

**CANADIAN DRYWALL CLASS ACTIONS
NATIONAL SETTLEMENT AGREEMENT**

Made as of November 16, 2015

Between

BOWEN REAL ESTATE HOLDINGS INC., SYLVIE CLOUTIER and DANN HICKMAN

(the “Plaintiffs”)

and

TIN Inc.

(the “Settling Defendant”)

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RECITALS

- A. WHEREAS the Proceedings were commenced by the Ontario Plaintiff in Ontario, the BC Plaintiff in British Columbia, and the Quebec Petitioner in Quebec;
- B. WHEREAS the Proceedings allege that the Settling Defendant participated in an unlawful conspiracy with other manufacturers of Drywall to raise, fix, maintain or stabilize the prices of Drywall sold in Canada and elsewhere as early as September 1, 2011 until at least when the Proceedings were commenced, contrary to Part VI of the *Competition Act*, RSC 1985, c C-34 and the common law and/or civil law;
- C. WHEREAS the Settling Defendant and Releasees believe that they are not liable in respect of any conduct alleged in the Proceedings, or otherwise, and believe that they have good and reasonable defences in respect of the claims advanced in the Proceedings;
- D. WHEREAS the Settling Defendant and Releasees do not admit, through the execution of this Settlement Agreement or otherwise, any allegation of unlawful conduct alleged in the Proceedings, or otherwise;
- E. WHEREAS the Plaintiffs, Class Counsel and the Settling Defendant 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 Settling Defendant;
- F. WHEREAS, despite its belief that it is not liable in respect of the allegations of unlawful or other conduct in the Proceedings, the Settling Defendant is entering into this Settlement Agreement in order to achieve a final and Canada-wide 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 to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;
- G. WHEREAS the Settling Defendant does 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 expressly provided in this Settlement Agreement with respect to the Proceedings;

H. WHEREAS the Settling Defendant expressly reserves its rights to contest or appeal certification of other related or unrelated proceedings and assert that the Proceedings herein would not be appropriately certified in the absence of this Settlement Agreement, and that this Settlement Agreement does not constitute in any way a precedent to support the certification of classes of this nature;

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

J. WHEREAS, as a result of these settlement discussions and negotiations, the Settling Defendant and the Plaintiffs have entered into this Settlement Agreement, which embodies all of the terms and conditions of the settlement between the Settling Defendant and the Plaintiffs, both individually and on behalf of the classes the Plaintiffs seek to represent, subject to approval of the Courts;

K. 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, 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;

L. WHEREAS the Parties therefore wish to and hereby finally resolve on a Canada-wide basis, without admission of liability, all of the Proceedings as against the Settling Defendant, which expressly denies all liability;

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

N. WHEREAS the 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;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, it is agreed by the Parties that the Ontario and BC Proceedings be settled and dismissed with prejudice as to the Settling Defendant, and the Quebec Proceeding be settled without reservation as against the Settling Defendant, all without costs as to the Plaintiffs, the classes they represent or seek to represent or the Settling Defendant, subject to the approval of the Courts, and it is further agreed that the Releasers forever and absolutely release the Releasees from the Released Claims, 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, but excluding Class Counsel Fees and Class Counsel Disbursements.
- (2) *BC Action* means the British Columbia Action as defined in Schedule A.
- (3) *BC Counsel* means Kieran Bridge Law Corporation.
- (4) *BC Court* means the Supreme Court of British Columbia.
- (5) *BC Plaintiff* means Dann Hickman.
- (6) *Class Counsel* means Ontario Counsel, BC Counsel, and Quebec Counsel.
- (7) *Class Counsel Disbursements* include the disbursements, administration expenses, and applicable taxes incurred by Class Counsel in the prosecution of the Proceedings, as well as any adverse costs awards issued against the Plaintiffs in any of the Proceedings.
- (8) *Class Counsel Fees* means the fees of Class Counsel, and any applicable taxes or charges thereon, including any amounts payable by Class Counsel or the Settlement Class Members to any other body or Person on account of this Settlement Agreement, including the Fonds d'aide aux recours collectifs in Quebec.
- (9) *Class Period* means September 1, 2011 to the date of the Ontario order certifying the Ontario Action for settlement purposes as against the Settling Defendant.

- (10) ***Common Issue*** means: Did the Settling Defendant conspire to fix, raise, maintain, or stabilize the prices of Drywall in Canada and elsewhere during the Class Period? If so, what damages, if any, did Settlement Class Members suffer?
- (11) ***Confidential Opt-Out Threshold*** means a threshold in respect of opt-outs as agreed upon by the Plaintiffs and the Settling Defendant in a separate document delivered to the Courts under seal and kept confidential by the Parties and the Courts.
- (12) ***Counsel for the Settling Defendant*** means Norton Rose Fulbright Canada LLP.
- (13) ***Courts*** means the Ontario Court, the BC Court and the Quebec Court.
- (14) ***Date of Execution*** means the date on the cover page as of which the Parties have executed this Settlement Agreement.
- (15) ***Defendants*** means the entities named as defendants in any of the Proceedings as set out in Schedule A, and any Persons added as defendants in the Proceedings in the future. For greater certainty, Defendants includes the Settling Defendant as well as its successors and assigns, excluding always the Non-Settling Defendants.
- (16) ***Drywall***, sometimes known as gypsum board, wallboard, green glass, sheetrock or plasterboard, means a panel made of gypsum plaster pressed between two thick sheets of paper.
- (17) ***Effective Date*** means the date when Final Orders have been received from all Courts approving this Settlement Agreement.
- (18) ***Excluded Person*** means each Defendant, the directors and officers of each Defendant, the subsidiaries or affiliates of each Defendant, the entities in which each Defendant or any of that Defendant's subsidiaries or affiliates have a controlling interest and the legal representatives, heirs, successors and assigns of each of the foregoing, and those Persons who validly and timely opt-out of the Proceedings in accordance with the orders of the applicable Court.
- (19) ***Final Order*** means the later of a final judgment entered by a Court approving this Settlement Agreement in accordance with its terms, once the time to appeal such judgment has expired without any appeal being taken, if an appeal lies, or once there has been affirmation of the approval of this Settlement Agreement in accordance with its terms, upon a final disposition of all appeals.

- (20) ***Non-Settling Defendant*** means any Defendant that is not a Settling Defendant or that has not entered into a settlement with the Plaintiffs in the Proceedings whether or not such settlement agreement is in existence at the Date of Execution, and includes any Defendant that terminates its own settlement agreement in accordance with its terms or whose settlement otherwise fails to take effect for any reason, whether or not such settlement agreement is in existence at the Date of Execution.
- (21) ***Ontario Action*** means the Ontario Action as defined in Schedule A.
- (22) ***Ontario Counsel*** means Siskinds LLP.
- (23) ***Ontario Court*** means the Ontario Superior Court of Justice.
- (24) ***Ontario Plaintiff*** means Bowen Real Estate Holdings Inc.
- (25) ***Ontario Settlement Class*** means the settlement class in respect of the Ontario Action as defined in Schedule A.
- (26) ***Opt-Out Deadline*** means the date which is sixty (60) days after the date the notice described in Section 11.1(1) is first published in accordance with the plan approved by the Courts as contemplated in Section 2.2 of this Settlement Agreement.
- (27) ***Other Actions*** means actions or proceedings, excluding the Proceedings, relating to Released Claims commenced by a Settlement Class Member either before or after the Effective Date.
- (28) ***Parties*** means the Settling Defendant, the Plaintiffs, and, where necessary, the Settlement Class Members as well as each party's successors and assigns.
- (29) ***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.
- (30) ***Plaintiffs*** means the individuals and entities named as plaintiffs or petitioners in the Proceedings as set out in Schedule A, as well as any Persons added as plaintiffs in the Proceeding in the future.
- (31) ***Proceedings*** means the Ontario Action, the Second Ontario Action, the BC Action, and the Quebec Action as defined in Schedule A.

