

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

Made as of November 21, 2017

Between

**KHURRAM SHAH, ALPINA HOLDINGS INC.,
JONATHAN CRUZ and OPTION CONSOMMATEURS**

(the “Plaintiffs”)

and

SAMSUNG SDI CO., LTD. and SAMSUNG SDI AMERICA, INC.

(the “Settling Defendants”)

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RECITALS

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

B. AND WHEREAS the BC and Ontario Proceedings allege that the Settling Defendants participated in an unlawful conspiracy to fix, raise, maintain, and/or stabilize the price of Lithium Batteries and/or Lithium Battery Products from at least January 1, 2000 until at least January 1, 2012 (in the Ontario Proceeding until at least December 31, 2011), contrary to Part VI of the Competition Act and the common law;

C. AND WHEREAS the Quebec Proceeding alleges that the Settling Defendants participated in an unlawful conspiracy to fix, raise, maintain, and/or stabilize the price of Lithium Batteries and/or Lithium Battery Products from February 24, 2004 until September 30, 2008, contrary to Part VI of the *Competition Act* and the civil law;

D. AND WHEREAS the Settling Defendants and Releasees do not admit, through the execution of this Settlement Agreement or otherwise, any allegation of unlawful conduct alleged in the Proceedings, or in any Other Actions, and otherwise deny all liability and assert that they have complete defences in respect of the merits of the Proceedings and any Other Actions or otherwise;

E. AND WHEREAS despite their belief that they are not liable in respect of the claims as alleged in the Proceedings and any Other Actions 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 Class in the Proceedings and any Other Actions, and to avoid further expense, inconvenience, the distraction of burdensome and protracted litigation, and the risks associated with trials and appeals;

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

G. 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 the 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 classes they seek to represent;

H. 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 Releasees, which allegations are expressly denied by the Releasees;

I. AND WHEREAS the Parties therefore wish to, and hereby do, finally resolve on a national basis, without admission of liability, all of the Proceedings and any Other Actions as against the Releasees;

J. AND WHEREAS the Ontario and Quebec Plaintiffs assert that they are adequate class representatives for the classes they seek to represent and will seek to be appointed representative plaintiffs in their respective Proceedings;

K. WHEREAS the Settling Defendants 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;

L. AND WHEREAS the Parties consent to certification or authorization (i) of the Ontario and Quebec Proceedings as class proceedings, (ii) of the Settlement Classes and (iii) of a Common Issue in respect of each of the Ontario and Quebec Proceedings as against the Settling Defendants for the sole purpose of implementing this Settlement Agreement and contingent on approvals by the Ontario and Quebec 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 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 classes the Ontario and Quebec Plaintiffs seek to represent, subject to approval of the Ontario and Quebec Courts; and

N. AND WHEREAS the Parties intend to pursue the approval of this Settlement Agreement first through the Ontario Court;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Ontario Proceeding and BC Proceeding be settled and dismissed as to the Settling Defendants only, and the Quebec Proceeding be declared settled out of court as against the Settling Defendants, all without costs as to the Plaintiffs, the classes they seek to represent or the Settling Defendants, subject to the approval of the Ontario, BC and Quebec 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 the costs of claims administration, but excluding Class Counsel Fees and Class Counsel Disbursements.
- (2) **Approval Hearings** means the hearings for the Ontario and Quebec Courts' approval of the settlement provided for in this Settlement Agreement.
- (3) **BC Counsel** means Camp Fiorante Matthews Mogerman.

- (4) **BC Court** means the Supreme Court of British Columbia.
- (5) **BC Plaintiff** means Jonathan Cruz.
- (6) **BC Proceeding** means the proceeding commenced by the BC Plaintiff before the BC Court that is identified in Schedule “A” to this Settlement Agreement.
- (7) **Claims Administrator** means the firm proposed by Class Counsel and appointed by the Ontario and Quebec Courts to administer the Settlement Amount in accordance with the provisions of this Settlement Agreement and the Distribution Protocol, and any employees of such firm.
- (8) **Class Counsel** means BC Counsel, Ontario Counsel and Quebec Counsel.
- (9) **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.
- (10) **Class Counsel Fees** means the fees of Class Counsel, and any applicable taxes or charges thereon, including any amounts payable as a result of the Settlement Agreement by Class Counsel or the Settlement Class Members to any other body or Person, including the Fonds d’aide aux actions collectives in Quebec.
- (11) **Class Period** means January 1, 2000 to January 1, 2012.
- (12) **Common Issue** means: Did the Settling Defendants conspire to fix, raise, maintain, and/or stabilize the price of Lithium Batteries and/or Lithium Battery Products in Canada during the Class Period? If so, what damages, if any, did Settlement Class Members suffer?
- (13) **Counsel for the Settling Defendants** means Blake, Cassels & Graydon LLP.
- (14) **Courts** means the BC Court, the Ontario Court and the Quebec Court.
- (15) **Defendants** means the entities named as defendants in any of the Proceedings as set out in Schedule “A” to this Settlement Agreement, and any Persons added as defendants in

the Proceedings in the future. For greater certainty, Defendants includes, without limitation, the Settling Defendants and Settled Defendants.

- (16) ***Distribution Protocol*** means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as proposed by Class Counsel and as approved by the Ontario and Quebec Courts.
- (17) ***Documents*** means all papers, computer or electronic records, or other materials within the scope of Rule 1.03(1) and Rule 30.01(1) of the Ontario *Rules of Civil Procedure*.
- (18) ***Effective Date*** means the day that is the earliest day when each of the Ontario and Quebec Courts has pronounced an order approving this Settlement Agreement and each such order has become a Final Order.
- (19) ***Execution Date*** means the date on the cover page as of which the Parties have executed this Settlement Agreement.
- (20) ***Excluded Person*** means each Defendant, the directors and officers of each Defendant, the subsidiaries or affiliates of each Defendant, the entities in which each Defendant or any of that Defendant's subsidiaries or affiliates have a controlling interest and the legal representatives, heirs, successors and assigns of each of the foregoing, and those Persons who validly and timely opt-out of the Proceedings in accordance with the orders of the applicable Court.
- (21) ***Final Order*** means a final order made by the Ontario and Quebec Court approving this Settlement Agreement that either (i) has not been appealed before the time to appeal such order has expired, if an appeal lies, or (ii) has been affirmed upon a final disposition of all appeals. For further certainty, any order made by Ontario and Quebec Court approving this Settlement Agreement will not become a Final Order until the time to appeal such an order has expired without any appeal having been taken or until the order has been affirmed upon a final disposition of all appeals.
- (22) ***Lithium Batteries*** means lithium-ion rechargeable batteries, excluding lithium-ion rechargeable batteries designed for use in automobiles or other vehicles.

- (23) ***Lithium Battery Products*** means the following products that contain Lithium Batteries: notebook or laptop computers, cellular phones including smartphones (excluding cellular phones acquired as part of a cellular phone service contract), tablet computers, e-book readers, MP3 players, personal digital assistants, handheld GPS, handheld video players and/or lithium ion battery packs.
- (24) ***Non-Settling Defendant*** means a Defendant that is not the Settling Defendants or a Settled Defendant, 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 Execution Date.
- (25) ***Notice of Hearing*** means the form or forms of notice, agreed to by the Plaintiffs and the Settling Defendants, or such other form or forms of notice as may be approved by the Ontario and Quebec Courts, which informs the Settlement Class of: (i) the certification or authorization of the Ontario and Quebec Proceedings as class proceedings for settlement purposes; (ii) the dates and locations of the Approval Hearings; (iii) the principal elements of the Settlement Agreement; (iv) the process by which Settlement Class Members may object to the settlement; (v) the process by which Settlement Class Members may opt-out of the Proceedings; and (vi) the Opt-Out Deadline.
- (26) ***Ontario Counsel*** means Siskinds LLP and Sotos LLP.
- (27) ***Ontario Court*** means the Ontario Superior Court of Justice.
- (28) ***Ontario Plaintiffs*** means Khurram Shah and Alpina Holdings Inc.
- (29) ***Ontario Proceeding*** means the proceeding commenced by the Ontario Plaintiffs before the Ontario Court as identified in Schedule “A” to this Settlement Agreement.
- (30) ***Ontario Settlement Class*** means the settlement class in respect of the Ontario Proceeding that is defined in Schedule “A” to this Settlement Agreement.
- (31) ***Opt-Out Deadline*** means the date which is sixty (60) days after the date on which the Notice of Hearing is first published.

- (32) **Other Actions** means actions or proceedings, other than the Proceedings, relating to the Released Claims commenced by a Settlement Class Member either before or after the Effective Date.
- (33) **Parties** means the Plaintiffs, Settlement Class Members (where appropriate) and the Settling Defendants.
- (34) **Party** means the Plaintiffs, Settlement Class Members (where appropriate) or the Settling Defendants.
- (35) **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.
- (36) **Plaintiffs** means the BC Plaintiff, the Ontario Plaintiffs, and the Quebec Plaintiff.
- (37) **Proceedings** means the BC Proceeding, the Ontario Proceeding and the Quebec Proceeding as defined in Schedule “A” to this Settlement Agreement.
- (38) **Proportionate Liability** means that proportion of any judgment that, had the Settling Defendants not settled, the Ontario Court would have apportioned to the Releasees.
- (39) **Purchase Price** means the sale price paid by Settlement Class Members for Lithium Batteries and Lithium Batteries Products purchased in Canada during the Class Period, less any rebates, delivery or shipping charges, taxes and any other form of discounts.
- (40) **Quebec Counsel** means Belleau Lapointe, LLP.
- (41) **Quebec Court** means the Superior Court of Quebec.
- (42) **Quebec Plaintiff** means Option consommateurs.
- (43) **Quebec Proceeding** means the proceeding commenced by the Quebec Plaintiff before the Quebec Court identified in Schedule “A” to this Settlement Agreement.

