

**CANADIAN RUBBER CHEMICALS CLASS ACTIONS
MULTI-JURISDICTIONAL SETTLEMENT AGREEMENT**

Between

**LUIGI DEL GUERICO o/a WESTOWN SHOE CLINIC,
R.N. PARTON LTD., UNION DES CONSOMMATEURS
AND M. FRANÇOIS HÉBERT**

and

FLEXSYS NV, FLEXSYS AMERICA LP, and FLEXSYS RUBBER CHEMICALS LTD.

Dated as of February 9, 2007

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RECITALS

A. WHEREAS the Proceedings have been commenced by the Plaintiffs in Ontario, Quebec and British Columbia which allege that the Settling Defendants participated in an unlawful conspiracy to raise, fix, maintain or stabilize the price of Rubber Chemicals in Canada and/or to allocate markets and customers for the sale of Rubber Chemicals in Canada, contrary to Part VI of the *Competition Act*;

B. WHEREAS the Settling Defendants deny 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 Defendants are entering into this Settlement Agreement in order to achieve final resolutions of all claims asserted or which could have been asserted against them by the Plaintiffs on their own behalf and on behalf of the classes they seek to represent, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;

E. WHEREAS the Parties therefore wish to, and hereby do, subject to the Courts' approval, for purposes of all jurisdictions in relation to which the Proceedings are brought, and for purposes of all classes the plaintiffs seek to represent, without admission of liability, finally resolve all of the Proceedings as against the Settling Defendants;

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 Settlement Classes and a Common Issue in each of the Proceedings, all as further described and defined herein;

G. WHEREAS the Parties have negotiated a Settlement Amount calculated on the basis of 4.82% of the Purchase Price (which term, as defined herein, is limited to sums paid directly to any Settling Defendants) paid by putative Settlement Class Members (being Direct Purchasers who have not previously settled their claims against the Settling Defendants and have not opted out of any of the Proceedings) plus 1.0845% of the Purchase Price paid by any other Direct Purchasers (that is, those Direct Purchasers who have previously settled their claims against the Settling Defendants or have opted out of any of the Proceedings and therefore are not putative Settlement Class Members).

H. WHEREAS the Parties have further negotiated an Administration Expenses Allowance to be paid to or for the benefit of the Settlement Classes;

I. 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;

J. WHEREAS the Settling Defendants represent that the Purchase Price they received from persons other than Defendants and other than persons who have previously opted out from the Proceedings amounted to no more than approximately CAN\$ 120.99 million;

K. WHEREAS in contemplation of execution of the Settlement Agreement the Settling Defendants have on May 1, 2006 placed into a segregated interest-bearing trust bank account the Original Settlement Amount and the Administration Expenses Allowance on the understanding that interest will become payable on the Original Settlement Amount and the Administration Expenses Allowance for distribution in accordance with this Settlement Agreement once this Settlement Agreement is finalized and executed, and on the further understanding that intervening opt-outs from the proceeding would result in a reduction or reductions of the Original Settlement Amount to produce the Settlement Amount.

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 Defendants only, without costs as to the Plaintiffs, the classes they seek to represent or the Settling Defendants, 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 a segregated interest bearing trust account at a Canadian Schedule 1 bank in Ontario under the control of Ontario Counsel to be maintained solely for the receipt and distribution of funds pursuant to this Settlement Agreement and no other.
- (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) ***Administration Expenses Allowance*** means Cdn \$75,000.
- (4) ***BC Counsel*** means Poyner Baxter LLP.
- (5) ***BC Court*** means the Supreme Court of British Columbia.
- (1) ***Claims Administrator*** means Neal Pallett Townsend LLP.
- (6) ***Class Counsel*** means Ontario Counsel, Quebec Counsel and BC Counsel.
- (7) ***Class Counsel Fees*** means the fees, disbursements, costs, GST and other applicable taxes or charges of Class Counsel.
- (8) ***Class Period*** means May 1, 1995 through December 31, 2001.