- (32) *Proportionate Liability* means the proportion of any judgment that, had the Settling Defendant not settled, the Ontario, BC, or Quebec Court, as appropriate, would have apportioned to the Releasees.
- (33) *Protective Orders* means any orders made in the Proceedings, as described in Section 4.2(2).
- (34) *Quebec Action* means the Quebec Action as defined in Schedule A.
- (35) *Quebec Counsel* means Siskinds Desmeules s.e.n.c.r.l.
- (36) *Quebec Court* means the Superior Court of Quebec.
- (37) *Quebec Petitioner* means Sylvie Cloutier.
- (38) *Quebec Settlement Class* means the settlement class in respect of the Quebec Action as defined in Schedule A.
- (39) *Released Claims* means any and all claims, demands, actions, suits, injuries, and causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, and damages and liabilities of any nature, whenever or however incurred (whether actual, compensatory, punitive or otherwise), including interest, costs, expenses, class administration expenses (including Administration Expenses), penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity, relating in any way to any conduct, act or omission of the Releasees (or any of them) during the Class Period concerning any of the facts, occurrences, transactions, agreements, conspiracies, communications, announcements, notices, or other matters alleged in the Proceedings, including, without limitation, any causes of action which have been asserted or could have been asserted, directly or indirectly, whether in Canada or elsewhere regarding the matters alleged in the Proceedings, including, without limitation, any claims for consequential, subsequent, or follow-on harm that arises after the date hereof in respect of any agreement, combination or conduct that occurred during the Class Period. 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, warranty claim, securities, or other similar claim relating to Drywall; and (b) claims brought (whether before or after the Effective Date) outside of Canada relating to purchases of Drywall outside of Canada.
- (40) *Releasees* means, jointly and severally, individually and collectively, the Settling Defendant, and all of its 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, insurers,

and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing, excluding always the Non-Settling Defendants.

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

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

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

(44) ***Settlement Amount*** means CDN\$100,000.

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

(46) ***Settlement Class Member*** means a member of a Settlement Class.

(47) ***Settling Defendant*** means TIN Inc as well as its successors and assigns, excluding always the Non-Settling Defendants.

(48) ***Trust Account*** means an interest-bearing trust account at a Canadian Schedule 1 bank under the control of Ontario Counsel, for the benefit of the Settlement Class Members or the Settling Defendant, as provided for in this Settlement Agreement.

(49) ***U.S. Litigation*** means the class action proceeding pending in the United States District Court for the Eastern District of Pennsylvania, under the caption *In re Domestic Drywall Antitrust Litigation*, 13-MD-2437, 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.

(50) ***U.S. Settlement Agreements*** includes any settlement reached with the Settling Defendant 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 Proceedings as against the Settling Defendant, and a prompt, complete declaration of settlement out of court of the Quebec Action as against the Settling Defendant.

2.2 Motions Seeking Approval of Notice and Certification or Authorization

(1) After the Date of Execution, at a time mutually agreed to by the Parties, the Plaintiffs shall bring motions before the Courts for orders approving the notices described in Section 11.1(1), and certifying or authorizing each of the Proceedings commenced in their respective jurisdictions as a class proceeding as against the Settling Defendant (for settlement purposes only).

(2) The Ontario Action will seek to certify a settlement class that includes all Persons in Canada, other than Excluded Persons and Persons who are in the BC Settlement Class or the Quebec Settlement Class, as defined in Schedule A.

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

2.3 Motions Seeking Approval of the Settlement

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

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

(2) The Ontario order approving this Settlement Agreement shall be substantially in the form attached as Schedule C. The form and content of the British Columbia order and the Quebec order

approving this Settlement Agreement shall be agreed upon by the Parties and shall mirror the substance and, where possible, the form of the Ontario order.

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

2.4 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 Defendant and Class Counsel, as the case may be, except as required for the purposes of financial reporting, the preparation of financial records (including tax returns and financial statements), as necessary to give effect to its terms, or as otherwise required by law. Notwithstanding the foregoing, the Settling Defendant is permitted to withdraw from any joint defence group and may disclose the existence of the Settlement Agreement to the joint defence group, but shall not disclose any of the terms of the Settlement Agreement.

Section 3 - Settlement Benefits

3.1 Payment of Settlement Amount

- (1) Within twenty (20) days of the Execution Date, the Settling Defendant shall pay the Settlement Amount to Ontario Counsel, in trust, for deposit into the Trust Account.
- (2) Payment of the Settlement Amount shall be made by wire transfer. Ontario Counsel will provide the information necessary to complete the wire transfer no later than fifteen (15) days prior to the payment deadline.
- (3) The Settlement Amount and other valuable consideration set forth in the 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 damages, interest and costs, legal costs and fees, notice and administration costs, and any further amounts which are sought or which could have been sought in the Proceedings.
- (5) There will be no further payment made by the Settling Defendant, or further obligation, in relation to the settlement of the claims or the administration or settlement of the Proceedings, or for any other step or steps taken in the Proceedings.

(6) Ontario Counsel shall maintain the Trust Account as provided for in this Settlement Agreement.

(7) Ontario Counsel shall not pay out all or any 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 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. Ontario Counsel shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Trust Account.

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

3.3 Intervention in the U.S. Litigation

(1) The Settling Defendant and other Releasees shall take no position in relation to any application that may be brought by or on behalf of the Plaintiffs to intervene in the U.S. Litigation in order to seek 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. However, it is understood and agreed that nothing in this Settlement Agreement shall be construed to require the Settling Defendant and other Releasees to bring a motion requesting that the U.S. protective order be lifted.

Section 4 – Cooperation

4.1 Extent of Cooperation

(1) As part of the settlement, the Settling Defendant has provided available invoice level detail regarding the Settling Defendant's sales for Drywall as follows:

- (a) export invoice data containing invoice data for all sales by the Settling Defendant to Canadian customers between January 2010 and January 2013, as agreed to by the Parties;
- (b) domestic invoice data which contains invoice data for all sales by the Settling Defendant to domestic (US) customers between January 2012 and January 2013, as agreed to by the Parties; and
- (c) domestic invoice data for all sales by the Settling Defendant in all states that border Canada (i.e., Washington, Idaho, Montana, North Dakota, Minnesota, Wisconsin, Michigan, New York, Vermont, New Hampshire and Maine) between January 2012 and January 2013, as agreed to by the Parties;

and has agreed to:

- (d) provide reasonable assistance to the Plaintiffs in understanding the invoice data produced by the Settling Defendant, including a reasonable number of written and/or telephonic communications with Class Counsel and/or the Plaintiffs' experts and between technical personnel; and
 - (e) within thirty (30) days of the Effective Date, provide electronic copies of any documents (as defined in Rule 30.01 of the Ontario *Rules of Civil Procedure*) produced by the Settling Defendant in the U.S. Litigation, including any documents produced by the Settling Defendant pursuant to the U.S. Settlements, and any pre-existing translations of those documents.
- (2) The obligation to provide documents pursuant to Section 4.1(1) shall be a continuing obligation to the extent additional documents are identified by the Settling Defendant following the initial productions pursuant to this Settlement Agreement.
- (3) The Settling Defendant makes 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 this Section 4.1(1), and the failure to do so shall not constitute a breach or violation of this Settlement Agreement.