- (44) **Quebec Settlement Class** means the settlement class in respect of the Quebec Proceeding that is identified in Schedule “A” to this Settlement Agreement.
- (45) **Released Claims** means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, including any claims for consequential, subsequent or follow-on harm that arises after the Class Period, damages of any kind (including compensatory, punitive or other damages) whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses (including Administration Expenses), penalties, and lawyers’ fees (including Class Counsel Fees and Class Counsel Disbursements), known or unknown, suspected or unsuspected, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity, that any of the Releasers ever had, now have or hereafter can, shall or may have arising from or relating in any way to an alleged unlawful conspiracy to fix, raise, maintain, and/or stabilize the price of Lithium Batteries and/or Lithium Battery Products in Canada during the Class Period, or relating to any conduct alleged in the Proceedings. However, nothing herein shall be construed to release: (a) any claims involving any negligence, personal injury, breach of contract, bailment, failure to deliver lost goods, damaged or delayed goods, product defect, securities, or other similar claim relating to Lithium Batteries and/or Lithium Battery Products; and (b) claims brought (whether before or after the Effective Date) relating to purchases of Lithium Batteries and/or Lithium Battery Products outside of Canada.
- (46) **Releasees** means, jointly and severally, individually and collectively, the Settling Defendants, and all of their respective present and former, direct and indirect, parents, owners, subsidiaries, divisions, affiliates, associates (as defined in the *Canada Business Corporations Act*, RSC 1985, c. C-44), partners, joint ventures, franchisees, dealers, 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, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing,

excluding always the Non-Settling Defendants and any affiliates of the Non-Settling Defendants.

- (47) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members, on behalf of themselves and any Person or entity claiming by or through them as a parent, subsidiary, affiliate, predecessor, successor, shareholder, partner, director, owner of any kind, agent, principal, employee, contractor, attorney, heir, executor, administrator, insurer, devisee, assignee, or representative of any kind.
- (48) **Settled Defendants** means:
- (a) NEC Corporation and NEC Tokin Corporation; and
 - (b) 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.
- (49) **Settlement Agreement** means this agreement, including the recitals and schedules.
- (50) **Settlement Amount** means the sum of two million two hundred thousand U.S. dollars (USD \$2,200,000).
- (51) **Settlement Class** means, in respect of the Ontario and Quebec Proceedings, the settlement class defined in Schedule A.
- (52) **Settlement Class Member** means a member of a Settlement Class who does not validly opt-out of that Settlement Class in accordance with orders of the Ontario and Quebec Courts, as applicable.
- (53) **Settling Defendants** means Samsung SDI Co., Ltd. and Samsung SDI America, Inc.
- (54) **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 Siskinds LLP 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.

- (55) ***U.S. Litigation*** means the class action proceeding pending in the United States District Court for the Northern District of California, under the caption *In Re: Lithium Ion Batteries Antitrust Litigation*, 13-MDL-2420, and includes all actions transferred by the Judicial Panel for Multidistrict Litigation for coordination, all actions pending such transfer, and all actions that may be transferred in the future.
- (56) ***U.S. Settlement Agreements*** means any settlement reached with the Settling Defendants in the U.S. Litigation.

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 Ontario Proceeding and BC Proceeding as against the Settling Defendants and a notice of settlement out of court of the Quebec Proceeding as against the Settling Defendants.

2.2 Motions for Approval

(1) As soon as practical after the Settlement Agreement is executed, the Ontario and Quebec Plaintiffs shall bring motions before the Ontario and Quebec Courts for orders approving the Notice of Hearing, certifying or authorizing the Ontario and Quebec Proceedings, as applicable, as a class proceeding (for settlement purposes) as against the Settling Defendants, and approving this Settlement Agreement.

(2) The Ontario order approving the notices described in section 11.1(1) and certifying the Ontario Proceeding for settlement purposes as against the Settling Defendants shall be substantially in the form attached as Schedule B. The Quebec order approving the notices described in section 11.1(1) and seeking consent authorization as against the Settling Defendants shall be substantially in the form attached as Schedule D.

(3) The Plaintiffs shall make best efforts to file motions before the Ontario and Quebec Courts for orders approving this Settlement Agreement as soon as practicable after:

- (a) the orders referred to in section 2.2(2) have been granted; and
- (b) the notices described in section 11.1(1) have been published.

(4) The Ontario order approving this Settlement Agreement shall be substantially in the form attached as Schedule C. The Quebec order approving this Settlement Agreement shall be substantially in the form attached as Schedule E.

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

2.3 Pre-Motion Confidentiality

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

2.4 Joint Approval Hearings

(1) The Ontario and Quebec Plaintiffs can elect to request that the Ontario and Quebec Courts hold joint Approval Hearings pursuant to the Canadian Bar Association's Canadian Judicial Protocol for the Management of Multijurisdictional Class Actions. The Settling Defendants will not oppose any such request.

SECTION 3 - SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

(1) Within thirty (30) days of the Execution Date, the Settling Defendants shall pay the Settlement Amount to Siskinds LLP for deposit into the Trust Account. The Settlement Amount shall be converted into Canadian currency upon deposit into the Trust Account.

(2) The Settling Defendants shall deposit the Settlement Amount into the Trust Account by wire transfer. Siskinds LLP shall provide the necessary wire transfer information to Counsel for the Settling Defendants with reasonable advance notice so that the Settling Defendants have a reasonable period of time to comply with section 3.1(1) of this Settlement Agreement.

(3) The Settlement Amount and other consideration to be provided in accordance with the terms of this Settlement Agreement shall be provided in full satisfaction of the Released Claims against the Releasees.

(4) The Settlement Amount shall be all-inclusive of all amounts, including without limitation, interest, costs, Class Counsel Fees and Class Counsel Disbursements.

(5) The Releasees shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement or the Proceedings or any Other Actions.

(6) Once a Claims Administrator has been appointed, Siskinds LLP shall transfer control of the Trust Account to the Claims Administrator.

(7) Siskinds LLP and the Claims Administrator shall maintain the Trust Account as provided for in this Settlement Agreement. While in control of the Trust Account, Siskinds LLP and the Claims Administrator shall not pay out all or part of the monies in the Trust Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Courts obtained after notice to the Parties.

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(3), all Canadian taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be paid from the Trust Account. Class 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.

(3) The Settling Defendants shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned by the Settlement Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Settling Defendants who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Class Counsel or the Claims Administrator.

3.3 Intervention in the U.S. Litigation

(1) The Settling Defendants shall not oppose any application that may be brought by or on behalf of the Plaintiffs (or any of them) to intervene in the U.S. Litigation in order to gain access to discovery Documents produced, deposition or other transcripts, or other Documents that might be filed in the U.S. Litigation, including any discovery that may be subject to a protective order that are relevant to the Proceedings. However, it is understood and agreed that neither the Settling Defendants nor the other Releasors have any obligation to bring or otherwise participate in such an application.

SECTION 4 - COOPERATION

4.1 Extent of Cooperation

(1) Within sixty (60) days of the Effective Date, or at a time mutually agreed upon by the Parties, subject to the other provisions of this Settlement Agreement, Counsel for the Settling Defendants will meet with Class Counsel in Canada, or at some other location mutually agreed to by the Parties, to provide an oral evidentiary proffer which will include information originating with the Settling Defendants that is not covered by privilege relating to the allegations in the Proceedings. The Parties agree that there shall be no audio or video recordings or written transcription of any statements made or information provided by Counsel for the Settling Defendants at the proffer. Notwithstanding any other provision of this Settlement Agreement, and for greater certainty, it is agreed that any such written notes, and all statements made and

information provided by Counsel for the Settling Defendants are privileged, will be kept strictly confidential, may not be directly or indirectly disclosed to any other Person, and will not be used by Class Counsel for any purpose other than for their own internal use in connection with the prosecution of the Proceedings.

(2) Within sixty (60) days of the Effective Date or at a time mutually agreed upon by the Parties, the Settling Defendants agree to use reasonable efforts to:

- (a) to the extent available, provide to Class Counsel transactional sales data of the Settling Defendants related to Lithium Batteries and/or Lithium Battery Products for the period of January 1, 2000 to December 31, 2013, sold in Canada, the United States or elsewhere, if and to the extent such sales relate to Lithium Batteries and/or Lithium Battery Products that are known or expected to have been resold into Canada. The transactional sales data will be provided in Excel or such other format as agreed upon by the Parties, and shall be delivered as a separate production from the other Documents to be delivered pursuant to section (2) or identified by bates number as part of the production of Documents to be delivered pursuant to section (2);
- (b) to the extent available, provide to Class Counsel transactional costs data of the Settling Defendants related to Lithium Batteries and Lithium Battery Products for the period of January 1, 2000 to December 31, 2013, sold in Canada, the United States or elsewhere, if and to the extent such sales relate to Lithium Batteries and/or Lithium Battery Products that are known or expected to have been resold into Canada. The transactional costs data will be provided in Excel or such other format as agreed upon by the Parties, and shall be delivered as a separate production from the other Documents to be delivered pursuant to section (2) or identified by bates number as part of the production of Documents to be delivered pursuant to section (2);
- (c) provide reasonable assistance to Class Counsel in understanding the transactional sales and cost data produced by the Settling Defendants, including a reasonable

number of written and/or telephonic communications with Class Counsel and/or the Plaintiffs' experts and between technical personnel;

- (d) provide electronic copies of any Documents produced by the Settling Defendants in the U.S. Litigation, including any Documents produced by the Settling Defendants pursuant to any U.S. Settlement Agreement, and any pre-existing translations of those Documents;
- (e) provide electronic copies of transcripts and video recordings (to the extent copies are in the possession of the Settling Defendants or their agent) of all depositions and other testimony of current or former employees, officers or directors of the Settling Defendants, including all exhibits thereto, taken in the U.S. Litigation, and any pre-existing translations of those transcripts;
- (f) provide electronic copies of any responses to written interrogatories provided by the Settling Defendants in the U.S. Litigation;
- (g) provide electronic copies of any Documents produced by the Settling Defendants to the Canadian Competition Bureau, the United States Department of Justice, the European Commission, and/or any other antitrust authority concerning the allegations raised in the Proceedings, including any pre-existing translations of those Documents, but excluding any Documents created for the purpose of being so provided (without the need to identify to which government authority any particular Document was produced); and
- (h) answer any questions or requests for information from Class Counsel that arise from the Documents provided to Class Counsel by the Settling Defendants, including information originating with the Settling Defendants and being within their possession relating to the allegations in the Proceedings including, without limitation, information with respect to dates, locations, subject matter, and identities of participants in any meetings or discussions between competitors relating to the purchase, sale, pricing, discounting, marketing or distributing of

Lithium Batteries and Lithium Battery Products for the period of January 1, 2000 to December 31, 2013.

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

(4) The Settling Defendants make no representation regarding and shall bear no liability with respect to the accuracy of or that they have, can or will produce a complete set of any of the Documents described in section (2), and the failure to do so shall not constitute a breach or violation of this Settlement Agreement.

