

# DISTRIBUTION PROTOCOL

The procedures set forth herein are intended to govern the administration of the settlement funds paid in accordance with the Settlement Agreements. The procedures shall be implemented by the claims administrator, subject to the ongoing authority and supervision of the Ontario Superior Court of Justice. The Distribution Protocol operates with respect to Polyester Staple and Polyester Staple Products as defined in the Settlement Agreements.

## 1. QUALIFICATION CATEGORIES

1.1 Class members shall qualify for benefits under these Settlement Agreements in one of four categories:

Distributors - Class members who purchased Polyester Staple in Canada between April 1, 1999 and July 31, 2001, directly from a Defendant and only resold all of the purchased Polyester Staple without either further processing it or including it in any other product.

Direct Purchasers - Class members, other than Distributors, who purchased Polyester Staple in Canada between April 1, 1999 and July 31, 2001, directly from a Defendant or from a Distributor.

Intermediate Purchasers - Class members, other than a Direct Purchaser, a Distributor or a Consumer, who purchased Polyester Staple Products between April 1, 1999 and July 31, 2001.

Consumers - Class members who purchased Polyester Staple Products between April 1, 1999 and July 31, 2001, for personal consumption or use.

## 2. SETTLEMENT BENEFITS AVAILABLE TO DISTRIBUTORS AND DIRECT PURCHASERS

2.1. A settlement fund equal to 80% of the total Settlement Amount plus accrued interest less (a) applicable Class Counsel Fees and disbursements, (b) proportionate costs of notice, and (c) costs of administration, shall be available to compensate Distributors and Direct Purchasers.

### 2.2 Eligibility

Subject to the approval of the claims administrator, a Distributor or Direct Purchaser shall be eligible for compensation out of the Distributors and Direct Purchasers settlement fund upon filing a properly completed claim form postmarked before the claim deadline, and upon establishing: (a) that the Distributor purchased Polyester Staple in Canada directly from one or more of the Defendants between April 1, 1999 and July 31, 2001 or that the Direct Purchaser purchased Polyester Staple in Canada directly from one or more Defendants and/or Distributors between April 1, 1999 and July 31, 2001; and (b) the dollar amount of the Polyester Staple purchased between April 1, 1999 and July 31, 2001.

To be deemed sufficient to establish that a Distributor purchased Polyester Staple in Canada directly from one or more of the Defendants between April 1, 1999 and July 31, 2001 or that a Direct Purchaser purchased Polyester Staple in Canada directly from one or more Defendants and/or Distributors between April 1, 1999 and July 31, 2001, and to be deemed sufficient to establish the dollar value of the Polyester Staple purchased between April 1, 1999 and July 31, 2001, "Product Purchase Verification" in one of the following forms must be included with each claim form:

a. Proof of purchase confirming the Distributor purchased Polyester Staple in Canada directly from one or more of the Defendants between April 1, 1999 and July 31, 2001 or that the Direct Purchaser purchased Polyester Staple in Canada directly from one or more Defendants and/or Distributors between April 1, 1999 and July 31, 2001, and confirmation that compensation in respect of such purchases has not been previously made;

b. Seller's sales record, if available, verifying the sale of Polyester Staple to the Distributor or Direct Purchaser between April 1, 1999 and July 31, 2001, and confirmation that compensation in respect of such purchases has not been previously made. Where available, such information will be provided directly by the Settling Defendant(s) to the claims administrator. Distributors and Director Purchasers for whom such information is available will be advised of the sales information submitted by the Defendant sellers and they will be entitled to rely on such information without taking additional steps to establish their purchases of Polyester Staple in Canada; or

c. If a Distributor or Direct Purchaser is unable to provide any of the documentation as specified above in paragraphs (a) or (b), or providing that information is impractical, a Distributor or Direct Purchaser may submit to the claims administrator such other objective verification as may be acceptable to the claims administrator. Such other objective verification must be accompanied by an affidavit from the Distributor or Direct Purchaser stating that steps taken by the Distributor or Direct Purchaser to obtain the Product Purchase Verification outlined in subparagraphs (a) and (b) above and the responses, if any, to those steps.

### **2.3. Entitlement to Compensation**

Distributors and Direct Purchasers who satisfy the eligibility requirements outlined in section 2.2 of this Distribution Protocol, shall be entitled to compensation, to be calculated by the claims administrator, in the following manner:

1. A Direct Purchaser who establishes, to the satisfaction of the claims administrator, that it purchased "first quality fine denier polyester staple fiber" from one or more of the Defendants or Distributors:

a. between September 1, 1999 and January 31, 2001, shall be entitled to a pro-rata share of the Distributors and Direct Purchasers settlement fund with such share to be based upon the full dollar value of the Direct Purchaser's established purchases;

b. between April 1, 1999 and August 31, 1999 and/or between February 1, 2001 and July 31, 2001, shall be entitled to a pro-rata share of the Distributors and Direct