(4) The Settling Defendant provided the Plaintiffs with the opportunity to participate in the interviews of three (3) witnesses that occurred in the U.S. Litigation pursuant to the U.S. Settlement Agreements entered into in *In re Domestic Drywall Antitrust Litigation*, 13-MD-2437. These interviews were not recorded or transcribed. At such interviews, the Plaintiffs were entitled to an additional thirty (30) minutes at each interview to ask Canada-specific questions which were limited to each witnesses' knowledge of the manufacturing, marketing and sale of Drywall in the United States and Canada. The Plaintiffs took advantage of the opportunities to participate in the interviews and ask Canada-specific questions.

(5) It is understood that the production of data, and interviews described in Section 4.1 has taken place before the Effective Date. As such:

- (a) any documents or information provided either generally or in the course of those interviews shall be subject to the terms and protections of this Settlement Agreement, including Section 4.2;
- (b) until the Effective Date, any documents or information provided pursuant to this Settlement Agreement or during the interviews cannot be used as evidence in the Proceedings or disclosed to any Person;
- (c) 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 pursuant to this Settlement Agreement or during the interviews shall not be used by the Plaintiffs or Class Counsel against the Settling Defendant as 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 claims or allegations in the Proceedings, or for any other purposes, 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 Section, Class Counsel agrees to return all copies of any documents and information received pursuant to this Settlement Agreement and during the interviews and destroy all copies of any notes taken during (or subsequent reports provided about) those interviews and to provide written confirmation to the Settling Defendant of having done so.

(6) Subject to the rules of evidence and any other provisions of this Settlement Agreement, the Settling Defendant agrees to use reasonable efforts to ensure that a representative is available to authenticate for use at trial, discovery, summary judgment motions and/or certification motions, any of the documents and information provided by the Settling Defendant as cooperation pursuant to Section 4.1 of this Settlement Agreement.

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

(8) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Settling Defendant or any representative or employee of the Settling Defendant to disclose or produce any documents or information prepared by or for Counsel for the Settling Defendant, or that is not within the possession, custody or control of the Settling Defendant, or to disclose or produce any documents or information in breach of any order, regulatory directive, rule or law of this or any jurisdiction, or subject to solicitor-client privilege, litigation privilege, or any other privilege, or to disclose or produce any information or documents they obtained on a privileged or co-operative basis from any party to any action or proceeding who is not a Releasee.

(9) 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 Defendant 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 Defendant, 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.

(10) The Settling Defendant's 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 Defendant's obligations to cooperate shall cease at the date of final judgment in the Proceedings against all Defendants.

(11) 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 Defendant put forward to provide testimony at trial or otherwise pursuant to Section 4.1(6), if the current or former officer, director or

employee of the Settling Defendant fails to cooperate in accordance with that Section and the provisions of this Settlement Agreement.

(12) In the event that the Settling Defendant materially breaches this Section 4.1, the Plaintiffs may move before the Courts to enforce the terms of this Settlement Agreement, seek an order setting aside Section 4.1(13) and allowing the Plaintiffs to obtain discovery or information from the Settling Defendant as if the Settling Defendant remained party to the action, or seek such other remedy that is available at law.

(13) Subject to Sections 4.1(11) and 4.1(12) above, the provisions set forth in this Section 4.1 are the exclusive means by which the Plaintiffs and Class Counsel may obtain discovery, information, or documents from the Releasees or their current or former officers, directors or employees, and the Plaintiffs 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.

(14) A material factor influencing the Settling Defendant's decision to execute this Settlement Agreement is its 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 Defendant, agree not to seek information that is unnecessary, cumulative, or duplicative and agree otherwise to avoid imposing undue or unreasonable burdens or expense on the Settling Defendant.

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 Defendant to the Plaintiffs and Class Counsel under this Settlement Agreement shall be used only in connection with the prosecution of the claims in the Proceedings, and shall not be used directly or indirectly for any other purpose, except to the extent that the documents or information are publicly available, or as otherwise required by law provided that sufficient prior notice be given to the Settling Defendant.

(2) The Plaintiffs and Class Counsel agree they will not disclose the documents and information provided by the Settling Defendant except (i) to experts, consultants, or third-party service providers retained by them in connection with the Proceedings who have agreed to comply with the provisions of this Settlement Agreement, (ii) to the extent that the documents or information are publicly available, (iii)

in connection with the prosecution of the claims in the Proceedings, or (iv) as otherwise required by law. Subject to the foregoing, Class Counsel shall take reasonable precautions to ensure and maintain the confidentiality of such documents and information, and of any work product of Class Counsel that discloses such documents and information, except to the extent that the documents or information are publicly available. Notwithstanding the foregoing, none of the documents and information made available or provided by the Settling Defendant under this Settlement Agreement shall be disclosed to any Person other than Class Counsel and any experts retained by Class Counsel who have agreed to comply with the provisions of this Settlement Agreement before the Effective Date, and shall not be used by Class Counsel until the Effective Date other than for the purpose of analysing settlement offers that Class Counsel may receive from other Defendants prior to the Effective Date.

(3) Before filing any information or documents provided by the Settling Defendant in accordance with Section 4.1 in the applicable Proceeding, the Plaintiffs will make best efforts to obtain a Protective Order in the relevant jurisdiction, in a form to be approved by the Settling Defendant, which will prohibit the disclosure of the Settling Defendant's confidential and highly confidential information to substantially the same degree as the Stipulation and Protective Order Governing the Production and Exchange of Confidential Information made in the U.S. Litigation on July 29, 2013. Failure of a Court to issue a Protective Order will not render inoperative any section of the Settlement Agreement.

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

Section 5 - Opting-Out

5.1 Procedure

(1) Persons seeking to opt-out of the Proceedings must do so by sending a written election to opt-out, signed by the Person or the Person's designee, by pre-paid mail, courier, fax or email to the appropriate Class Counsel at an address to be identified in the notice described in Section 11.1(1). Residents of Quebec must also send the written election to opt-out by pre-paid mail or courier to the Quebec Court at an address to be identified in the notice described in Section 11.1(1).