- (9) ***Common Issue*** in each Proceeding means: Did the Settling Defendants agree with others to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for, Rubber Chemicals in Canada during the Class Period?
- (10) ***Courts*** means the Ontario Court, the Quebec Court and the BC Court.
- (11) ***Defendants*** means the individuals and entities named as defendants in the Proceedings as set out in Schedule A and any person or entity added to any of the Proceedings as a defendant after this Settlement Agreement has been executed by or on behalf of the Settling Defendants.
- (12) ***Deposit Date*** means the date which is 10 business days after this Settlement Agreement has been executed by or on behalf of all Parties.
- (13) ***Direct Purchaser*** means a person who purchased Rubber Chemicals in Canada during the Class Period directly from a Defendant.
- (14) ***Distribution Protocol*** means a protocol for the distribution by the Claims Administrator of funds paid out of the Account to or for the benefit of Settlement Class Members which protocol is to be submitted for approval by the Courts at the same times as this Settlement Agreement.
- (15) ***Effective Date*** means the date when Final Orders have been received from all Courts approving this Settlement Agreement.
- (16) ***Excluded Person*** means each Defendant, the directors and officers of each Defendant, the subsidiaries and affiliates of each Defendant, the entities in which any 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 the 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 and the

certification and authorization of the Proceeding as a class proceeding and the approval of this Settlement Agreement have been upheld.

- (18) ***Non-Settling Defendant*** means any Defendant that is not a Settling Defendant or a Settled Defendant, or any Defendant that terminates its own settlement agreement in accordance with its terms, whether or not such settlement agreement is in existence at the date of execution of this Settlement Agreement.
- (19) ***Ontario Counsel*** means Siskinds^{LLP}.
- (20) ***Ontario Court*** means the Ontario Superior Court of Justice.
- (21) ***Original Settlement Amount*** means \$2,331,108 Cdn.
- (22) ***Other Actions*** means actions or proceedings, other than the Proceedings, relating to Released Claims commenced by a Settlement Class Member either before or after the Effective Date and includes the Other Quebec Action.
- (23) ***Other Quebec Action*** means Quebec Court (District of St.-François) Action No. 450-06-000003-040.
- (24) ***Parties*** means the Plaintiffs and the Settling Defendants.
- (25) ***Plaintiffs*** means the individuals and entities named as plaintiffs in the Proceedings listed in Schedule A.
- (26) ***Pre-Deposit Interest*** means the interest accrued on the Original Settlement Amount and the Administration Expenses Allowance from May 1, 2006 to and including the Deposit Date.
- (27) ***Proceeding*** means any one of the Proceedings.
- (28) ***Proceedings*** means Ontario Court File No. 46460CP (London), Quebec Court (District of Montreal) Action No. 500-06-000234-043 and British Columbia Court File No. S050984 (Vancouver Registry).

- (29) ***Purchase Price*** means the amount (net of rebates and any other form of discounts and excluding all other charges such as, without limitation, delivery or shipping charges and taxes) paid for Rubber Chemicals purchased in Canada during the Class Period directly from the Settling Defendants.
- (30) ***Quebec Counsel*** means Unterberg, Labelle, Lebeau s.e.n.c.
- (31) ***Quebec Court*** means the Quebec Superior Court.
- (32) ***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, Administration Expenses, penalties and lawyers' fees (including 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 an alleged conspiracy or other unlawful agreement or combination concerning the purchase, sale, pricing, discounting, marketing or distributing of Rubber Chemicals 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 Rubber Chemicals Products in Canada.
- (33) ***Releasees*** means, jointly and severally, the Settling Defendants and all of their respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners and insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and their respective present, future and former officers, directors, members of any supervisory board or board of management, employees, agents, shareholders, attorneys, trustees, servants and representatives of each of the foregoing, and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing. For avoidance of doubt, Releasees includes, without limitation, Akzo Nobel Chemicals International B.V., Solutia Inc.,

Akzo Nobel Chemicals, Inc., Akzo Nobel N.V., Monsanto Company and Flexsys Holding B.V. As used in this definition, “affiliates” means entities controlling, controlled by or under common control with a Releasee.

- (34) **Releasors** means, jointly and severally, the Plaintiffs and the Settlement Class Members and their respective parents, predecessors, successors, heirs, executors, administrators and assigns.
- (35) **Rubber Chemicals** means accelerators (primary accelerators, secondary or ultra accelerators, activators and vulcanizing agents, including without limitation sulfenamides, sulfenimides, thiazoles, dithiocarbamates, thiurams, xanthates, sulfides, disulfides, aldehyde amines, guanidines and dithiophosphates); antioxidants and antiozonants (including without limitation paraphenylenediamines, para-phenylenediamine blends, quinolines, hydroquinones, hindered phenols and diphenylamines); and waxes, blowing agents, vulcanization retardants, pre-vulcanization inhibitors, polymerization regulators, shortstops, peptizing agents, post vulcanization stabilizers, anti-reversion agents and treated cellulose reinforcement materials used in the processing and/or protection of rubber, but excluding Crystex and other insoluble sulphur products.
- (36) **Rubber Chemicals Products** means Rubber Chemicals and products that directly or indirectly contain or are derived from Rubber Chemicals.
- (37) **Settled Defendants** means Chemtura Corporation (f/k/a Crompton Corporation), Crompton Co./Cie., Crompton Canada Corporation, and Uniroyal Chemical Company Inc.
- (38) **Settlement Agreement** means this agreement, including the recitals and schedules.
- (39) **Settlement Amount** means Cdn \$2,317,494.
- (40) **Settlement Class** means, in respect of each Proceeding, the settlement class defined in Schedule A for each Proceeding.