Purchasers settlement fund with such share to be based upon a value equal to 20% of the Direct Purchaser's established purchases;

2. A Direct Purchaser who establishes, to the satisfaction of the claims administrator, that it purchased Polyester Staple other than "first quality fine denier polyester staple fiber" from one or more of the Defendants or Distributors:

a. between September 1, 1999 and January 31, 2001, shall be entitled to a pro-rata share of the Distributors and Direct Purchasers settlement fund with such share to be based upon a value equal to 20% of the Direct Purchaser's established purchases;

b. between April 1, 1999 and August 31, 1999 and/or between February 1, 2001 and July 31, 2001, shall be entitled to a pro-rata share of the Distributors and Direct Purchasers settlement fund with such share to be based upon a value equal to 4% of the Direct Purchaser's established purchases;

3. A Distributor who establishes, to the satisfaction of the claims administrator, that it purchased "first quality fine denier polyester staple fiber" from one or more of the Defendants:

a. between September 1, 1999 and January 31, 2001, shall be entitled to a pro-rata share of the Distributors and Direct Purchasers settlement fund with such share to be based upon a value equal to 15% of the Distributor's established purchases;

b. between April 1, 1999 and August 31, 1999 and/or between February 1, 2001 and July 31, 2001, shall be entitled to a pro-rata share of the Distributors and Direct Purchasers settlement fund with such share to be based upon a value equal to 3% of the Distributor's established purchases;

4. A Distributor who establishes, to the satisfaction of the claims administrator, that it purchased Polyester Staple other than "first quality fine denier polyester staple fiber" from one or more of the Defendants:

a. between September 1, 1999 and January 31, 2001, shall be entitled to a pro-rata share of the Distributors and Direct Purchasers settlement fund with such share to be based upon a value equal to 3% of the Distributor's established purchases;

b. between April 1, 1999 and August 31, 1999 and/or between February 1, 2001 and July 31, 2001, shall be entitled to a pro-rata share of the Distributors and Direct Purchasers settlement fund with such share to be based upon a value equal to 0.6% of the Distributor's established purchases.

## **2.4 General Claims Processing Guidelines**

### **Efficiency**

The claims administrator shall process all claims in a cost-effective and timely manner.

### **Technical Difficulties**

If during claims processing, the claims administrator finds that technical deficiencies exist in a claimant's claim form, or the Product Purchase Verification, the claims administrator shall notify the claimant of the deficiencies via regular mail and shall allow the claimant thirty (30) days from the date of mailing of such notice to correct the deficiencies. If the deficiencies are not corrected within the thirty (30) day period, the claims administrator shall reject the claim without prejudice to the right of the claimant to resubmit the claim provided the claimant is able to meet the filing deadlines and other requirements set forth in this Distribution Protocol.

Technical deficiencies shall not include missing the deadline for filing the claim form. In no event shall the claims administrator accept claim forms postmarked after the claim deadline.

### **Notification and Payment of Claims**

The claims administrator shall notify via regular mail all claiming Distributors and Direct Purchasers as to the approval or rejection of their claims under this Distribution Protocol.

The claims administrator shall make arrangements to pay approved claims as expeditiously as possible.

### **Appeal of Claims**

All claimants shall be granted thirty (30) days from the date it receives notice pursuant to section 2.4 of this Distribution Protocol, to appeal the rejection (in whole or in part) of its claim. Such appeal will be on the basis of written submissions, supported only by the documentation originally provided to the claims administrator. The appeals will be determined by the Ontario Superior Court of Justice.

The judgment of the Ontario Superior Court of Justice respecting any appeal from the claims administrator's decision is final and binding and shall not be subject to any further appeal or review whatsoever.

## **3. SETTLEMENT BENEFITS AVAILABLE TO INTERMEDIATE PURCHASERS AND CONSUMERS**

- 3.1** Recognizing the difficulty of accurately identifying the amount of overcharge, if any, actually borne by any given Intermediate Purchaser or Consumer, and recognizing the related difficulties in directly compensating Intermediate Purchasers and Consumers, compensation for Intermediate Purchasers and Consumers will be paid out by the claims administrator through a distribution to organizations which operate for the general benefit of Intermediate Purchasers and Consumers.

The compensation available in the settlement fund for these class members shall be equal to 20% of the total Settlement Amount plus accrued interest less (a) applicable Class Counsel Fees and disbursements, and (b) proportionate costs of notice.

The organizations specified below have been identified as appropriate recipients from the Intermediate Purchasers and Consumers fund and will receive funds available to Intermediate Purchasers and Consumers in the percentage specified:

- (a) The Canadian Apparel Federation – 12%
- (b) Children's Apparel Manufacturers' Association – 3%
- (c) Ontario Furniture Manufacturers' Association – 6.25%
- (d) Quebec Furniture Manufacturers' Association – 3.85%
- (e) Furniture West Inc. – 4.9%
- (f) Salvation Army – 63%
- (g) Foundation Campus Notre-Dame-De Foy – 7%