

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

Made as of October 1, 2020

Between

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

(the “Plaintiffs”)

and

**PANASONIC CORPORATION, PANASONIC CORPORATION OF NORTH AMERICA,  
PANASONIC CANADA INC., and SANYO ELECTRIC CO., LTD.**

(the “Settling Defendants”)

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

**TABLE OF CONTENTS**

RECITALS .....	1
SECTION 1 - DEFINITIONS .....	4
SECTION 2 - SETTLEMENT APPROVAL .....	10
2.1 Best Efforts .....	10
2.2 Motions for Approval .....	10
2.3 Pre-Motion Confidentiality .....	11
SECTION 3 - SETTLEMENT BENEFITS .....	11
3.1 Payment of Settlement Amount .....	11
3.2 Taxes and Interest .....	12
SECTION 4 - NON-APPROVAL OR TERMINATION OF SETTLEMENT AGREEMENT ...	13
4.1 Right of Termination.....	13
4.2 If Settlement Agreement is Terminated.....	14
4.3 Survival of Provisions After Non-Approval of Settlement Agreement.....	15
SECTION 5 - RELEASES AND DISMISSALS.....	16
5.1 Release of Releasees .....	16
5.2 Release by Releasees .....	16
5.3 Covenant Not To Sue.....	16
5.4 No Further Claims.....	17
5.5 Dismissal of the Proceedings .....	17
5.6 Dismissal of Other Actions.....	17
5.7 Claims Against Other Entities Reserved.....	18
5.8 Material Term .....	18
SECTION 6 - BAR ORDER AND DECLARATION OF RENUNCIATION .....	18
6.1 Ontario Bar Order .....	18

6.2	Quebec Declaration of Renunciation of Benefit of Solidarity.....	20
6.3	Material Term .....	20
SECTION 7 - EFFECT OF SETTLEMENT .....		21
7.1	No Admission of Liability .....	21
7.2	Agreement Not Evidence.....	21
7.3	No Further Litigation .....	21
SECTION 8 - CERTIFICATION OR AUTHORIZATION FOR SETTLEMENT ONLY .....		22
8.1	Settlement Class and Common Issue.....	22
SECTION 9 - NOTICE TO SETTLEMENT CLASSES .....		22
9.1	Notices Required.....	22
9.2	Form and Distribution of Notices .....	23
SECTION 10 - ADMINISTRATION AND IMPLEMENTATION .....		23
10.1	Mechanics of Administration.....	23
10.2	Information and Assistance.....	23
10.3	Distribution Protocol.....	23
SECTION 11 - CLASS COUNSEL FEES, DISBURSEMENTS AND ADMINISTRATION EXPENSES.....		24
11.1	Court Approval for Class Counsel Fees and Disbursements .....	24
11.2	Responsibility for Fees, Disbursements and Taxes .....	24
11.3	Administration Expenses .....	24
SECTION 12 - MISCELLANEOUS .....		25
12.1	Motions for Directions .....	25
12.2	Headings, etc.....	25
12.3	Computation of Time.....	25
12.4	Ongoing Jurisdiction.....	26
12.5	Governing Law .....	26

12.6	Entire Agreement .....	27
12.7	Amendments .....	27
12.8	Binding Effect.....	27
12.9	Counterparts .....	27
12.10	Negotiated Agreement .....	28
12.11	Language.....	28
12.12	Transaction.....	28
12.13	Recitals.....	28
12.14	Schedules .....	28
12.15	Acknowledgements.....	29
12.16	Notice.....	29
14.18	Date of Execution .....	30

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

**RECITALS**

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

B. AND WHEREAS the BC Proceeding alleges that the Settling Defendants participated in an unlawful conspiracy to fix, raise, maintain, and/or stabilize the price of Lithium Batteries and/or Lithium Battery Products in Canada from at least January 1, 2002 until at least January 1, 2012, contrary to Part VI of the *Competition Act* and the common law;

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

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

E. AND WHEREAS Sanyo Energy (U.S.A.) Corporation merged into Sanyo North America Corporation in or around 2009 and Sanyo North America Corporation merged into Panasonic Corporation of North America in or around April 2015;

F. AND WHEREAS by Orders dated March 27, 2018, the Ontario Court approved the procedure for opting out of the Ontario Proceeding and, on June 7, 2018, the Quebec Court approved the procedure for opting out of the Quebec Proceeding;

G. AND WHEREAS the deadline for opting out of the Proceedings has passed and there were no opt-outs;

H. AND WHEREAS the Settling Defendants and Releasees do not admit, through the execution of this Settlement Agreement or otherwise, any allegation of unlawful conduct alleged

in the Proceedings, or in any Other Actions, and otherwise deny all liability and assert that they have complete defences in respect of the merits of the Proceedings and any Other Actions or otherwise;