- (41) *Settlement Class Member* means a member of a Settlement Class.
- (42) *Settling Defendants* means Flexsys NV, Flexsys America LP, and Flexsys Rubber Chemicals Ltd.

SECTION 2 – CONDITION PRECEDENT: ONTARIO COURT APPROVAL

This Settlement Agreement shall be null and void and of no force and effect, except for the provisions set out in section 12.7, 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 Best Efforts

The Parties shall use their best efforts to effectuate the settlement provided for in this Settlement Agreement and to secure the prompt, complete and final dismissal with prejudice of the Proceedings as against the Settling Defendants.

3.2 Motions for Approval

(1) 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 only) and approving this Settlement Agreement returnable no later than May 15, 2007.

(2) The Ontario order referred to in section 3.2(1) shall be in the form attached hereto as Schedule B. The Quebec and British Columbia orders referred to in section 3.2(1) shall be agreed upon by the Parties and shall duplicate the substance and, where possible, the form of the Ontario order. In the event that the Settling Defendants conclude in good faith that either or both of the Quebec and British Columbia orders does not duplicate the substance of the Ontario order, then the Settling Defendants shall have the right to terminate this agreement in accordance with section 12.2.

3.3 Pre-Motion Confidentiality

Until the motions required by section 3.2 are brought, this Settlement Agreement and all of its terms shall be kept confidential and shall not be disclosed by either the Plaintiffs or the

Settling Defendants, without the prior written consent of counsel for the Settling Defendants or Class Counsel respectively, except as may be required for the purposes of financial reporting or the preparation of financial records (including without limitation tax returns and financial statements) or as otherwise required by law.

3.4 Sequence of Motions

The Plaintiffs in Quebec and British Columbia shall not proceed with motions to approve this Settlement Agreement in the Proceedings commenced in their respective jurisdictions unless and until the Ontario Court approves this Settlement Agreement. The approval motions may be filed in Quebec and British Columbia, but Quebec and BC Counsel agree to seek any adjournment of their approval hearing required to permit the Ontario Court to first render its decision on the motion for approval brought before it.

3.5 Effect of Non-Approval

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

SECTION 4 – SETTLEMENT BENEFITS

4.1 Payment of Settlement Amount

(1) The Settling Defendants agree to pay the Settlement Amount, the Administration Expenses Allowance and Pre-Deposit Interest on that portion of the Original Settlement Amount which equals the sum of the Settlement Amount and the Administrative Expenses Allowance in accordance with this Settlement Agreement, in full satisfaction of all of the Released Claims against the Releasees.

(2) The Settling Defendants shall have no obligation to pay any amount in addition to the Settlement Amount, the Administration Expense Allowance and the Pre-Deposit Interest thereon, for any reason, pursuant to or in furtherance of this Settlement Agreement and in particular, without limitation, the Settling Defendants shall have no obligation to pay any additional amount for Class Counsel Fees.

(3) The Settling Defendants shall pay the Settlement Amount, the Administration Expenses Allowance and the Pre-Deposit Interest thereon on or before the Deposit Date to Ontario Counsel for deposit into the Account.

(4) On the Deposit Date, the difference between the Original Settlement Amount and the Settlement Amount, together with the Pre-Deposit Interest on that difference shall be returned to the Settling Defendants.

(5) Ontario Counsel shall maintain the Account as provided for in this Settlement Agreement and shall not pay out any of the Settlement Amount, the Administration Expenses Allowance or the Pre-Deposit Interest, except in accordance with the provisions of this Settlement Agreement, without an order of the Courts made on notice to or on consent of the Parties.

4.2 Taxes and Income

(1) All income earned on funds in the Account from and after the Deposit Date shall become and remain part of the Account.

(2) Subject to section 4.2(3), all taxes payable on Pre-Deposit Interest or any income which accrues in the Account or otherwise in relation to the Settlement Amount, the Administration Expenses Allowance or Pre-Deposit Interest shall be the responsibility of the Settlement Classes. Ontario Counsel shall be solely responsible to fulfill all tax reporting and payment requirements arising from Pre-Deposit Interest and from funds in the Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to Pre-Deposit Interest and any other income earned by the funds in the Account shall be paid from the Account.

