destruction by Class Counsel. Nothing contained in this Section 6.2 shall be construed to require Class Counsel to destroy any of their work product or any Documents previously produced by the Settling Defendants as part of their discovery obligations. However, any Documents or information provided by or received from the Settling Defendants or Releasees 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 Trust Account Following Termination

- (1) If the Settlement Agreement is terminated, BC Counsel or the Claims Administrator, as the case may be, shall within thirty (30) days of the written notice pursuant to Section 6.1(1) return to the Settling Defendants the Settlement Amount, plus all accrued interest thereon and

less any taxes paid on interest, less any costs actually incurred or payable with respect to notices required by Section 11.1 (up to a maximum of CDN \$30,000) and less any costs actually incurred or payable with respect to any translations required under Section 14.11 (up to a maximum of CDN \$7,750).

6.4 Survival of Provisions After Termination

(1) If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, Sections 3.2(5), 6.1(2), 6.2, 6.3, 6.4, 9.1, 9.2, 10.1(4), 11.1(2) and 12.2(7), 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(5), 6.1(2), 6.2, 6.3, 6.4, 9.1, 9.2, 10.1(4), 11.1(2) and 12.2(7) 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 other valuable consideration set forth in the Settlement Agreement, the Releasers:

- (a) shall finally, fully, forever and absolutely waive, release, relinquish and discharge 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;
- (b) shall forever be enjoined from prosecuting in any forum any Released Claim against any of the Releasees; and
- (c) agree or covenant not to sue any of the Releasees on the basis of any Released Claims or to assist any third party in commencing or maintaining any suit against any of the Releasees related in any way to any Released Claim.

(2) The Plaintiffs and Settlement Class Members acknowledge that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true regarding the subject matter of the Settlement Agreement, and it is their intention to release fully, finally and forever all Released Claims and, in furtherance of such intention; this release shall be and remain in effect notwithstanding the discovery or existence of additional or different facts.

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 Releasers do not release the Releasees but instead covenant and undertake not to make any claim in any way or to threaten, commence, institute, prosecute, participate in, maintain or continue any proceeding in any jurisdiction against the Releasees in respect of or in

relation to the Released Claims, whether on their own behalf or as part of any putative, purported or certified class of purchasers or consumers.

7.3 No Further Claims

(1) Upon the Effective Date, the Releasors shall not now or hereafter institute, continue, provide assistance for, intervene in, 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, or other claims over relief, from any Releasee, whether pursuant to the *Negligence Act*, RSBC 1996, c. 333, *Quebec Code of Civil Procedure* or other legislation or common law or in equity, in respect of any Released Claim, except for the continuation of the Proceedings against the Non-Settling Defendants, named or unnamed alleged co-conspirators that are not Releasees or, if the Proceedings are not certified or authorized with respect to the Non-Settling Defendants, 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. For greater certainty, and without limiting the generality of the foregoing, the Releasors shall not assert or pursue a Released Claim against any Releasee under the laws of any foreign jurisdiction.

7.4 Dismissal of the Proceedings

(1) Upon the Effective Date, the BC Action and the Ontario Action shall be dismissed with prejudice and without costs as against the Settling Defendants and other Releasees who are named as Defendants.

(2) Upon the Effective Date, the Quebec Action shall be declared settled out of court with prejudice and without costs and without reservation as against the Settling Defendants and other Releasees who are named as Defendants, and the Parties shall sign and file a declaration of settlement out of court with the Quebec Court.

7.5 Dismissal of Other Actions

(1) Upon the Effective Date, each Settlement Class Member in the BC Action and the Ontario Action 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) Each Person who would have been a Settlement Class Member in the Quebec Action who is eligible to make a claim and receives benefits under this Settlement Agreement shall be deemed to irrevocably consent to the dismissal, without costs and without reservation, of his, her or its Other Actions against the Releasees.

(4) Upon the Effective Date, all Other Actions commenced in Quebec by any Person who is eligible to make a claim and receives benefits under this Settlement Agreement shall be dismissed as against the Releasees, without costs and without reservation.

(5) If requested by the Settling Defendants, Class Counsel shall cooperate with the Settling Defendants to seek orders recognizing and enforcing the Settlement Agreement and the orders of the Courts in Canadian provinces other than British Columbia, Ontario or Quebec.

7.6 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 provisions in this Section 7 shall be considered a material term of the Settlement Agreement and the failure of any Court to approve such provisions shall give rise to a right of termination pursuant to Section 6.1 of the Settlement Agreement.

