

**CANADIAN
POLYESTER STAPLE CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

Made as of May 2, 2005

Between

**RANDALL KLEIN INC., RALPH W. ERICKSON, FONDATION CAMPUS NOTRE-
DAME-DE-FOY and MARIE CAREAU**
(the "Plaintiffs")

and

WELLMAN, INC.
(the "Settling Defendant")

**CANADIAN POLYESTER STAPLE CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

RECITALS

- A. WHEREAS the Proceedings have been commenced by the Plaintiffs in British Columbia, Ontario and Quebec which allege that the Settling Defendant participated in an unlawful conspiracy to raise, fix, maintain or stabilize the price of Polyester Staple in Canada and/or to allocate markets and customers for the sale of Polyester Staple in Canada, contrary to Part VI of the *Competition Act*;
- B. WHEREAS the Settling Defendant denies the allegations as alleged in the Proceedings;
- C. 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, 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;
- D. WHEREAS despite their belief that they are not liable in respect of the allegations as alleged in the Proceedings and have good defences thereto, the Settling Defendant is entering into this Settlement Agreement in order to achieve a final and nation-wide resolution of all claims asserted or which could have been asserted against them by the Plaintiffs, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;
- E. WHEREAS the Parties therefore wish to, and hereby do, finally resolve on a national basis, without admission of liability, all of the Proceedings as against the Settling Defendant;
- F. WHEREAS for the purposes of settlement only and contingent on approvals by the Courts as provided for in this Settlement Agreement, the Parties have consented to certification or authorization of the Proceedings as class proceedings and have consented to a Settlement Class and a Common Issue in each of the Proceedings; and
- G. WHEREAS the Plaintiffs assert that they are adequate class representatives for the Settlement Classes and will seek to be appointed representative plaintiffs in their respective Proceedings.

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 Proceedings be settled and dismissed on the merits with prejudice as to the Settling Defendant only, without costs as to the Plaintiffs, the classes they seek to represent or the Settling Defendant, subject to the approval of the 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) **Account** means an interest bearing trust account at a Canadian Schedule 1 bank in Ontario under the control of Ontario Counsel and into which the Settlement Amount and the Administrative Costs Amount is deposited.
- (2) **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.
- (3) **Administrative Costs Amount** means \$25,000 USD to be applied by the Plaintiffs to the payment of Administrative Expenses.
- (4) **British Columbia Counsel** means Poyner Baxter.
- (5) **British Columbia Court** means the Supreme Court of British Columbia.
- (6) **Class Counsel** means British Columbia Counsel, Ontario Counsel and Quebec Counsel.
- (7) **Class Counsel Fees** means the fees, disbursements, costs, GST and other applicable taxes or charges of Class Counsel, including any obligations for contributions that any Plaintiff, Settlement Class or Class Counsel may have to the Fonds.
- (8) **Common Issue** in each Proceeding means: Did the Settling Defendant agree to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for, Polyester Staple in Canada during the General Period?
- (9) **Consumer** means any individual who purchased Polyester Staple Products during the General Period for personal consumption or use.
- (10) **Courts** means the British Columbia Court, the Ontario Court and the Quebec Court.

- (11) **Defendants** means the individuals and entities named as defendants in the Proceedings as set out in Schedule A.
- (12) **Deposit Date** means May 3, 2005.
- (13) **Direct Purchaser** means a person, other than a Distributor, who purchased Polyester Staple in Canada during the General Period directly from a Defendant or from a Distributor.
- (14) **Distributor** means a person who purchased Polyester Staple in Canada during the General Period 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.
- (15) **Effective Date** means the date when Final Orders have been received from all Courts approving this Settlement Agreement and any time periods within which the Settling Defendant may terminate this Settlement Agreement have expired with no termination having occurred.
- (16) **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 any Excluded Person.
- (17) **Final Order** means a final judgment entered by a Court in respect of the certification or authorization of a Proceeding as a class proceeding and the approval of this Settlement Agreement once the time to appeal such judgment has expired without any appeal being taken, if an appeal lies, or once there has been a final disposition of all appeals.
- (18) **Fonds** means the Fonds d'aide aux recours collectifs in Quebec.
- (19) **General Period** means April 1, 1999 to July 31, 2001.
- (20) **Intermediate Purchaser** means a person, other than a Direct Purchaser, a Distributor or a Consumer, who purchased Polyester Staple Products during the General Period.
- (21) **Non-Settling Defendant** means a Defendant who is not a Settling Defendant or a Settled Defendant and includes a Settled Defendant who has validly terminated a settlement agreement pursuant to its terms.
- (22) **Ontario Counsel** means Siskind, Cromarty, Ivey & Dowler LLP.
- (23) **Ontario Court** means the Ontario Superior Court of Justice.
- (24) **Opt-Out Refund** means 2.0% of the Purchase Price paid by a Direct Purchaser or Distributor who validly opts out of this settlement for Polyester Staple purchased from the Settling Defendant and delivered in Canada during the Specific Period.