- (2) Any potential Settlement Class Member who validly opts out of the Proceedings shall not be able to participate in the Proceedings and no further right to opt out of the Proceedings will be provided.
- (3) An election to opt-out will only be valid if it is postmarked on or before the Opt-Out Deadline to the designated address in the notice described in Section 11.1(1). Where the postmark is not visible or legible, the election to opt-out shall be deemed to have been postmarked four business days prior to the date that it is received by Class Counsel.
- (4) The written election to opt-out must contain the following information in order to be valid:
 - (a) the Person's full name, current address and telephone number;
 - (b) if the Person seeking to opt-out is a corporation, the name of the corporation and the position of the Person submitting the request to opt-out on behalf of the corporation;
 - (c) a statement to the effect that the Person wishes to be excluded from the Proceedings; and
 - (d) the reasons for opting out.
- (5) Quebec Class Members who have commenced proceedings or commence proceedings and fail to discontinue such proceedings by the Opt-Out Deadline shall be deemed to have opted out. Quebec Counsel warrant and represent that, to the best of their knowledge, no such action has been commenced as of the Execution Date.
- (6) Within thirty (30) days of the Opt-Out Deadline, Ontario Counsel shall provide to the Settling Defendant 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 Person pursuant to this Section 5.1.
- (7) With respect to any potential Settlement Class Member who validly opts-out from the Proceedings, the Settling Defendant reserves all of their legal rights and defences.

Section 6 - Termination of Settlement Agreement

6.1 Right of Termination

- (1) In the event that:
 - (a) any Court declines to certify or authorize any of the Settlement Classes;

- (b) any Court declines to dismiss or declare settled out of court the Proceedings against the Settling Defendant;
- (c) the Confidential Opt-Out Threshold is reached; or
- (d) prior to the Effective Date, another proposed class action is filed in Canada by a law firm other than Class Counsel seeking damages or other relief in relation to the alleged conspiracy to fix prices for Drywall products in Canada for the period of September 1, 2011 to the date of certification of the Ontario Action, which action is not resolved by Class Counsel within a reasonable period of time and with reasonable co-operation of the Settling Defendant;

the Settling Defendant shall have the sole right to terminate this Settlement Agreement.

(2) In the event that:

- (a) any 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 Schedule C or in a form mutually agreed upon by the Plaintiffs and the Settling Defendant;
- (b) any Court declines to approve the Settlement Agreement or any material term or part hereof; or
- (c) any orders approving this Settlement Agreement made by the Ontario, BC or Quebec Courts do not become Final Orders;

the Settling Defendant or the Plaintiffs shall have the right to terminate this Settlement Agreement.

(3) To exercise a right of termination under Section 6.1(1) or (2), the terminating party shall deliver a written notice of termination pursuant to Section 14.18 of the Settlement Agreement within 15 days following an event described above.

(4) Except as provided for in Section 6.4, if the Settling Defendant 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.

(5) Any order, ruling or determination made by any Court with respect to the opt-out process, Class Counsel Fees, Class Counsel Disbursements, or the Protective Orders 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. On the other hand, any order, ruling or determination made by any Court with respect to the Confidential Opt-Out Threshold itself will be deemed to be a material modification of the Settlement Agreement and will constitute a 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 any of the Proceedings as a class proceeding on the basis of this Settlement Agreement, or to approve this Settlement Agreement, which has not been decided, shall proceed;
- (b) any order certifying or authorizing a Proceeding as a class proceeding on the basis of the Settlement Agreement or approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and anyone shall be estopped from asserting otherwise;
- (c) any prior certification or authorization of a Proceeding as a class proceeding on the basis of this Settlement Agreement, including the definitions of the Settlement Class and the Common Issue pursuant to this Settlement Agreement, shall be without prejudice to any position that any of the Parties or Releasees may later take on any issue in the Proceedings or any other litigation;
- (d) within fifteen (15) days of such termination having occurred, Class Counsel shall destroy all documents or other materials provided by the Settling Defendant under this Settlement Agreement or containing or reflecting information derived from such documents or other materials received from the Settling Defendant and, to the extent Class Counsel has disclosed any documents or information provided by the Settling Defendant to any other Person, shall recover and destroy such documents or information. Class Counsel shall provide Counsel to the Settling Defendant with a written certification by Class Counsel of such destruction. Nothing contained in this section shall be construed to require Class

Counsel to destroy any of their work product, except as provided for in Section 4.1(5)(c). For the purposes of this section, work product means documents created by Class Counsel, exercising skill and judgment, in good faith for the purposes of furthering the litigation as against the Non-Settling Defendants. Any documents or information provided by the Settling Defendant, or received from the Settling Defendant in connection with this Settlement Agreement, may not be disclosed to any Person in any manner or used, directly or indirectly, by Class Counsel or any other Person in any way for any reason, without the express prior written permission of the Settling Defendant. 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; and

- (e) All settlement discussions and any documents or materials exchanged or prepared in furtherance of any settlement discussions will not be used in the Proceedings and will not be disclosed to any Person. The parties understand and agree that all of their communications and other exchanges regarding this Settlement Agreement and the underlying settlement are and have been on a “without prejudice” basis pending approval by the Courts of this Settlement Agreement.

6.3 Allocation of Settlement Amount Following Termination

- (1) If the Settlement Agreement is terminated, Ontario Counsel 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 Defendant the Settlement Amount, plus all accrued interest thereon and less any costs incurred with respect to the notices required by Section 11.1(1), and any costs of translation required by Section 14.12 up to a maximum amount of \$40,000.

6.4 Survival of Provisions After Termination

- (1) If this Settlement Agreement is terminated or otherwise fails to take effect for any reason, the provisions of Sections 3.2(3), 4.1(5)(c), 6.1(4), 6.2, 6.3, 6.4, 9.1, 9.2, 10(1), 11.1(3), and 11.2, and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect to the benefit of Plaintiffs, the Settlement Class Members, the Settling Defendant, the Releasers, the Releasees and all of their successors and assigns, excluding always the Non-Settling Defendants. The definitions and Schedules shall survive only for the limited purpose of the interpretation of Sections 3.2(3), 4.1(5)(c), 6.1(4), 6.2, 6.3, 6.4, 9.1, 9.2, 10(1), 11.1(3), and 11.2, within the meaning of this

Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

Section 7 - Releases and Dismissals

7.1 Release of Releasees

(1) Upon the Effective Date, subject to Section 7.3, and in consideration of payment of the Settlement Amount and for other valuable consideration set forth in the Settlement Agreement, the Releasors forever and absolutely release 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.

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 Releasors do not release the Releasees but instead covenant and undertake not to sue, bring any proceeding or 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 Dismissal of the Proceedings

(1) Upon the Effective Date, the Ontario Action shall be dismissed with prejudice and without costs as against the Settling Defendant as part of the settlement approval order.

(2) Upon the Effective Date, the Quebec Action shall be declared settled without costs and without reservation as against the Settling Defendant.

(3) Upon the Effective Date, the BC Plaintiff shall cause the BC Action to be dismissed with prejudice and without costs as against the Settling Defendant as part of the settlement approval order.

7.5 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 and with prejudice, of his, her or its Other Actions against the Releasees.
- (2) Upon the Effective Date, all Other Actions commenced in Ontario by any Settlement Class Member shall be dismissed against the Releasees, without costs and with prejudice.
- (3) Each member of the Quebec Settlement Class who makes a claim under this Settlement Agreement shall be deemed to irrevocably consent to the dismissal, without costs and without reservation, of his, her or its Other Actions against the Releasees.
- (4) Each Other Action commenced in Quebec by a member of the Quebec Settlement Class who makes a claim under this Settlement Agreement shall be dismissed as against the Releasees, without costs and without reservation.
- (5) Upon the Effective Date, each member of the British Columbia Settlement Class shall be deemed to irrevocably consent to the dismissal, without costs and with prejudice, of his, her or its Other Actions against the Releasees.
- (6) Upon the Effective Date, all Other Actions commenced in British Columbia by any Settlement Class Member shall be dismissed against the Releasees, without costs and with prejudice.

