

Court File No. 4369-11CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

)     *Jul*    , THE     13<sup>th</sup>      
)  
) DAY OF     *Sept*    , 2013

D. KINGSLEY SNELGROVE

Plaintiff

- and -

CATHAY FOREST PRODUCTS CORP., ANTHONY NG  
LUC PERRON, JOHN DUNCANSON, JOHN HOUSSER  
RAYMOND LO and PAUL WONG

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ORDER**

**THIS MOTION**, made by the Plaintiff for, *inter alia*, an Order that the within proceeding be certified as a class proceeding as against Cathay Forest Products Corp., Luc Perron, John Duncanson, John Housser, Raymond Lo and Paul Wong (collectively, "Settling Defendants") and Anthony Ng, for settlement purposes only, fixing the date of a settlement approval motion, and approving the form, content and method of dissemination of a notice of certification and notice of a pending settlement approval hearing, was heard this day at 80 Dundas Street, London, Ontario, N6A 5B6.

**ON READING** the materials filed, including the Settlement Agreement, dated August 21, 2013, attached hereto as **Schedule "A"** ("Settlement Agreement") and on hearing the submissions of Counsel for the Plaintiff and Counsel for the Settling Defendants;

**AND ON BEING ADVISED** that the Settling Defendants consent to this Order;

1. **THIS COURT DECLARES** that except as otherwise stated, this Order incorporates and adopts the definitions set out in the Settlement Agreement.
2. **THIS COURT ORDERS** that this action is certified as a class proceeding as against the Settling Defendants and Anthony Ng for the purpose of settlement only, pursuant to the *Class Proceedings Act, 1992*, S.O. 1992 c.6 (“CPA”), ss. 2 and 5, but subject to the terms of the Settlement Agreement, including Articles 8.3 and 10 thereof.
3. **THIS COURT ORDERS** that the class (“Class”) certified for the purpose of settlement with the Settling Defendants and Anthony Ng is:

All persons or entities wherever they may reside or be domiciled, other than Excluded Persons and Opt-Out Parties, who purchased or otherwise acquired, sold or held Eligible Shares.

4. **THIS COURT ORDERS** that D. Kingsley Snelgrove is appointed as the Representative Plaintiff for the Class.
5. **THIS COURT ORDERS** that the following issue is common to the Class:

Did Cathay’s Class Period disclosure documents contain one or more misrepresentations within the meaning of the *Securities Act*, RSO 1990, c. B-16, as amended, or at common law?

6. **THIS COURT ORDERS** that any person who wishes to validly exclude him, her or itself from this Action, must do so by submitting to Class Counsel an Opt-Out Form, together with

the information required by the Opt-Out Form, postmarked on or before the Opt-Out Deadline.

7. **THIS COURT ORDERS** that any person who validly excludes him, her or itself from this Action, in accordance with paragraph ~~five~~<sup>six (6)</sup> (5) of this Order, is not bound by the Settlement Agreement and shall no longer participate or have the opportunity in the future to participate in this Action. *DK*

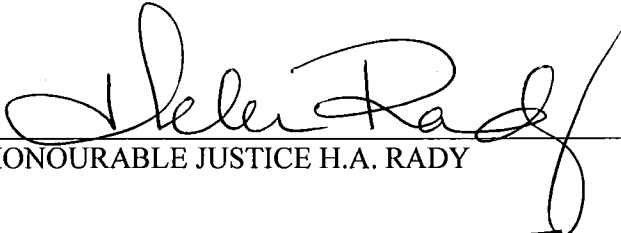
8. **THIS COURT ORDERS** that any person who is a member of the Class and who does not validly exclude him, her or itself from this Action in accordance with paragraph ~~five~~<sup>six (6)</sup> (5) of this Order on or prior to the Opt-Out Deadline will be bound by the Settlement Agreement, including the releases contained therein, and may not exclude him, her or itself from this Action in the future, whether or not a claim to participate in the distribution of the Settlement Amount is submitted by that person. *DK*

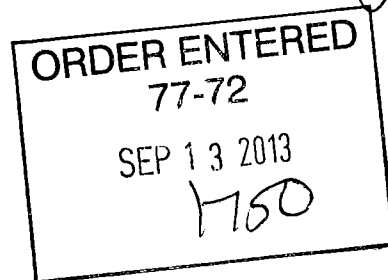
9. **THIS COURT ORDERS** that the Opt-Out Form is hereby approved in substantially the form attached hereto as **Schedule "B"**.