- (25) **Opt-Out Threshold** means an amount agreed upon by the Parties in a separate document delivered to the Courts under seal and kept confidential by the Parties and the Courts.
- (26) **Other Actions** means actions or proceedings, other than the Proceedings, relating to Released Claims commenced by a Settlement Class Member.
- (27) **Parties** means the Plaintiffs and the Settling Defendant.
- (28) **Plaintiffs** means the individuals and entities named as plaintiffs in the Proceedings as set out in Schedule A.
- (29) **Polyester Fiber** means man-made, synthetic polymer fiber derived from polyethylene terephthalate and composed of linear macromolecules having in the chain at least 85% by mass of an ester of dial and terephthalic acid.
- (30) **Polyester Staple** means any Polyester Fiber, other than fiberfill, uncut or cut to specific and relatively limited lengths (generally 0.5 to 4 – 8 inches).
- (31) **Polyester Staple Products** means Polyester Staple and products that directly or indirectly contain or are derived from Polyester Staple.
- (32) **Proceedings** means Ontario Court File No. 41307CP (London), British Columbia Court File SO33003, Vancouver Registry, British Columbia Court File SO50744, Vancouver Registry and Quebec Court (District of Quebec) Action No. 200-06-000034-036.
- (33) **Purchase Price** means the net amount, including rebates or any other form of discounts, paid by a Direct Purchaser or Distributor for Polyester Staple purchased and delivered in Canada, excluding all other charges including, but not limited to, delivery or shipping charges and taxes.
- (34) **Quebec Counsel** means Siskinds Desmeules.
- (35) **Quebec Court** means the Quebec Superior Court.
- (36) **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, damages whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties and Class Counsel Fees, known or unknown, suspected or unsuspected, in law, under statute or in equity, that Releasers, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, relating in any way to any conduct from the beginning of time to the date hereof in respect of the purchase, sale, pricing, discounting, marketing or distributing of Polyester Staple Products in Canada, or relating to any conduct alleged (or which could have been alleged) in the

Proceedings including, without limitation, any such claims which have been asserted, would have been asserted or could have been asserted, whether in Canada or elsewhere, as a result of the purchase of Polyester Staple Products in Canada.

(37) **Releasees** means, jointly and severally, the Settling Defendant and all of its respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing.

(38) **Releasors** means, jointly and severally, the Plaintiffs and the Settlement Class Members and their respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing.

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

(40) **Settlement Amount** means \$25,000 USD.

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

(42) **Settlement Class Member** means a member of a Settlement Class who does not validly opt out of that Settlement Class in accordance with future Orders of the Courts.

(43) **Settled Defendants** means E.I. Du Pont De Nemours and Company, DAK Americas LLC and DAK Fibers LLC.

(44) **Settling Defendant** means Wellman, Inc.

(45) **Specific Period** means September 1, 1999 to January 31, 2001.

SECTION 2 – CONDITION PRECEDENT: ONTARIO COURT APPROVAL

Except as provided in section 12, this Settlement Agreement shall be null and void and of no force and effect unless the Ontario Court approves this Settlement Agreement in the Proceeding commenced in Ontario and the order so given becomes a Final Order.

SECTION 3 – SETTLEMENT APPROVAL

3.1 Cooperation

The Parties shall use their best efforts to effectuate this Settlement and to secure the prompt, complete and final dismissal with prejudice of the Proceedings as against the Settling Defendant.