SECTION 8 – BAR ORDER AND WAIVER OF SOLIDARITY ORDER

8.1 British Columbia and Ontario Bar Orders

(1) Class Counsel shall obtain bar orders from the BC Court and the Ontario Court 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 or any Other Actions, or otherwise, by any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Releasee, any Settled Defendant or any other Person or party against a Releasee, or by a Releasee against any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Releasee, any Settled Defendant, or any other Person or party, are barred, prohibited and enjoined;
- (b) if the BC Court or the Ontario Court, as applicable, ultimately determines that a claim for contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise, is a legally recognized claim:
 - i) the BC and Ontario Plaintiffs and Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants, named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, 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 Releasees proven at trial or otherwise;
 - ii) 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 a Releasee to include only, and shall only seek to recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is

not a Releasee, those claims for damages (including punitive damages, if any), restitution, 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 a Releasee, if any, and, for greater certainty, the BC and Ontario Plaintiffs and Settlement Class Members shall be entitled to claim and seek to recover on a joint and several basis as between the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, if permitted by law; and

- iii) the BC and Ontario Courts shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the relevant Proceeding, whether or not the Releasees remain in the relevant Proceeding or appear at the trial or other disposition, and the Proportionate Liability of the Releasees shall be determined as if the Releasees are parties to the relevant Proceeding and any determination by the BC Court or Ontario Court, as applicable, in respect of the Proportionate Liability of the Releasees shall only apply in the relevant Proceeding and shall not be binding in any other proceeding;
- (c) a Non-Settling Defendant may, on application to the BC Court or the Ontario Court, as applicable, and on at least twenty (20) 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 and other Releasees who are named as Defendants in accordance with that Court's rules of procedure;
 - ii) oral discovery of a representative of the Settling Defendants and other Releasees who are named as Defendants, the transcript of which may be read in at trial;
 - iii) leave to serve a request to admit on the Settling Defendants and other Releasees who are named as Defendants (notice to admit in British Columbia) in respect of factual matters; and/or
 - iv) the production of a representative of the Settling Defendants and other Releasees who are named as Defendants to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants;
- (d) the Settling Defendants and the other Releasees who are named as Defendants retain all rights to oppose any application brought pursuant to Section 8.1(1)(c),

including any such application brought at trial seeking an order requiring the Settling Defendants or the other Releasees who are named as Defendants to produce a representative to testify at trial. Moreover, nothing herein restricts the Settling Defendants or other Releasees named as Defendants from seeking a protective order to maintain confidentiality and protection of proprietary information in respect of Documents to be provided and/or information obtained from discovery in accordance with Section 8.1(1)(c);

- (e) on any application brought pursuant to Section 8.1(1)(c), the BC or Ontario Court, as applicable, may make such orders as to costs and other terms as it considers appropriate;
- (f) 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 Plaintiffs and Class Counsel within ten (10) days of such discovery being provided to a Non-Settling Defendant;
- (g) the BC and Ontario Courts will retain an ongoing supervisory role over the discovery process and the Settling Defendants and the other Releasees who are named as Defendants will attorn to the jurisdiction of the BC and Ontario Courts for these purposes only; and
- (h) a Non-Settling Defendant may effect service of the application(s) referred to in Section 8.1(1)(c), on a Settling Defendant or the other Releasees who are named as Defendants by service on Counsel for the Settling Defendants.

8.2 Quebec Waiver or Renunciation of Solidarity Order

(1) The Parties agree that the Quebec order approving this Settlement Agreement pursuant to Section 2.3 must include a waiver or renunciation of solidarity in respect of the Quebec Action, which includes the following:

- (a) the Quebec Plaintiff and the Settlement Class Members expressly waive and renounce the benefit of solidarity against the Non-Settling Defendants with respect to the facts, deeds or other conduct of the Releasees relating to the Released Claims;
- (b) the Quebec Plaintiff and the Settlement Class Members shall henceforth only be able to claim and recover damages, including punitive damages, interest and costs (including investigative costs claimed pursuant to section 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 measures 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 Releasees or relating to the Released Claims shall be inadmissible and void in the context of the Quebec Action; and

- (d) the ability of Non-Settling Defendants to seek discovery from the Settling Defendants and other Releasees who are named as Defendants shall be determined according to the provisions of the *Quebec Code of Civil Procedure*, and the Settling Defendants and other Releasees who are named as Defendants shall retain and reserve all of their rights to oppose such discovery under the *Quebec Code of Civil Procedure*.

8.3 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 Releasers against any Person other than the Releasees.

8.4 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 provisions in this Section 8 shall be considered a material term of the Settlement Agreement and the failure of any Court to approve such provisions shall give rise to a right of termination pursuant to Section 6.1 of the Settlement Agreement.
- (2) Notwithstanding the foregoing, Subsections 8.1(1)(c) and 8.2(1)(d) shall not be considered a material term of this Settlement Agreement and the failure of any Court to approve a bar order provision corresponding to Subsections 8.1(1)(c) and 8.2(1)(d) shall not give rise to a right to termination pursuant to Section 6.1 of the Settlement Agreement.

SECTION 9 – EFFECT OF SETTLEMENT

9.1 No Admission of Liability

- (1) The Plaintiffs and the Releasees expressly reserve all of their rights if the 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 Releasees, 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 not approved, 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 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, to defend against the assertion of Released Claims or claims precluded by the bar orders in Section 8, 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 against the Releasees that 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.

(2) Section 9.3(1) shall be inoperative to the extent that it is inconsistent with BC Counsel's obligations under Section 3.2-10 of the Law Society of British Columbia's *Code of Professional Conduct for British Columbia*.