(5) Documents provided to Class Counsel in accordance with section (2) will be provided in the format in which they were produced in the U.S. Litigation, to the Canadian Competition Bureau, the United States Department of Justice, the European Commission and/or any other antitrust authority, and will include any pre-existing and non-privileged electronic coding. In addition, to the extent reasonably possible, 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.

(6) The Settling Defendants shall not object to the Plaintiffs' participation in any evidentiary proffers and/or interviews of the Settling Defendants' representatives that occur in the U.S. Litigation pursuant to any U.S. Settlement Agreements. The Settling Defendants shall, where possible, endeavor to provide notice to Class Counsel thirty (30) days before such proffers and/or interviews.

(7) It is understood that the evidentiary proffers and/or interviews described in section 4.1(6) might take place before the Effective Date. In such event:

- (a) any Documents or information provided in the course of those evidentiary proffers and/or interviews shall be subject to the terms and protections of this Settlement Agreement; and

(b) in the event that this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, the Documents and information provided during the evidentiary proffers and/or interviews shall not be used by the Plaintiffs or Class Counsel, whether directly or indirectly, in any way for any reason, including, without limitation, against the Settling Defendants as an admission or evidence of any violation of any statute or law, or of any liability or wrongdoing by the Settling Defendants or of the truth of any claims or allegations in the Proceedings, and such information shall not be discoverable by any Person or treated as evidence of any kind, unless otherwise ordered by a Court. In order to give effect to this agreement, Class Counsel agrees to return all copies of any Documents received during, and destroy all copies of any notes taken during (or subsequent reports provided about), these evidentiary proffers and/or interviews and to provide written confirmation to the Settling Defendants of having done so.

(8) In the event that Class Counsel are unable to participate in the interviews that occur in the U.S. Litigation pursuant to the U.S. Settlement Agreements and/or no interviews occur within sixty (60) days of the Effective Date, the Settling Defendants shall, at the request of Class Counsel, upon reasonable notice, and subject to any legal restrictions, endeavor (to the extent able) to make available at a mutually convenient time, up to two (2) current or former officers, directors or employees of the Settling Defendants who have knowledge of the allegations raised in the Proceedings to provide information regarding the allegations raised in the Proceedings in a personal interview with Class Counsel and/or experts retained by Class Counsel. Such personal interviews shall not exceed one (1) business day or seven (7) hours for each individual. The employees shall be made available via videoconference or in Canada or such other place as agreed to by Counsel for the Settling Defendants and Class Counsel. Costs incurred by, and the expenses of, the employees of the Settling Defendants in relation to such interviews shall be the responsibility of the Settling Defendants and costs of an interpreter or otherwise related to foreign language translation in connection with interviews shall be the responsibility of Class Counsel. If an employee refuses to provide information, or otherwise cooperate, the Settling Defendants shall endeavor (to the extent able) to make him/her available for an interview with Class Counsel and/or experts retained by Class Counsel. The failure of an employee to agree to

make him or herself available, or to otherwise cooperate, with the Plaintiffs shall not constitute a violation of this Settlement Agreement.

(9) Subject to the rules of evidence, any Court order with regard to confidentiality and the other provisions of this Settlement Agreement, the Settling Defendants shall endeavor (to the extent able) to produce at trial or through an acceptable affidavit, current and/or former representatives qualified to establish for admission into evidence the following: (i) the Settling Defendants' transactional data provided pursuant to section 4.1(2)(a) (after Class Counsel has used best efforts to authenticate the transactional data for use at trial without a live witness); and (ii) any of the Settling Defendants' Documents provided as cooperation pursuant to section 4.1(2) of this Settlement Agreement (after Class Counsel has used best efforts to authenticate Documents for use at trial without a live witness); and (iii) information provided by the Settling Defendants pursuant to the terms of this Settlement Agreement. To the extent reasonably possible, the Plaintiffs will seek to limit this obligation to a single representative. The failure of a specific officer, director or employee to agree to make him or herself available shall not constitute a violation of this Settlement Agreement. To the extent any of the Settling Defendants' cooperation obligations require any current or former employees of the Settling Defendants to travel from their principal place of business to another location, Class Counsel shall reimburse the Settling Defendants for half of the reasonable travel expenses incurred by any such person in connection with fulfilling the Settling Defendants' cooperation obligations. Such reimbursement of travel expenses as set forth herein shall not exceed \$10,000 CAD per person. In no event shall Class Counsel be responsible for reimbursing such persons for time or services rendered.

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

(11) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Settling Defendants or any representative or employee of the Settling Defendants to disclose or produce any Documents or information prepared by or for Counsel for the Settling Defendants, or that is not within the possession, custody or control of the Settling Defendants, or to disclose

or produce any Documents or information in breach of any order, regulatory directive, rule or law of this or any jurisdiction, or subject to solicitor-client privilege, litigation privilege, joint defence privilege or any other privilege, doctrine, or law, or to disclose or produce any information or Documents they obtained on a privileged or co-operative basis from any party to any action or proceeding who is not a Releasee.

(12) If any Documents protected by any privilege and/or any privacy law or other rule or law of this or any applicable jurisdiction are accidentally or inadvertently disclosed or 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, doctrine, law or protection attached to such Documents.

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

(14) In the event that the Settling Defendants materially breach this section 4.1, the Plaintiffs may move before the Ontario and/or Quebec Court to enforce the terms of this Settlement Agreement and/or seek an order setting aside section 4.1(16) and allowing the Plaintiffs to obtain discovery or information from the Settling Defendants as if the Settling Defendants remained parties to the applicable Proceeding.

(15) The Plaintiffs may exercise any rights they have to seek to obtain discovery in the Proceedings as against the officers, directors and/or employees of the Settling Defendants put forward to participate in employee interviews or provide testimony at trial or otherwise pursuant to sections 4.1(8) or (9), if the current or former officer, director or employee of the Settling Defendants fails to cooperate in accordance with those Sections and the provisions of this Settlement Agreement.

(16) Subject to sections 4.1(14) and (15), the provisions set forth in section 4.1 are the exclusive means by which the Plaintiffs, the Settlement Class Members and Class Counsel may obtain discovery, information, or Documents from the Releasees or their current or former officers, directors or employees, and the Plaintiffs, the Settlement Class Members and Class Counsel agree that they shall not pursue any other means of discovery against, or seek to compel the evidence of, the 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.

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

(18) The scope of the Settling Defendants' cooperation under this Settlement Agreement shall be limited to the allegations asserted in the Proceedings as presently filed.

4.2 Limits on Use of Documents

(1) It is understood and agreed that all Documents and information made available or provided by the Settling Defendants and/or Counsel for the Settling Defendants to the Plaintiffs and Class Counsel under this Settlement Agreement shall be used only in connection with the prosecution of the claims in the Proceedings, and shall not be used directly or indirectly for any other purpose, except to the extent that the Documents or information are or become publicly available. The Plaintiffs and Class Counsel agree they will not disclose the Documents and information provided by the Settling Defendants and/or Counsel for the Settling Defendants beyond what is reasonably necessary for the prosecution of the Proceedings or as otherwise required by law, except to the extent that the Documents or information are or become publicly available. Subject to the foregoing, Class Counsel shall take reasonable precautions to ensure and maintain the confidentiality of such Documents and information, and of any work product of Class Counsel that discloses such Documents and information.

(2) If the Plaintiffs intend to produce or file in the Proceedings any Documents or other information provided by the Settling Defendants and/or Counsel for the Settling Defendants as cooperation under the Settlement Agreement (and such disclosure is not otherwise prohibited by the Settlement Agreement) which, at the time of being provided, were marked or designated by the Settling Defendants as “Confidential — Subject to Procedure Under Section 4.2(2) of the Settlement Agreement,” and there is not already a confidentiality order issued in the Proceedings that applies to the Documents and information provided as cooperation by the Settling Defendants, Class Counsel shall provide the Settling Defendants with an advance description of the Documents or other information sought to be produced or filed at least thirty (30) days in advance of the proposed production or filing, in order that the Settling Defendants may intervene for the purposes of obtaining a sealing or confidentiality order or similar relief. If a Settling Defendant intervenes for this purpose, the Plaintiffs and Class Counsel shall not oppose a motion to intervene made by the Settling Defendants for this purpose, provided that the form and content of the requested order is similar in substance to the order issued by the Ontario Court in Ontario Superior Court of Justice Court File No. CV-12-44673700CP, dated July 15, 2015. The Plaintiffs and Class Counsel shall not produce or file the confidential information or Documents until the Settling Defendants’ motion has been decided and all applicable appeal periods have expired, except, so as not to delay prosecution of the Proceedings, Class Counsel may provide, on an interim basis, Documents or information to counsel for the Non-Settling Defendants provided that counsel for the Non-Settling Defendants agree and give assurances that they will keep the Documents or information on an external-counsel only basis until the Settling Defendants’ motion has been decided and all applicable appeal periods have expired.

(3) In the event that a Person requests disclosure of Documents or information provided by the Settling Defendants and/or Counsel for the Settling Defendants as cooperation under this Settlement Agreement which, at the time of being provided, were marked or designated by the Settling Defendants as “Confidential — Subject to Procedure Under Section 4.2(2) of the Settlement Agreement”, whether or not the Person applies for an order requiring the Plaintiffs to disclose or produce any Documents or other information, and there is not already a confidentiality order issued in the Proceedings that applies to the Documents and information provided as cooperation by the Settling Defendants, Class Counsel shall provide notice to the Settling Defendants promptly upon becoming aware of it in order that the Settling Defendants

may intervene to oppose such disclosure or production. In no circumstances shall the Plaintiffs or Class Counsel apply for or consent to such an application for disclosure or production. The Plaintiffs and Class Counsel shall not disclose the confidential information or Documents until the Settling Defendants' motion has been decided and all applicable appeal periods have expired, except: (i) to the extent such information or Documents are or become otherwise publicly available; (ii) as ordered to do so by a Court; or (iii) in the event that the Person making the request is a Non-Settling Defendant, so as not to delay prosecution of the Proceedings, Class Counsel may provide, on an interim basis, Documents or information to counsel for the Non-Settling Defendant provided that counsel for the Non-Settling Defendant agree and give assurances that they will keep the Documents or information on an external-counsel only basis until the Settling Defendants' motion has been decided and all applicable appeal periods have expired.