3.2 Motions for Approval

(1) As soon as practicable after execution of this Settlement Agreement, the Plaintiffs shall bring motions before the Courts for orders certifying or authorizing each of the Proceedings commenced in their respective jurisdictions as a class proceeding (for settlement purposes) and approving this Settlement Agreement. Until notice of such motions is sent for publication pursuant to section 11.1(i) below, this Settlement Agreement and all of its terms shall be kept confidential and shall not be disclosed by the Plaintiffs or Class Counsel without the prior written consent of counsel to the Settling Defendant.

(2) The orders referred to in section 3.2(1) above shall be in a form agreed to by the Parties.

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

3.3 Effect of Non-Approval

Notwithstanding any other term of this Settlement Agreement, the Settling Defendant may, in its sole and unfettered discretion, elect to terminate this Settlement Agreement in accordance with section 12 if the British Columbia Court or the Quebec Court fails to approve this Settlement Agreement or any part thereof.

SECTION 4 – SETTLEMENT BENEFITS

4.1 Payment of Settlement Amount and Notice Amount

(1) The Settling Defendant agrees to pay the Settlement Amount and the Administrative Costs Amount in accordance with this Settlement Agreement, in full satisfaction of all of the Released Claims against the Releasees.

(2) The Settling Defendant shall pay the Settlement Amount and the Administrative Costs Amount to Ontario Counsel for deposit into the Account on or before the Deposit Date.

(3) Ontario Counsel shall maintain the Account as provided for in this Settlement Agreement and shall not pay out any of the Settlement Amount or the Administrative Costs Amount, except in accordance with the provisions of this Settlement Agreement, without an order of the Ontario Court made on notice to or on consent of the Parties.

4.2 Taxes and Interest

(1) All interest earned on the Settlement Amount and Administrative Costs Amount shall become and remain part of the Account.

(2) Subject to section 4.2(3), all taxes payable on any interest which accrues on the Settlement Amount and the Administrative Costs Amount in the Account or otherwise in relation to the Settlement Amount and the Administrative Costs Amount shall be the responsibility of the Settlement Classes. Ontario Counsel shall be solely responsible to fulfill all tax reporting and payment requirements arising from Settlement Amount and the Administrative Costs Amount in the 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 and the Administrative Costs Amount shall be paid from the Account.

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

SECTION 5 — DISTRIBUTION OF THE SETTLEMENT AMOUNT, NOTICE AMOUNT AND ACCRUED INTEREST

(1) The Settlement Amount and the Administrative Costs Amount shall be held by Ontario Counsel for the benefit of the Settlement Class Members, including Direct Purchasers, Distributors, Intermediate Purchasers and Consumers and, after the Effective Date, shall be paid

in accordance with a plan approved by the Courts. Class Counsel shall, by motion, on notice to the Settling Defendant, submit a plan for approval by the Courts at the appropriate time.

(2) Except as specifically provided for herein, the Settling Defendant shall have no responsibility, financial obligations or liability whatsoever with respect to the investment, distribution or administration of monies in the Account including, but not limited to, in respect of Administration Expenses and Class Counsel Fees.

SECTION 6 –OPT-OUT THRESHOLD

(1) The procedure for opting out of this Settlement Agreement, including timing and notice requirements and the information required of the person seeking to opt-out, shall be agreed to by the Parties and approved by the Courts as part of the Final Orders. In any event, the time for opting out shall expire 45 days after the first publication of the notice of certification or authorization and settlement approval described in paragraph 11.1.

(2) Within 30 days after the expiry of the time for opting out, the Settling Defendant and Class Counsel shall be provided with a report from the entity appointed as administrator of this settlement, or by Class Counsel if an administrator has not yet been appointed, advising as to the names of those persons, if any, who have opted out of this settlement, the reasons for the opt-out, if known, its best estimate of the total Purchase Price paid by each such person for purchases from the Settling Defendant during the Specific Period and a copy of all information provided by that person in the opting-out process.

(3) Notwithstanding anything else in this Settlement Agreement, the Settling Defendant may, in its sole and unfettered discretion, terminate this Settlement Agreement if the Opt-Out Threshold is exceeded.