7.6 Material Term

- (1) The releases contemplated in this Section shall be considered a material term of the Settlement Agreement and the failure of any Court to approve the releases contemplated herein shall give rise to a right of termination pursuant to Section 6.1 of the Settlement Agreement.

Section 8 - Bar Order, Waiver of Solidarity Order and Other Claims

8.1 Ontario and BC Bar Orders

- (1) A bar order shall be sought from the Ontario Court providing for the following:
 - (a) if the Ontario Court ultimately determines that there is a right of contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise:

- i. all claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in the Proceedings, or otherwise, by any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Releasee or any other Person or party against a Releasee, or by a Releasee against any Non-Settling Defendant or 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 Section (unless such claim is made in respect of a claim by a Person who has validly opted out of the Proceedings);
- ii. the Ontario Plaintiffs and Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not 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;
- iii. the Ontario Plaintiffs and Settlement Class Members shall limit their claims against the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to include, and shall be entitled to recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, only such claims for damages (including punitive damages, if any), restitutionary award, disgorgement of profits, costs, and interest attributable to the aggregate of the several liability of the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to the Ontario Plaintiff and Settlement Class Members, if any, and, for greater certainty, the Ontario Settlement Class Members shall be entitled to claim and recover on a joint and several basis as between the Non-Settling Defendants and/or named or unnamed co-conspirators and/or

any other Person or party that is not a Releasee, to the extent provided by law; and

- iv. the Ontario Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the relevant Proceeding, whether or not the Releasees remain in the relevant Proceeding or appear at the trial or other disposition, and the Proportionate Liability of the Releasees shall be determined as if the Releasees are parties to the relevant Proceeding and any determination by the Court in respect of the Proportionate Liability of the Releasees shall only apply in the relevant Proceeding and shall not be binding on the Releasees in any other proceeding;
- (b) a Non-Settling Defendant may, on motion to the Ontario Court, determined as if the Settling Defendant remained party to the relevant Proceeding, and on at least thirty (30) days' notice to Counsel for the Settling Defendant, and not to be brought unless and until the relevant Proceeding against the Non-Settling Defendants has been certified and all appeals or times to appeal have been exhausted, seek Orders for the following:
- i. documentary discovery and an affidavit of documents from the Settling Defendant in accordance with that Court's rules of procedure;
 - ii. oral discovery of a representative of the Settling Defendant, the transcript of which may be read in at trial;
 - iii. leave to serve a request to admit on the Settling Defendant in respect of factual matters; and/or
 - iv. the production of a representative of the Settling Defendant to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.
- (c) the Settling Defendant retains all rights to oppose any motion brought pursuant to Section 8.1(1)(b), including any such motion brought at trial seeking an order requiring the Settling Defendant to produce a representative to testify at trial. Moreover, nothing herein restricts the Settling Defendant from seeking a protective order to maintain confidentiality and protection of proprietary information in respect of documents to be

produced and/or for information obtained from discovery in accordance with Section 8.1(1)(b);

- (d) on any motion brought pursuant to Section 8.1(1)(b), the Court may make such Orders as to costs and other terms as it considers appropriate;
- (e) to the extent that such an order is granted and discovery is provided to a Non-Settling Defendant, a copy of all discovery provided, whether oral or documentary in nature, shall be provided by the Settling Defendant to the Plaintiffs and Class Counsel within ten (10) days of such discovery being provided to a Non-Settling Defendant;
- (f) an Order in similar form shall be sought from the BC Court in the BC Action;
- (g) the Ontario and BC Court will retain an ongoing supervisory role over the discovery process and the Settling Defendant will attorn to the jurisdiction of the Ontario and BC Court for these purposes; and
- (h) a Non-Settling Defendant may effect service of the motion(s) referred to in Section 8.1(1)(b) on a Settling Defendant by service on Counsel for the Settling Defendant in the relevant Proceedings.

8.2 Quebec Waiver or Renunciation of Solidarity Order

- (1) A waiver or renunciation of solidarity shall be granted by the Quebec Court providing for the following:
 - (a) the Quebec Petitioner and the Settlement Class Members in the Quebec Action expressly waive and renounce the benefit of solidarity against the Non-Settling Defendants with respect to the facts, deeds or other conduct of the Releasees;
 - (b) the Quebec Petitioner and the Settlement Class Members in the Quebec Action shall henceforth only be able to claim and recover damages, including punitive damages, interest and costs (including investigative costs claimed pursuant to s. 36 of the *Competition Act*) attributable to the conduct of the Non-Settling Defendants, the sales by the Non-Settling Defendants, and/or other applicable measure of Proportionate Liability of the Non-Settling Defendants;

- (c) any claims in warranty or any other claim or joinder of parties to obtain any contribution or indemnity from the Releasees or relating to the Released Claims shall be inadmissible and void in the context of the Quebec Action; and
- (d) the ability of Non-Settling Defendants to seek discovery from the Settling Defendant shall be determined according to the provisions of the *Code of Civil Procedure*, and the Settling Defendant shall retain and reserve all of their rights to oppose such discovery under the *Code of Civil Procedure*.

8.3 Claims Against Other Entities Reserved

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

Section 9 - Effect of Settlement

9.1 No Admission of Liability

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

9.2 Agreement Not Evidence

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

9.3 No Further Litigation

(1) No Class Counsel, nor anyone currently or hereafter employed by or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any Person which relates to or arises from the Released Claims, except in relation to the continued prosecution of the Proceedings against any Non-Settling Defendant or unnamed co-conspirators that are not Releasees or, if the Proceedings are not certified or authorized, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against any Non-Settling Defendant or unnamed co-conspirator that is not a Releasee. Moreover, these Persons may not divulge to anyone for any purpose any information obtained in the course of the Proceedings or the negotiation and preparation of this Settlement Agreement, except to the extent such information is otherwise publicly available or unless ordered to do so by a court, subject to Section 4.2 of this Settlement Agreement.

(2) 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 chapter 3.2-10 of the Law Society of British Columbia's *Code of Professional Conduct* by refraining from participation or involvement in any claim or action in a British Columbia court.

Section 10 - Certification or Authorization for Settlement Only

(1) The Parties agree that the Proceedings shall be certified or authorized as class proceedings as against the Settling Defendant solely for purposes of settlement of the Proceedings and the approval of this Settlement Agreement by the Courts. If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect, the Parties' stipulation to class certification as part of the Settlement Agreement shall become null and void. The Settling Defendant expressly reserves its rights to oppose class certification if this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect.

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

(3) The Parties agree that the certification or authorization of the Proceedings as against the Settling Defendant for the purpose of implementing this Settlement Agreement, shall not derogate in any way

from the rights of the Plaintiffs as against the Non-Settling Defendants, except as expressly set out in this Settlement Agreement.