(4) In addition, until such time as a confidentiality order is in place in the Proceedings that applies to the Documents and information provided as cooperation by the Settling Defendants and/or other Releasees named as Defendants, Class Counsel shall treat any Documents received from the Settling Defendants and designated as Confidential or Highly Confidential in accordance with the provisions of the "Stipulated Protective Order" governing the production and exchange of confidential information issued in the U.S. Litigation on May 17, 2013 (the "U.S. Protective Order"). Once a confidentiality order(s) is issued in the Proceedings, that order(s) shall govern any Documents and information received from the Settling Defendants.

SECTION 5 - OPTING-OUT

5.1 Procedure

(1) If Settlement Class Members have not previously been afforded an opportunity to opt-out of the Proceedings, Class Counsel will seek approvals from the Ontario and Quebec Courts of the following opt-out process as part of the orders certifying or authorizing the Ontario and Quebec Proceedings as class proceedings for settlement purposes:

- (a) Any putative member of the Settlement Class seeking to opt-out of the Proceedings must do so by sending a written election to opt-out, signed by the

Person or the Person's designee, by pre-paid mail, courier, fax or email to Class Counsel at an address to be identified in the Notice of Hearing

- (b) An election to opt-out sent by mail or courier will only be valid if it is postmarked on or before the Opt-Out Deadline to the designated address in the Notice of Hearing. Where the postmark is not visible or legible, the election to opt-out shall be deemed to have been postmarked four (4) business days prior to the date that it is received by Class Counsel.
- (c) The written election to opt-out must contain the following information in order to be valid:
 - (A) the Person's full name, current address and telephone number;
 - (B) if the Person seeking to opt-out is a corporation, the name of the corporation and the position of the Person submitting the request to opt-out on behalf of the corporation;
 - (C) a statement to the effect that the Person wishes to be excluded from the Proceedings; and
 - (D) the reason(s) for opting out.
- (d) Any putative Settlement Class Member who validly opts-out of the Proceedings shall be excluded from the Proceedings and the Settlement Class and shall no longer participate or have the opportunity to participate in the Proceedings or to share in the distribution of any funds received as a result of a judgment or settlement in the Proceedings in the future.
- (e) Any putative Settlement Class Member who does not validly opt-out in the manner and time prescribed above, shall be deemed to have elected to participate in the Proceedings and no further right to opt-out of the Proceedings will be provided in the future.

- (f) Within thirty (30) days of the Opt-Out Deadline, Class Counsel shall provide to the Defendants in the Proceedings a report containing the names of each Person who has validly and timely opted out of the Proceedings, the reasons for the opt-out, if known, and a summary of the information delivered by such Persons pursuant to section 5.1(1)(a).
- (g) Quebec Class Members who have commenced an Other Action or commence an Other Action and fail to discontinue such Other Action by the Opt-Out Deadline shall be deemed to have opted out.

SECTION 6- NON-APPROVAL OR TERMINATION OF SETTLEMENT AGREEMENT

6.1 Right of Termination

- (1) In the event that:
 - (a) the Ontario or Quebec Court declines to certify or authorize the Ontario or Quebec Proceedings, as applicable, for settlement purposes as against the Settling Defendants or does so in a materially modified form;
 - (b) the Ontario Court or BC Court declines to dismiss the Ontario or BC Proceeding, as applicable, against the Settling Defendants or the Quebec Court declines to declare settled out of court the Quebec Proceeding against the Settling Defendants;
 - (c) the Ontario or Quebec Court declines to approve this Settlement Agreement or any material part hereof;
 - (d) the Ontario or Quebec Court approves this Settlement Agreement in a materially modified form;
 - (e) the Ontario or Quebec Court issues a settlement approval order that is materially inconsistent with the terms of the Settlement Agreement or not substantially in the form attached to this Settlement Agreement as Schedules C and E;

- (f) any orders approving this Settlement Agreement made by the Ontario or Quebec Courts do not become Final Orders; or
- (g) the Settlement Amount is not paid in accordance with section 3.1(1).

the Plaintiffs and the Settling Defendants shall each have the right to terminate this Settlement Agreement (except that only the Settling Defendants shall have the right to terminate under subsection (b) above and only the Plaintiffs shall have the right to terminate under subsection (g) above) by delivering a written notice pursuant to section 14.18, within thirty (30) days following an event described above.

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

(3) Any order, ruling or determination made (or rejected) by any Court with respect to:

- (a) the opt-out process; or
- (b) Class Counsel Fees or Class Counsel Disbursements,

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

6.2 If Settlement Agreement is Terminated

(1) If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason:

- (a) no motion to certify or authorize the Ontario or Quebec 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 any Party shall be estopped from asserting otherwise;

- (c) any prior certification or authorization of the Ontario or Quebec Proceeding as a class proceeding on the basis of this Settlement Agreement, including the definitions of the Settlement Class and the Common Issue pursuant to this Settlement Agreement, shall be without prejudice to any position that any of the Parties or Releasees may later take on any issue in the Proceedings or any Other Actions or 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 and/or Counsel for the Settling Defendants under this Settlement Agreement or containing or reflecting information derived from such Documents or other materials received from the Settling Defendants and/or Counsel for the Settling Defendants and, to the extent Class Counsel has disclosed any Documents or information provided by the Settling Defendants and/or Counsel for the Settling Defendants to any other Person, shall endeavor to recover and destroy such Documents or information. Class Counsel shall provide Counsel for the Settling Defendants with a written certification by Class Counsel of such destruction. Nothing contained in this section 6.2 shall be construed to require Class Counsel to destroy any of their work product. However, any Documents or information provided by the Settling Defendants and/or Counsel for the Settling Defendants, or received from the Settling Defendants and/or Counsel for the Settling Defendants in connection with this Settlement Agreement, may not be disclosed to any Person in any manner or used, directly or indirectly, by Class Counsel or any other Person in any way for any reason, without the express prior written permission of the relevant Settling Defendants. Class Counsel shall take appropriate steps and precautions to ensure and maintain the confidentiality of such Documents, information and any work product of Class Counsel derived from such Documents or information.

(2) If the Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, Siskinds LLP shall, within thirty (30) business days of the written notice advising that the Settlement Agreement has been terminated in accordance with its terms, return to the Settling Defendants the Settlement Amount, plus all accrued interest thereon and less taxes paid on interest, and provided that the Settlement Agreement is not terminated by reason of any default on the part of the Plaintiffs or Class Counsel, any costs actually incurred or payable with respect to the notices required by section 11.1, and any costs of translation required by section 14.12 that have actually been incurred or are payable.

6.3 Survival of Provisions After Non-Approval of Settlement Agreement

(1) If this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the provisions of sections 3.2(3), 4.1(7)(b), 6.1(2), 6.2, 9.1, 9.2, 11.1, 12.3(3)(a) and 12.3(4), and the definitions and schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and schedules shall survive only for the limited purpose of the interpretation of sections 3.2(3), 4.1(7)(b), 6.1(2), 6.2, 9.1, 9.2, 11.1, 12.3(3)(a) and 12.3(4) 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 7.3 and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Settlement Agreement, the Releasers forever and absolutely release and forever 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.

(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 different facts.

7.2 Release by Releasees

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

7.3 Covenant Not To Sue

(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, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

7.4 No Further Claims

(1) Upon the Effective Date, each Releaser shall not now or hereafter institute, continue, maintain, intervene in 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*, RSO 1990, c. N. 1 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 or named or unnamed 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 named or unnamed co-conspirator that is not a Releasee. For greater certainty and without limiting the generality of the foregoing, the Releasers shall not assert or pursue a Released Claim, against any Releasee under the laws of any foreign jurisdiction.

7.5 Dismissal of the Proceedings

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

(2) Upon the Effective Date, the Quebec Proceeding shall be declared settled out of court, with prejudice and without costs, as against the Settling Defendants.

7.6 Dismissal of Other Actions

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

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

7.7 Claims Against Other Entities Reserved

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

7.8 Material Term

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

SECTION 8 - BAR ORDER AND DECLARATION OF RENUNCIATION

8.1 Ontario Bar Order

(1) Class Counsel shall seek a bar order from the Ontario Court providing for the following:

- (a) to the extent such claims are recognized at law, 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 in accordance with the terms of this section (unless such claim is made in respect of a claim by a Person who has validly opted out of the Ontario Proceedings);

(b) if the Ontario 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 Ontario Plaintiffs and Ontario 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 Ontario Plaintiffs and Ontario 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), restitutionary award, disgorgement of profits, interest, and costs (including investigative costs claimed pursuant to section 36 of the *Competition Act*) 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 Ontario Plaintiffs and Ontario Settlement Class Members, if any, and, for greater certainty, the Ontario 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) the Ontario Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the Ontario Proceeding, whether or not the Releasees remain in the Ontario 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 Ontario Proceeding and any determination by the Ontario Court in respect of the Proportionate Liability of the Releasees shall only apply in the Ontario Proceeding and shall not be binding on the Releasees in any other proceeding;
- (c) for the purposes of sections 8.1(1)(d)-(h), “Non-Settling Defendants” refers to the Non-Settling Defendants that are named as Defendants in the Ontario Proceeding;
- (d) a Non-Settling Defendant may, on application to the Ontario Court determined as if the Settling Defendants remained parties to the Ontario Proceeding, and on at least twenty (20) days’ notice to Counsel for the Settling Defendants, and not to be brought until after all appeals or times to appeal certification have been exhausted, seek orders for the following:

- (A) documentary discovery and an affidavit of documents from the Settling Defendants in accordance with the Ontario *Rules of Civil Procedure*;
 - (B) oral discovery of a representative of the Settling Defendants, the transcript of which may be read in at trial;
 - (C) leave to serve a request to admit on the Settling Defendants in respect of factual matters; and/or
 - (D) the production of a representative of the Settling Defendants to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.
- (e) the Settling Defendants retain all rights to oppose any application brought pursuant to section 8.1(1)(d), including any such application brought at trial seeking an order requiring the Settling Defendants to produce a representative to testify at trial. Moreover, nothing herein restricts the Settling Defendants from seeking a protective order to maintain confidentiality and protection of proprietary information in respect of Documents to be produced and/or for information obtained from discovery in accordance with section 8.1(1)(d);
- (f) on any application brought pursuant to section 8.1(1)(d), the Ontario Court may make such orders as to costs and other terms as it considers appropriate;
- (g) 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 Class Counsel within ten (10) days of such discovery being provided to a Non-Settling Defendant;
- (h) the Ontario Court will retain an ongoing supervisory role over the discovery process and the Settling Defendants will attorn to the jurisdiction of the Ontario Court for these purposes; and

- (i) a Non-Settling Defendant may effect service of the application(s) referred to in section 8.1(1)(d) on a Settling Defendant by service on Counsel for the Settling Defendants.