I. AND WHEREAS despite their belief that they are not liable in respect of the claims as alleged in the Proceedings and any Other Actions and have good and reasonable defences in respect of jurisdiction and the merits, the Settling Defendants are entering into this Settlement Agreement in order to achieve a final and nationwide resolution of all claims asserted or which could have been asserted against the Releasees by the Plaintiffs and the Settlement Class Members in the Proceedings and any Other Actions, and to avoid further expense, inconvenience, the distraction of burdensome and protracted litigation, and the risks associated with trials and appeals;

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

K. AND WHEREAS the Plaintiffs and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, and having regard to the burdens and expense in prosecuting the Proceedings, including the risks and uncertainties associated with trials and appeals, and having regard to the value of the Settlement Agreement, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiffs and the Settlement Classes they seek to represent;

L. AND WHEREAS the Plaintiffs, Class Counsel and the Settling Defendants agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Releasees or evidence of the truth of any of the Plaintiffs' allegations against the Releasees, which allegations are expressly denied by the Releasees;

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

N. AND WHEREAS the Ontario and Quebec Plaintiffs assert that they are adequate class representatives for the Settlement Classes and will seek to be appointed representative plaintiffs in their respective Proceeding;

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

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

Q. AND WHEREAS as a result of their settlement discussions and negotiations, the Settling Defendants and the Plaintiffs have entered into this Settlement Agreement, which embodies all of the terms and conditions of the settlement between the Settling Defendants and the Plaintiffs, both individually and on behalf of the Settlement Classes they seek to represent, subject to approval of the Ontario and Quebec Courts; and

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

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby

acknowledged, it is agreed by the Parties that the Ontario Proceeding and BC Proceeding be settled and dismissed as against the Settling Defendants only, and the Quebec Proceeding be declared settled out of court as against the Settling Defendants, all without costs as to the Plaintiffs, the Settlement Classes they seek to represent and the Settling Defendants, subject to the approval of the Ontario and Quebec Courts, on the following terms and conditions:

### **SECTION 1 - DEFINITIONS**

For the purpose of this Settlement Agreement only, including the recitals and schedules hereto:

- (1) ***Administration Expenses*** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiffs, Class Counsel or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices and the costs of claims administration, but excluding Class Counsel Fees and Class Counsel Disbursements.
- (2) ***Approval Hearings*** means the hearings for the Ontario and Quebec Courts' approval of the settlement provided for in this Settlement Agreement.
- (3) ***BC Counsel*** means Camp Fiorante Matthews Mogergerman LLP.
- (4) ***BC Court*** means the Supreme Court of British Columbia.
- (5) ***BC Plaintiff*** means Jonathan Cruz.
- (6) ***BC Proceeding*** means the proceeding commenced by the BC Plaintiff before the BC Court that is identified in Schedule "A" to this Settlement Agreement.
- (7) ***Claims Administrator*** means the firm proposed by Class Counsel and appointed by the Ontario and Quebec Courts to administer the Settlement Amount in accordance with the provisions of this Settlement Agreement and the Distribution Protocol, and any employees of such firm.
- (8) ***Class Counsel*** means BC Counsel, Ontario Counsel and Quebec Counsel.



- (9) ***Class Counsel Disbursements*** include the disbursements and applicable taxes incurred by Class Counsel in the prosecution of the Proceedings, as well as any adverse costs awards issued against the Plaintiffs in any of the Proceedings.
- (10) ***Class Counsel Fees*** means the fees of Class Counsel, and any applicable taxes or charges thereon, including any amounts payable by Class Counsel or the Settlement Class Members to any other body or Person, including the Fonds d'aide aux actions collectives in Quebec, as a result of the Settlement Agreement.
- (11) ***Class Period*** means January 1, 2000 to January 1, 2012.
- (12) ***Common Issue*** means: Did the Settling Defendants conspire to fix, raise, maintain, and/or stabilize the price of Lithium Batteries and/or Lithium Battery Products directly or indirectly in Canada during the Class Period? If so, what damages, if any, did Settlement Class Members suffer?
- (13) ***Counsel for the Settling Defendants*** means Bennett Jones LLP.
- (14) ***Courts*** means the BC Court, the Ontario Court and the Quebec Court.
- (15) ***Defendants*** means the entities named as defendants in any of the Proceedings as set out in Schedule "A" to this Settlement Agreement. For greater certainty, Defendants includes, without limitation, the Settling Defendants and Settled Defendants.
- (16) ***Distribution Protocol*** means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as proposed by Class Counsel and as approved by the Ontario and Quebec Courts.
- (17) ***Documents*** means all papers, computer or electronic records, or other materials within the scope of Rule 1.03(1) and Rule 30.01(1) of the Ontario *Rules of Civil Procedure* and any copies, reproductions or summaries of the foregoing, including microfilm copies and computer images.
- (18) ***Effective Date*** means the date of the last Final Order issued.