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 in respect of the Settling Defendants and the approval of this Settlement Agreement by the Courts, and such certification or authorization shall not be used or relied on as against the Releasees for any other purpose or in any other Proceeding.

(2) The Parties 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 the Plaintiffs and Class Counsel will seek to define is the Common Issue and the only classes that the Plaintiffs and Class Counsel will assert are the Settlement Classes.

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

(4) The Releasees retain all of their available objections, arguments, and defences with respect to class certification or authorization, and reserve all rights if the settlement set forth in this Settlement Agreement does not receive Court approval, if Court approval is reversed or vacated on appeal, or if this Settlement Agreement is terminated or fails to take effect for any reason. The Parties acknowledge that there has been no consent to certification or authorization of any classes for any purpose other than effectuating this Settlement Agreement.

SECTION 11 – NOTICE TO SETTLEMENT CLASSES

11.1 Notices Required

- (1) Class Counsel will give the proposed Settlement Classes notice of:
 - (a) the certification or authorization of the Proceedings as class proceedings as against the Settling Defendants for settlement purposes;
 - (b) the dates of hearings at which the Courts will be asked to approve the Settlement Agreement;
 - (c) the principal elements of the Settlement Agreement; and
 - (d) if they are brought with the hearings to approve the Settlement Agreement, the hearings to request the Courts to approve Class Counsel Fees and Class Counsel Disbursements.
- (2) If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect, the proposed Settlement Classes shall be given notice of such event.

11.2 Form and Distribution of Notices

- (1) The notices referred to in Section 11.1 shall be in a form agreed upon by the Parties and approved by the Courts.
- (2) The notices referred to in Section 11.1 shall be disseminated by a method agreed upon by the Parties and approved by the Courts.
- (3) A copy of the notices shall be sent by direct mail or email to Persons who have commenced an Other Action and/or their counsel of record.

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 Distribution Protocol shall be determined by the Courts on applications brought by Class Counsel.

12.2 Information and Assistance

- (1) The Settling Defendants will make reasonable best efforts to provide a list of available names and addresses (including any relevant email addresses) of those Persons in Canada who purchased ODD and/or ODD Products from the Settling Defendants or other Releasees named as Defendants during the Class Period, and the Purchase Price paid by each such Person for such purchases. The information shall be delivered in Microsoft Excel or such other format as may be agreed upon by Counsel for the Settling Defendants and Class Counsel, and shall be delivered as a separate production from the Documents delivered pursuant to Section 4.1(1) or identified by bates number within the production of Documents delivered pursuant to Section 4.1(1).

(2) The name and address information required by Section 12.2(1) shall be delivered to Class Counsel within thirty (30) days of the Date of Execution. The Purchase Price information required by Section 12.2(1) shall be delivered to Class Counsel within thirty (30) days of the Effective Date.

(3) Class Counsel may use the information provided under Section 12.2(1):

- (a) to facilitate the dissemination of the notices required in Section 11.1;
- (b) to advise Persons in Canada who purchased ODD and/or ODD Products from the Settling Defendants or other Releasees named as Defendants during the Class Period of any subsequent settlement agreement reached in the Proceedings, any related approval hearings, and any other major steps in the Proceedings;
- (c) to facilitate the claims administration process with respect to this Settlement Agreement and any other settlement agreement and/or Court award achieved in the Proceedings; and
- (d) as otherwise authorized in Section 4.

(4) All information provided by the Settling Defendants pursuant to Section 12.2(1) shall be dealt with in accordance with Section 4, except that Class Counsel may disclose all information provided by the Settling Defendants pursuant to Section 12.2(1) to any Court-appointed notice provider and/or any Court-appointed claims administrator, to the extent reasonably necessary for the purposes enumerated in Section 12.2(3). Any Court-appointed notice provider and/or any Court-appointed claims administrator shall be bound by the same confidentiality obligations set out in Section 4.

(5) Counsel for the Settling Defendants will make themselves reasonably available to respond to questions respecting the information provided pursuant to Section 12.2 from Class Counsel or any Court-appointed notice provider and/or Court-appointed claims administrator. The obligations in this Section 12.2 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 reason, the obligations in this Section 12.2 shall cease when the Proceedings are resolved as against all Defendants and all settlement funds or Court awards have been distributed.

(6) The Releasees cannot and do not warrant the accuracy or completeness of the information to be provided under this Section 12.2, and Plaintiffs and Class Counsel acknowledge being advised by the Settling Defendants that the information is likely to be incomplete. The Releasees shall bear no liability with respect to the completeness or accuracy of the information provided under this Section 12.2.

(7) If this Settlement Agreement is terminated, all information provided by the Settling Defendants pursuant to this Section 12.2 shall be dealt with in accordance with Subsection 6.2(1)(d) and no record of the information so provided shall be retained by Class Counsel, any Court-appointed notice provider and/or any Court-appointed claims administrator in any form whatsoever.