10. **THIS COURT ORDERS** that by no later than 15 calendar days after the Opt Out Deadline, Class Counsel shall:

- (a) report to the Court and the Settling Defendants the number of Eligible Shares held by each Opt-Out Party and the total number of Eligible Shares held by the Opt-Out Parties; and
- (b) provide to the Settling Defendants copies of the Opt-Out Forms submitted by Opt-Out Parties.

11. **THIS COURT ORDERS** that the First Notice is hereby approved in substantially the form attached hereto as **Schedule "C"**.
12. **THIS COURT ORDERS** that the Plan of Notice attached hereto as **Schedule "D"** is hereby approved for the purposes of the publication and dissemination of the First Notice and the dissemination of the Opt Out Form.
13. **THIS COURT ORDERS** that the First Notice shall be published in accordance with the Settlement Agreement and the Plan of Notice.
14. **THIS COURT ORDERS** that the hearing of the Approval Motion and the Representative Plaintiff's motion for approval of Class Counsel Fees shall take place at 2:30pm EST on November 22, 2013, at 80 Dundas Street, London, Ontario, N6A 5B6.
15. **THIS COURT ORDERS** that Class Members who wish to file with the Court an objection or comment on the Settlement or the request for approval of Class Counsel Fees shall deliver a written statement to Class Counsel, at the address indicated in the First Notice, no later than November 15, 2013.

  
\_\_\_\_\_  
THE HONOURABLE JUSTICE H.A. RADY



SCHEDULE "A"

**CATHAY FOREST PRODUCTS CORP.  
SECURITIES CLASS ACTION SETTLEMENT AGREEMENT**

Made as of August 21, 2013

BETWEEN

**D. KINGSLEY SNELGROVE  
PATRICK F. PEIDL**

**("Plaintiffs")**

– and –

**CATHAY FOREST PRODUCTS CORP.  
LUC PERRON  
JOHN DUNCANSON  
JOHN HOUSSER  
RAYMOND LO  
PAUL WONG**

**("Settling Defendants")**

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## **SETTLEMENT AGREEMENT**

Subject to the approval of the Court as provided herein, the Plaintiffs and the Settling Defendants hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon the Approval Order approving the Settlement and directing the implementation of the terms and conditions of the Settlement as set forth in this Agreement becoming final, this Action will be settled and compromised on the terms and conditions contained herein.

### **SECTION 1 - RECITALS**

#### **1.1 WHEREAS:**

A. Mac Killoran commenced this Action in Ontario against the Defendants, and D. Kingsley Snelgrove, by substitution, continued this Action, alleging among other things that Cathay's December 2009 Prospectus and certain of Cathay's secondary securities market disclosure documents, including its audited and unaudited financial statements, were materially misleading.

B. The Settling Defendants have denied and continue to deny all the Plaintiffs' claims in this Action, have vigorously denied any wrongdoing or liability of any kind, or whatsoever, and would have actively and diligently pursued affirmative defences and other defences had this Action not been settled.

C. Based upon an analysis of the facts and law applicable to the issues in this Action, and taking into account the extensive burdens, complexities, risks and expense of continued litigation, including the determination of the Settling Defendants' liability and potential limits thereto, the determination of damages to the Class, any potential appeals, as well as the fair, cost-

effective and assured method of resolving the claims of the Class, and given the Plaintiffs' view that they do not presently have direct evidence of wrongdoing on the part of the Defendants John Duncanson, John Housser, Raymond Lo, Luc Perron and Paul Wong, the Plaintiffs, with the benefit of advice from Class Counsel, concluded that this Agreement is fair and reasonable, and in the best interests of the Class.