(19) **Execution Date** means the date on the cover page as of which the Parties have executed this Settlement Agreement.

(20) **Excluded Person** means each Defendant, the directors and officers of each Defendant, the subsidiaries or affiliates of each Defendant, the entities in which each Defendant or any of that Defendant's subsidiaries or affiliates have a controlling interest and the legal representatives, heirs, successors and assigns of each of the foregoing.

(21) **Final Order** means the final order issued and entered by each of the Ontario and Quebec Courts in respect of the approval of this Settlement Agreement and the final order issued and entered by the BC Court dismissing the BC Action.

(22) **Lithium Batteries** means cylindrical, prismatic or polymer batteries that are rechargeable and use lithium ion technology, excluding lithium-ion rechargeable batteries designed for use in automobiles or other vehicles.

(23) **Lithium Battery Products** means the following products that contain Lithium Batteries: notebook or laptop computers, cellular phones including smartphones (excluding cellular phones acquired as part of a cellular phone service contract), tablet computers, e-book readers, MP3 players, personal digital assistants, handheld GPS, handheld video players and/or lithium ion battery packs.

(24) **Notice of Hearing** means the form or forms of notice, agreed to by the Plaintiffs and the Settling Defendants, or such other form or forms of notice as may be approved by the Ontario and Quebec Courts, which inform the Settlement Class of: (i) the certification or authorization of the Ontario and Quebec Proceedings as class proceedings for settlement purposes; (ii) the dates and locations of the Approval Hearings; (iii) the principal elements of the Settlement Agreement; and (iv) the process by which Settlement Class Members may object to the settlement.

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

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

(27) **Ontario Plaintiffs** means Khurram Shah and Alpina Holdings Inc.

(28) ***Ontario Proceeding*** means the proceeding commenced by the Ontario Plaintiffs before the Ontario Court as identified in Schedule “A” to this Settlement Agreement.

(29) ***Ontario Settlement Class*** means the settlement class in respect of the Ontario Proceeding that is defined in Schedule “A” to this Settlement Agreement.

(30) ***Other Actions*** means actions or proceedings, other than the Proceedings, relating to some or all of the Released Claims commenced by a Settlement Class Member either before or after the Effective Date, including but not limited to *Retallick v. LG Chem, Ltd.* et al, Saskatchewan Court of Queen’s Bench (Regina Centre), Court File No. 979 of 2014.

(31) ***Party or Parties*** means the Plaintiffs, Settlement Class Members (where appropriate) and the Settling Defendants.

(32) ***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.

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

(34) ***Proceedings*** means the BC Proceeding, the Ontario Proceeding and the Quebec Proceeding as defined in Schedule “A” to this Settlement Agreement.

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

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

(37) ***Quebec Counsel*** means Belleau Lapointe, LLP.

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

- (39) **Québec Plaintiff** means Option consommateurs.
- (40) **Quebec Proceeding** means the proceeding commenced by the Quebec Plaintiff before the Quebec Court identified in Schedule “A” to this Settlement Agreement.
- (41) **Quebec Settlement Class** means the settlement class in respect of the Quebec Proceeding that is identified in Schedule “A” to this Settlement Agreement.
- (42) **Released Claims** means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, including any claims for consequential, subsequent or follow-on harm that arises after the Class Period, damages of any kind (including compensatory, punitive or other damages) whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses (including Administration Expenses), penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, foreseen or unforeseen, suspected or unsuspected, actual or contingent, asserted or unasserted, accrued or unaccrued and liquidated or unliquidated, in law, under statute or in equity, that any of the Releasors ever had, now have or hereafter can, shall or may have, arising from or relating in any way to the purchase, pricing, sale, discounting, or offering of Lithium Batteries or any products containing Lithium Batteries sold directly or indirectly in Canada during the Class Period, including but not limited to, those claims that are based on, arise under or relate to allegations of an unlawful or anticompetitive conspiracy to fix, raise, maintain, and/or stabilize the price of Lithium Batteries and/or any products containing Lithium Batteries or relating to any conduct alleged or which could have been alleged in the Proceedings. However, nothing herein shall be construed to release (a) any claims based on negligence, personal injury, breach of contract, bailment, failure to deliver lost goods, damaged or delayed goods, product defects, securities or other similar claims that relate to Lithium Batteries and/or products containing Lithium Batteries and that do not relate to alleged anticompetitive conduct; and (b) claims brought (whether before or after the Effective Date) relating to purchases of Lithium Batteries and/or products containing Lithium Batteries outside of Canada.