SECTION 13 – CLASS COUNSEL FEES, CLASS COUNSEL DISBURSEMENTS AND ADMINISTRATIVE EXPENSES

13.1 Court Approval for Class Counsel Fees and Class Counsel Disbursements

- (1) Class Counsel may seek the Courts' approval to pay Class Counsel Disbursements and Class Counsel Fees from the Trust Account contemporaneous with seeking approval of this Settlement Agreement or at such other time as they may determine in their sole discretion.
- (2) Class Counsel Disbursements and Class Counsel Fees may only be paid out of the Trust Account after the Effective Date.

13.2 Administration Expenses

- (1) Except as provided herein, Administration Expenses may only be paid out of the Trust Account after the Effective Date.
- (2) Notwithstanding Section 13.2(1), Class Counsel shall pay the costs of the notices required by Section 11.1, including any related transaction costs, and, if required, the translation referred to in Section 14.11, from the Trust Account, as they become due.

13.3 Responsibility for Fees, Disbursements and Taxes

- (1) Subject to section 6.3, the Releasees shall not be liable for any Class Counsel Disbursements, Class Counsel Fees, Administrative Expenses, fees, disbursements or taxes of the lawyers, experts, advisors, agents, or representatives retained by Class Counsel, the Plaintiffs or the Settlement Class Members, any amounts to which the Fonds d'aide aux actions collectives in Quebec may be entitled, and/or or any lien of any Person on any payment to any Settlement Class Member from the Settlement Amount.

SECTION 14– MISCELLANEOUS

14.1 Motion for Directions

- (1) Class Counsel or the Settling Defendants may apply to the BC 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 specifically to the matters affecting the Ontario Action or Quebec Action shall be determined by the BC Court.
- (2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties.

14.2 Headings, etc.

- (1) 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

- (1) 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 *Interpretation Act*, RSBC 1996, c. 238, 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 the Proceeding commenced in its jurisdiction, the Parties thereto and the Class Counsel Fees and the Class Counsel Disbursements 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 complementary order or direction being made or given by the other Court(s) with which it shares jurisdiction over that matter.
- (3) Notwithstanding Sections 14.1(1) and 14.4(2), the BC 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, Settling Defendants and the Releasees who are named as Defendants attorn to the jurisdiction of the BC Court for such purposes. Issues related to the administration of this Settlement Agreement, the Trust Account, and other matters not specifically related to the claim of a Settlement Class Member in the Ontario Action or a Settlement Class Member in the Quebec Action shall be determined by the BC Court.

14.5 Governing Law

- (1) Subject to Section 14.5(2), this Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.
- (2) Notwithstanding Section 14.5(1), for matters relating specifically to the Ontario Action or the Quebec Action, the Ontario Court or the Quebec Court, as applicable, shall apply the law of its own jurisdiction and the laws of Canada applicable therein.

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 successors and assigns of the Plaintiffs and Settling Defendants. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiffs or Class Counsel shall be binding upon all Settlement Class Members and Releasers. The Releasees (other than the Settling Defendants which are parties hereto) are third party beneficiaries of this Settlement Agreement and are authorized to enforce its terms applicable to them.

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 electronic 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.

(2) Notwithstanding Section 14.11(1), if required by the Quebec Court, Class Counsel and/or a translation firm mandated by Class Counsel shall prepare a French translation of the Settlement Agreement, notice, orders or other documents contemplated by 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) The present Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Quebec Code of Civil Procedure*, 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:

Reidar Mogerman and David Jones
**CAMP FIORANTE MATTHEWS
MOGERMAN**
4th Floor, 856 Homer St.
Vancouver, BC V6B 2W5

Tel.: 604-689-7555
Fax: 604-689-7554
Email: service@cfmlawyers.ca

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

Tel.: 519-660-7753
Fax: 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

Tel.: 514-266-7863
Fax: 514-868-9690
Email: jorenstein@clg.org

For the Settling Defendants:

Neil Campbell, Joan Young,
Sidney Elbaz, Samantha Gordon
MCMILLAN LLP
181 Bay Street, Suite 4400
Toronto, ON, Canada
M5J 2T3

Tel: 416.865.7025
Fax: 416.865.7048
Email: neil.campbell@mcmillan.ca /
joan.young@mcmillan.ca /
samantha.gordon@mcmillan.ca /
sidney.elbaz@mcmillan.ca

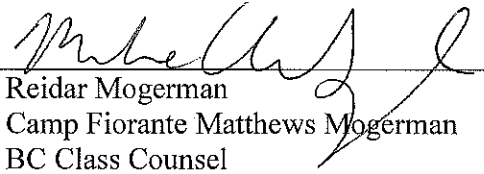
14.18 Date of Execution

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

NEIL GODFREY, THE FANSHAWE COLLEGE OF APPLIED ARTS AND TECHNOLOGY and CARLOS FOGELMAN on their own behalf and on behalf of the Settlement Class by their counsel

Signature of Authorized Signatory:

Name of Authorized Signatory:

For 
Reidar Mogerman
Camp Fiorante Matthews Mogerman
BC Class Counsel

Signature of Authorized Signatory:

Name of Authorized Signatory:

Charles M. Wright
Siskinds LLP
Ontario Class Counsel

Signature of Authorized Signatory:

Name of Authorized Signatory:

