

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**CELLO PRODUCTS INCORPORATED**

Plaintiff

- and -

**SUMITOMO CORPORATION; GLOBAL MINERALS AND METALS CORPORATION; MERRILL LYNCH & CO., INC; MERRILL LYNCH PIERCE FENNER & SMITH (BROKERS & DEALERS) LIMITED; MERRILL LYNCH INTERNATIONAL, INC.; CREDIT LYONNAIS ROUSE, LTD.; J.P. MORGAN & CO., INC.; MORGAN GUARANTY TRUST COMPANY OF NEW YORK; UNION BANK OF SWITZERLAND AG; and CHASE MANHATTAN BANK, N.A.**

Defendants

**MINUTES OF SETTLEMENT**

**I. OVERVIEW**

1. These Minutes of Settlement are made and entered into on November 14, 2003 in Toronto, Ontario, by and among the Plaintiff, on behalf of itself and the Settlement Class, in the above-captioned Action on the one hand, and defendant Credit Lyonnais Rouse, Ltd. ("CLR" or the "Settling Defendant"), on the other hand. The Settlement described in these Minutes of Settlement is intended fully, finally, and forever to resolve, discharge, and settle the Released Claims (as defined below) against the Released Persons (as defined below) and to dismiss the Action as to the Settling Defendant with prejudice and without costs to any party, except as provided herein, upon and subject to the terms and conditions hereof, and subject to the approval of the Court. Capitalized terms as used herein shall have the meanings set forth in Section II below.

## II. DEFINITIONS

1. The following terms used in the Minutes of Settlement have the meanings specified below:

(a) "Act" means the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 (as amended).

(b) "Bar Date" means the date on which requests for exclusion from the Settlement Class must be received by Plaintiff's Counsel to be effective, which date shall be forty (40) days after publication of the Notice of Certification and Settlement Approval, pursuant to Section XI.2(b) hereof.

(c) "Bar Order" means the Order referred to in Section VIII.1.

(d) "Certification and Settlement Approval Order" means the order substantially in the form attached hereto as Exhibit A.

(e) "CFTC Order" means the Findings and Order of the Commodity Futures Trading Commission in In re Sumitomo Corporation, CFTC Docket No. 98-14 (May 11, 1998).

(f) "Class Period" means the period June 1, 1993 through May 31, 1996 inclusive.

(g) "Copper and/or Copper Products" means any of the following:

(i) smelter and refinery feed and output including, but not limited to, copper concentrate, matte, blister and anode, cathode, continuous cast rod, wire bar, ingot, billet, and cake; (ii) copper wire mill fabricated items, including, but not limited to, copper wire and cable, bare and insulated copper wire, magnet wire and power cable; (iii) copper mill fabricated products, including, but not limited to, sheet, strip, coil and extruded shapes, plumbing tube, thin wall tube, foil, sections, pipes, slabs, plates, fittings, forgings or powder consisting of refined copper or high copper alloys; or (iv) any product consisting of a copper content of 80% or more.

(h) "Court" means the Ontario Superior Court of Justice.

(i) “Effective Date” means the date specified in Section XV.1 hereof.

(j) “Establishment” means a single physical location at which business is conducted or where services or industrial operations are performed.

(k) “Final” with respect to any order or judgment of the Court (including, but not limited to, the Certification and Settlement Approval Order), means the first business day on which: (i) the Court has entered such order or judgment; (ii) the order or judgment has not been withdrawn, rescinded, modified, vacated, or reversed either by the Court or on appeal; and (iii) the order or judgment is no longer subject to any potential further review by the Court or on appeal (including, but not limited to, rehearing, reargument, or review).

(l) “Judgment” means the Certification and Settlement Approval Order substantially in the form attached hereto as Exhibit A.

(m) “Minutes of Settlement” mean the agreement set out herein with respect to the settlement of the Action as against CLR.

(n) “Net Settlement Fund” means the Settlement Fund, plus accrued interest, less expenses approved by the Court (and subject to Sections VI.1 and XIV.3 hereof), including, but not limited to, Notice and Administration Expenses, taxes, and lawyers’ fees and expenses.

(o) “Non-Settling Defendants” means Sumitomo Corporation, Global Minerals and Metals Corporation, Merrill Lynch & Co., Inc., Merrill Lynch Pierce Fenner & Smith (Brokers & Dealers) Limited, Merrill Lynch International, Inc. J.P. Morgan & Co., Inc., Morgan Guaranty Trust Company of New York, Union Bank of Switzerland AG, and Chase Manhattan Bank aka Chase Manhattan Bank, N.A.