(43) **Releasees** means, jointly and severally, individually and collectively, the Settling Defendants, and all of their respective present and former, direct and indirect, parents, owners, subsidiaries (including Sanyo Energy (U.S.A.) Corporation and Sanyo North America Corporation), divisions, affiliates, associates (as defined in the *Canada Business Corporations Act*, RSC 1985, c. C-44), partners, joint ventures, franchisees, dealers, insurers, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, mandataries, shareholders, attorneys, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing.

(44) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members, on behalf of themselves and any Person or entity claiming by or through them as a parent, subsidiary, affiliate, predecessor, successor, shareholder, partner, director, owner of any kind, agent, principal, employee, contractor, attorney, heir, executor, administrator, insurer, devisee, assignee, or representative of any kind.

(45) **Settled Defendants** means:

- (a) NEC Corporation, NEC Tokin Corporation, Samsung SDI Co., Ltd, Samsung SDI America, Inc., Sony Corporation, Sony Energy Devices Corporation, Sony Electronics, Inc. Sony of Canada Ltd., LG Chem, Ltd., LG Chem America, Inc., Toshiba Corporation, Toshiba America Electronic Components, Inc., Toshiba of Canada Limited, Maxell Holdings, Ltd. and Maxell Corporation of America.

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

(47) **Settlement Amount** means the sum of six million two hundred ninety five thousand U.S. dollars (USD \$6,295,000).

(48) **Settlement Class** means, in respect of each of the Ontario and Quebec Proceedings, the settlement class defined in Schedule A.

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

(50) ***Settling Defendants*** means Panasonic Corporation (incorrectly named as Panasonic Corp. in the BC Proceeding), Panasonic Corporation of North America, Panasonic Canada Inc., and Sanyo Electric Co., Ltd..

(51) ***Trust Account*** means a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, SC 1991, c 46) held at a Canadian financial institution under the control of Siskinds LLP or the Claims Administrator, once appointed, for the benefit of the Settlement Class Members or the Settling Defendants, as provided for in this Settlement Agreement.

## **SECTION 2- SETTLEMENT APPROVAL**

### **2.1 Best Efforts**

(1) The Parties shall use their best efforts to implement this settlement and to secure the final dismissal with prejudice of the Ontario Proceeding and BC Proceeding as against the Settling Defendants and a notice of settlement out of court of the Quebec Proceeding as against the Settling Defendants.

### **2.2 Motions for Approval**

(1) As soon as practical after the Settlement Agreement is executed, the Ontario and Quebec Plaintiffs shall bring motions before the Ontario and Quebec Courts for orders certifying or authorizing the Ontario and Quebec Proceedings, as applicable, as a class proceeding (for settlement purposes) as against the Settling Defendants, and then approving this Settlement Agreement. The Ontario motions shall be filed first and, to the extent practicable, heard before the Quebec motions.

(2) The form of orders referred to in section 2.2(1) shall be as agreed to by the Ontario and Quebec Plaintiffs and Settling Defendants or in such form or manner as approved by the Ontario and Quebec Courts.

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

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

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

## **SECTION 3 - SETTLEMENT BENEFITS**

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

- (1) Within thirty (30) days of the Execution Date, subject to the receipt by the Settling Defendants before the Execution Date of an original copy of a written request for payment from Class Counsel in the format provided by the Settling Defendants, the Settling Defendants shall pay the Settlement Amount to Siskinds LLP for deposit into the Trust Account. The Settlement Amount shall be converted into Canadian currency by Siskinds LLP upon deposit into the Trust Account.
- (2) The Settling Defendants shall deposit the Settlement Amount into the Trust Account by wire transfer. Siskinds LLP shall provide the necessary wire transfer information to Counsel for the Settling Defendants within five days of the Execution Date so that the Settling Defendants have a reasonable period of time to comply with section 3.1(1) of this Settlement Agreement.
- (3) The Settlement Amount and other consideration to be provided in accordance with the terms of this Settlement Agreement shall be provided in full satisfaction of the Released Claims against the Releasees.
- (4) The Settlement Amount shall be all-inclusive of all amounts, including without limitation, interest, costs, Class Counsel Fees and Class Counsel Disbursements.

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

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

(7) Siskinds LLP and the Claims Administrator shall maintain the Trust Account as provided for in this Settlement Agreement. While in control of the Trust Account, Siskinds LLP and the Claims Administrator shall not pay out all or part of the monies in the Trust Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Ontario and Quebec 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. Class Counsel or the Claims Administrator shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Trust Account.

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



Settling Defendants who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Class Counsel or the Claims Administrator.