(3) The Settling Defendants shall have no responsibility to make any filings relating to Pre-Deposit Interest or the Account and will have no responsibility to pay tax on Pre-Deposit Interest or any income earned by funds in the Account, unless this Settlement Agreement is not approved or is terminated, in which case the income earned in the Account shall be paid to the Settling Defendants who, in such case, shall be responsible for the payment of all taxes on such income that have not already been paid.

SECTION 5 – DISTRIBUTION OF THE SETTLEMENT AMOUNT AND ACCRUED INCOME

5.1 Distribution Protocol

The funds in the Account shall be held by Ontario Counsel for the benefit of the Settlement Class Members and, after the Effective Date, shall be transferred to the Claims Administrator to be paid out to or for the benefit of Settlement Class Members in accordance with the Distribution Protocol. It is agreed that no more than \$1,001,400.82 of the Settlement Amount plus Pre-Deposit Interest earned thereon and any income earned on that aggregate amount in the Account shall be paid to Direct Purchasers. The Claims Administrator shall maintain records sufficient to demonstrate its compliance with this limitation.

5.2 No Responsibility for Administration or Fees

In no event shall any of the Settling Defendants have any responsibility, financial obligations or liability whatsoever with respect to the investment, distribution or administration of funds in the Account including, but not limited to, in respect of the Administration Expenses Allowance and Class Counsel Fees.

SECTION 6 – NO OPTING-OUT

In accordance with the orders of the Ontario Court dated May 30, 2006, the Quebec Court dated June 7, 2006 and the BC Court dated June 6, 2006, no Settlement Class Member shall have any right to opt-out of the settlement provided for in this Settlement Agreement, and no person who has opted-out of any previous settlement in any of the Proceedings shall be entitled to participate in the settlement provided for in this Settlement Agreement.

SECTION 7 – RELEASES AND DISMISSALS

7.1 Release of Releasees

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

7.3 Covenant Not To Sue

Notwithstanding section 7.1, 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, or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to any Released Claims.

7.4 No Further Claims

The Releasers 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 or unnamed co-conspirators.

7.5 Dismissal of Proceedings as Against Settling Defendants

The Proceedings shall be dismissed with prejudice as against the Settling Defendants, without costs.

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, relating to the Released Claims, including the Other Quebec Action, 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, or by a Releasee against a Non-Settling Defendant or Settled Defendant or any other person or party, are barred, prohibited and enjoined in accordance with the terms of this section (unless such claim is made in respect of a claim by a person who has validly opted out the Proceedings);
- (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 from and allocable to the conduct of and sales by the Non-Settling Defendants;
- (c) a Non-Settling Defendant may, upon motion, seek an order from a Court providing for discovery from some or all of the Settling Defendants 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 a Settling Defendant by service on counsel of record for the Settling Defendants 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 Defendants. 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 Releasee, 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 or unnamed co-conspirators.

SECTION 10 – CERTIFICATION OR AUTHORIZATION FOR SETTLEMENT ONLY

10.1 Settlement Classes 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 definitions of the Settlement Classes 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 this Settlement Agreement; (ii) the orders certifying or authorizing the Proceedings as class proceedings and approving of this Settlement Agreement, which notice shall include a description of the Distribution Protocol and shall be in a form agreed upon by the Parties and approved by the Courts.

11.2 Distribution of Notices

The manner of publication and distribution of the notices referred to in section 11.1 (i) and 11.1(ii) shall be as set out in Schedule C, subject to any variations as may be directed by the Courts and agreed to by the Parties.

SECTION 12 – TERMINATION OF SETTLEMENT AGREEMENT

12.1 Exercise of Termination Right

No Releasee shall make or advance any claim of any kind against any Settling Defendant in connection with or arising out of:

- (a) any decision it makes or fails to make to exercise or not to exercise a right to terminate this Settlement Agreement; or
- (b) any determination it makes or fails to make as to whether any order is or is not in compliance or is deemed in compliance with section 3.2(2).