(p) “Notice and Administration Expenses” means actual and reasonable expenses incurred (subject to the Court’s approval and Section VI.1 hereof) in providing notice of the Settlement to the Settlement Class, the establishment and maintenance of the website referred to in Section XI.2(c) hereof, and the administration of the Settlement Fund.

(q) “Notice of Certification and Settlement Approval” means the notice made to the Settlement Class of the Court’s Certification and Settlement Approval Order, substantially in the form attached hereto as Exhibit B.

(r) “Opt-Out” means any Person who validly and timely requests exclusion from the Settlement Class.

(s) “Parties” mean Cello Products Incorporated and Credit Lyonnais Rouse, Ltd.

(t) “Person” means any legal entity, including, but not limited to, individuals, corporations, sole proprietorships, general or limited partnerships, limited liability partnerships, limited liability companies, or governmental or quasi-governmental entities.

(u) “Plaintiff” means Cello Products Incorporated.

(v) “Plaintiff’s Counsel” means the law firm of Siskind Cromarty, Ivey & Dowler LLP.

(w) “Released Claims” means all claims, demands, actions, suits, damages, rights, liabilities, and causes of action, known or unknown, suspected or unsuspected, accrued or unaccrued, fixed or contingent, direct or derivative, individual, class or otherwise, whether or not concealed or hidden, in law or equity, under any body of law, including any provincial or federal law, or under the law of any other nation, whether by statute, regulation or common law, of every nature and description whatsoever, including actual, compensatory, punitive, exemplary, or treble damages, costs, expenses, penalties and lawyers’ fees, that the Plaintiff and the Settlement Class, or any member thereof, individually or as a class (whether or not they make a claim upon or participate in the Settlement Fund), ever had, now have, or hereafter can, shall or may have, against the Released Persons or any of them, arising from or relating to any losses on or damages from prices paid for any form of physical Copper, Copper Product, or Scrap or Recycled Copper Product within the Class Period, whether or not asserted in the Action, including without limitation, all losses or damages which (a) arise from or relate to any of the claimed acts, omissions, misrepresentations, facts, events, matters, transactions, subject matters or occurrences referred to or complained of in the Action or the CFTC Order; (b) have been

asserted or could have been asserted in the Action or in any court or any other judicial or arbitral forum against the Released Persons or (c) arise under or relate to any federal, provincial or other antitrust, anti-monopoly, commodity manipulation, competition or racketeering law.

(x) “Released Persons” means the Settling Defendant, and each and all direct and indirect parents, subsidiaries and affiliates of the Settling Defendant and each and all of its or their respective past or present directors, officers, employees, partners, principals, agents, underwriters, insurers, co-insurers, shareholders, attorneys, accountants, advisors, analysts, personal representatives, predecessors, successors, parents, subsidiaries, divisions, assigns, spouses, heirs, and any members of their immediate families; any person, firm, trust, corporation, officer, director, or other individual or entity in which the Settling Defendant or any direct or indirect parent, subsidiary or affiliate thereof has a controlling interest or which is related to or affiliated with the Settling Defendant or any parent, subsidiary or affiliate of the Settling Defendant; or any trust of which the Settling Defendant or any parent, subsidiary or affiliate thereof is the settlor or which is for the benefit of the Settling Defendant, or parent or subsidiary or affiliate thereof or member(s) of his family; but shall not include the Non-Settling Defendants, Yasuo Hamanaka, Saburo Shimizu or the shareholders, directors, employees, subsidiaries or affiliates of the Non-Settling Defendants.

(y) “Scrap or Recycled Copper Product(s)” means any of the following:

(i) any scrap containing copper, waste containing copper, or excess material containing copper generated during the smelting, refining, fabrication or manufacture of (A) Copper Product, (B) brass or products containing brass (“Brass”), (C) bronze or products containing bronze (“Bronze”), or (D) any alloy with a copper content of 50% or more by weight or products containing such an alloy (an “Alloy”);

(ii) any Copper Product, Brass, Bronze or Alloy acquired after it has been in the possession of an end-user or consumer or that is otherwise considered post-consumer material;

(iii) air conditioners, transformers, electrical generators, electrical motors, motor vehicle radiators containing copper or Alloys acquired after they have been in the

possession of an end-user or consumer or that are otherwise considered post-consumer material;  
and

(iv) any other product consisting of a copper content of 50% or more by weight acquired after it has been in the possession of an end-user or consumer or that is otherwise considered post-consumer material.

(z) "Settlement" means the settlement of the Action as set forth in these Minutes of Settlement.

(aa) "Settlement Amount" means the amount paid by CLR as set forth in section V.1 hereof.

(bb) "Settlement Class" is defined in Section IX.1 hereof.

(cc) "Settlement Class Member" means any Person who is a member of the Settlement Class other than Opt-Outs.