## **SECTION 4- NON-APPROVAL OR TERMINATION OF SETTLEMENT AGREEMENT**

### **4.1 Right of Termination**

(1) In the event that:

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

(1) THIS COURT ORDERS that, upon the Effective Date, each member of the Ontario Settlement Class 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, and

(2) 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.

or

- (f) any orders approving this Settlement Agreement made by the Ontario or Quebec Courts do not become Final Orders

the Plaintiffs and the Settling Defendants shall each have the right to terminate this Settlement Agreement (except that only the Settling Defendants shall have the right to terminate under subsection (b) above) by delivering a written notice pursuant to section 12.16, within thirty (30) days following an event described above.

(2) In addition, if the Settlement Amount is not paid in accordance with section 3.1(1), the Plaintiffs shall have the right to terminate this Settlement Agreement by delivering a written notice pursuant to section 12.16, within thirty (30) days after such non-payment, or move before the Court to enforce the terms of this Settlement Agreement.

(3) Except as provided for in section 4.3, if the Settling Defendants or the Plaintiffs exercise their right to terminate, the Settlement Agreement shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason.

(4) Any order, ruling or determination made (or rejected) by any Court with respect to Class Counsel Fees or Document confidentiality shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

#### **4.2 If Settlement Agreement is Terminated**

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

- (a) no motion to certify or authorize the Ontario or Quebec Proceeding as a class proceeding on the basis of this Settlement Agreement, or to approve this Settlement Agreement, which has not been decided, shall proceed;
- (b) the Parties will cooperate in seeking to have any issued order certifying or authorizing a Proceeding as a class proceeding on the basis of the Settlement Agreement or approving this Settlement Agreement set aside and declared null and void and of no force or effect, and any Person shall be estopped from asserting otherwise; and
- (c) any prior certification or authorization of the Ontario or Quebec Proceeding as a class proceeding on the basis of this Settlement Agreement, including the definitions of the Settlement Class and the Common Issue, shall be without prejudice to any position that any of the Parties or Releasees may later take on any issue in the Proceedings or any Other Actions or other litigation.

(2) If the Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, Siskinds LLP shall, within thirty (30) business days of the written notice advising that the Settlement Agreement has been terminated in accordance with its terms, return to the Settling Defendants the Settlement Amount, plus all accrued interest thereon, less taxes paid on interest, less any costs actually incurred or payable with respect to the notices required by section 9.1, and less any costs of translation required by section 12.11 that have actually been incurred or are payable.

#### **4.3 Survival of Provisions After Non-Approval of Settlement Agreement**

(1) If this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the provisions of sections 3.2(3), 4.1(2), 4.2, 7.1, 7.2 and 9.1 and the definitions and schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and schedules shall survive only for the limited purpose of the interpretation of sections 3.2(3), 4.1(2), 4.2, 7.1, 7.2 and 9.1 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 5- RELEASES AND DISMISSALS**

### **5.1 Release of Releasees**

(1) Upon the Effective Date, subject to section 5.3 and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Settlement Agreement, the Releasers forever and absolutely release the Releasees from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have.

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

### **5.2 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.

### **5.3 Covenant Not To Sue**

(1) Notwithstanding section 5.1, upon the Effective Date, for any Settlement Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasers do not release the Releasees, but instead covenant and undertake not to make any claim in any way or to threaten, commence, institute, prosecute, participate in, maintain or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims, whether on their own behalf or as part of any putative, purported or certified class of purchasers or consumers.

#### **5.4 No Further Claims**

(1) Upon the Effective Date, Releasors shall not now or hereafter institute, provide assistance for, continue, maintain, intervene in or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, proceeding, cause of action, claim or demand against any Releasee or any other Person who may claim contribution or indemnity or other claims over relief from any Releasee, whether pursuant to the *Negligence Act*, RSO 1990, c. N. 1 or other legislation or at common law or equity, in respect of any Released Claim. For greater certainty and without limiting the generality of the foregoing, the Releasors shall not assert or pursue a Released Claim, against any Releasee under the laws of any foreign jurisdiction.

#### **5.5 Dismissal of the Proceedings**

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

(2) Upon the Effective Date, the Quebec Proceeding shall be declared settled out of court, without costs, as against the Settling Defendants, and the Parties shall sign and file a notice of settlement out of court with the Quebec Court.

#### **5.6 Dismissal of Other Actions**

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

(2) Upon the Effective Date, all Other Actions commenced by an Ontario Settlement Class Members shall be dismissed against the Releasees, without costs, with prejudice and without reservation, and Class Counsel (i) shall, at their cost, obtain orders from the Ontario and BC Courts confirming same in respect of all Other Actions commenced in British Columbia and Ontario, and (ii) if requested by the Settling Defendants, take the reasonably necessary steps to seek an order finally staying or dismissing or otherwise finally resolving any Other Actions commenced in a province other than British Columbia and Ontario.