12.2 Termination for Non-Approval of This Settlement Agreement

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

12.3 Consequences of a Decision Not to Terminate for Non-Approval of This Settlement Agreement

If the Settling Defendants do not terminate this Settlement Agreement following the Quebec Court or the BC Court's failure to approve this 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 the jurisdiction that declines to approve this Settlement Agreement. In particular, and without limitation, the Settlement Amount will be reduced by recomputing the Settlement Amount as described in Recital G by excluding Purchase Prices paid by Direct Purchasers whose claims would have been heard by a Court that did not approve this

Settlement Agreement. In such event, Class Counsel or the Claims Administrator shall, within ten (10) business days after the time for Settling Defendants to elect termination expires, pay the Settling Defendants the amount by which the Settlement Amount has been reduced, together with any related Pre-Deposit Interest and income earned in the Account on said amount and Pre-Deposit Interest. Notwithstanding this, the definitions of Settlement Classes contained in this Settlement Agreement shall not be deleted and shall remain unchanged. No Class Counsel Fees shall be payable from the Settlement Amount in any jurisdiction which declines to approve this Settlement Agreement.

12.4 Termination Due to Opt-Outs

If, contrary to Section 6, any Settlement Class Member is permitted to opt out at any time, the Settling Defendants may, in their sole and unfettered discretion, terminate this Settlement Agreement.

12.5 Effect of Termination Generally

Except as provided in sections 12.6 - 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.

12.6 If Settlement Agreement is Terminated

If this Settlement Agreement is terminated:

- (a) no further 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;
- (b) any order certifying or authorizing a Proceeding as a class action on the basis of this 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;
- (c) Class Counsel in each Proceeding shall forthwith deliver consents in writing authorizing the Settling Defendants to bring motions before each of the Courts for orders:

- (i) declaring this Settlement Agreement to be null and void and of no force or effect (except for the provisions set out in section 12.7);
 - (ii) setting aside any order certifying or authorizing a Proceeding as a class action on the basis of this Settlement Agreement; and
 - (iii) directing that the balance in the Account, including income thereon, but less the notice costs already expended pursuant Section 14.3, be paid to the Settling Defendants;
- (d) Ontario Counsel shall thereupon pay to the Settling Defendants all funds then in the Account, including income accrued thereon.

12.7 Survival of Provisions After Termination

If this Settlement Agreement is terminated for any reason, the provisions of sections 4.2, 9.1, 9.2, 10.2, 12 and 13.2(3) 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) Class Counsel acknowledge receipt from the Settling Defendants of a list of the names and addresses of, and Purchase Price paid by Direct Purchasers in Canada. This information will be kept confidential by Class Counsel and will be used by them only for the purpose of effectuating the settlement provided for in this Settlement Agreement.

(2) Ontario Class Counsel shall use the information provided under section 13.2(1) to advise Direct Purchasers of this Settlement Agreement and the date of the approval hearings before the Courts.

(3) If this Settlement Agreement is terminated, all information provided by the Settling Defendants as acknowledged in this section 13.2 shall be returned to them forthwith and no record of the information so provided shall be retained by Class Counsel in any form whatsoever, nor shall any such information be used in any way by Class Counsel as evidence or otherwise in the Proceedings or in any other litigation.

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 funds in the Account.

(2) Subject to section 14(3), Class Counsel Fees and Administration Expenses may be paid out of the Account after the Effective Date.

(3) Notwithstanding section 14(2), Class Counsel may pay the costs of the notices referred to in section 11.1 (i) and (ii) of this Settlement Agreement out of the Account, but only up to a maximum of \$75,000 in total for both notices and only after those notices have been agreed to by the Parties and approved by the Courts.

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 this Settlement Agreement.

15.3 Headings, etc.

The division of this 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.

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) The Parties intend and agree that no Court shall 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.

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 Settlement Class Members, the Settling Defendants, 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.

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 Language

The parties acknowledge that they have required and consented that this 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. The Settling Defendants will provide, at their own expense, French translations of all notices required to be delivered pursuant to this Agreement or pursuant to any orders of the Courts made in relation to court approval or to performance of this Agreement.

15.12 Transaction

This Agreement constitutes a transaction within the meaning of Articles 2631 and following of the *Civil Code of Québec*, and the parties hereby waive any right to rely upon any errors of fact, of law and/or of calculation.

15.13 Recitals

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

15.14 Schedules

The Schedules annexed hereto form part of this Settlement Agreement.

15.15 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 this 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 this 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.

15.16 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.