(dd) "Settlement Fund" means the amount paid by CLR as set forth in Section V.1 hereof, together with all interest earned thereon after the date of payment.

(ee) "Settling Defendant" means Credit Lyonnais Rouse, Ltd.

(ff) "Settling Defendant's Counsel" means Blake, Cassels & Graydon LLP.

### III. THE LITIGATION

1. Plaintiff Cello Products, Inc. ("Cello Products") filed its Action in the Ontario Superior Court of Justice on June 7, 2002.

2. Plaintiff filed the Action under the *Class Proceedings Act, 1992* seeking redress for defendants' alleged course of conduct in allegedly colluding to fix, stabilize and maintain artificially inflated copper prices. Plaintiff alleges that Sumitomo Corporation, through its employee Yasuo Hamanaka ("Hamanaka"), and the other defendants, including CLR, colluded and conspired to form a cartel for the purpose of manipulating copper prices on the London Metal Exchange Ltd. (the "LME") and worldwide. The alleged conspiracy is alleged to have

attempted to drive up copper prices by (i) purchasing and hoarding large supplies of physical copper and entering into paper transactions among themselves designed to give the appearance of trading activity and price support for the spot copper market and (ii) loaning money, extending credit and providing trading facilities, accounts and trading capacity for the above-referenced transactions. Plaintiff alleges that the above-referenced transactions were in the nature of fictitious trades, prearranged trades, cross-trades, and accommodation trades in copper futures and copper physicals.

3. Plaintiff, a business buyer of Copper Products and/or Scrap or Recycled Copper Products purchased in Canada and/or in other jurisdictions, brought this Action, pursuant to the Act, on behalf of a purported class consisting of all Canadians and Canadian entities who purchased copper, scrap copper, copper products or products containing copper products for use in any trade or business, or for resale, from June 1, 1993 to May 31, 1996. The Plaintiff now proposes to narrow the class to Ontario residents and purchasers of Copper, Copper Products, Scrap or Recycled Copper Products for use in any trade or business or for resale (except the defendants), and all persons who, between June 1, 1993 and May 31, 1996 purchased Copper, Copper Products or Scrap or Recycled Copper Products in Ontario, for use in any trade or business or for resale (except the defendants) during the Class Period.

4. Plaintiff alleges that it was injured by allegedly manipulated and inflated prices for copper, which were passed on to it in the chain of distribution. The Action seeks, among other things, damages for alleged overpayments or statutory damages, where applicable, as well as pre-judgment interest, lawyers' fees, costs and expenses.

5. The Settling Defendant denies each and every allegation of unlawful conduct or wrongdoing, asserts numerous factual and legal defenses to Plaintiff's claims, and disclaims any wrongdoing or liability whatsoever. The Settling Defendant asserts, among other things, that: (i) CLR complied with all applicable rules and regulations, including all rules and regulations of the LME and New York Mercantile Exchange ("Comex"), in relation to the copper trading activity of Sumitomo Corporation conducted through CLR during the relevant period; (ii) CLR made all necessary disclosures to the LME and Comex regarding Sumitomo's copper trading activities conducted through CLR; (iii) CLR at all times acted properly in connection with Sumitomo's

copper trading activity conducted through CLR; (iv) CLR did not have sufficient knowledge of Sumitomo's physical business, and Sumitomo's positions with other brokers, to make any determination as to whether Sumitomo's positions cleared through CLR were commercially justifiable; (v) to the extent Sumitomo attempted to manipulate or fix the price of copper, CLR was unaware of Sumitomo's alleged conduct, and did not actively or knowingly assist in that conduct; (vi) the prices of Copper Products and/or Scrap or Recycled Copper Products that Plaintiff and the members of the Settlement Class purchased were not inflated by any actions of the Settling Defendant; (vii) Plaintiff and the members of the Settlement Class do not have standing to pursue the claims asserted against CLR in the Action for any alleged damages or injury as a result of the purported artificially inflated prices; (viii) the Ontario courts do not have jurisdiction *simpliciter* over the Settling Defendant; and, (ix) the claims asserted against CLR in the Action are barred by the relevant statute of limitations.

6. As a condition of these Minutes, Plaintiff agrees to include reference to the fact that the Settling Defendant denies each and every allegation of unlawful conduct or wrongdoing, asserts numerous factual and legal defenses to Plaintiff's claims, and disclaims any wrongdoing or liability whatsoever in the Notice (defined below) to be filed with the Court for approval.