### **5.7 Claims Against Other Entities Reserved**

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

### **5.8 Material Term**

(1) For the avoidance of doubt and without in any way limiting the ability of the Parties to assert that other terms in this Settlement Agreement are material terms (subject to section 4.1(4)), the releases, covenants, dismissals, granting of consent, and reservations of rights contemplated in this Section 5 shall be considered a material term of the Settlement Agreement and the failure of any Court to approve the releases, covenants, dismissals, granting of consent, and reservations of rights contemplated herein shall give rise to a right of termination pursuant to section 4.1 of the Settlement Agreement.

## **SECTION 6 - BAR ORDER AND DECLARATION OF RENUNCIATION**

### **6.1 Ontario Bar Order**

(1) The Plaintiffs, Class Counsel and the Settling Defendants agree that the Ontario order approving this Settlement Agreement must include a bar order from the Ontario Court providing for the following:

- (a) all claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in the Proceedings or any Other Actions, or otherwise, by any named or unnamed co-conspirator that is not a Releasee, any Settled Defendant or any other Person or party against a Releasee, or by a Releasee against any named or unnamed co-conspirator that is not a Releasee, any Settled Defendant, or any other Person or party, are barred, prohibited and enjoined in accordance with the terms of this section;

- (b) if the Ontario Court ultimately determines that a claim for contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise is a legally recognized claim:
- (A) the Ontario Plaintiffs and Ontario Settlement Class Members shall not be entitled to claim or recover from the named or unnamed co-conspirators and/or any other Person or party that is not a Releasee that portion of any damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs (including investigative costs claimed pursuant to section 36 of the *Competition Act*) that corresponds to the Proportionate Liability of the Releasees proven at trial or otherwise;
  - (B) the Ontario Plaintiffs and Ontario Settlement Class Members shall limit their claims against the named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to include only, and shall only seek to recover from the named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, those claims for damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest, and costs (including investigative costs claimed pursuant to section 36 of the *Competition Act*) attributable to the aggregate of the several liability of the named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to the Ontario Plaintiffs and Ontario Settlement Class Members, if any, and, for greater certainty, the Ontario Settlement Class Members shall be entitled to claim and seek to recover on a joint and several basis as between the named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, if permitted by law; and
  - (C) the Ontario Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other

disposition of the Ontario Proceeding, whether or not the Releasees remain in the Ontario Proceeding or appear at the trial or other disposition, and the Proportionate Liability of the Releasees shall be determined as if the Releasees are parties to the relevant Proceeding and any determination by the Ontario 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.

## **6.2 Quebec Declaration of Renunciation of Benefit of Solidarity**

(1) The Plaintiffs, Class Counsel and the Settling Defendants agree that the Quebec order approving this Settlement Agreement must include a declaration by the Quebec Court that the Quebec Plaintiff and Quebec Settlement Class Members have renounced the benefit of solidarity. The declaration obtained will provide the following:

- (a) the Quebec Plaintiff and Quebec Settlement Class Members expressly waive and renounce the benefit of solidarity against the any other Person with respect to the facts, deeds or other conduct of the Releasees relating to the Released Claims; and
- (b) any claims in warranty, recursory action, forced intervention or any other claim or joinder of parties to obtain any contribution or indemnity from the Releasees or relating to the Released Claims shall be inadmissible and void in the context of the Quebec Proceeding.

## **6.3 Material Term**

(1) For the avoidance of doubt and without in any way limiting the ability of the Parties to assert that other terms in this Settlement Agreement are material terms (subject to section 4.1(4)), the Parties acknowledge that the bar orders and the declaration of renunciation of the benefit of solidarity contemplated herein shall be considered a material term of the Settlement Agreement and the failure of the Ontario or Quebec Court to approve the bar orders or to declare the renunciation of the benefit of solidarity contemplated herein shall give rise to a right to termination pursuant to section 4.1 of the Settlement Agreement.



## SECTION 7 - EFFECT OF SETTLEMENT

### 7.1 No Admission of Liability

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

### 7.2 Agreement Not Evidence

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

### 7.3 No Further Litigation

(1) No Class Counsel, nor anyone currently or hereafter employed by, or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any Person against the Releasees that relates to or arises from the Released Claims. Moreover, neither Class Counsel, nor anyone currently or hereafter employed by, or a partner with Class Counsel, may divulge to anyone for any purpose, or use for any purpose, any information or Documents obtained in the course of the Proceedings or the negotiation and preparation of this Settlement Agreement, except to the extent that such

information is or becomes otherwise publicly available or unless ordered to do so by a court in Canada.

(2) For greater certainty, section 7.3(1) shall be inoperative to the extent that it is inconsistent with BC Counsel's obligations under section 3.2-10 of the Law Society of British Columbia's *Code of Professional Conduct for British Columbia*.