15.17 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

**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

Patrick Poyner

**Poyner Baxter LLP
Lonsdale Quay Plaza
#408-145 Chadwick Court
North Vancouver, BC V7M 3K1**

Telephone: 604-988-6321
Facsimile: 604-988-3632
Email: ppoyner@poynerbaxter.com

François Lebeau

**Unterberg, Labelle, Lebeau s.e.n.c.
1980 Sherbrooke St. West
Suite 700
Montreal, Quebec
H3H 1E8**

Telephone: 514-934-0841
Facsimile: 514-937-6547
Email: contact@ullnet.com

For Settling Defendants:

David I. Hamer

**McCarthy Tétrault
Suite 2000, One London Place
255 Queens Avenue
London, Ontario
N6A 5R8**

Telephone: 519-660-7209

Facsimile: 519-660-3599

Email: dhamer@mccarthy.ca

Madeleine Renaud

**McCarthy Tétrault
Suite 2500,
1000 de la Gauchetière Street West
Montréal, Québec
H3B 0A2**

Telephone: 514-397-4252

Facsimile: 514-875-6246

Email: mrenaud@mccarthy.ca

Warren Milman

**McCarthy Tétrault
Pacific Centre
P.O.Box 10424, Suite 1300
777 Dunsmuir Street
Vancouver, British Columbia**

Telephone: 604-643-7104

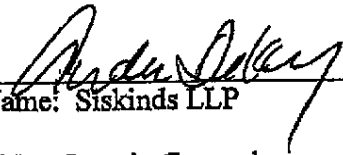
Facsimile: 604-643-7900

Email: wmilman@mccarthy.ca

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

**LUIGI DEL GUERICO o/a WESTOWN SHOE
CLINIC, R.N. PARTON LTD., UNION DES
CONSOMMATEURS and M. FRANÇOIS
HÉBERT**

By:


Name: Siskinds LLP

Title: Ontario Counsel

By:

Name: Unterberg, Labelle, Lebeau s.e.n.c.

Title: Quebec Counsel

By:

Name: Poyner Baxter LLP

Title: BC Counsel

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

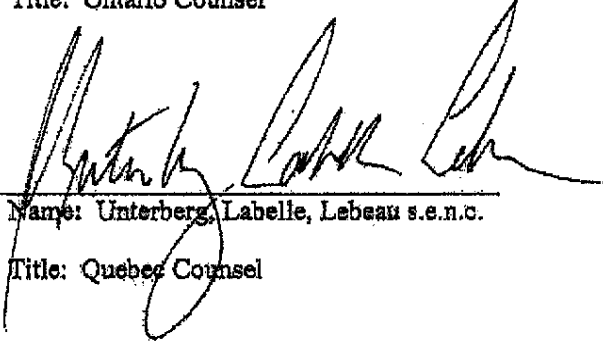
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HÉBERT**

By:

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Name: Unterberg, Labelle, Lebeau s.e.n.c.

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By:

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Title: BC Counsel

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**LUIGI DEL GUERICO o/a WESTOWN SHOE
CLINIC, R.N. PARTON LTD., UNION DES
CONSOUMMATEURS and M. FRANÇOIS
HÉBERT**

By:

Name: Siskinds LLP

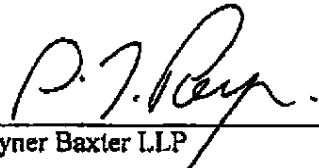
Title: Ontario Counsel

By:

Name: Unterberg, Labelle, Lebeau s.e.n.c.

Title: Quebec Counsel

By:



Name: Poyner Baxter LLP

Title: BC Counsel

**FLEXSYS NV, FLEXSYS AMERICA LP, and
FLEXSYS RUBBER CHEMICALS LTD.**

By:

McCarthy Tétrault / DIWN

Name: McCarthy Tétrault LLP
(David I. Hamer)

Title: Of Counsel for the Settling
Defendants

SCHEDULE "A" – PROCEEDINGS

Proceeding	Plaintiffs	Defendants	Settlement Classes
<p>Ontario Superior Court of Justice Court File at London No.46460CP ("Ontario Action")</p>	<p>Luigi Del Guercio o/a Westown Shoe Clinic</p>	<p>Bayer Inc., Bayer A.G., Bayer Material Science LLC (formerly known as Bayer Polymers LLC), Bayer Corporation, Crompton Corporation, Crompton Canada Corporation, Crompton Co./Cie. (formerly Uniroyal Chemical Co./Cie.), Uniroyal Chemical Company, Inc., Flexsys NV, Flexsys America LP, Flexsys Rubber Chemicals Ltd. and Duslo AS</p>	<p>All persons who purchased Rubber Chemicals Products in Canada during the Class Period, except persons who purchased Rubber Chemicals directly from any of the Settling Defendants and who have previously settled their claims against the Settling Defendants, the Excluded Persons, persons who have previously opted out of this proceeding, and persons who are included in the Quebec Class and the BC Class.</p>
<p>Superior Court of Quebec (District of Montreal), File No. 500-06-000234-043 (the "Quebec Action")</p>	<p>Union Des Consommateurs et M. François Hérbert</p>	<p>Bayer A.G., Crompton Corporation, Flexsys NV and Duslo AS</p>	<p>All individuals, as well as all legal persons established for a private interest, partnership or association which, at all times between May 31, 2003 and May 31, 2004, had under its direction or control no more than 50 persons bound to it by a contract of employment, who purchased Rubber Chemicals Products in Quebec during the Class Period except</p>