(4) Alternatively, if the Opt-Out Threshold is exceeded, and the Settling Defendant elects not to terminate this Settlement Agreement, it may, in its sole and unfettered discretion claim an Opt-Out Refund by giving notice in writing to Class Counsel and the claims administrator if one has been appointed, no later than 21 days after receiving the report referred to in section 6(2). Class Counsel, or the claims administrator if one has been appointed at that time, shall pay to the Settling Defendant the Opt-Out Refund, together with any interest actually earned on such amount in the Account, forthwith upon receiving such notice.

SECTION 7 – RELEASES AND DISMISSALS

7.1 Release of Releasees

Upon the Effective Date, the Releasors forever and absolutely release the Releasees from the Released Claims.

7.2 Release by Releasees

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

Notwithstanding section 7.1, for the purposes of the Proceedings commenced in the British Columbia Court and 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 bring any cause of action, proceeding, claim, action, suit, or demand or in any way or to threaten, commence, or continue any proceeding, claim, action, suit or demand in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

7.4 No Further Claims

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 Releasees or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto, except for the continuation of the Proceedings against the Non-Settling Defendants.

7.5 Dismissal of Settling Proceedings

The Proceedings shall be dismissed as against the Releasees, without costs and with prejudice.

7.6 Dismissal of Other Actions

(1) Each Settlement Class Member shall be deemed to consent to the dismissal, without costs and with prejudice, of his, her or its Other Actions against the Releasees.

(2) All Other Actions commenced by any Settlement Class Member in British Columbia, Ontario or Quebec relating to the Released Claims shall be dismissed against the Releasees, without costs and with prejudice.

SECTION 8 – BAR ORDER AND OTHER CLAIMS

8.1 Bar Order

A bar order shall be granted by each of the Courts providing for the following:

- (a) all claims for contribution, indemnity or other claims over, whether asserted or 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, by any Non-Settling Defendant, Settled Defendant or any other person or party, against 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 a Settlement Class);
- (b) the Plaintiffs shall restrict their joint and several claims against the Non-Settling Defendants such that the Plaintiffs shall be entitled to claim and recover from the Non-Settling Defendants on a joint and several basis only those damages (including punitive damages) arising directly from and directly allocable to the conduct of and sales by the Non-Settling Defendants;
- (c) a Non-Settling Defendant may seek an order from a Court providing for discovery of the Settling Defendant as deemed appropriate by the Court; and
- (d) a Non-Settling Defendant may effect service of the motion(s) referred to in section 8.1(c) on the Settling Defendant by service on counsel of record for the Settling Defendant in the Proceedings.

8.2 Claims Against Other Entities Reserved

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.

SECTION 9 – EFFECT OF SETTLEMENT

9.1 No Admission of Liability

The Parties expressly reserve all of their rights if this Settlement Agreement does not become effective or is terminated by the Settling Defendant. Further, the Parties agree that, whether or not this Settlement Agreement is finally approved or 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 deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by any Settling Defendant, 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

The Parties agree that, whether or not it is finally approved or 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 enforce this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law.

9.3 No Further Litigation

- (1) Except as provided in this section, no Class Counsel, nor anyone currently or hereafter employed by, associated with, 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. 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 otherwise ordered by a court.
- (2) Section 9.3(1) does not apply to the involvement of any person in the continued prosecution of the Proceedings against any Non-Settling Defendants.

SECTION 10 – CERTIFICATION OR AUTHORIZATION FOR SETTLEMENT ONLY

10.1 Settlement Class and Common Issue

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

(2) The Plaintiffs agree that, in the motions for certification or authorization of the Proceedings as class proceedings 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.

10.2 Certification or Authorization Without Prejudice

In the event this Settlement Agreement is not approved or is terminated in accordance with its terms, the Parties agree that any prior certification or authorization of a Proceeding as a class proceeding, including the definition of the Settlement Class and the statement of the Common Issue, shall be without prejudice to any position that any of the Parties may later take on any issue in the Proceedings or any other litigation.

SECTION 11 – NOTICE TO SETTLEMENT CLASSES

11.1 Notices Required

The proposed Settlement Classes shall be given notice of (i) hearings at which the Courts will be asked to approve the Settlement Agreement; (ii) the certification or authorization of the Proceedings as class proceedings and the approval of this Settlement Agreement; and (iii) the termination of the Settlement Agreement if it is terminated after the notice provided for in (ii) has been published and distributed.