Section 11 - Notice to Settlement Classes

11.1 Notices Required

(1) The proposed Settlement Classes shall be given a single notice of (i) the certification or authorization of the Proceedings as class proceedings as against the Settling Defendant for settlement purposes; (ii) the hearings at which the Courts will be asked to approve the Settlement Agreement; and (iii) if they are brought with the hearings to approve the Settlement Agreement, the hearings to approve Class Counsel Fees.

(2) The proposed Settlement Classes shall also be given a notice of approval of the Settlement Agreement.

(3) If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect, the proposed Settlement Classes shall be given notice of such event.

11.2 Form and Distribution of Notices

(1) The notices shall be in a form agreed upon by the Parties and approved by the Courts or, if the Parties cannot agree on the form of the notices, the notices shall be in a form ordered by the Courts.

(2) The notices shall be disseminated by a method agreed upon by the Parties and approved by the Courts or, if the Parties cannot agree on a method for disseminating the notices, the notices shall be disseminated by a method ordered by the Courts.

Section 12 - Administration and Implementation

12.1 Mechanics of Administration

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

12.2 Information and Assistance

(1) Class Counsel may use the information provided pursuant to Section 4.1(1)(a):

- (a) to facilitate the dissemination of the notices required in Section 11.1;
- (b) to advise Persons in Canada who purchased Drywall from the Releasees 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 any other settlement agreement(s) achieved or court awards issued in the Proceedings; and
- (d) as otherwise authorized in Section 4.

(2) All information provided by the Settling Defendant pursuant to Section 4.1(1)(a) shall be dealt with in accordance with Section 4, except that Class Counsel may disclose all information provided by the Settling Defendant pursuant to Section 4.1(1)(a) to any Court-appointed notice provider and/or any Court-appointed claims administrator, to the extent reasonably necessary for the purposes enumerated in Section 12.2(1). Any Court-appointed notice provider and/or any Court-appointed claims administrator shall be bound by the same confidentiality obligations set out in Section 4.

(3) The Settling Defendant, through its counsel, will make itself reasonably available to respond to questions respecting the information provided pursuant to Section 4.1(1)(a) from any Court-appointed notice provider and/or Court-appointed claims administrator. The Settling Defendant's obligation to make itself 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 Defendant's obligations to make itself reasonably available to respond to questions under this Section 12.2 shall cease when the Proceedings are resolved as against all Defendants and all settlement funds or court awards have been distributed.

Section 13 - Class Counsel Fees, Disbursements and Administration Expenses

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

(2) Ontario Counsel shall pay the costs of the notices required by Section 11 and any costs of translation required by Section 14.12 from the Trust Account, as they become due. The Settling Defendant shall not have any responsibility for the costs of the notices or translation.

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

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

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

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

(7) The Settling Defendant shall not be liable for any fees, 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 recours collectifs in Quebec may be entitled, or any lien of any Person on any payment to any Settlement Class Member from the Settlement Amount.

Section 14 - Miscellaneous

14.1 Motions for Directions

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

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

14.2 Releasees Have No Liability for Administration

(1) The Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement.

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 the Proceeding commenced in its jurisdiction, the Parties and the Class Counsel Fees in that proceeding.

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

(3) Notwithstanding Section 14.5(1) and (2), the Ontario Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement, and the Plaintiffs, Settlement Class Members and Settling Defendant attorn to the jurisdiction of the Ontario Court for such purposes. Issues related to the administration of this Settlement Agreement,

the Trust Account, and other matters not specifically related to the BC Action or the Quebec Action 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.

(2) Notwithstanding Section 14.6(1), for matters relating specifically to the BC Action or the Quebec Action, the BC Court or the Quebec Court, as applicable, shall apply the law of its own jurisdiction.

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, 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 Settlement Class Members, the Settling Defendant, 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 by the Plaintiffs shall be binding upon all Releasors and each and every covenant and agreement made by the Settling Defendant 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 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 to 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) The present Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Civil Code of Quebec*, and the Parties are hereby renouncing to any errors of fact, of law and/or of calculation.

14.14 Recitals

(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 the 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
Tel: 519.672.2121
Fax: 519.672.6065
Email: charles.wright@siskinds.com
linda.visser@siskinds.com

Caroline Perrault and Barbara Ann Cain
SISKINDS DESMEULES s.e.n.c.r.l.
Les promenades du Vieux-Quebec
43 rue Buade, bureau 320
Quebec City, QC GIR 4A2
Tel: 418.694.2009
Fax: 418.694.0281
Email: caroline.perrault@siskindsdesmeules.com
barbaraann.cain@siskindsdesmeules.com

For Settling Defendant:

Randy Sutton, Eric Lefebvre, and John Picone
NORTON ROSE FULBRIGHT CANADA LLP
Suite 3800, Royal Bank Plaza, South Tower,
200 Bay Street, P.O. Box 84
Toronto, ON M5J 2Z4
Tel: 416.216.4000
Fax: 416.216.3930
Email: randy.sutton@nortonrosefulbright.com
eric.lefebvre@nortonrosefulbright.com
john.picone@nortonrosefulbright.com

14.19 Date of Execution

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

BOWEN REAL ESTATE HOLDINGS INC. on their own behalf and on behalf of
the Settlement Class, by their counsel

Name of Authorized Signatory: Linda Visser

Signature of Authorized Signatory: 
Siskinds LLP
Ontario Counsel

SYLVIE CLOUTIER, on her own behalf and on behalf of the Settlement Class, by
her counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____
Siskinds Desmeules s.e.n.c.r.l.
Quebec Counsel

Caroline Perrault and Barbara Ann Cain
SISKINDS DESMEULES s.e.n.c.r.l.
Les promenades du Vieux-Quebec
43 rue Buade, bureau 320
Quebec City, QC GIR 4A2
Tel: 418.694.2009
Fax: 418.694.0281
Email: caroline.perrault@siskindsdesmeules.com
barbaraann.cain@siskindsdesmeules.com

For Settling Defendant:

Randy Sutton, Eric Lefebvre, and John Picone
NORTON ROSE FULBRIGHT CANADA LLP
Suite 3800, Royal Bank Plaza, South Tower,
200 Bay Street, P.O. Box 84
Toronto, ON M5J 2Z4
Tel: 416.216.4000
Fax: 416.216.3930
Email: randy.sutton@nortonrosefulbright.com
eric.lefebvre@nortonrosefulbright.com
john.picone@nortonrosefulbright.com

14.19 Date of Execution

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

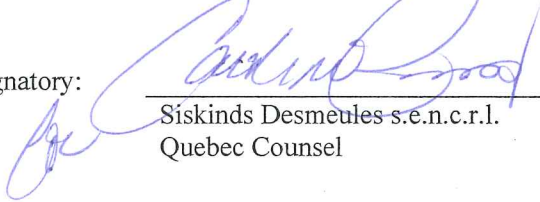
BOWEN REAL ESTATE HOLDINGS INC. on their own behalf and on behalf of
the Settlement Class, by their counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____
Siskinds LLP
Ontario Counsel

SYLVIE CLOUTIER, on her own behalf and on behalf of the Settlement Class, by
her counsel

Name of Authorized Signatory: CAROLINE PERRAULT

Signature of Authorized Signatory: 
Siskinds Desmeules s.e.n.c.r.l.
Quebec Counsel

DANN HICKMAN, on his own behalf and on behalf of the Settlement Class, by his counsel