			persons who purchased Rubber Chemicals directly from any of the Settling Defendants and who have previously settled their claims against the Settling Defendants, persons who have previously opted out of this proceeding, and Excluded Persons.
British Columbia Supreme Court File No. SO50984 (Vancouver Registry) (the "BC Action")	R.N. Parton Ltd.	Bayer Inc., Bayer A.G., Bayer Material Science LLC (formerly known as Bayer Polymers LLC), Bayer Corporation, Crompton Corporation, Crompton Canada Corporation, Crompton Co./Cie. (formerly Uniroyal Chemical Co./Cie.), Uniroyal Chemical Company, Inc., Flexsys NV, Flexsys America LP, Flexsys Rubber Chemicals Ltd. and Duslo AS	All persons in British Columbia who purchased Rubber Chemicals Products in British Columbia during the Class Period, except persons who purchased Rubber Chemicals directly from any of the Settling Defendants and who have previously settled their claims against the Settling Defendants, persons who have previously opted out of this proceeding, and Excluded Persons

SCHEDULE "B"

ORDER

Court File No. 46460CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable) _____, the _____ day
Justice) of _____, 2006

B E T W E E N:

LUIGI DEL GUERCIO o/a WESTOWN SHOE CLINIC

Plaintiff

- and -

**BAYER INC., BAYER A.G., BAYER MATERIAL SCIENCE A.G.,
BAYER MATERIAL SCIENCE LLC (formerly BAYER POLYMERS LLC),
BAYER CORPORATION, CROMPTON CORPORATION,
CROMPTON CANADA CORPORATION, CROMPTON CO./CIE.
(formerly UNIROYAL CHEMICAL CO./CIE.), UNIROYAL CHEMICAL
COMPANY INC., FLEXSYS NV, FLEXSYS AMERICA LP,
FLEXSYS RUBBER CHEMICALS LTD., and DUSLO AS**

Defendants

Proceeding under the Class Proceedings Act, 1992

ORDER

THIS MOTION made by the Plaintiff for an Order certifying this action as a class proceeding for settlement purposes as it relates to Flexsys NV, Flexsys America LP, and

Flexsys Rubber Chemicals Ltd. (the "Settling Defendants") and approving the Settlement Agreement entered into with the Settling Defendants was heard this day at London.

ON READING the materials filed, including the settlement agreement attached to this Order as Schedule "A" (the "Settlement Agreement"), and on hearing the submissions of counsel for the Plaintiff and counsel for the Settling Defendants:

2. **THIS COURT ORDERS AND DECLARES** that for the purposes of this Order the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
3. **THIS COURT ORDERS** that this action be certified as a class proceeding as against the Settling Defendants for settlement purposes only.
4. **THIS COURT ORDERS** that the Settlement Class in this proceeding be defined as:

All persons who purchased Rubber Chemicals Products in Canada during the Class Period, except persons who purchased Rubber Chemicals directly from any of the Settling Defendants and who have previously settled their claims against the Settling Defendants, the Excluded Persons, persons who have opted out of any previous settlement in this proceeding, and persons who are included in the Quebec Class or in the BC Class.

5. **THIS COURT ORDERS** that Luigi del Guercio o/a Westown Shoe Clinic be appointed as the representative plaintiff for the Settlement Class in this proceeding.
6. **THIS COURT ORDERS** that this action be certified as a class proceeding for settlement purposes only, on the basis of the following common issue:

Did the Settling Defendants agree with others to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for, Rubber Chemicals in Canada during the Class Period?