Jeff Orenstein
Consumer Law Group Inc.
Quebec Class Counsel

PHILIPS & LITE-ON DIGITAL SOLUTIONS CORPORATION AND PHILIPS & LITE-ON DIGITAL SOLUTIONS USA, INC. by their counsel

Signature of Authorized Signatory:

Name of Authorized Signatory:

Neil Campbell
McMillan LLP
Counsel for the Settling Defendants

14.18 Date of Execution


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

NEIL GODFREY, THE FANSHAWE COLLEGE OF APPLIED ARTS AND TECHNOLOGY and CARLOS FOGELMAN on their own behalf and on behalf of the Settlement Class by their counsel

Signature of Authorized Signatory:
Name of Authorized Signatory:

Reidar Mogerman
Camp Fiorante Matthews Mogerman
BC Class Counsel

Signature of Authorized Signatory:
Name of Authorized Signatory:

per 

Charles M. Wright
Siskinds LLP
Ontario Class Counsel

Signature of Authorized Signatory:
Name of Authorized Signatory:

Jeff Orenstein
Consumer Law Group Inc.
Quebec Class Counsel

PHILIPS & LITE-ON DIGITAL SOLUTIONS CORPORATION AND PHILIPS & LITE-ON DIGITAL SOLUTIONS USA, INC. by their counsel

Signature of Authorized Signatory:
Name of Authorized Signatory:

Neil Campbell
McMillan LLP
Counsel for the Settling Defendants

14.18 Date of Execution

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NEIL GODFREY, THE FANSHAWE COLLEGE OF APPLIED ARTS AND TECHNOLOGY and CARLOS FOGELMAN on their own behalf and on behalf of the Settlement Class by their counsel

Signature of Authorized Signatory:

Name of Authorized Signatory:

Reidar Mogerman
Camp Fiorante Matthews Mogerman
BC Class Counsel


Signature of Authorized Signatory:

Name of Authorized Signatory:

Charles M. Wright
Siskinds LLP
Ontario Class Counsel

Signature of Authorized Signatory:

Name of Authorized Signatory:



Jeff Orenstein
Consumer Law Group Inc.
Quebec Class Counsel

PHILIPS & LITE-ON DIGITAL SOLUTIONS CORPORATION AND PHILIPS & LITE-ON DIGITAL SOLUTIONS USA, INC. by their counsel

Signature of Authorized Signatory:

Name of Authorized Signatory:

Neil Campbell
McMillan LLP
Counsel for the Settling Defendants

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NEIL GODFREY, THE FANSHAWE COLLEGE OF APPLIED ARTS AND TECHNOLOGY and CARLOS FOGELMAN on their own behalf and on behalf of the Settlement Class by their counsel

Signature of Authorized Signatory:
Name of Authorized Signatory:

Reidar Mogerman
Camp Fiorante Matthews Mogerman
BC Class Counsel

Signature of Authorized Signatory:
Name of Authorized Signatory:

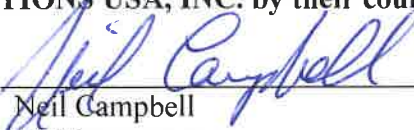
Charles M. Wright
Siskinds LLP
Ontario Class Counsel

Signature of Authorized Signatory:
Name of Authorized Signatory:

Jeff Orenstein
Consumer Law Group Inc.
Quebec Class Counsel

PHILIPS & LITE-ON DIGITAL SOLUTIONS CORPORATION AND PHILIPS & LITE-ON DIGITAL SOLUTIONS USA, INC. by their counsel

Signature of Authorized Signatory:
Name of Authorized Signatory:



Neil Campbell
McMillan LLP
Counsel for the Settling Defendants

SCHEDULE “A”

PROCEEDINGS

Proceeding	Plaintiffs	Defendants	Settlement Class
Supreme Court of British Columbia (Vancouver Registry) (Court File No. S-106462) (the “ BC Action ”)	Neil Godfrey	Sony Corporation, Sony Optiarc, Inc., Sony Optiarc America Inc., Sony Of Canada Ltd., Sony Electronics, Inc., NEC Corporation, NEC Canada Inc., Toshiba Corporation, Toshiba Samsung Storage Technology Corporation, Toshiba Samsung Storage Technology Korea Corporation, Toshiba of Canada Ltd., Toshiba America Information Systems, Inc., Samsung Electronics Co., Ltd., Samsung Electronics Canada Inc., Samsung Electronics America, Inc., Hitachi-LG Data Storage, Inc., Hitachi-LG Data Storage Korea, Inc., Hitachi Ltd., LG Electronics, Inc., LG Electronics Canada, LG Electronics USA, Inc., TEAC Corporation, TEAC America, Inc., TEAC Canada, Ltd., Koninlijke Philips Electronics N.V., Lite-On It Corporation of Taiwan, Philips & Lite-On Digital Solutions Corporation, Philips & Lite-On Digital Solutions USA, Inc., Philips Electronics Ltd., Quanta Storage, Inc., Quanta Storage America, Inc., Panasonic Corporation, Panasonic Corporation of North America, Panasonic Canada Inc., BenQ Corporation, BenQ America Corporation, BenQ Canada Corp., Pioneer Corporation, Pioneer North America, Inc., Pioneer Electronics (USA) Inc., Pioneer High Fidelity Taiwan Co., Ltd. and Pioneer Electronics of Canada Inc.	All Persons resident in British Columbia who purchased an ODD and/or an ODD Product during the Class Period, except Excluded Persons. (the “ BC Settlement Class ”)
Ontario Superior Court of Justice (London) (1501/10CP) (the “ Ontario Action ”)	The Fanshawe College of Applied Arts And Technology	Sony Optiarc, Inc., Sony Optiarc America Inc., Sony Corporation, Sony of Canada Ltd., Sony Electronics, Inc., NEC Corporation, NEC Canada, Inc., Toshiba Samsung Storage Technology Corp, Toshiba Corp., Toshiba Samsung Storage Technology Corp. Korea, Toshiba of Canada Ltd., Toshiba	All Persons in Canada who purchased an ODD and/or an ODD Product during the Class Period, except the Excluded Persons and Persons who are included in the Quebec