D. The Settling Defendants similarly have concluded that this Agreement is desirable in order to avoid the time, risk and expense of continuing with the litigation, including any potential appeals, and any other present or future litigation arising out of the facts that gave rise to this litigation, and to resolve finally and completely the pending claims raised or that could have been raised in this proceeding.

E. The Plaintiffs and the Settling Defendants have engaged in hard-fought arm's length negotiations.

F. The Plaintiffs and the Settling Defendants intend to and hereby do finally resolve this Action and all the claims that were or could have been asserted in the Action against the Settling Defendants and Anthony Ng, subject to the approval of the Court as hereinafter provided, without any admission of liability or wrongdoing whatsoever by the Settling Defendants.

G. The Plaintiff, Snelgrove, asserts that he is a suitable representative for the Class and will seek to be appointed as the representative plaintiff in this Action.

**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, the Parties stipulate and agree that these Minutes of Settlement represent

the agreement between the Parties to resolve and release, fully and finally, in accordance with the terms more particularly set out herein, all Released Claims, and subject to the approval of the Court as provided herein, to obtain an Approval Order that is a Final Order dismissing the Action as against the Settling Defendants and Anthony Ng with prejudice and without costs.

## **SECTION 2 - DEFINITIONS**

2.1 In this Settlement Agreement, including the Recitals and Schedules hereto:

1. **Action** means the action styled *Snelgrove v Cathay Forest Products Corp., et al.* filed in the Ontario Superior Court of Justice (London Registry), and bearing Court File. No. 4369/11CP.
2. **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable in relation to the notice, approval, implementation and administration of the Settlement, including the costs of publishing and delivery of notices, fees, disbursements and taxes paid to the Administrator, and any other expenses approved by the Court which shall be paid from the Settlement Amount. For greater certainty, Administration Expenses do not include Class Counsel Fees.
3. **Administrator** means the third party professional firm selected at arm's length by Class Counsel, and agreed upon by the Settling Defendants, and appointed by the Court to administer this Settlement Agreement in accordance with the Plan of Allocation, and any employees of such firm.
4. **Agreement** means this settlement agreement, including the recitals.
5. **Anthony Ng** means the Defendant, Anthony Ng, a former director, president and chief executive officer of Cathay.

6. ***Approval Motion*** means a motion to be brought by the Plaintiff, Snelgrove, in the Court for the Approval Order.

7. ***Approval Order*** means an order made by the Court:

- (a) approving this Settlement;
- (b) appointing the Administrator;
- (c) approving the form of the Second Notice;
- (d) approving the Plan of Notice for the purpose of the publication and dissemination of the Second Notice;
- (e) approving the Plan of Allocation; and
- (f) dismissing the Action as against the Settling Defendants and Anthony Ng without costs and with prejudice on the Effective Date;

in a form satisfactory to the Settling Defendants or as fixed by the Court.

8. ***Authorized Claimant*** means any Class Member who has submitted a completed Claim Form which, pursuant to the terms of the Agreement, has been approved for compensation by the Administrator in accordance with the Plan of Allocation.

9. ***Cathay*** means Cathay Forest Products Corp., a corporation continued under the *Canada Business Corporations Act*, R.S.C., 1985, c. C-44.

10. ***Certification and First Notice Motion*** means a motion brought before the Court for an order in a form satisfactory to the Settling Defendants or as fixed by the Court.

11. ***Claim Form*** means the form to be approved by the Court which, when completed and submitted in a timely manner to the Administrator, constitutes a Class Member's claim for compensation pursuant to the Settlement.

12. ***Claims Bar Deadline*** means the date by which each Class Member must file a Claim form and all supporting documentation with the Administrator; which date shall be one hundred and twenty (120) days after the date on which the Second Notice is first published.

13. ***Class*** or ***Class Members*** means all persons or entities wherever they may reside or be domiciled, other than Excluded Persons and Opt-Out Parties, who purchased or otherwise acquired, sold or held Eligible Shares.

14. ***Class Counsel*** means Siskinds LLP.

15. ***Class Counsel Fees*** means the fees, disbursements, costs, interest, HST and other applicable taxes or charges of Class Counsel as approved by the Court.