Name of Authorized Signatory:

Kieran Bridge

Signature of Authorized Signatory:

Kieran Bridge
Kieran Bridge Law Corporation
BC Counsel

TIN Inc. by their counsel

Name of Authorized Signatory:

Signature of Authorized Signatory:

Norton Rose Fulbright Canada LLP

DANN HICKMAN, on his own behalf and on behalf of the Settlement Class, by his counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____
Kieran Bridge Law Corporation
BC Counsel

TIN Inc. by their counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

Norton Rose Fulbright Canada LLP

SCHEDULE "A"

Proceedings

Court and File No.	Plaintiffs' Counsel	Plaintiff	Named Defendants	Settlement Class
Ontario Action				
Ontario Superior Court of Justice Court File No. CV-13-4003CP	Siskinds LLP	Bowen Real Estate Holdings Inc.	USG Corporation, United States Gypsum Company, CGC Inc., New NGC, Inc., Lafarge North America Inc., Lafarge Canada Inc., Certainteed Corporation, Certainteed Gypsum, Inc., Certainteed Gypsum Canada, Inc., TIN Inc. d/b/a Temple-Inland Inc., and Pabco Building Products, LLC	All Persons in Canada, other than Excluded Persons and Persons who are in the BC Settlement Class or the Quebec Settlement Class, who, during the Class Period, purchased Drywall in Canada.
Second Ontario Action				
Ontario Superior Court of Justice Court File No. CV-15-2856-CP	Siskinds LLP	Bowen Real Estate Holdings Inc.	Georgia-Pacific LLC and GP Canada Operations Holding ULC	All Persons in Canada, other than Excluded Persons and Persons who are in the BC Settlement Class or the Quebec Settlement Class, who, during the Class Period, purchased Drywall in Canada.
BC Action				
British Columbia Supreme Court File No. S-153468	Kieran Bridge Law Corporation	Dann Hickman	USG Corporation, United States Gypsum Company, CGC Inc., New NGC, Inc., Lafarge North America Inc., Lafarge Canada Inc., Certainteed Corporation, Certainteed Gypsum, Inc., Certainteed Gypsum Canada, Inc., TIN Inc. d/b/a Temple-Inland Inc., and Pabco Building Products, LLC	All Persons in British Columbia, other than Excluded Persons, who, during the Class Period, purchased Drywall in Canada.
Quebec Action				
Superior Court of Quebec (District of Québec), File No. 200-06-000167-133	Siskinds Desmeules s.e.n.c.r.l.	Sylvie Cloutier	USG Corporation, United States Gypsum Company, CGC Inc., New NGC, Inc., Lafarge North America Inc., Lafarge Canada Inc., Certainteed Corporation, Certainteed Gypsum, Inc., Certainteed Gypsum Canada, Inc., TIN Inc. d/b/a Temple-Inland Inc., and Pabco Building Products, LLC	All (i) individuals in Quebec and (ii) legal Persons resident in Quebec established for a private interest, partnership or association which had under its direction or control no more than 50 Persons bound to it by a contract of employment who, during the Class Period, purchased

Court and File No.	Plaintiffs' Counsel	Plaintiff	Named Defendants	Settlement Class
				Drywall in Canada. Excluded Persons are excluded from the Quebec Settlement Class.

SCHEDULE "B"

**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable) , the day
Justice Sproat) of , 2015

Court File No. CV-13-4003CP

BETWEEN:

BOWEN REAL ESTATE HOLDINGS INC.

Plaintiff

- and -

USG CORPORATION, UNITED STATES GYPSUM COMPANY, CGC INC., NEW NGC, INC., LAFARGE NORTH AMERICA INC., LAFARGE CANADA INC., CERTAINTEED CORPORATION, CERTAINTEED GYPSUM, INC., CERTAINTEED GYPSUM CANADA, INC., TIN INC. D/B/A TEMPLE-INLAND INC., and PABCO BUILDING PRODUCTS, LLC

Defendants

Proceeding under the Class Proceedings Act, 1992

ORDER

THIS MOTION made by the Plaintiffs for an Order approving the short-form and long-form notices of settlement approval hearings and the method of dissemination of said notices, and certifying this proceeding as a class proceeding for settlement purposes as against TIN Inc. (the "Settling Defendant") was heard this day at the Courthouse, 7755 Hurontario Street, Brampton, Ontario.

ON READING the materials filed, including the settlement agreement dated October 27, 2015 attached to this Order as Schedule "A" (the "Settlement Agreement"), and on hearing the submissions of counsel for the Plaintiffs, Counsel for the Settling Defendant, and counsel for the Non-Settling Defendants in the Ontario Action;

AND ON BEING ADVISED that • has consented to being appointed as notice provider in accordance with the terms of this Order

AND ON BEING ADVISED that the Plaintiffs and the Settling Defendant consent to this Order:

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 short-form and long-form notices of settlement approval hearing are hereby approved substantially in the forms attached respectively hereto as Schedules “B” and “C”.
3. THIS COURT ORDERS that the plan of dissemination for the short-form and long-form notices of settlement approval hearings (the “Plan of Dissemination”) is hereby approved in the form attached hereto as Schedule “D” and that the notices of settlement approval hearings shall be disseminated in accordance with the Plan of Dissemination.
4. THIS COURT ORDERS that ● is appointed to disseminate the short-form and long-form notices of settlement approval hearing in accordance with the terms of this Order.
5. THIS COURT ORDERS that the Non-Settling Defendants are required to provide the names, addresses and contact names of their direct purchaser customers of Drywall in Canada during the Class Period (the “Customer Information”) to ● [the notice provider], for the limited purpose of distributing notice in accordance with this or any other court order.
6. THIS COURT ORDERS that ● [the notice provider] shall maintain the confidentiality of the Customer Information and shall not disclose the Customer Information to any other person, including, without limitation, the parties to this action, or use the Customer Information for any other purpose.
7. THIS COURT ORDERS that the Ontario Action is certified as a class proceeding as against the Settling Defendants for settlement purposes only.
8. THIS COURT ORDERS that the “Ontario Settlement Class” is certified as follows:

All Persons in Canada, other than Excluded Persons and Persons who are in the BC Settlement Class or the Quebec Settlement Class, who, during the Class Period, purchased Drywall in Canada.
9. THIS COURT ORDERS that Bowen Real Estate Holdings Inc. is appointed as the representative plaintiff for the Ontario Settlement Class.
10. THIS COURT ORDERS that the following issue is common to the Ontario Settlement Class:

Did the Settling Defendant conspire to fix, raise, maintain, or stabilize the price of Drywall in Canada and elsewhere during the Class Period? If so, what damages, if any, did Settlement Class Members suffer?