7. **THIS COURT DECLARES** that the Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class in this proceeding.
8. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to s. 29 of the *Class Proceedings Act, 1992* and shall be implemented in accordance with its terms.
9. **THIS COURT DECLARES** that the Settlement Agreement is incorporated by reference into and forms part of this Order and is binding upon the representative plaintiff, upon all Settlement Class Members and upon the Defendants.
10. **THIS COURT ORDERS** that there shall be no further opt-outs permitted from this proceeding or from the settlement provided for in the Settlement Agreement.
11. **THIS COURT ORDERS AND DECLARES** that each Settlement Class Member shall consent and shall be deemed to have consented to the dismissal of any Other Actions he, she or it has commenced as against the Releasees, without costs and with prejudice.
12. **THIS COURT ORDERS AND DECLARES** that each Other Action commenced in Ontario by any Settlement Class Member shall be and is hereby dismissed against the Releasees, without costs and with prejudice.
13. **THIS COURT ORDERS AND DECLARES** that this Order, including the Settlement Agreement, is binding upon each Settlement Class Member including those persons who are minors or mentally incapable and the requirements of Rules 7.04(1) and 7.08(4) of the Rules of Civil Procedure are dispensed with in respect of this action.
14. **THIS COURT ORDERS AND DECLARES** that each Releasor has released and shall be conclusively deemed to have fully, finally and forever released the Releasees from the Released Claims.
15. **THIS COURT ORDERS** that each Releasor shall not commence or continue any action or take any proceeding relating in any way to the Released Claims against any person or persons who will or could, in connection with any such action or proceeding, bring or

commence or continue any claim, crossclaim, claim over or any claim for contribution, indemnity or any other relief against any one of the Releasees, provided that nothing in this Order affects the rights of a Settlement Class Member to claim or continue to claim against any Non-Settling Defendant or unnamed co-conspirator in any of the Proceedings.

16. **THIS COURT ORDERS AND DECLARES** that the Releasees have released and shall be conclusively deemed to have fully, finally and forever released each other from any and all claims for contribution and indemnity that said Releasees, 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 the Released Claims.
17. **THIS COURT ORDERS AND DECLARES** that the use of the terms “Releasors” and “Released Claims” in this Order does not constitute a release of claims by those Settlement Class Members who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors.
18. **THIS COURT ORDERS AND DECLARES** that each Settlement Class Member who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors covenants and undertakes not to make any claim in any way nor to threaten, commence, or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.
19. **THIS COURT ORDERS** that 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 against a Releasee by any Non-Settling Defendant, Settled Defendant, or any other person or party, or by a Releasee against a Non-Settling Defendant, Settled Defendant, or any other person or party, are barred, prohibited and enjoined in accordance with the terms of this Order.
20. **THIS COURT ORDERS** that the Settlement Class Members shall restrict their joint and several claims against the Non-Settling Defendants such that the Settlement Class

Members 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 from and allocable to the conduct of and sales by the Non-Settling Defendants.

21. **THIS COURT DECLARES** that a Non-Settling Defendant may, upon motion, seek an order from the Court providing for discovery from some or all of the Settling Defendants as deemed appropriate by the Court.
22. **THIS COURT ORDERS** that a Non-Settling Defendant may effect service of the motion(s) referred to in paragraph 21 above on a Settling Defendant by service on counsel of record for the Settling Defendants in the Proceedings.
23. **THE COURT ORDERS** that, except as provided herein, this Order does not affect any claims or causes of action that any Settlement Class Member has or may have against the Non-Settling Defendants or unnamed co-conspirators in the Proceedings.
24. **THIS COURT ORDERS AND ADJUDGES** that this action be and is hereby dismissed against the Settling Defendants without costs and with prejudice.
25. **THIS COURT ORDERS** that Neal Pallett & Townsend LLP be appointed as Claims Administrator.
26. **THIS COURT ORDERS** that the amount in the Account be held in trust by Class Counsel for the benefit of the Settlement Classes to be transferred to the Claims Administrator for payment out in accordance with section 5.1 of the Settlement Agreement.
27. **THIS COURT ORDERS AND DECLARES** that the Releasees have no responsibility for and no liability whatsoever with respect to the administration of the settlement provided for in the Settlement Agreement.
28. **THIS COURT ORDERS** that the notice of certification and settlement approval attached hereto as Schedule A is approved.

29. **THIS COURT ORDERS** that the notice of certification and settlement approval be disseminated in accordance with Schedule B attached hereto.

Date:

(Signature of judge, officer or registrar)

SCHEDULE “C”

PLAN OF DISSEMINATION

NOTICE OF HEARING FOR APPROVAL OF RUBBER CHEMICALS SETTLEMENT AGREEMENT

The Notice of Hearing for Settlement Approval with respect to the Flexsys Settlement Agreement shall be distributed in the following manner:

1. published once in the following newspapers:
 - (a) Globe and Mail (National Edition);
 - (b) Le Journal de Montréal;
 - (c) Le Journal de Québec;
2. sent to the following organization for distribution to their membership:
 - (a) The Rubber Association of Canada;
3. posted on Class Counsel’s website at www.classaction.ca; and

sent by direct mail to each of the Settling Defendants’ Direct Purchaser customers where possible.