Proceeding	Plaintiffs	Defendants	Settlement Class
		<p>America Information Systems, Inc., Samsung Electronics Co., Samsung Electronics Canada Inc., Samsung Electronics America, Inc., Hitachi-LG Data Storage Inc., Hitachi-LG Data Storage Korea, Inc., Hitachi Ltd., LG Electronics Inc., LG Electronics Canada, LG Electronics USA, Inc., TEAC Corporation, TEAC America, Inc., TEAC Canada, Ltd., Koninklijke Philips Electronics N.V., BenQ Corporation, BenQ America Corporation, BenQ Canada Corp., Lite-On It Corporation, Philips & Lite-On Digital Solutions Corporation, Philips & Lite-On Digital Solutions USA, Inc., Philips Electronics Ltd., Panasonic Corporation, Panasonic Corporation of North America, Panasonic Canada, Inc., Quanta Storage, Inc., and Quanta Storage America, Inc., Pioneer Corporation, Pioneer High Fidelity Taiwan Co., Ltd., Pioneer North America, Inc., Pioneer Electronics (USA) Inc., and Pioneer Electronics of Canada, Inc.</p>	<p>Settlement Class and the BC Settlement Class. (the “Ontario Settlement Class”)</p>
<p>Superior Court of Québec (Québec) (File No. 500-06-000504-106) (the “Quebec Action”)</p>	<p>Carlos Fogelman</p>	<p>Sony Corporation, Sony of Canada Ltd., Sony Corporation of America, Sony Optiarc, Inc., Sony Optiarc America Inc., Sony NEC Optiarc, Inc., Toshiba Corporation, Toshiba America Consumer Products, LLC, Toshiba of Canada Limited, Samsung Electronics Company, Ltd., Samsung Electronics America Inc., Samsung Electronics Canada Inc., Toshiba Samsung Storage Technology Corporation, Hitachi, Ltd., Hitachi Canada, Ltd., Hitachi America Ltd., LG Electronics, Inc., LG Electronics Canada, LG Electronics USA, Inc., Hitachi-LG Data Storage, Inc., Koninklijke Philips Electronics N.V., Philips Electronics North America Corporation, Philips Canada Ltd., Lite-On It Corporation, Philips & Lite-On Digital Solution Corporation, Philips & Lite-On Digital Solutions USA, Inc.,</p>	<p>All Persons in Quebec who purchased an ODD and/or an ODD Product during the Class Period, except the Excluded Persons. (the “Quebec Settlement Class”)</p>

Proceeding	Plaintiffs	Defendants	Settlement Class
		NEC Corporation, NEC Electronics America, Inc., TEAC Corporation, TEAC America, Inc., TEAC Canada Ltd.	

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ON THE APPLICATION of the plaintiff coming on for hearing at the Courthouse, 800 Smithe Street, Vancouver, BC, on [dd/mmm/yyyy] and on hearing [counsel appearing]; and on reading the materials filed, including the Settlement Agreement; and on the consent of the Settling Defendants; and the Non-Settling Defendants taking no position;

THIS COURT ORDERS that:

1. Except to the extent they are modified by this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

Certification for Settlement

2. The BC Action is certified as a class proceeding as against Philips & Lite-On Digital Solutions Corporation and Philips & Lite-On Digital Solutions USA, Inc. (collectively, the "Settling Defendants") for settlement purposes only.

3. The BC Settlement Class is defined as:

All persons resident in British Columbia who purchased ODD* and/or ODD Products* in Canada during the Class Period*, except Excluded Persons*.

*As defined in the Settlement Agreement.

4. Neil Godfrey is appointed as the representative plaintiff for the BC Settlement Class.

5. The BC Action is certified on the basis of the following issue common to the BC Settlement Class:

Did the Settling Defendants, or any of them, conspire to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for, ODD directly or indirectly in Canada during the Class Period? If so, what damages, if any, are payable by the Settling Defendants, or any of them, to the Settlement Class Members?