8.2 Quebec Declaration of Renunciation of Benefit of Solidarity

(1) Class Counsel shall seek a declaration by the Quebec Court that the Quebec Plaintiff and the Quebec Settlement Class Members have renounced the benefit of solidarity. The declaration sought will provide the following:

- (a) the Quebec Plaintiff and Quebec Settlement Class Members expressly waive and renounce the benefit of solidarity against the Non-Settling Defendants or any other Person with respect to the facts, deeds or other conduct of the Releasees relating to the Released Claims;
- (b) the Quebec Plaintiff and Quebec Settlement Class Members shall henceforth only be able to claim and recover damages, including punitive damages, interest and costs (including without limitation, judicial fees pursuant to the *Code of Civil Procedure of Quebec*, and 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 measure of proportionate liability of the Non-Settling Defendants;
- (c) any claims in warranty or any other claim or joinder of parties to obtain any contribution or indemnity from the Releasees or relating to the Released Claims shall be inadmissible and void in the context of the Quebec Proceeding; and
- (d) the ability of Non-Settling Defendants to seek discovery from the Settling Defendants shall be determined according to the provisions of the *Code of Civil Procedure of Quebec*, and the Settling Defendants shall retain and reserve all of their rights to oppose such discovery under the *Code of Civil Procedure of Quebec*.

8.3 Material Term

(1) For the avoidance of doubt and without in any way limiting the ability of the Parties to assert that other terms in this Settlement Agreement are material terms (subject to section 6.1(3)), the Parties acknowledge that the bar orders and renunciation of the benefit of solidarity contemplated herein shall be considered a material term of the Settlement Agreement and the failure of the Ontario and Quebec Courts to approve the bar orders or renunciation of the benefit of solidarity contemplated herein shall 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 this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason. Further, whether or not this Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, Documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasees, or of the truth of any of the claims or allegations contained in the Proceedings or any Other Actions or any other pleading filed by the Plaintiffs.

9.2 Agreement Not Evidence

(1) The Parties agree that, whether or not it 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 referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, or to defend against the assertion of Released Claims, as necessary in any insurance-related proceeding, or as otherwise required by law or as provided in this Settlement Agreement.

9.3 No Further Litigation

(1) No Class Counsel, nor anyone currently or hereafter employed by, or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any Person against the Settling Defendants 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. Moreover, neither Class Counsel, nor anyone currently or hereafter employed by, or a partner with Class Counsel, may divulge to anyone for any purpose, or use for any purpose, any information obtained in the course of the Proceedings or the negotiation and preparation of this Settlement Agreement, except to the extent that such information is or becomes otherwise publicly available or unless ordered to do so by a court in Canada, or in the case of information obtained in the course of the Proceedings, for the purposes of the continued prosecution of the Proceedings against any Non-Settling Defendant or unnamed co-conspirators that are not Releasees or, if the Proceedings are not certified or authorized, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against any Non-Settling Defendant or unnamed co-conspirator that is not a Releasee.

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

SECTION 10 - CERTIFICATION OR AUTHORIZATION FOR SETTLEMENT ONLY

10.1 Settlement Class and Common Issue

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

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

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

(4) To the extent that the Settlement Classes provided for herein are broader than the classes certified or authorized in the contested litigation, the Settling Defendants retain all of their objections, arguments, and defences with respect to class certification or authorization of classes broader than the ones certified or authorized in the contested litigation, and reserve all rights to contest class certification or authorization of classes broader than the ones certified or authorized in the contested litigation, if the settlement set forth in this Settlement Agreement does not receive the Ontario and Quebec Courts' approval, if the Ontario or Quebec Courts' approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the settlement set forth in this Settlement Agreement otherwise fails to close. The Parties acknowledge that the Settlement Agreement does not provide for any stipulation to any classes or certification or authorization of any classes for any purpose other than effectuating the settlement, and that if the settlement set forth in this Settlement Agreement does not receive the Ontario and Quebec Courts' final approval, if the Ontario and Quebec Courts' approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the settlement set forth in this Settlement Agreement otherwise fails to close, this agreement as to certification or authorization of the settlement classes becomes null and void ab initio, and this Settlement Agreement or any other settlement-related statement may not be cited regarding certification or authorization of the settlement class, or in support of an argument for certifying or authorizing a class for any purpose related to the Proceedings.

SECTION 11 - NOTICE TO SETTLEMENT CLASSES

11.1 Notices Required

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

11.2 Form and Distribution of Notices

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

SECTION 12 – ADMINISTRATION AND IMPLEMENTATION

12.1 Mechanics of Administration

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

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

12.2 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 Ontario and Quebec 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 private out-of-class settlements, unless by such proceedings or private 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.

12.3 Information and Assistance

(1) The Settling Defendants will make reasonable best efforts to compile a list of the names and addresses (including any relevant email addresses) of those Persons in Canada who purchased Lithium Batteries and/or Lithium Battery Products from them 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 to be delivered pursuant to section 4.1(2) or identified by bates number as part of the production of Documents to be delivered pursuant to section 4.1(2).

(2) The name and address information required by section 12.3(1) shall be delivered to Class Counsel within fifteen (15) days of the Execution Date. The Purchase Price information required by section 12.3(1) shall be delivered to Class Counsel within fifteen (15) days of the Effective Date.

(3) Class Counsel may use the information provided under section 12.3(1):

- (a) to facilitate the dissemination of the notices required in section 11.1(1);
- (b) to advise Persons in Canada who purchased Lithium Batteries and/or Lithium Battery Products from the Settling 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 12.3(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 12.3(1) to any Court-appointed notice provider and/or the Claims Administrator, to the extent reasonably necessary for the purposes

enumerated in section 12.3(3). Any Court-appointed notice provider and/or the Claims Administrator shall be bound by the same confidentiality obligations set out in section 4. If this Settlement Agreement is terminated, all information provided by the Settling Defendants pursuant to section 12.3(1) shall be dealt with in accordance with section 6.2(1)(d) and no record of the information so provided shall be retained by Class Counsel in any form whatsoever.

(5) The Settling Defendants will make themselves reasonably available to respond to questions respecting the information provided pursuant to section 12.3(1) from Class Counsel or any Court-appointed notice provider and/or the Claims Administrator. The Settling Defendants' obligations to make themselves reasonably available to respond to questions as particularized in this Section shall not be affected by the release provisions contained in section 7 of this Settlement Agreement. Unless this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the Settling Defendants' obligations to cooperate pursuant to this section 12.3 shall cease when the Proceedings are resolved as against all Defendants and all settlement funds or court awards have been distributed.

(6) The Settling Defendants shall bear no liability with respect to the completeness or accuracy of the information provided pursuant to this section 12.3.

SECTION 13 - CLASS COUNSEL FEES, DISBURSEMENTS AND ADMINISTRATION EXPENSES

13.1 Court Approval for Class Counsel Fees and Disbursements

(1) Class Counsel may seek the Ontario and Quebec Courts' approval to pay Class Counsel Disbursements and Class Counsel Fees contemporaneous with seeking approval of this Settlement Agreement. Class Counsel Disbursements and Class Counsel Fees shall be reimbursed and paid solely out of the Trust Account after the Effective Date.

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

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

13.2 Responsibility for Fees, Disbursements and Taxes

(1) The Settling Defendants shall not be liable for any Class Counsel Fees, Class Counsel Disbursements or taxes of any 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, or any lien of any Person on any payment to any Settlement Class Member from the Settlement Amount.

13.3 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 13.3(1), Class Counsel shall pay the costs of the notices required by section 11.1(1) and any costs of translation required by section 14.12 from the Trust Account, as they become due. Subject to section 6.2(2), the Settling Defendants shall not have any responsibility for the costs of the notices or translation.

SECTION 14- MISCELLANEOUS

14.1 Application of Settlement Terms in BC Proceeding

(1) In the event that the BC Proceeding is certified as a class proceeding on a contested basis as against the Non-Settling Defendants (or any of them), the terms of this Settlement Agreement shall be interpreted such that the cooperation obligations pursuant to section 4 and the bar order contained in section 8.1 (subject to the necessary amendments to reflect the *BC Supreme Court Rules*) apply in respect of the BC Proceeding.

14.2 Motions for Directions

(1) Class Counsel or the Settling Defendants may apply to the Courts as may be required for directions in respect of the interpretation, implementation and administration of this Settlement Agreement. Unless a Court orders otherwise, motions for directions that do not relate solely to

matters affecting the BC Proceeding or the Quebec Proceeding shall be determined by the Ontario Court.

(2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties, except for those applications concerned solely with the implementation and administration of the Distribution Protocol.

14.3 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.

14.4 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 *Rules of Civil Procedure*, RRO 1990, Reg 194, the act may be done on the next day that is not a holiday.

14.5 Ongoing Jurisdiction

(1) Each of the Courts shall retain exclusive jurisdiction over each Proceeding commenced in its jurisdiction and the Parties in that Proceeding, except for that the Ontario Court will have jurisdiction over the Class Counsel Fees in the BC 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 14.5(1) and 14.5(2), the Ontario Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement, and the Plaintiffs, Settlement Class Members and Settling Defendants attorn to the jurisdiction of the Ontario Court for such purposes. Issues related to the administration of the Settlement Agreement, the Trust Account, and other matters not specifically related to the claim of a BC Settlement Class Member or a Quebec Settlement Class Member shall be determined by the Ontario Court.

14.6 Governing Law

(1) Subject to section 14.6(2), this Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

(2) Notwithstanding section 14.6(1), for matters relating specifically to the BC or Quebec Proceedings, the BC or Quebec Court, as applicable, shall apply the law of its own jurisdiction and the laws of Canada applicable therein.

14.7 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.

14.8 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.

14.9 Binding Effect

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

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

14.11 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.

14.12 Language

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

14.13 Transaction

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

14.14 Recitals

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

14.15 Schedules

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

14.16 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.

14.17 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.