## **SECTION 8 - CERTIFICATION OR AUTHORIZATION FOR SETTLEMENT ONLY**

### **8.1 Settlement Class and Common Issue**

(1) The Parties agree that the Ontario and Quebec Proceedings shall be certified or authorized as class proceedings as against the Settling Defendants solely for purposes of settlement of the Proceedings and the approval of this Settlement Agreement by the Ontario and Quebec Courts, and such certification or authorization shall not be used or relied on as against the Settling Defendants for any other purpose.

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

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

## **SECTION 9- NOTICE TO SETTLEMENT CLASSES**

### **9.1 Notices Required**

(1) The proposed Settlement Classes shall be given the following notices: (i) the Notice of Hearing; (ii) notice if this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect; and (iii) such further notice as may be directed by the Ontario or Quebec Courts. Copies of the notices shall be sent by direct mail or email to Persons who have commenced an Other Action and their counsel of record.

## **9.2 Form and Distribution of Notices**

(1) The form of notices referred to in section 9.1(1) and the manner and extent of publication and distribution shall be as agreed to by the Plaintiffs and Settling Defendants or in such form or manner as approved by the Ontario and Quebec Courts.

## **SECTION 10 - ADMINISTRATION AND IMPLEMENTATION**

### **10.1 Mechanics of Administration**

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

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

### **10.2 Information and Assistance**

(1) Unless previously produced during discovery, the Settling Defendants will make reasonable efforts to provide a list of available names and addresses (including any relevant email addresses), and purchase price information of those Persons in Canada who purchased Lithium Batteries and/or Lithium Batteries Products from the Settling Defendants during the Class Period. The information shall be delivered in Microsoft Excel or such other format as may be agreed upon by Counsel for the Settling Defendants and Class Counsel, and shall be delivered as a separate production. If previously produced during discovery, the Settling Defendants will make reasonable efforts to identify the relevant documents by bates number.

### **10.3 Distribution Protocol**

(1) After the Effective Date, at a time wholly within the discretion of Class Counsel, but on notice to the Settling Defendants, Class Counsel will make an application seeking orders from the Ontario and Quebec Courts approving the Distribution Protocol.

(2) The Distribution Protocol shall require Settlement Class Members seeking compensation to give credit for any compensation received through other proceedings or in private out-of-class settlements, unless by such proceedings or private out-of-class settlements the Settlement Class Member's claim was released in its entirety, in which case the Settlement Class Member shall be deemed ineligible for any further compensation.

## **SECTION 11- CLASS COUNSEL FEES, DISBURSEMENTS AND ADMINISTRATION EXPENSES**

### **11.1 Court Approval for Class Counsel Fees and Disbursements**

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

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

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

### **11.2 Responsibility for Fees, Disbursements and Taxes**

(1) The Settling Defendants shall not be liable for any Class Counsel Fees, Class Counsel Disbursements or taxes of any of the lawyers, experts, advisors, agents, or representatives retained by Class Counsel, the Plaintiffs or the Settlement Class Members, any amounts to which the Fonds d'aide aux actions collectives in Quebec may be entitled, or any lien of any Person on any payment to any Settlement Class Member from the Settlement Amount.

### **11.3 Administration Expenses**

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

(2) Notwithstanding section 11.1(1) and 11.3(1), Class Counsel shall pay the costs of the notices required by section 9.1(1) and any costs of translation required by section 12.11 from the Trust Account, as they become due and such payments may be made before the Effective Date. Subject to section 4.2(2), the Settling Defendants shall not have any responsibility for the costs of the notices or translation.

## **SECTION 12 - MISCELLANEOUS**

### **12.1 Motions for Directions**

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

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

### **12.2 Headings, etc.**

(1) In this Settlement Agreement:

- (a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and
- (b) the terms “this Settlement Agreement”, “hereof”, “hereunder”, “herein”, and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

### **12.3 Computation of Time**

(1) In the computation of time in this Settlement Agreement, except where a contrary intention appears,

- (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a holiday as “holiday” is defined in the *Rules of Civil Procedure*, RRO 1990, Reg 194, the act may be done on the next day that is not a holiday.

#### **12.4 Ongoing Jurisdiction**

(1) Each of the Courts shall retain exclusive jurisdiction over each Proceeding commenced in its jurisdiction and the Parties in that Proceeding, except that the Ontario Court will have jurisdiction over the Class Counsel Fees in the BC Proceeding.

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

(3) Notwithstanding sections 12.4(1) and 12.4(2), the Ontario Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement, and the Plaintiffs, Settlement Class Members and Settling Defendants attorn to the jurisdiction of the Ontario Court for such purposes. Issues related to the administration of the Settlement Agreement, the Trust Account, and other matters not specifically related to the claim of a Quebec Settlement Class Member shall be determined by the Ontario Court.