11. THIS COURT ORDERS that the certification of the Ontario Action as against the Settling Defendant for settlement purposes pursuant to this Order, including the definition of the Ontario Settlement Class and the Common Issue, is without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing Ontario Action.
12. THIS COURT ORDERS that putative members of the Ontario Settlement Class can opt out of the Ontario Action by sending a written request to opt out to Ontario Counsel, postmarked on or before the date that is sixty (60) days from the date of the first publication of the short-form notice of settlement approval hearings attached hereto as Schedule "B". The written election to opt out must include the information specified in the long-form notice of settlement approval hearing attached hereto as Schedule "C".
13. THIS COURT ORDERS that where the postmark is not visible or legible, the election to opt-out shall be deemed to have been postmarked four business days prior to the date that it is received by Ontario Counsel.
14. THIS COURT ORDERS that any putative member of the Ontario Settlement Class who validly opts out of the Ontario action shall not be able to participate in the Ontario action and no further right to opt out of the Ontario action will be provided.
15. THIS COURT ORDERS that this Order is contingent upon a parallel order being made by the Quebec Court and the BC Court, and the terms of this Order shall not be effective unless and until such orders are made by the Quebec Court and the BC Court.

Date:

The Honourable Justice Sproat

SCHEDULE "C"

Court File No. CV-13-4003CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable) , the day
Justice Sproat) of , 2015

BETWEEN:

BOWEN REAL ESTATE HOLDINGS INC.

Plaintiff

- and -

USG CORPORATION, UNITED STATES GYPSUM COMPANY, CGC INC., NEW NGC, INC., LAFARGE NORTH AMERICA INC., LAFARGE CANADA INC., CERTAINTEED CORPORATION, CERTAINTEED GYPSUM, INC., CERTAINTEED GYPSUM CANADA, INC., TIN INC. D/B/A TEMPLE-INLAND INC., and PABCO BUILDING PRODUCTS, LLC

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION made by the Plaintiff for an Order approving the settlement agreement entered into with the Defendant TIN Inc. (the "Settling Defendant") and dismissing this action as against the Settling Defendant, was heard this day at the Courthouse, 7755 Hurontario Street, Brampton, Ontario.

AND ON READING the materials filed, including the settlement agreement dated October 27, 2015 attached to this Order as Schedule "A" (the "Settlement Agreement"), and on hearing the submissions of counsel for the Plaintiff, counsel for the Settling Defendant and counsel for the Non-Settling Defendants in the Ontario Action;

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 deadline for opting-out of the Proceedings has passed and there have been • opt-outs;

AND ON BEING ADVISED that the Plaintiff and the Settling Defendant consent to this Order:

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 this Order, including the Settlement Agreement, is binding upon each member of the Ontario Settlement Class 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 Action.
4. THIS COURT ORDERS that the Settlement Agreement is fair, reasonable and in the best interests of the Ontario Settlement Class.
5. 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.
6. THIS COURT ORDERS that, upon the Effective Date, each member of the Ontario Settlement Class shall consent and shall be deemed to have consented to the dismissal as against the Releasees of any Other Actions he, she or it has commenced, without costs and with prejudice.
7. THIS COURT ORDERS that, upon the Effective Date, each Other Action commenced in Ontario by any member of the Ontario Settlement Class 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, the Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or

elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim except for the continuation of the Proceedings against the Non-Settling Defendants or unnamed alleged 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.

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 members of the Ontario Settlement Class 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 member of the Ontario Settlement Class 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 sue, 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 if this Court ultimately determines that there is a right of contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise:
 - (a) all claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in the Proceedings, or otherwise, by any Non-Settling 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 or any named or unnamed co-conspirator that is not a Releasee, are barred, prohibited and enjoined in accordance with the terms of this Section (unless such claim is made in respect of a claim by a Person who has validly opted out of the Proceedings);
 - (b) the Ontario Plaintiff 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;

- (c) the Ontario Plaintiff 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, and shall be entitled to recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, only such claims for damages (including punitive damages, if any), restitutionary award, disgorgement of profits, costs, and interest attributable to the aggregate of the several liability of the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to the Ontario Plaintiff and Ontario Settlement Class Members, if any, and, for greater certainty, the Ontario Settlement Class Members shall be entitled to claim and recover on a joint and several basis as between the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, to the extent provided by law; and
 - (d) this Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the Ontario Action, whether or not the Releasees remain in the Ontario Action or appear at the trial or other disposition, and the Proportionate Liability of the Releasees shall be determined as if the Releasees are parties to the Ontario Action and any determination by this Court in respect of the Proportionate Liability of the Releasees shall only apply in the Ontario Action and shall not be binding on the Releasees in any other proceeding.
13. THIS COURT ORDERS that if, in the absence of paragraph 12 hereof, the Non-Settling Defendants would not have the right to make claims for contribution and indemnity or other claims over, whether in equity or in law, by statute or otherwise, from or against the Releasees, then nothing in this Order is intended to or shall limit, restrict or affect any arguments which the Non-Settling Defendants may make regarding the reduction of any assessment of damages, restitutionary award, disgorgement of profits or judgment against them in favour of members of the Ontario Settlement Class in the Ontario Action.

14. THIS COURT ORDERS that a Non-Settling Defendant may, on motion to this Court determined as if the Settling Defendant remained a party to the Ontario Action, and on at least thirty (30) days' notice to Counsel for the Settling Defendant, and not to be brought unless and until the relevant Proceeding against the Non-Settling Defendants has been certified and all appeals or times to appeal have been exhausted, seek Orders for the following:
 - (a) documentary discovery and an affidavit of documents from a Settling Defendant in accordance with the Ontario *Rules of Civil Procedure*;
 - (b) oral discovery of a representative of a Settling Defendant, the transcript of which may be read in at trial;
 - (c) leave to serve a request to admit on a Settling Defendant in respect of factual matters; and/or
 - (d) the production of a representative of a Settling Defendant to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.
15. THIS COURT ORDERS that the Settling Defendant retains all rights to oppose such motion(s) brought under paragraph 14. Moreover, nothing herein restricts a Settling Defendant 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 14. Notwithstanding any provision in this Order, on any motion brought pursuant to paragraph 14, the Court may make such orders as to costs and other terms as it considers appropriate.
16. THIS COURT ORDERS that a Non-Settling Defendant may effect service of the motion(s) referred to in paragraph 14 above on the Settling Defendant by service on Counsel for the Settling Defendant.
17. 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 Defendant acknowledges and attorns 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.

18. THIS COURT ORDERS that, except as provided herein, this Order does not affect any claims or causes of action that any members of the Ontario Settlement Class has or may have against the Non-Settling Defendants or named or unnamed co-conspirators who are not Releasees.
19. THIS COURT ORDERS that no Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement, including administration, investment, or distribution of the Trust Account.
20. THIS COURT ORDERS that the Settlement Amount shall be held in the Trust Account by Ontario Counsel for the benefit of 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 Plaintiff or the Settlement Classes to claim such 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.
21. 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.
22. 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 Settlement Agreement is approved by the Quebec Court, and the BC Action has been dismissed with prejudice and without costs and the Quebec Action has been declared settled out of court as against the Settling Defendant in the relevant proceeding by the Courts. If such orders are not secured in Quebec and British Columbia, this Order shall be null and void and without prejudice to the rights of the Parties to proceed with the Ontario Action and any agreement between the parties incorporated in this Order shall be deemed in any subsequent proceedings to have been made without prejudice.
23. THIS COURT ORDERS that, in the event that the Settlement Agreement is terminated in accordance with its terms, this Order shall be declared null and void on subsequent motion made on notice.

24. THIS COURT ORDERS that the Ontario Action is hereby dismissed as against the Settling Defendant, without costs and with prejudice.

Date:

The Honourable Justice Sproat