14.18 Notice

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

For the Plaintiffs and for Class Counsel in the Proceedings:

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

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

Maxime Nasr
Belleau Lapointe, LLP
306, Place d'Youville
Office B-10
Montreal, Quebec H2Y 2B6

Telephone: 514-987-6700
Facsimile: 514-987-6886
Email: mnasr@belleaulapointe.com

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

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

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

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

For Settling Defendants:

Robert Kwinter
Blake Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, ON M5L 1A9

Telephone: 416-863-2400
Facsimile: 416-863-2653
Email: rob.kwinter@blakes.com

14.19 Date of Execution

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

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

Name of Authorized Signatory: Linda Visser

Signature of Authorized Signatory: [Signature]
Siskinds LLP
Ontario Counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____
Sotos LLP
Ontario Counsel

JONATHAN CRUZ, by his counsel

Name of Authorized Signatory: _____

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

For Settling Defendants:

Robert Kwinter
Blake Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, ON M5L 1A9

Telephone: 416-863-2400
Facsimile: 416-863-2653
Email: rob.kwinter@blakes.com

14.19 Date of Execution

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

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

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

Siskinds LLP
Ontario Counsel

Name of Authorized Signatory: JEAN-MARC LECLERC

Signature of Authorized Signatory: _____

Sctos LLP
Ontario Counsel

JONATHAN CRUZ, by his counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

Camp Fiorante Matthews Mogeran
BC Counsel

For Settling Defendants:

Robert Kwinter
Blake Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, ON M5L 1A9

Telephone: 416-863-2400
Facsimile: 416-863-2653
Email: rob.kwinter@blakes.com

14.19 Date of Execution

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

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

Siskinds LLP
Ontario Counsel

Name of Authorized Signatory: _____

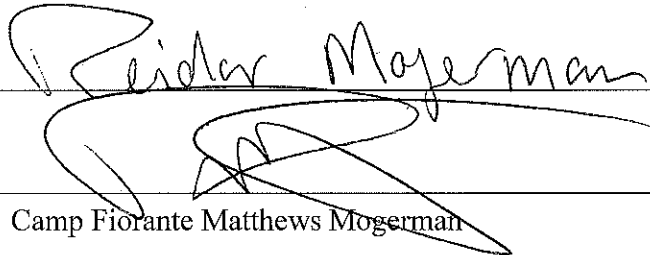
Signature of Authorized Signatory: _____

Sotos LLP
Ontario Counsel

JONATHAN CRUZ, by his counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

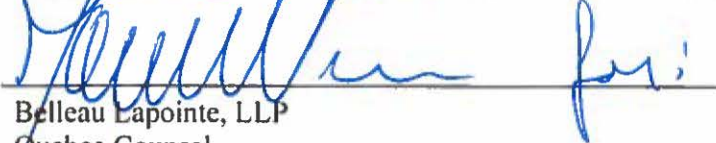

Camp Fiorante Matthews Mogerman
BC Counsel

OPTION CONSOMMATEURS, on its own behalf and on behalf of the Quebec Settlement Class, by its counsel

Name of Authorized Signatory:

Maxime Nasr

Signature of Authorized Signatory:

 for:

Belleau Lapointe, LLP
Quebec Counsel

SAMSUNG SDI CO., LTD. AND SAMSUNG SDI AMERICA, INC., by their counsel

Name of Authorized Signatory:

Signature of Authorized Signatory:

Blake Cassels & Graydon LLP

OPTION CONSOMMATEURS, on its own behalf and on behalf of the Quebec Settlement Class, by its counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

Belleau Lapointe, LLP
Quebec Counsel

SAMSUNG SDI CO., LTD. AND SAMSUNG SDI AMERICA, INC., by their counsel

Name of Authorized Signatory: ROBERT E. KWINTER

Signature of Authorized Signatory: _____

Blake Cassels & Graydon LLP

SCHEDULE A – PROCEEDINGS

Proceeding	Plaintiffs	Defendants	Settlement Class
Ontario Superior Court of Justice Court File No. CV-13-483540-00CP (the “Ontario Proceeding”)	Khurram Shah and Alpina Holdings Inc.	LG Chem, Ltd., LG Chem America, Inc., Panasonic Corporation, Panasonic Corporation of North America, Panasonic Canada Inc., Sanyo Electric Co., Ltd., Sanyo North America Corporation, Sanyo Energy (U.S.A.) Corporation, Sony Corporation, Sony Energy Devices Corporation, Sony Electronics, Inc., Sony of Canada Ltd., Samsung SDI Co., Ltd., Samsung SDI America, Inc., Samsung Electronics Canada Inc., Hitachi, Ltd., Hitachi Maxell, Ltd., Maxell Corporation of America, Maxell Canada, GS Yuasa Corporation, NEC Corporation, NEC Tokin Corporation, NEC Canada, Toshiba Corporation, Toshiba America Electronic Components, Inc., and Toshiba of Canada Limited	All Persons in Canada who purchased Lithium Batteries and/or Lithium Battery Products in Canada during the Class Period, except the Excluded Persons and Persons who are included in the Quebec Settlement Class.
Superior Court of Quebec (District of Montreal), File No. 500-06-000632-121 (the “Quebec Proceeding”)	Option consommateurs	LG Chem Ltd., LG Chem America, Inc., Panasonic Corporation, Panasonic Corporation of North America, Panasonic Canada Inc., Sanyo Electric Co., Ltd., Sanyo North America Corporation, Sony Corporation, Sony of Canada Ltd., Sony Energy Devices Corporation, Sony Electronics, Inc., Samsung SDI Co., Ltd. Samsung	All Persons in Quebec who purchased Lithium Batteries and/or Lithium Battery Products in Canada during the Class Period, except the Excluded Persons.

Proceeding	Plaintiffs	Defendants	Settlement Class
		SDI America, Inc., Hitachi, Ltd., Hitachi Canada, Ltd., Hitachi Maxell, Ltd., Maxell Corporation of America	
British Columbia Supreme Court File No. VLC-S-S-128141 (Vancouver Registry) (the “BC Proceeding”)	Jonathan Cruz	LG Chem Ltd., LG Chem America, Inc., Panasonic Corp., Panasonic Corporation of North America, Sanyo Electric Co., Ltd., Sanyo North America Corporation, Panasonic Canada Inc., Samsung SDI Co. Ltd., Samsung SDI America, Inc., Samsung SDI Mexico, S.A. de C.V., Samsung SDI (Hong Kong) Ltd., Tianjin Samsung SDI Co., Ltd., Shanghai Samsung SVA Electronic Devices Co., Ltd., Samsung Electronics Canada Inc., Sony Corporation, Sony Energy Devices Corporation, Sony Electronics Inc., Sony of Canada Ltd., Hitachi, Ltd., Hitachi Canada, Ltd., Hitachi-Maxell Ltd., Maxell Corporation of America and Maxell Canada	Not applicable.

SCHEDULE “B”

Court File No. CV-13-483540-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable)
Justice Perell) of , the day
)
) , 2017

B E T W E E N :

KHURRAM SHAH and ALPINA HOLDINGS INC.

Plaintiffs

- and -

**LG CHEM, LTD., LG CHEM AMERICA, INC., PANASONIC CORPORATION,
PANASONIC CORPORATION OF NORTH AMERICA, PANASONIC CANADA INC.,
SANYO ELECTRIC CO., LTD., SANYO NORTH AMERICA CORPORATION, SANYO
ENERGY (U.S.A.) CORPORATION, SONY CORPORATION, SONY ENERGY
DEVICES CORPORATION, SONY ELECTRONICS, INC., SONY OF CANADA LTD.,
SAMSUNG SDI CO., LTD., SAMSUNG SDI AMERICA, INC., SAMSUNG
ELECTRONICS CANADA INC., HITACHI, LTD., HITACHI MAXELL, LTD.,
MAXELL CORPORATION OF AMERICA, MAXELL CANADA, GS YUASA
CORPORATION, NEC CORPORATION, NEC TOKIN CORPORATION, NEC
CANADA, TOSHIBA CORPORATION, TOSHIBA AMERICA ELECTRONIC
COMPONENTS, INC., and TOSHIBA OF CANADA LIMITED**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION made by the Plaintiffs for an Order approving the publication, short-form and long-form notices of settlement approval hearings (“Notice of Hearing”), the plan of dissemination of said notices, and certifying this action as a class proceeding for settlement purposes as against the Defendants, Samsung SDI Co., Ltd. and Samsung SDI America, Inc. (collectively the “Settling Defendants”), was heard by teleconference this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the materials filed, including the settlement agreement dated ●, 2017 attached to this Order as Schedule “A” (the “Settlement Agreement”), and on hearing the

submissions of counsel for the Plaintiffs and counsel for the Settling Defendants, the Non-Settling Defendants taking no position;

AND ON BEING ADVISED that the Plaintiffs and the Settling Defendants consent to this Order and that the Non-Settling Defendants take no position on this motion:

1. **THIS COURT ORDERS** that, for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that the publication, short-form and long-form of the Notice of Hearing are hereby approved substantially in the form attached hereto as Schedules “B” to “D”, respectively.
3. **THIS COURT ORDERS** that the plan of dissemination of the Notice of Hearing to Settlement Class Members (the “Plan of Dissemination”) is hereby approved in the form attached hereto as Schedule “E”.
4. **THIS COURT ORDERS** that the Notice of Hearing shall be disseminated in accordance with the Plan of Dissemination.
5. **THIS COURT ORDERS** that the Ontario Proceeding be certified as a class proceeding as against the Settling Defendants for settlement purposes only.
6. **THIS COURT ORDERS** that the “Ontario Settlement Class” be defined as:

All Persons in Canada who purchased Lithium Batteries and/or Lithium Battery Products in Canada during the Class Period, except the Excluded Persons and Persons who are included in the Quebec Settlement Class.
7. **THIS COURT ORDERS** that Khurram Shah and Alpina Holdings Inc. are appointed as the representative plaintiffs for the Ontario Settlement Class.
8. **THIS COURT ORDERS** that the following issue is common to Ontario Settlement Class Members:

Did the Settling Defendants conspire to fix, raise, maintain, and/or stabilize the price of Lithium Batteries and/or Lithium Battery Products in Canada during the Class Period? If so, what damages, if any, did Settlement Class Members suffer?