#### **IV. FACT INVESTIGATION AND DISCOVERY, SETTLEMENT NEGOTIATIONS AND DISCLAIMERS**

1. Plaintiff's Counsel represents that they have made a thorough investigation of the facts and a study of legal principles applicable to Plaintiff's claims, including, without limitation: a review of the Findings and Order of the Commodity Futures Trading Commission in In re Sumitomo Corporation, CFTC Docket No. 98-14 (May 11, 1998); a review of numerous and extensive articles, analyses and reports regarding the copper market; consultation with Plaintiff's experts; and research of the applicable law with respect to the claims asserted by Plaintiff and the defenses potentially available to the Settling Defendant.

2. Plaintiff's Counsel has conducted extensive discussions and arm's-length negotiations with representatives of the Settling Defendant with a view towards settling the Action and achieving the best possible relief consistent with the interests of the Class and the risks of litigation. Plaintiff and Plaintiff's Counsel have agreed to settle the Action according to



the terms of these Minutes of Settlement after considering: (i) the substantial monetary benefits that the members of the Settlement Class will ultimately receive therefrom; (ii) the attendant risks of litigation, particularly in complex actions such as these, as well as the difficulties and delays inherent in such litigation; and (iii) the inherent uncertainty of the likelihood of success on the various procedural issues and on the legal and factual merits of the allegations asserted in the Action. These Minutes of Settlement shall not be construed or deemed to be a concession by Plaintiff, any members of the Settlement Class or the Settlement Class of any infirmity in the claims asserted in the Actions.

3. Based upon the factors set forth in Sections IV.1 and IV.2, among others, Plaintiff's Counsel considers the settlement set forth herein to be fair, reasonable, adequate, and in the best interests of the Settlement Class.

4. The Settling Defendant denies any wrongdoing or liability with respect to all claims, events and transactions complained of in the Action. The Settling Defendant considers it desirable that the Action be settled and dismissed because: (i) the Settlement will halt the expense, inconvenience and burden of further litigation; and, (ii) the Settlement will avoid the inherent risks of complex litigation, as well as the difficulties and delays inherent in such litigation. Neither these Minutes of Settlement, nor any Exhibits hereto or documents referred to herein, nor any actions taken to carry out the Settlement, are, may be construed as, or may be used as an admission by or against the Settling Defendant of any fault, wrongdoing or liability whatsoever.

## **V. MONETARY TERMS**

1. Within 5 business days of the execution of these Minutes of Settlement, CLR will pay \$275,000.00 CDN in cash to Plaintiff's Counsel to be held by Plaintiff's Counsel in trust pending further direction from the Court.

2. Subject to the terms of these Minutes of Settlement, upon the entry of the Judgment contemplated by these Minutes of Settlement, and the Judgment becoming Final, the payment described in the immediately preceding paragraph, shall be in full, complete, and final settlement of the Released Claims.

**VI. COSTS OF NOTICE AND ADMINISTRATION**

1. All Notice and Administration Expenses shall be paid from the Settlement Fund.

**VII. OPT-OUT REQUIREMENTS AND PROCEDURES**

1. Persons wishing to request exclusion from the Settlement Class shall be directed in the Certification and Settlement Approval Order to provide reasonable information, including, but not limited to, (a) name, address and telephone number; (b) province or provinces of residence during the Class Period; (c) province or state in which Copper Products and/or Scrap or Recycled Copper Products were purchased during the Class Period; (d) type and dollar amount of Copper Products and/or Scrap or Recycled Copper Products purchased during the Class Period; (e) the date(s) when such Copper Products and/or Scrap or Recycled Copper Products were purchased; and (f) the request to be excluded from the Settlement Class. All requests for exclusion from the Settlement Class shall be deemed untimely unless received by Plaintiff's Counsel on or before the Bar Date. Plaintiff's Counsel shall furnish to the Settling Defendant's Counsel copies of all requests for exclusion from the Settlement Class, and all non-privileged communications from members of the Settlement Class or purported members of the Settlement Class, not later than three business days after they are received by Plaintiff's Counsel, and Plaintiff's Counsel shall provide the Settling Defendant's Counsel with a complete and accurate list of all requests for exclusion within seven business days after the Bar Date.

**VIII. BAR ORDER**

1. All claims and/or proceedings for contribution, indemnity, subrogation or other claims over, by any of the Non-Settling Defendants or any other person or party, against the Settling Defendant or any Released Persons for or in respect of the Action and all claims raised in the Action, whether direct, subrogated, asserted or unasserted or asserted in a representative capacity, inclusive of interest, GST and costs, will be barred by order of the Court.
2. Plaintiff shall not make joint and several claims against the Non-Settling Defendants but shall restrict their claims to several claims against the Non-Settling Defendants such that the Plaintiff shall be limited to the degree of liability proven against the Non-Settling Defendants at trial.