16. ***Class Period*** means the period from and including November 9, 2009 to and including August 21, 2013.

17. ***Common Issue*** means: Did Cathay's Class Period disclosure documents contain one or more misrepresentations within the meaning of the *Securities Act*, R.S.O. 1990, c. B-16, as amended, or at common law?

18. ***Counsel for the Settling Defendants*** means Norton Rose Fulbright Canada LLP., and Wardle Daley Bernstein LLP., individually and collectively.

19. ***Court*** means the Ontario Superior Court of Justice.

20. **CPA** means the *Class Proceeding Act, 1992*, S.O. 1992, c. 6, as amended.
21. **Defendant** means any Defendant named as a defendant in the Action.
22. **Effective Date** means the date on which all of the following occur or have occurred:
  - a) the Settling Defendants have paid the Settlement Amount into the Escrow Account; and
  - b) the Settling Defendants' collective right to terminate the Agreement has expired and the Approval Order becomes a Final Order.
23. **Eligible Shares** means the Shares purchased or otherwise acquired by a Class Member or Opt-Out Party during the Class Period.
24. **Escrow Account** means
  - (a) prior to the Approval Order, an interest bearing trust account at a Canadian Schedule 1 bank in Ontario under the control of the administrator agreed upon by the Plaintiffs and Settling Defendants Class Counsel,
  - (b) after the Approval Order, an interest bearing trust account at a Canadian Schedule 1 bank in Ontario under the control of the Administrator appointed pursuant to the Approval Order.
25. **Escrow Settlement Amount** means the Settlement Amount plus any interest accruing thereon.
26. **Excluded Persons** means:
  - (a) each Defendant;

- (b) the past or present subsidiaries or affiliates, officers, directors, partners, legal representatives, consultants, agents, successors and assigns of Cathay;
- (c) any member of each Defendant's families;
- (d) each Defendant's heirs, successors or assigns; and
- (e) any other person who acted as a consultant or provided other professional services to Cathay or its subsidiaries during the Class Period relating to the acquisition, purchase, sale, pricing, marketing or distribution of Shares.

27. ***Final Order*** means any order of the Court contemplated by this Settlement Agreement from which no appeal lies or in respect of which any right of appeal has expired without the initiation of proceedings in respect of that appeal such as the delivery of a notice of motion for leave to appeal or a notice of appeal.

28. ***First Notice*** means the Notice of Certification and Notice of Court Hearing for Settlement Approval.

29. ***Long Form Notice of Settlement*** means notice to the Class of the Approval Order in a form satisfactory to the Settling Defendants or as fixed by the Court.

30. ***Newspapers*** means the following newspaper publications in Canada: National Post, Globe & Mail and La Presse.

31. ***Notice of Certification and Notice of Court Hearing for Settlement Approval*** means notice to the Class of:

- (a) the certification of the Action as against the Settling Defendants for settlement purposes, and as against Anthony Ng;
- (b) the procedure to obtain an Opt-Out Form and become an Opt-Out Party; and
- (c) the Approval Motion;

in a form satisfactory to the Settling Defendants.

32. ***Opt-Out Deadline*** means the date sixty (60) days after the date on which the First Notice is first published in the Newspapers.

33. ***Opt-Out Form*** means the document in a form to be approved by the Court that if validly completed and submitted by a Class Member to Class Counsel before the expiry of the Opt-Out Deadline, excludes that Class Member from the Class and participation in this Action and the Settlement.

34. ***Opt-Out Party*** means any person who would otherwise be a Class Member and who submits a valid Opt-Out Form to Class Counsel by the Opt-Out Deadline.

35. ***Opt-Out Period*** means the period up to and including the Opt-Out Deadline, during which Opt-Out Forms may be submitted by persons who fall within the Class and wish to opt-out of the Proceeding.

36. ***Opt-Out Threshold*** means the total number of Eligible Shares required to be held by all Opt-Out Parties in order to trigger the Settling Defendants' right to terminate this Agreement in accordance with Sections 10.5 to 10.7 hereof, as particularized in the Collateral Agreement.