11.2 Form and Distribution of Notices

The form of the notices referred to in section 11.1 and the manner of their publication and distribution shall be as agreed to by the Parties and approved by the Courts.

SECTION 12 – TERMINATION OF SETTLEMENT AGREEMENT

12.1 Manner of Termination

(1) If either the British Columbia Court or the Quebec Court fails to approve this Settlement Agreement, and if the Settling Defendant elects to exercise its right to terminate this Settlement Agreement, then the Settling Defendant shall give written notice of termination to the Class Counsel no later than 21 days after such Court's judgment failing to approve this Settlement Agreement and the disposal of all appeals (if any) therefrom or the expiration of the time for taking such appeals.

(2) If the total Purchase Price of Polyester Staple by Direct Purchasers and Distributors who opt-out of the Proceedings exceeds the Opt-Out Threshold, and if the Settling Defendant elects to exercise its right to terminate this Settlement Agreement, then the Settling Defendant shall give written notice of termination to Class Counsel no later than 21 days after the Settling Defendant is provided with the report referred to in section 6(2).

12.2 Consequences of a Decision not to Terminate following a Refusal to Approve the Settlement Agreement

(1) If the Settling Defendant does not exercise its election to terminate this Settlement Agreement following the British Columbia Court or the Quebec Court's failure to approve the Settlement Agreement, then each definition, section and Schedule shall be deemed to be herewith amended so as to delete all references and provisions relating to such jurisdiction(s) which declines to approve this Settlement Agreement. No Class Counsel Fees shall be payable from the Settlement Amount in any jurisdiction which declines to approve this Settlement Agreement.

12.3 Effect of Termination Generally

(1) Except as provided in sections 12.5 - 12.7, if this Settlement Agreement is terminated, it shall have no further force and effect, shall not be binding on the Parties and shall not be used as evidence or otherwise in any litigation.

(2) If this Settlement Agreement is terminated:

- (a) no motion to certify or authorize any of the Proceedings as a class action on the basis of this Settlement Agreement or to approve this Settlement Agreement shall proceed; and

- (b) any order certifying or authorizing a Proceeding as a class action on the basis of the Settlement Agreement and 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.

12.4 If Settlement Agreement is Terminated

(1) If the Settlement Agreement is terminated, the Settling Defendant shall bring motions before each of the Courts (to which the Plaintiffs shall consent) which shall issue orders in accordance with section 12.3:

- (a) declaring the Settlement Agreement to be null and void and of no force or effect (except for the provisions set out in section 12.6);
- (b) setting aside any order certifying or authorizing a Proceeding as a class action on the basis of the Settlement Agreement; and
- (c) directing that the balance in the Account, including interest, be returned to the Settling Defendant.

(2) If there is any dispute about whether the Settling Defendant has given a valid notice of termination in accordance with the provisions of this Settlement Agreement, then the Courts shall determine that dispute on motion brought by a Party.

12.5 Allocation of Monies in the Account Following Termination

If the Settlement Agreement is terminated, Ontario Counsel shall return to the Settling Defendant the Settlement Amount and Administrative Costs Amount including interest less any payment made in respect of the notices pursuant to section 14(4).

12.6 Survival of Provisions After Termination

If this Settlement Agreement is terminated for any reason, the provisions of sections 4.1(3), 4.2(2) and (3), 9.1, 9.2, 10.2, 12 and 13.1(4) and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect.

SECTION 13 – ADMINISTRATION AND IMPLEMENTATION

13.1 Mechanics of Administration

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.

13.2 Information and Assistance

- (1) The Settling Defendant will make reasonable efforts to compile a list of the names and addresses of Direct Purchasers and Distributors in Canada who purchased Polyester Staple in Canada from them during the General Period.
- (2) The information required by section 13.2(1) shall be delivered to Ontario Class Counsel within 5 business days of the execution of this Settlement Agreement by all Parties.
- (3) Ontario Class Counsel shall use the information provided under section 13.2(2) to advise Direct Purchasers and Distributors of this Settlement Agreement and the date of the approval hearings before the Courts.
- (4) If this Settlement Agreement is terminated, all information provided by the Settling Defendant pursuant to this Settlement Agreement shall be returned to them forthwith and no record of the information so provided shall be retained by Class Counsel in any form whatsoever.