3. Plaintiff agrees to take all reasonable steps to obtain Court approval of the Bar Order as set forth in Certification and Settlement Approval Order.

**IX. CERTIFICATION OF THE SETTLEMENT CLASS AND COMMON ISSUE FOR SETTLEMENT PURPOSES ONLY**

1. Solely for the purposes of this Settlement, and without prejudice to the Parties' positions in the event that these Minutes of Settlement do not become effective for any reason (including, but not limited to, termination pursuant to Section XV hereof), the Plaintiff shall propose (and the Settling Defendant shall not oppose) that the Court certify, for the purposes of settlement only, the following class (the "Settlement Class"):

All persons resident in Ontario who, between June 1, 1993 and May 31, 1996, purchased Copper, Copper Products, or Scrap or Recycled Copper Products, for use in any trade or business or for resale (except the defendants), and all persons who, between June 1, 1993 and May 31, 1996 purchased Copper, Copper Products, or Scrap or Recycled Copper Products in Ontario for use in any trade or business or for resale (except the defendants).

The Settlement Class shall not include any of: the Settling Defendant; the Non-Settling Defendants; any subsidiary, affiliate, or current or former officer, director or employee of the Settling Defendant or any Non-Settling Defendant.

2. Solely for the purposes of this Settlement, and without prejudice to the Parties' positions in the event that these Minutes of Settlement do not become effective for any reason (including, but not limited to termination pursuant to Section XV hereof), the Plaintiff shall propose (and the Settling Defendant shall not oppose) that the Court certify, for the purposes of Settlement only, the following Common Issue(s):

- (a) Did the Defendants or any of them conspire to artificially and illegally increase the price of copper on the LME?
- (b) Did the Defendants' tortious activities cause an increase in the price of Copper on the LME and COMEX during the Class Period and if so what was the price increase caused by those activities?

- (c) Did Class Members suffer damages in the form of overpayment for Copper and Copper Products which was caused by the Defendants' tortious activities?
- (d) Are the Defendants, or any of them, liable to the Class Members for punitive, aggravated, or exemplary damages and if so in what amount?

3. In the event the Settlement is not approved by the Court or the Minutes of Settlement are terminated or fail to become effective for any reason in accordance with these Minutes of Settlement, any order certifying the Action shall be automatically vacated without any additional actions by the Parties or the Court, and the Parties shall be restored to their respective positions in the Action as of August 30, 2003. In such event, these Minutes of Settlement shall not be offered or received in evidence for any purpose whatsoever, or construed as an admission of any kind, including, but not limited to, an admission concerning whether the Settlement Class or any other putative class in the Action is certifiable, whether there is a common issue between members of the putative class, or whether Plaintiff is a proper representative of any class, and the Settling Defendant shall have the right to oppose the maintenance of the Action as a class action on any grounds.

#### **X. CERTIFICATION AND SETTLEMENT APPROVAL ORDER**

1. Within thirty (30) days after the execution of these Minutes of Settlement, Plaintiff will apply to the Court for approval of an order (in the form attached as Exhibit "A") certifying the proceeding as a class proceeding as it relates to CLR and approving the Settlement, which order shall:

(a) Certify the Settlement Class in accordance with Section IX.1 herein, for the purposes of Settlement only pursuant to Section 5 of the Act and find that certification of the Settlement Class satisfies the requirements of the Act;

(b) Approve the definition of the common issue(s) in accordance with Section IX.2 herein, for purposes of settlement only pursuant to the Act;

(c) Appoint Plaintiff as class representative for the purpose of the Settlement;

(d) Find that the proposed Notice of Certification and Settlement Approval to be communicated to members of the Settlement Class pursuant to Section XI of these Minutes of Settlement is reasonable and in full compliance with the Act;

(e) Approve the terms of this Settlement as fair, reasonable, and in the best interest of the Settlement Class;

(f) Make an order barring all claims and/or proceedings for contribution, indemnity, subrogation or other claims over, by any of the Non-Settling Defendants or any other person or party, against the Settling Defendant or any Released Persons for or in respect of the Action and all claims raised in the Action, whether direct, subrogated, asserted or unasserted or asserted in a representative capacity, inclusive of interest, GST and costs;

(g) Order that the deadline for exclusion (“opting out”) from the Settlement Class be forty (40) days following the publication of the Notice of Certification and Settlement Approval (“Bar Date”) pursuant to Section XI.2(b) hereof;

(h) Declare that any Settlement Class Member who has not opted out from the Settlement Class by submitting a properly completed opt out form to Plaintiff’s Counsel by the Bar Date shall be bound by this Agreement and the Judgment;

(i) Dismiss the Action on the merits with prejudice as to the Settling Defendant, without costs except as provided herein;

(j) Release and discharge the Released Persons from the Released Claims;

(k) Permanently bar and enjoin the Plaintiff and the Settlement Class Members and each of them, both individually and as a class, other than Opt-Outs, either directly or indirectly, from the assertion, institution, maintenance, prosecution, or enforcement against the Released Persons, or any of them, of any and all Released Claims in this or any other jurisdiction; and

(l) Retain jurisdiction over the administration and effectuation of the Settlement provided for herein.