6. The certification of the BC Action as against the Settling Defendants for settlement purposes pursuant to this Order, including the definition of the BC Settlement Class, the Class Period and the Common Issue, is without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing BC Action.

7. This Order is binding upon each BC Settlement Class Member including those Persons who are minors or mentally incapable and the requirements of Rule 20-2 of the Supreme Court Civil Rules are dispensed with in respect of the BC Action.

Notices of Certification for Settlement and Settlement Approval Hearing

7. The long-form Notice of Certification and Settlement Approval Hearing substantially in the form attached hereto as **Schedule "A"** is approved.

8. The short-form Notice of Certification and Settlement Approval Hearing substantially in the form attached hereto as **Schedule "B"** is approved.

9. The Plan of Dissemination of the Notice of Certification and Settlement Approval Hearing in the form attached as **Schedule "C"** is approved and the Notice of Certification and Settlement Approval Hearings shall be disseminated in accordance with the Plan of Dissemination.

10. This Order is contingent upon parallel orders being made by the Ontario Court and the Quebec Court, and the terms of this Order shall not be effective unless and until such orders are made by the Ontario Court and the Quebec Court.

11. Endorsement of this Order by counsel for the Non-Settling Defendants and Settled Defendants shall be dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of lawyer for the plaintiff

Reidar Mogerman

Signature of lawyer for Philips & Lite-On Digital Solutions Corporation and Philips & Lite-On Digital Solutions USA, Inc.

Neil Campbell

By the Court

Registrar

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ON THE APPLICATION of the plaintiff coming on for hearing at the Courthouse, 800 Smithe Street, Vancouver, BC, on [dd/mmm/yyyy] and on hearing [counsel appearing]; and on reading the materials filed, including the Settlement Agreement; and on the consent of the Settling Defendants; and the Non-Settling Defendants taking no position;

This Court certified the BC Action as a class proceeding as against the Philips & Lite-On Digital Solutions Corporation and Philips & Lite-On Digital Solutions USA, Inc. (collectively the “Settling Defendants”) for settlement purposes only on ●, 2019.

Settlement Class Members were previously provided with the opportunity to opt-out of the Proceedings. The deadline for opting-out was April 15, 2018. No persons opted-out of the Proceedings.

Settlement Class Members were advised of the right to object to the Settlement Agreement. The deadline for objecting was ●. Class Counsel received ● objections.

THIS COURT ORDERS that:

1. Except to the extent they are modified by this Order, the definitions set out in the settlement agreement reached with the Settling Defendants, dated ●, 2019 (the "Settlement Agreement") attached as Schedule "A" apply to and are incorporated into this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. The Settlement Agreement is fair, reasonable and in the best interests of the BC Settlement Class.
4. The Settlement Agreement is approved pursuant to s. 35 of the *Class Proceedings Act*, RSBC 1996, c. 50 as amended and shall be implemented and enforced in accordance with its terms.
5. The Settlement Agreement is incorporated by reference to and forms part of this Order and is binding upon the BC Plaintiff and all BC Settlement Class Members.

6. Upon the Effective Date,
 - (a) each BC Settlement Class Member shall be deemed to have irrevocably consented to the dismissal of any Other Actions he, she or it has commenced as against the Releasees, without costs and with prejudice; and
 - (b) each Other Action commenced in British Columbia by any BC Settlement Class Member shall be and is hereby dismissed against the Releasees, without costs and with prejudice.

7. This Order, including the Settlement Agreement, is binding upon each member of the BC Settlement Class including those Persons who are minors or mentally incapable and the requirements of Rule 20-2 of the *Supreme Court Civil Rules* are dispensed with in respect of the BC Action.

8. Upon the Effective Date, in accordance with the Settlement Agreement, each Releasor resident in British Columbia covenants not to sue and undertakes not to make any claim in any way nor to threaten, commence, institute, prosecute, participate in, maintain or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims, whether on their own behalf or as part of any putative, purported or certified class of purchasers or consumers. The use of the terms "Releasors", "Releasees" and "Released Claims" in this Order is a matter of form only for consistency with the Settlement Agreement.

9. Upon the Effective Date, each Releasor shall not now or hereafter institute, continue, provide assistance for, intervene in, 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 proceeding, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity, or other claims over relief, from any Releasee whether pursuant to the *Negligence Act*, RSBC 1996, c. 333, *Quebec Code of Civil Procedure* or other legislation or at common law or equity in respect of any Released Claim, except for the continuation of the Proceedings against the Non-Settling Defendants, named or unnamed alleged co-conspirators who are not Releasees or, if the Proceedings are not certified or authorized with respect to the Non-Settling Defendants, the continuation of the claims asserted in the

Proceedings on an individual basis or otherwise against any Non-Settling Defendant or named or unnamed co-conspirator that is not a Releasee.

10. 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 any Other Action, or otherwise by any Non-Settling Defendant, any Settled Defendant, any named or unnamed co-conspirators who are not Releasees or any other Person or party, against a Releasee, or by a Releasee against a Non-Settling Defendant, any Settled Defendant, any named or unnamed co-conspirators who are not Releasees or any other Person or party, are barred, prohibited and enjoined in accordance with the terms of this Order.