#### **12.5 Governing Law**

(1) Subject to section 12.5(2), this Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

(2) Notwithstanding section 12.5(1), for matters relating specifically to the BC or Quebec Proceeding, the BC or Quebec Court, as applicable, shall apply the law of its own jurisdiction and the laws of Canada applicable therein.

## **12.6 Entire Agreement**

(1) This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

## **12.7 Amendments**

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto, and any such modification or amendment must be approved by the Court with jurisdiction over the matter to which the amendment relates.

## **12.8 Binding Effect**

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

## **12.9 Counterparts**

(1) This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or electronic/PDF signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

### **12.10 Negotiated Agreement**

(1) This Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

### **12.11 Language**

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related Documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais. Nevertheless, if required by a Court, 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.

### **12.12 Transaction**

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

### **12.13 Recitals**

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

### **12.14 Schedules**

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



### 12.15 Acknowledgements

- (1) Each of the Parties hereby affirms and acknowledges that:
- (a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;
  - (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;
  - (c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
  - (d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of this Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

### 12.16 Notice

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

#### **For the Plaintiffs and for Class Counsel in the Proceedings:**

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

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

David Sterns and Jean Marc Leclerc  
**Sotos LLP**  
**Barristers and Solicitors**  
**180 Dundas Street West, Suite 1200**  
**Toronto, ON M5G 1Z8**

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

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

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

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

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

**For Settling Defendants:**

Emrys Davis  
Bennett Jones LLP  
3400 One First Canadian Place  
P.O. Box 130  
Toronto, ON M5X 1A4


Telephone: 416-777-6242  
Facsimile: 416-863-1716  
Email: DavisE@bennettjones.com

**14.18 Date of Execution**

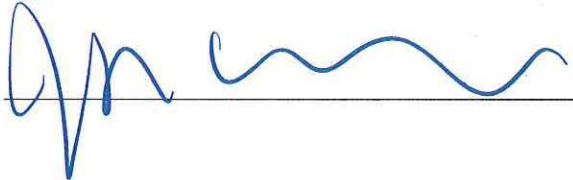
(1) The Parties have executed this Settlement Agreement as of the date on the cover page.

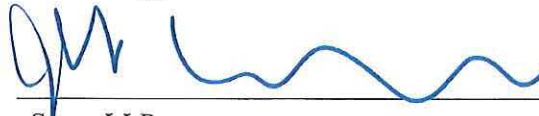
**KHURRAM SHAH and ALPINA HOLDINGS INC.**, on their own behalf and on behalf of the Ontario Settlement Class, by their counsel

Name of Authorized Signatory: David Jones for Siskinds

Signature of Authorized Signatory:   
Siskinds LLP  
Ontario Counsel

Name of Authorized Signatory: Jean-Marc Leclerc

Signature of Authorized Signatory: 



Sotos LLP  
Ontario Counsel

**JONATHAN CRUZ**, by his counsel

Name of Authorized Signatory:

David Jones

Signature of Authorized Signatory:



Camp Fiorante Matthews Mogerma LLP  
BC Counsel

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

Name of Authorized Signatory:

Maxime Nasr

Signature of Authorized Signatory:



Belleau Lapointe, LLP  
Quebec Counsel

**PANASONIC CORPORATION , PANASONIC CORPORATION OF NORTH AMERICA, PANASONIC CANADA INC., and SANYO ELECTRIC CO., LTD.** by their counsel

Name of Authorized Signatory:

Emrys Davis

Signature of Authorized Signatory:



Bennett Jones LLP

**SCHEDULE A – PROCEEDINGS**

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

Proceeding	Plaintiffs	Defendants	Settlement Class
		SDI America, Inc., Hitachi, Ltd., Hitachi Canada, Ltd., Hitachi Maxell, Ltd., Maxell Corporation of America	
British Columbia Supreme Court File No. VLC-S-S-128141 (Vancouver Registry) (the “BC Proceeding”)	Jonathan Cruz	LG Chem Ltd., LG Chem America, Inc., Panasonic Corp., Panasonic Corporation of North America, Sanyo Electric Co., Ltd., Sanyo North America Corporation, Panasonic Canada Inc., Samsung SDI Co. Ltd., Samsung SDI America, Inc., Samsung SDI Mexico, S.A. de C.V., Samsung SDI (Hong Kong) Ltd., Tianjin Samsung SDI Co., Ltd., Shanghai Samsung SVA Electronic Devices Co., Ltd., Samsung Electronics Canada Inc., Sony Corporation, Sony Energy Devices Corporation, Sony Electronics Inc., Sony of Canada Ltd., Hitachi, Ltd., Hitachi Canada, Ltd., Hitachi-Maxell Ltd., Maxell Corporation of America and Maxell Canada	