2. Plaintiff shall give the Settling Defendant an opportunity to review its notice of motion and supporting materials to be filed in support of the Certification and Settlement Approval Order and shall obtain the Settling Defendant's approval before filing such materials, which approval shall not be unreasonably withheld. Plaintiff's motion materials in connection with the Certification and Settlement Approval Order shall include, among other things, sufficient evidentiary material to enable the Court to make each of the determinations and findings set forth in Section X.1, and such evidentiary material and showing shall be a condition of the Settling Defendant's approval of Plaintiff's motion materials for the Certification and Settlement Approval Order.

## **XI. NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL**

1. Subject to the Court's approval, the form and content of the Notice of Certification and Settlement Approval shall be set out in Exhibit "B" to these Minutes of Settlement.

2. Subject to the Court's direction, Settlement Class Counsel shall, within twenty (20) days of the Certification and Settlement Approval Order being entered, disseminate the Notice of Certification and Settlement Approval by the following means:

(a) causing a copy of the Notice of Certification and Settlement Approval to be mailed to the following industry organizations for distribution to their respective memberships:

- (i) Canadian Copper and Brass Development Association ("CCBDA");
- (ii) Canadian Founding Association ("CFA"); and
- (iii) Canadian Association of Recycling Industries ("CARI").

(b) causing a copy of the Notice of Certification and Settlement Approval, substantially in the form attached hereto as Exhibit "B", to be published in the national edition of The Globe and Mail;

(c) causing a copy of the Notice of Certification and Settlement Approval published on Plaintiff's Counsel's website at <http://www.classaction.ca>.

## **XII. RELEASES AND COVENANTS NOT TO SUE**

1. As an express and material condition of these Minutes of Settlement, and as specifically set forth in the form of order attached as Exhibit A, upon the Effective Date, Plaintiff and each member of the Settlement Class, individually and as a class, whether or not such Plaintiff or Settlement Class Member asserts any claim to any portion of the Settlement Fund, except Opt-Outs:

(a) shall be hereby deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Persons;

(b) covenant hereby not to assert or prosecute any of the Released Claims against any of the Released Persons in the Action or in any other action or proceeding in this or any other jurisdiction; and

(c) shall forever be enjoined from asserting or prosecuting any of the Released Claims against any of the Released Persons in the Action or in any other action or proceeding in this or any other jurisdiction.

2. Notwithstanding the preceding paragraph, the Plaintiff and the members of the Settlement Class shall not release and instead shall preserve and retain their potential claims against the Non-Settling Defendants.

## **XIII. SETTLEMENT ADMINISTRATION**

1. Plaintiff's Counsel shall establish an interest-bearing trust account into which the Settlement Amount shall be deposited ("Settlement Fund").

2. The Net Settlement Fund shall be held in trust by Plaintiff's Counsel subject to further order of the Court.

3. The Settling Defendant shall have no rights, responsibilities or liabilities with respect to the development and implementation of a plan of allocation of the Net Settlement Fund or the distribution of the Settlement Fund or otherwise, and shall have no liability or responsibility with respect to any conduct of the Plaintiff's Counsel in connection with the administration of the Settlement Fund or otherwise. In no event shall any portion of the Settlement Fund, including principal or interest, be distributed or revert to the Settling Defendant after the Effective Date. The approval, disapproval or modification of any actual or proposed order concerning the distribution of the Settlement Fund shall not affect the approval or enforceability of these Minutes of Settlement.

#### **XIV. PLAINTIFF'S COUNSEL'S LAWYERS' FEES AND REIMBURSEMENT OF EXPENSES**

1. Plaintiff's Counsel may submit one or more applications to the Court for distribution to them from the Settlement Fund of lawyers' fees, reimbursement of actual expenses and costs, including the fees of any experts or consultants, incurred in connection with the prosecution and resolution of the Action, plus interest on such lawyers' fees, costs, and expenses at the same rate and for the same periods as earned by the Settlement Fund (the "Fee and Expense Application").

2. The lawyers' fees, expenses and costs, including fees of experts and consultants, to the extent approved by the Court, shall be paid to Plaintiff's Counsel after the Effective Date exclusively from the Settlement Fund.