SECTION 14 – CLASS COUNSEL FEES AND ADMINISTRATION EXPENSES

- (1) Class Counsel may seek the Courts' approval to pay Class Counsel Fees and Administration Expenses from the monies in the Account.
- (2) Subject to section 14(4), Class Counsel Fees and Administration Expenses may be paid out of the Account after the Effective Date.
- (3) Subject to section 14(4), Class Counsel shall bring motions for approval and payment of Class Counsel Fees and Administration Expenses out of the Account, which motions shall be made returnable at the same time as the motions for approval of this Settlement Agreement.
- (4) Notwithstanding section 14(2) and (3), Class Counsel may pay the costs of the first two notices referred to in section 11 of this Settlement Agreement out of the Account, but only up to a maximum of \$37,000.00 and only after those notices have been agreed to by the Parties and approved by the Courts. The costs of the first two notices shall be shared by all Defendants to whom the notices apply, pro rata based on their respective Settlement Amounts, and in the case of the Settling Defendant based on its Settlement Amount and Administrative Costs Amount collectively, and shall be paid out of the Account to a maximum of \$37,000. In no event, shall the Settling Defendant's contribution to the costs of the first two notices exceed \$25,000.

SECTION 15 – MISCELLANEOUS

15.1 Motions for Directions

- (1) Any Class Counsel or Settling Defendant may apply to the Courts for directions in respect of the implementation and administration of this Settlement Agreement.
- (2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties.

15.2 Releasees Have No Liability for Administration

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

15.3 Headings, etc.

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” and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

15.4 Ongoing Jurisdiction

- (1) Each of the Courts shall retain exclusive jurisdiction over each Proceeding commenced in its jurisdiction, the parties thereto and the Class Counsel Fees in those Proceedings.
- (2) No Court shall make any order or give any direction in respect of any matter of shared joint jurisdiction unless that order or direction is conditional upon a complimentary order or direction being made or given by the other Court(s) with which it shares jurisdiction over that matter.

15.5 Governing Law

This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.

15.6 Entire Agreement

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

15.7 Binding Effect

This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Settling Defendant, 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 Defendant shall be binding upon all of the Releasees.

15.8 Survival

The representations and warranties contained in this Settlement Agreement shall survive its execution and implementation.

15.9 Counterparts

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

15.10 Negotiated Agreement

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.

15.11 Recitals

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

15.12 Schedules

The Schedule annexed hereto form part of this Settlement Agreement.

15.13 Acknowledgements

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 with respect to the first Party's decision to execute this Settlement Agreement.

15.14 Authorized Signatures

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.

15.15 Notice

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 Plaintiffs and for Class Counsel:

Charles M. Wright
Siskind, Cromarty, Ivey & Dowler LLP
Barristers and Solicitors
680 Waterloo Street
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#408-145 Chadwick Court
North Vancouver, BC V7M 3K1

Telephone: 604-988-6321
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Email: ppoyner@poynerbaxter.com

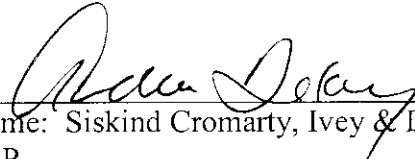
For Settling Defendant:

D. Michael Brown
Ogilvy Renault LLP
Suite 3800, P.O. Box 84
Royal Bank Plaza, South Tower
200 Bay Street
Toronto, ON M5J 2Z4

Telephone: (416) 216-3962
Facsimile: (416) 216-3930
Email: mbrown@ogilvyrenault.com

Randall Klein Inc., Foundation Campus Notre-Dame-de-Foy, Ralph W. Erickson and Marie Careau

By:



Name: Siskind Cromarty, Ivey & Dowler
LLP

Title: Ontario Counsel

By:

Name: Poyner Baxter
Title: British Columbia Counsel

By:

Name: Siskinds, Desmeules
Title: Quebec Counsel

Patrick Poyner
Poyner Baxter
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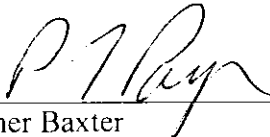
Telephone: (416) 216-3962
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Randall Klein Inc., Foundation Campus Notre-Dame-de-Foy, Ralph W. Erickson and Marie Careau