9. **THIS COURT ORDERS** that paragraphs 1 and 5 to 8 of this Order, including the certification of the Ontario Proceeding as against the Settling Defendants for settlement purposes and the definitions of the Ontario Settlement Class and the Common Issue, and any reasons given by the Court in connection with paragraphs 1 and 5 to 8 of this Order, are without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing Ontario Proceeding 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 Ontario Proceeding, as against the Non-Settling Defendants.
10. **THIS COURT ORDERS** that any putative member of the Ontario Settlement Class seeking to opt-out of the Ontario Proceeding do so by sending a written election to opt-out signed by the Person or the Person's designee, by pre-paid mail, courier, fax or email to Class Counsel at the address identified in the Notice of Hearing.
11. **THIS COURT ORDERS** that an election to opt-out sent will only be valid if it is postmarked on or before the Opt-Out Deadline to the address identified in the Notice of Hearing. Where the postmark is not visible or legible, the election to opt-out shall be deemed to have been postmarked four (4) business days prior to the date that it is received by Class Counsel.
12. **THIS COURT ORDERS** that the written election to opt-out must contain the following information to be valid:
 - (a) the Person's full name, current address and telephone number;
 - (b) if the Person seeking to opt-out is a corporation, the name of the corporation and the position of the Person submitting the request to opt-out on behalf of the corporation;
 - (c) a statement to the effect that the Person wishes to be excluded from the Proceedings; and

- (d) the reason(s) for opting out.
13. **THIS COURT ORDERS** that any putative member of the Ontario Settlement Class who validly opts-out of the Ontario Proceeding shall have no further right to participate in the Ontario Proceeding or to share in the distribution of any funds received as a result of a judgment or settlement in the Ontario Proceeding.
 14. **THIS COURT ORDERS** that any putative member of the Ontario Settlement Class who does not validly opt-out in the manner and time prescribed above, shall be deemed to have elected to participate in the Ontario Proceeding and no further right to opt-out of the Ontario Proceeding will be provided in the future.
 15. **THIS COURT ORDERS** that, within thirty (30) days of the opt-out deadline, Ontario Counsel shall provide to the Defendants in the Ontario Proceeding a report containing the names of each Person who has validly and timely opted out of the Proceedings, and summary of the information delivered by such Persons pursuant to paragraph 12 above.
 16. **THIS COURT ORDERS** that paragraphs 2 to 9 of this Order is contingent upon a parallel order being made by the Quebec Court, and the terms of this Order shall not be effective unless and until such an order is made by the Quebec Court.

The Honourable Justice Perell

SCHEDULE “C”

Court File No. CV-13-483540-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) _____, THE _____ DAY
JUSTICE PERELL) OF _____, 2017

B E T W E E N :

KHURRAM SHAH and ALPINA HOLDINGS INC.

Plaintiffs

- and -

**LG CHEM, LTD., LG CHEM AMERICA, INC., PANASONIC CORPORATION,
PANASONIC CORPORATION OF NORTH AMERICA, PANASONIC CANADA INC.,
SANYO ELECTRIC CO., LTD., SANYO NORTH AMERICA CORPORATION, SANYO
ENERGY (U.S.A.) CORPORATION, SONY CORPORATION, SONY ENERGY
DEVICES CORPORATION, SONY ELECTRONICS, INC., SONY OF CANADA LTD.,
SAMSUNG SDI CO., LTD., SAMSUNG SDI AMERICA, INC., SAMSUNG
ELECTRONICS CANADA INC., HITACHI, LTD., HITACHI MAXELL, LTD.,
MAXELL CORPORATION OF AMERICA, MAXELL CANADA, GS YUASA
CORPORATION, NEC CORPORATION, NEC TOKIN CORPORATION, NEC
CANADA, TOSHIBA CORPORATION, TOSHIBA AMERICA ELECTRONIC
COMPONENTS, INC., and TOSHIBA OF CANADA LIMITED**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ORDER
(Samsung SDI Settlement Approval)**

THIS MOTION made by the Plaintiffs for an Order approving the Settlement Agreement entered into with the Defendants, Samsung SDI Co., Ltd. and Samsung SDI America, Inc. (collectively the “Settling Defendants”) and dismissing this action against the Settling Defendants was heard this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

AND ON BEING ADVISED that the deadline for opting out has passed and there were
● opt-outs;

AND ON BEING ADVISED that the deadline for objecting to the Settlement Agreement has passed and there have been ● objections to the Settlement Agreement;

AND ON BEING ADVISED that the Plaintiffs and the Settling Defendants consent to this Order and that the Non-Settling Defendants take no position on this motion:

ON READING the materials filed, including the settlement agreement attached to this Order as Schedule “A” (the “Settlement Agreement”), and on hearing the submissions of counsel for the Plaintiffs and counsel for the Settling Defendants, the Non-Settling Defendants taking no position:

1. **THIS COURT ORDERS** that, in addition to the definitions used elsewhere in this Order, for the purposes of this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class.
4. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to s. 29 of the *Class Proceedings Act, 1992* and shall be implemented and enforced in accordance with its terms.
5. **THIS COURT ORDERS** that this Order, including the Settlement Agreement, is binding upon each Ontario Settlement Class Member including those Persons who are minors or mentally incapable and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of the Ontario Proceeding.
6. **THIS COURT ORDERS** that, upon the Effective Date, each Ontario Settlement Class Member shall be deemed to have consented to the dismissal as against the Releasees of any Other Actions he, she or it has commenced, without costs and with prejudice.
7. **THIS COURT ORDERS** that, upon the Effective Date, each Other Action commenced in Ontario by any Settlement Class Member shall be and is hereby dismissed against the Releasees, without costs and with prejudice.

8. **THIS COURT ORDERS** that, upon the Effective Date, subject to paragraph 10, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.
9. **THIS COURT ORDERS** that, upon the Effective Date, each Releasor shall not now or hereafter institute, continue, maintain, intervene in 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*, RSO 1990, c. N. 1 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 or named or unnamed 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 named or unnamed co-conspirator that is not a Releasee.
10. **THIS COURT ORDERS** that the use of the terms “Releasors” and “Released Claims” in this Order does not constitute a release of claims by those Ontario Settlement Class Members who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors.
11. **THIS COURT ORDERS** that, upon the Effective Date, each Ontario Settlement Class Member who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors covenants and undertakes not to make any claim in any way nor to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.
12. **THIS COURT ORDERS** that all claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in the Proceedings or any Other Actions or otherwise, by any Non-Settling Defendant, any Settled Defendant, any named or unnamed co-conspirator that is not a Releasee or any other Person or party, against a Releasee, or by a Releasee against any

Non-Settling Defendant, any Settled Defendant, any named or unnamed co-conspirator that is not a Releasee or any other Person or party, are barred, prohibited and enjoined in accordance with the terms of this Order (unless such claim is made in respect of a claim by a Person who has validly opted-out of the Proceedings).

13. **THIS COURT ORDERS** that 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 Ontario Plaintiffs and Ontario 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 Ontario Plaintiffs and Ontario 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, only those claims for 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*) 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 Ontario Plaintiffs and Ontario Settlement Class Members, if any, and, for greater certainty, Ontario 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 Ontario Proceeding, whether or not the Releasees remain in the Ontario 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 Ontario Proceeding and any determination by this Court in respect of the Proportionate Liability of the Releasees shall only apply in the Ontario Proceeding and shall not be binding on the Releasees in any other proceeding
14. **THIS COURT ORDERS** that 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 (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*) or judgment against them in favour of Ontario Settlement Class Members in the Ontario Proceeding or the rights of the Ontario Plaintiffs and the Ontario Settlement Class Members to oppose or resist any such arguments, except as provided for in this Order.
15. **THIS COURT ORDERS** that a Non-Settling Defendant may, on motion to this Court determined as if the Settling Defendants remained parties to the Ontario Proceeding and on at least twenty (20) days' notice to Counsel for the Settling Defendants, and not to be brought unless and until the Ontario Proceeding against the Non-Settling Defendants has been certified and all appeals or times to appeal have been exhausted, seek orders for the following:
- (a) documentary discovery and an affidavit of documents from the Settling Defendants in accordance with the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194;
 - (b) oral discovery of a representative of the Settling Defendants, the transcript of which may be read in at trial;
 - (c) leave to serve a request to admit on the Settling Defendants in respect of factual matters; and/or

- (d) the production of a representative of the Settling Defendants to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.
16. **THIS COURT ORDERS** that the Settling Defendants retain all rights to oppose such motion(s) brought under paragraph 15. Moreover, nothing herein restricts the Settling Defendants from seeking a protective order to maintain confidentiality and protection of proprietary information in respect of Documents to be produced and/or for information obtained from discovery in accordance with paragraph 15. Notwithstanding any provision in this Order, on any motion brought pursuant to paragraph 15, the Court may make such orders as to costs and other terms as it considers appropriate.
17. **THIS COURT ORDERS** that a Non-Settling Defendant may effect service of the motion(s) referred to in paragraph 15 above by service on Counsel for the Settling Defendants.
18. **THIS COURT ORDERS** that for purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Settling Defendants attorn to 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 and this Order.
19. **THIS COURT ORDERS** that, except as provided herein, this Order does not affect any claims or causes of action that any Settlement Class Member has or may have in the Ontario Proceeding against the Non-Settling Defendants or named or unnamed co-conspirators who are not Releasees.
20. **THIS COURT ORDERS** that no Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement; to administration, investment, or distribution of the Trust Account; or to the Distribution Protocol.
21. **THIS COURT ORDERS** that the Settlement Amount shall be held in the Trust Account by Siskinds LLP for the benefit of Settlement Class Members and after the Effective Date the Settlement Amount may be used to pay Class Counsel Disbursements incurred for the

benefit of the Settlement Classes in the continued prosecution of the litigation against the Non-Settling Defendants. This paragraph shall not be interpreted as affecting the rights of the Plaintiffs or the Settlement Classes to claim such Class Counsel Disbursements in the context of a future costs award in their favour against the Non-Settling Defendants, or the rights of the Non-Settling Defendants to oppose and resist any such claim.

22. **THIS COURT ORDERS** that in the event that some of the Settlement Amount remains in the Trust Account after payment of Class Counsel Disbursements, Class Counsel Fees and Administrative Expenses, Class Counsel shall seek direction from this Court regarding the distribution of the remaining funds.
23. **THIS COURT ORDERS** that the approval of the Settlement Agreement is contingent upon approval by the Quebec Court, and the terms of this Order shall not be effective unless and until the BC Proceeding has been dismissed with prejudice and without costs as against the Settling Defendants by the BC Court, and the Parties have signed and filed a notice of settlement out of court with the Quebec Court. If such relief is not secured in British Columbia and Quebec, this Order shall be null and void and without prejudice to the rights of the Parties to proceed with the Ontario Proceeding and any agreement between the parties incorporated in this Order shall be deemed in any subsequent proceedings to have been made without prejudice.
24. **THIS COURT ORDERS** that this Order shall be declared null and void on subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.
25. **THIS COURT ORDERS** that the Ontario Proceeding be and is hereby dismissed against the Settling Defendants, without costs and with prejudice.
26. **THIS COURT ORDERS** that the approval of the Settlement Agreement and any reasons given by the Court in relation thereto, except any reasons given in connection with paragraphs 12-17 of this Order, are without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing Ontario Proceeding 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 Ontario Proceeding as against the Non-Settling Defendants.