11. If this Court ultimately determines that a claim for contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise, is a legally recognized claim:

- (a) the BC Plaintiff and the BC 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 a Releasee 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 Releasees proven at trial or otherwise;
- (b) the BC Plaintiff and the BC 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 a Releasee to include only, and shall only seek to recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, those claims for damages (including punitive damages, if any), restitution, 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 a Releasee to the BC Plaintiff and BC Settlement Class Members, if any, and, for greater certainty, the

BC Settlement Class Members shall be entitled to claim and seek to recover on a joint and several basis as between the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, if permitted by law; and

- (c) this Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the BC Action, whether or not the Releasees remain in the BC Action or appear at the trial or other disposition, and the Proportionate Liability of the Releasees shall be determined as if the Releasees are parties to the BC Action and any determination by this Court in respect of the Proportionate Liability of the Releasees shall only apply in the BC Action and shall not be binding on the Releasees in any other proceeding.

12. Nothing in this Order is intended to or shall limit, restrict or affect any arguments which the Non-Settling Defendants may make regarding the reduction of any assessment of damages, restitutionary award, disgorgement of profits or judgment against them in favour of BC Settlement Class Members in the BC Action or the rights of the BC Plaintiff and the BC Settlement Class Members to oppose or resist any such arguments, except as provided for in this Order.

13. A Non-Settling Defendant may, on application to this Court determined as if the Settling Defendants remained parties to the BC Action and on at least twenty (20) days' notice to Counsel for the Settling Defendants, and not to be brought unless and until the BC 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 a list of documents in accordance with the *Supreme Court Civil Rules* from the Settling Defendants and the other Releasees named as Defendants;
- (b) oral discovery of a representative of the Settling Defendants and the other Releasees named as Defendants, the transcript of which may be read in at trial;
- (c) leave to serve a notice to admit on the Settling Defendants and the other Releasees named as Defendants in respect of factual matters; and/or

- (d) the production of a representative of the Settling Defendants and the other Releasees named as Defendants to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.

14. The Settling Defendants and the other Releasees named as Defendants retain all rights to oppose such application(s) brought under paragraph 13. Moreover, nothing herein restricts the Settling Defendants or the other Releasees named as Defendants from seeking a protective order to maintain confidentiality and protection of proprietary information in respect of documents to be produced and/or information obtained from discovery in accordance with paragraph 13. Notwithstanding any provision in this Order, on any application brought pursuant to paragraph 13 the Court may make such orders as to costs and other terms as it considers appropriate.

15. A Non-Settling Defendant may effect service of the application(s) referred to in paragraph 13 above on the Settling Defendants or the other Releasees named as Defendants by service on their counsel of record in the BC Action.

16. For the purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Settling Defendants and the other Releasees acknowledge the jurisdiction of this Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement.

17. Except as provided herein, this Order does not affect any claims or causes of action that any BC Settlement Class Member has or may have against the Non-Settling Defendants or unnamed co-conspirators who are not Releasees in the BC Action.

18. The Releasees have no responsibility for and no liability whatsoever relating to:

- (a) the administration of the Settlement Agreement;
- (b) the administration, investment, or distribution of the Trust Account; or
- (c) the Distribution Protocol.

19. BC Counsel and the Claims Administrator shall hold the Settlement Amount, plus any accrued interest, in trust for the benefit of the Settlement Class and the Settling Defendants, as applicable, and make only such payments therefrom as are provided for in the Settlement Agreement, pending further orders of the Courts.

20. Approval of the Settlement Agreement is contingent upon approval by the Ontario Court and the Quebec Court, and the terms of this Order shall not be effective unless and until the Settlement Agreement is approved by the Ontario Court and the Quebec Court, the Ontario Action has been dismissed with prejudice and without costs as against the Settling Defendants and the other Releasees who are named as Defendants, and the Parties have signed and filed a declaration of settlement out of court with the Quebec Court. If such orders and filings are not secured in Ontario and Quebec, this Order shall be null and void and without prejudice to the rights of the Parties to proceed with the BC Action and any agreement between the Parties incorporated in this Order shall be deemed in any subsequent proceedings to have been made without prejudice.

21. This Order shall be declared null and void and of no force and effect on subsequent application made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

22. The BC Action is hereby dismissed against the Settling Defendants and the other Releasees who are named as Defendants without costs and with prejudice.

23. The approval of the Settlement Agreement and any reasons given in relation thereto, except any reasons given in connection with paragraphs 10 to 15 of this Order, are without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing BC Action and, without restricting the generality of the foregoing, may not be relied on by any person to establish jurisdiction, the criteria for certification (including class definition) or the existence or elements of the causes of action asserted in the BC Action, as against the Non-Settling Defendants.

24. Endorsement of this Order by counsel for the Non-Settling Defendants and Settled Defendants shall be dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of lawyer for the plaintiff

Reidar Mogerma

Signature of lawyer for Philips & Lite-On Digital Solutions Corporation and Philips & Lite-On Digital Solutions USA, Inc.

Neil Campbell

By the Court

Registrar