By:

Name: Siskind Cromarty, Ivey & Dowler
LLP
Title: Ontario Counsel

By:



Name: Poyner Baxter
Title: British Columbia Counsel

By:

Name: Siskinds, Desmeules
Title: Quebec Counsel

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Randall Klein Inc., Foundation Campus Notre-Dame-de-Foy, Ralph W. Erickson and Marie Careau


By:

Name: Siskind Cromarty, Ivey & Dowler
LLP
Title: Ontario Counsel

By:

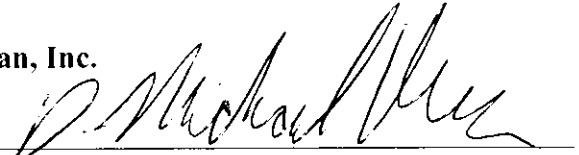
Name: Poyner Baxter
Title: British Columbia Counsel

By:


Name: Siskinds, Desmeules
Title: Quebec Counsel

Wellman, Inc.

By:

A handwritten signature in black ink, appearing to read "D. Michael Brown", written over a horizontal line.

Name: Ogilvy, Renault LLP

(D. Michael Brown)

Title: Solicitors for Wellman, Inc.

SCHEDULE A – PROCEEDINGS

| Proceeding | Defendants | Settlement Class |
|--|---|--|
| Ontario Superior Court of Justice Court File No. 41307CP ("Ontario Action") | Nan Ya Plastics Corp., Nan Ya Plastics Corporation, America (a/k/a Nan Ya Plastics Corporation USA), Wellman, Inc., Arteva Specialties, S.a.r.l. a/k/a Kosa, Arteva Specialties L.L.C., Koch Industries, Inc., IMASAB S.A. de C.V., E.I. Du Pont De Nemours and Company LLC, DAK Americas LLC, DAK Fibers LLC, Robert Bradley Dutton and Troy F. Stanley, Sr. | All persons in Canada who purchased Polyester Staple Products in Canada during the General Period, except the Excluded Persons and persons who are included in the British Columbia Action and in the Quebec Action. |
| Supreme Court of British Columbia, Vancouver Registry, Court File No. S033003 (the "B.C. Action") | Nan Ya Plastics Corp., Nan Ya Plastics Corporation, America (a/k/a Nan Ya Plastics Corporation USA), Wellman, Inc., Arteva Specialties, S.a.r.l. a/k/a Kosa, Arteva Specialties L.L.C., Koch Industries, Inc., IMASAB S.A. de C.V., E.I. Du Pont De Nemours and Company LLC, DAK Americas LLC, DAK Fibers LLC, Robert Bradley Dutton and Troy F. Stanley, Sr. | All persons in British Columbia who purchased Polyester Staple Products in Canada during the General Period, except the Excluded Persons. |
| Supreme Court of British Columbia, Vancouver Registry, Court File No. SO5 (the "Supplemental B.C. Action") | Nan Ya Plastics Corp., Nan Ya Plastics Corporation, America (a/k/a Nan Ya Plastics Corporation USA), Wellman, Inc., Arteva Specialties, S.a.r.l. a/k/a Kosa, Arteva Specialties L.L.C., Koch Industries, Inc., IMASAB S.A. de C.V., Robert Bradley Dutton and Troy F. Stanley, Sr. | All persons in British Columbia who purchased Polyester Staple Products in Canada during the General Period, except the Excluded Persons. |

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| <p>Superior Court of Quebec (District of Quebec), File No. 200-06-000034-036 (the "Quebec Action")</p> | <p>Nan Ya Plastics Corp., Nan Ya Plastics Corporation, America (a/k/a Nan Ya Plastics Corporation USA), Wellman, Inc., Arteva Specialties, S.a.r.l. a/k/a Kosa, Arteva Specialties L.L.C., Koch Industries, Inc., IMASAB S.A. de C.V., E.I. Du Pont De Nemours and Company LLC, DAK Americas LLC, DAK Fibers LLC, Robert Bradley Dutton and Troy F. Stanley, Sr.</p> | <p>All persons in Quebec who purchased Polyester Staple Products in Quebec during the General Period except the Excluded Persons.</p> |
|--|--|---|