THE HONOURABLE JUSTICE PERELL

SCHEDULE "D"
COUR SUPÉRIEURE

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL

N° : 500-06-000632-121

DATE :

SOUS LA PRÉSIDENCE DE :

OPTION CONSOMMATEURS

Représentante/Demanderesse

-et-

PATRICK DUMOULIN

Personne désignée

c.

LG CHEM LTD.

LG CHEM AMERICA INC.

PANASONIC CORPORATION

PANASONIC CORPORATION OF NORTH AMERICA

PANASONIC CANADA INC.

SANYO ELECTRIC CO. LTD.

SANYO NORTH AMERICA CORPORATION

SONY CORPORATION

SONY OF CANADA LTD.

SONY ENERGY DEVICES CORPORATION

SONY ELECTRONICS INC.

SAMSUNG SDI CO. LTD.

SAMSUNG SDI AMERICA INC.

Défenderesses

JUGEMENT

[1] **LE TRIBUNAL** est saisi d'une *Demande pour l'obtention d'ordonnances préliminaires aux fins d'approbation d'une transaction et d'un plan de distribution*;

[2] **CONSIDÉRANT** les allégations et les pièces au soutien de ladite Demande;

[3] **CONSIDÉRANT** les représentations des procureurs lors de l'audition de la Demande;

POUR CES MOTIFS, LE TRIBUNAL :

[4] **ACCUEILLE** la présente *Demande pour l'obtention d'ordonnances préliminaires aux fins d'approbation d'une transaction et d'un plan de distribution*;

[5] **DÉCLARE** que, dans la mesure où elles ne sont pas modifiées par ce jugement, les définitions contenues à la Transaction du • (pièce R-1) s'appliquent;

[6] **MODIFIE** comme suit la définition du groupe visé par l'action collective, pour les fins de la Transaction seulement :

« All Persons in Quebec who purchased Lithium Batteries and/or Lithium Battery Products in Canada during the Settlement Class Period, except Excluded Persons ».

[7] **APPROUVE** les avis aux membres dans une forme substantiellement similaire aux avis communiqués au soutien de la présente demande comme pièces R-2 et R-3;

[8] **ORDONNE** la publication des avis conformément au plan de distribution (pièce R-4);

[9] **ORDONNE** que tout membre du groupe qui souhaite faire valoir ses prétentions sur la Transaction ou sur le plan de distribution lors de l'audition d'approbation soit tenu de les faire parvenir par écrit aux procureurs de la Représentante au plus tard 30 jours avant cette audition;

- [10] **DÉCLARE** qu'afin de s'exclure, tout membre du groupe soit tenu de faire parvenir aux procureurs de la Représentante une demande écrite à cet effet, signée par elle ou son représentant, au plus tard soixante (60) jours après la date de première publication des avis, délai à l'expiration duquel les membres du groupe qui ne se seront pas prévalus de la possibilité de s'exclure seront liés par tout jugement à venir;
- [11] **DÉCLARE** que la demande écrite d'exclusion devra être acheminée par la poste, messenger, fax ou courriel aux procureurs de la Représentante à l'adresse indiquée dans les avis aux membres;
- [12] **DÉCLARE** qu'une demande d'exclusion transmise par la poste ou par messenger ne sera valide que si le cachet postal porte la date de la fin du délai d'exclusion ou une date antérieure. Si le cachet postal n'est pas visible ou est illisible, la demande d'exclusion sera réputée datée quatre (4) jours ouvrables avant la date à laquelle elle est reçue par les procureurs de la Représentante;
- [13] **DÉCLARE** qu'afin d'être valide, la demande écrite d'exclusion devra contenir les informations suivantes :
- (a) Le nom complet, l'adresse actuelle et le numéro de téléphone du membre du groupe;
 - (b) Si le membre du groupe qui demande l'exclusion est une personne morale, le nom de celle-ci et le poste de la personne qui soumet la Demande d'exclusion;
 - (c) Une déclaration à l'effet que le membre du groupe souhaite s'exclure des procédures; et
 - (d) Les motifs au soutien de la demande d'exclusion.
- [14] **PREND ACTE** de l'engagement des procureurs de la Représentante à communiquer aux procureurs des Défenderesses les demandes d'exclusion ainsi reçues dans les trente (30) jours de l'expiration du délai d'exclusion et de les déposer au dossier de la Cour;
- [15] **DÉCLARE** que tout membre du groupe qui se sera valablement exclu de la présente action collective ne pourra réintégrer le groupe ou participer à la distribution éventuelle des

fonds perçus ou qui pourraient l'être dans le cadre de la présente action collective et **DÉCLARE** qu'aucune autre possibilité de s'exclure ne sera accordée;

[16] **FIXE** la présentation de la *Demande pour approbation de la transaction* au _____ 2017, à 9h30, au Palais de justice de Montréal;

[17] **LE TOUT SANS FRAIS.**

SCHEDULE "E"
Superior Court

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

N° : 500-06-000632-121

DATE :

PRESIDING:

OPTION CONSOMMATEURS

Plaintiff

-and-

PATRICK DUMOULIN

Designated person

v.

LG CHEM LTD.

LG CHEM AMERICA INC.

PANASONIC CORPORATION

PANASONIC CORPORATION OF NORTH AMERICA

PANASONIC CANADA INC.

SANYO ELECTRIC CO. LTD.

SANYO NORTH AMERICA CORPORATION

SONY CORPORATION

SONY OF CANADA LTD.

SONY ENERGY DEVICES CORPORATION

SONY ELECTRONICS INC.

SAMSUNG SDI CO. LTD.

SAMSUNG SDI AMERICA INC.

Defendants

-and-

FONDS D'AIDE AUX ACTIONS COLLECTIVES

Mise en cause

JUDGMENT

(SAMSUNG SDI SETTLEMENT AGREEMENT)

- [1] **WHEREAS** Option consommateurs has brought before this Court a Motion for the approval of a Settlement Agreement entered into with the Defendants Samsung SDI Co., Ltd. and Samsung SDI America, Inc. (collectively the “Settling Defendants”);
- [2] **CONSIDERING** that the deadline for opting out has passed and there were • opt-outs;
- [3] **CONSIDERING** that the deadline for objecting to the Settlement Agreement has passed and there were • objections to the Settlement Agreement;
- [4] **CONSIDERING** the exhibits in the file including the Settlement Agreement entered into on •, filed as Exhibit R-1;
- [5] **CONSIDERING** the attorneys’ representations;
- [6] **CONSIDERING** Section 590 of the *Code of Civil Procedure*;

WHEREFORE, THE COURT:

- [7] **GRANTS** the present Motion for the approval of a Settlement Agreement;
- [8] **DECLARES** that the definitions set forth in the Settlement Agreement, Exhibit R-1, apply to and are incorporated into this Judgment and, as a consequence, shall form an integral part hereof, being understood that the definitions are binding on the Parties to the Settlement Agreement;
- [9] **DECLARES** that in the event of a conflict between this Judgment and the Settlement Agreement, this Judgment shall prevail;
- [10] **APPROVES** the Settlement Agreement pursuant to Article 590 of the *Code of Civil Procedure* and **DECLARES** that, subject to all of the other provisions of this Judgment, the Settlement Agreement is valid, fair, reasonable and in the best interest of the Quebec Settlement Class Members, and constitutes a transaction within the meaning of Article 2631 of the *Civil Code of Quebec*, binding all Parties and all members described therein;
- [11] **DECLARES** that the Settlement Agreement shall be implemented in accordance with its terms, but subject to the terms of this Judgment;
- [12] **DECLARES** that, subject to the other provisions of this Judgment, the Settlement Agreement, in its entirety (including the preamble, the definitions, schedules and addendum), is attached to this Judgment as Schedule A and shall form an integral part of this Judgment;
- [13] **ORDERS AND DECLARES** that effective immediately upon the Effective Date, and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Settlement Agreement, the Releasers forever and absolutely release the Releasees and forever 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;

- [14] **ORDERS AND DECLARES** that upon the Effective Date, the Quebec Proceeding shall be declared settled out of court, without costs as against the Settling Defendants and the Parties shall sign and file a notice of out of court settlement with the Quebec Court;
- [15] **DECLARES** that the Quebec Plaintiff and the Quebec Settlement Class Members expressly waive and renounce the benefit of solidarity against the Non-Settling Defendants or any other Person with respect to the facts, deeds or other conduct of the Releasees relating to the Released Claims;
- [16] **DECLARES** that the Quebec Plaintiff and Quebec Settlement Class Members shall henceforth only be able to claim and recover damages, including punitive damages, interest and costs (including without limitation, judicial fees pursuant to the *Code of Civil Procedure*, and 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 measure of proportionate liability of the Non-Settling Defendants;
- [17] **DECLARES** that 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 Proceeding;
- [18] **DECLARES** that the ability of Non-Settling Defendants to seek discovery from the Settling Defendants shall be determined according to the provisions of the *Code of Civil Procedure*, and the Settling Defendants shall retain and reserve all of their rights to oppose such discovery under the *Code of Civil Procedure*;
- [19] **ORDERS AND DECLARES** that this Judgment, including the Settlement Agreement, shall be binding on every Quebec Settlement Class Member who has not validly opted-out of the action;
- [20] **DECLARES** that this Court retains an ongoing supervisory role for the purpose of implementing, administering and enforcing the Settlement Agreement, and subject to the terms and conditions set out in the Settlement Agreement;

[21] **DECLARES** that this Court retains an exclusive jurisdiction over the Quebec Proceeding, the Parties thereto and Class Counsel Fees in this Proceeding;

[22] **ORDERS** that this Judgment is contingent upon the approval of the Settlement Agreement by the Ontario Court in the Proceedings and the dismissal of the BC Proceeding as against the Settling Defendants, and that this Judgment shall have no force and effect unless and until such an order and dismissal are made;

[23] **THE WHOLE, WITHOUT COSTS.**