3. The procedure for the allowance or disallowance by the Court of any application by Plaintiff's Counsel for lawyers' fees, costs, and expenses, including the fees of experts and consultants, to be paid out of the Settlement Fund, are not part of the Settlement set forth in these Minutes of Settlement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement set forth in these Minutes of Settlement. Any order or proceedings related to the Fee and Expense Application, or any appeals from any order relating solely thereto or reversal or modification thereof, shall not modify, terminate or cancel these Minutes of Settlement or affect or delay the Effective Date.



4. Except as set forth herein, the Settling Defendant shall have no obligation with respect to fees or costs of Plaintiff's Counsel, and there shall be no assessment of fees or costs against any Party.

**XV. CONDITIONS OF SETTLEMENT; EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION**

1. Subject to the provisions of Sections XV.2 and XV.3 hereof, the Effective Date shall occur upon the thirtieth business day after Plaintiff's Counsel has advised the Settling Defendant of the total number of members of the Settlement Class who have opted out of this Settlement, unless the Settling Defendant chooses to terminate this agreement before such time.

2. In the event that a final order or judgment is entered disapproving, overturning, setting aside or otherwise nullifying these Minutes of Settlement, then these Minutes of Settlement shall be automatically terminated.

3. In the event that any of the following events occurs, then the Settling Defendant shall have the right, but not the obligation, in its sole discretion, to terminate these Minutes of Settlement:

(a) Plaintiff fails to serve and file a notice of motion for court approval of the Certification and Settlement Approval Order pursuant to Section X.1 within thirty (30) days after the execution of these Minutes of Settlement; or

(b) the Court refuses to approve the Certification and Settlement Approval Order substantially in the form attached hereto as Exhibit "A". Any dispute as to whether the Certification and Settlement Approval Order ultimately approved by the Court is substantially in the form of Exhibit "A" hereto will be determined by the Court granting the Order; or

(c) the Certification and Settlement Approval Order is reversed, vacated, disapproved, overturned, set aside, or modified by the Court or on appeal; or

(d) Plaintiff does not make application for the Bar Order pursuant to Section VIII, or the Court denies such application in whole or in part, or such determination is reversed, vacated, disapproved, overturned, set aside, or modified by the Court or on appeal; or

(e) The Settling Defendant, on the basis of the opt-out material filed, reasonably believes: (i) that the total amount of Copper or Copper Products purchased by the Opt-Outs during the Class Period equals or exceeds \$22,500,000.00 CDN; or (ii) the total amount of Scrap or Recycled Copper Products purchased by the Opt-Outs during the Class Period equals or exceeds \$22,500,000.00 CDN; or (iii) the total amount of Copper Products and Scrap or Recycled Copper Products by the Opt-Outs during the Class Period equals or exceeds \$22,500,000.00 CDN.

4. Any right to terminate under this Section XV shall be exercised by the terminating party providing written notice to the other party within twenty-one (21) business days after the terminating party obtains knowledge of the event or events justifying such termination have occurred.

5. In the event that these Minutes of Settlement are terminated by either Party under this Section XV, then any portion of the Settlement Fund paid to Plaintiff's Counsel, plus (i) any interest accrued thereon, less (ii) all costs paid or incurred pursuant to Section VI above will revert to CLR.

6. In the event that the Settlement set forth in these Minutes of Settlement is terminated pursuant to this Section XV, then the Certification and Settlement Approval Order, if any, shall be treated as vacated, nunc pro tunc, and the Parties shall be restored to their respective positions in the Action as of August 30, 2003 and, except as set forth in Sections IX.3 and XVI, the Parties shall be relieved of any and all obligations they may have in connection with these Minutes of Settlement and the Settlement.

#### **XVI. THIS SETTLEMENT IS NOT AN ADMISSION**

1. These Minutes of Settlement shall not be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by the Settling Defendant or of the truth of any of the claims or allegations alleged in the Action or otherwise. In the event that the Settlement does not become final or is terminated in accordance with the terms hereof, then these Minutes of Settlement, and the orders entered pursuant thereto, shall be of no force or effect (except for Section IX.3 and this Section XVI), and the terms of

these Minutes of Settlement shall not be offered or received in any proceeding for any purpose. The Parties hereto agree that these Minutes of Settlement, whether or not they shall become final, and any and all negotiations, documents and discussions associated with it, shall be without prejudice to the rights of any party, shall not be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by the Settling Defendant, or of the truth of any of the claims or allegations, including without limitation any claim that the Settling Defendant is subject to in personam jurisdiction of the Court or in any court within Canada, or of any alleged defense, or of any absence of wrongdoing or limitation of damage or injury, and evidence thereof shall not be discoverable or used directly or indirectly, in any way, by any Person, whether in the Action or in any other Action or proceeding. The Parties expressly reserve all of their rights if the Settlement does not become final in accordance with the terms of these Minutes of Settlement.

#### **XVII. DISMISSAL OF ACTION**

1. Upon expiration of the time to appeal, if an appeal lies from the Order or Judgment granting certification and approving this Settlement, or on the date on which all appeals have been exhausted and the Settlement approved, together with the expiration of the Opt Out provisions in Section VII of these Minutes of Settlement, and upon payment by the Settling Defendant of the amount of Settlement to Plaintiff's Counsel, the Parties will file a consent to a dismissal of the Action with prejudice and any and all cross claims and third party claims as against the Settling Defendant, on a "without costs" basis, along with any other documents that may be necessary. The consent to dismissal pleadings shall be drafted by Plaintiff's Counsel and approved by the Settling Defendant prior to filing.

#### **XVIII. MISCELLANEOUS PROVISIONS**

1. The Parties: (a) acknowledge that it is their intent to consummate these Minutes of Settlement, and (b) agree to cooperate to the extent necessary to effectuate and implement all terms and conditions of the Minutes of Settlement, subject to their rights under Section XV.

2. In the event that these Minutes of Settlement are approved, Released Persons may, without limitation, file the Minutes of Settlement and/or the Judgment or any order entered in the Action in any other action or proceeding that may be brought against them in order to

support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction or any theory of claim preclusion or issue preclusion or similar defenses or counterclaims.

3. These Minutes of Settlement contain an entire, complete, and integrated statement of each and every term and provision agreed upon by the Parties with respect to the subject matter thereof; and are not subject to any condition not provided for therein. The Minutes of Settlement may not be amended or modified except by a written instrument signed by or on behalf of all Parties or their successors-in-interest or by their counsel.

4. Plaintiff's Counsel, on behalf of the Settlement Class, is expressly authorized by the Plaintiff to execute these Minutes, to take all appropriate actions required or permitted to be taken by them pursuant to the Minutes of Settlement to effectuate their terms, and to enter into any modifications or amendments to the Minutes of Settlement on behalf of the Plaintiff which they deem appropriate.

5. Each counsel or other Person executing the Minutes of Settlement on behalf of any Party warrants that such Person has the full authority to do so.

6. The parties agree to keep private and confidential the terms of these Minutes of Settlement until such terms are disclosed in the Plaintiff's motion for the Certification and Settlement Approval Order, except that the Parties may disclose such terms to their respective employees, insurers, auditors, regulators, and legal advisors, or as otherwise required to do so by law.

7. All notices hereunder shall be delivered to the Parties' respective counsel; or such other address as any Party may designate in accordance with these Minutes of Settlement.

8. The Minutes of Settlement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument. Counsel for the Parties will exchange among themselves original signed counterparts. Facsimile signatures shall be considered valid signatures as of the date hereof, but the original signature pages shall thereafter be provided to all parties and appended to these Minutes of Settlement. A complete set of original executed counterparts will be filed with the Court.

9. The Minutes of Settlement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

10. None of the Parties shall be considered to be the drafter of these Minutes of Settlement or any provision thereof for purposes of any rule of construction that might cause any provision to be construed against the drafter.

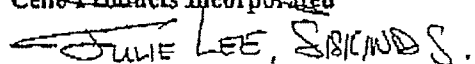
11. The Court will retain jurisdiction with respect to implementation and enforcement of the terms of these Minutes of Settlement. Plaintiff and Settling Defendant submit to the jurisdiction of the Court for the purpose of interpreting, implementing and enforcing these Minutes.

12. The Minutes of Settlement and exhibits hereto will be considered to have been negotiated, executed and delivered in the Province of Ontario, and the rights and obligations of the Parties to the Minutes of Settlement will be construed and enforced in accordance with the laws of the Province of Ontario without giving effect to that province's choice of law principles.

13. References in these Minutes of Settlement to the masculine shall include the feminine and vice versa and references in these Minutes of Settlement to the singular shall include the plural and vice versa, as the context requires. Headings in these Minutes of Settlement are for convenience of reference only and shall not affect the interpretation of these Minutes of Settlement. A reference to a section, subsection or similar division means a section, subsection or other division of these Minutes of Settlement.

14. References in these Minutes of Settlement to any approval, order, judgment or consent of the Court means the final approval, order, judgment or consent of the Court, as the case may be, following the expiry of any applicable appeal period or, where an appeal has been taken, final resolution of that appeal.

  
Celle Products Incorporated

  
JULIE LEE, SALES MGR.

  
Credit Lyonnais Rouse, Ltd.