37. ***Parties*** mean the Plaintiffs and the Settling Defendants.



38. ***Plaintiffs*** means the Plaintiff, D. Kingsley Snelgrove, and the proposed plaintiff, Patrick F. Peidl, individually and collectively.

39. ***Plan of Allocation*** means the distribution plan stipulating the proposed distribution of the net Settlement Amount.

40. ***Plan of Notice*** means the plan for disseminating the First Notice and disseminating the Second Notice to the Class in a form satisfactory to the Settling Defendants or as fixed by the Court.

41. ***Released Claims*** (or Released Claim in the singular) means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual, derivative or otherwise in nature, whether personal or subrogated, damages whenever incurred, and liabilities of any nature whatsoever, including interest, costs, expenses, Administration Expenses, penalties, Class Counsel Fees and lawyers' fees, known or unknown, suspected or unsuspected, in law, under statute or in equity, that the 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 as against the Releasees or any one or more of the Releasees, relating in any way to the acquisition, purchase, sale, retention, pricing, marketing or distribution of Eligible Shares during the Class Period, or to any representations made by the Releasees during the Class Period to anyone concerning Cathay or its subsidiaries, or in respect of their operations and records, their consolidated financial results, or the Eligible Shares, or relating to any conduct alleged (or which could have been alleged) in this Action, including, without limitation, any such claims which have been asserted, would have been asserted or could have been asserted relating in any way to the acquisition, purchase, sale, retention, pricing, marketing or distribution of Eligible Shares in the Class Period.

42. **Releasees** mean, jointly and severally, individually and collectively, the Settling Defendants, Anthony Ng and all present and former affiliated entities, partners, associates, employees, servants, agents, contractors, directors, officers, and successors, administrators, heirs and assigns of each, and any insurers, including the directors' and officers' liability insurers and any other insurers of each or all of them.

43. **Releasers** mean, jointly and severally, individually and collectively, the Plaintiffs, the Class Members, and any person having a legal and/or beneficial interest in the Eligible Shares purchased, acquired, sold or held by the Class Members, and each of their respective past and present directors, officers, employees, agents, trustees, servants, consultants, underwriters, advisors, representatives, heirs, executors, attorneys, administrators, guardians, estate trustees, successors and assigns, as the case may be, but excluding Opt-Out Parties.

44. **Second Notice** means the Short Form Notice of Settlement and the Long Form Notice of Settlement.

45. **Settlement** means the settlement provided for in this Agreement.

46. **Settlement Amount** means \$1,900,000 in Canadian currency to be paid by the Settling Defendants' insurer on behalf of Cathay, inclusive of Administration Expenses, Class Counsel Fees, and any other costs or expenses otherwise related to the Action.

47. **Settling Defendants** means Cathay Forest Products Corp., Luc Perron, John Housser, John Duncanson, Paul Wong Chi Wai and Raymond Mun Lam Lo.

48. **Shares** means common shares of Cathay.

49. *Short Form Notice of Settlement* means notice to the Class of the Approval Order in a form satisfactory to the Settling Defendants or as fixed by the Court.

### **SECTION 3 –APPROVAL AND NOTICE PROCESS**

#### **Best Efforts**

3.1 The Parties shall use their best efforts to effectuate this Settlement and to secure the Approval Order.

3.2 Until the Approval Order becomes a Final Order or the termination of this Agreement, whichever occurs first, the Parties agree to hold in abeyance all steps in the Proceeding as they relate to the Settling Defendants, other than the motions provided for in this Agreement and such other matters required to implement the terms of this Agreement.

#### **Certification and First Notice Motion**

3.3 The Plaintiff, Snelgrove, will, as soon as is reasonably practicable following the execution of this Agreement, bring the Certification and First Notice Motion. Subject to the content of the First Notice and the order sought in the Certification and First Notice Motion being satisfactory to the Settling Defendants, and for the purpose of this Agreement only, the Settling Defendants will consent to the order being sought.

3.4 Class Counsel shall cause the First Notice to be published in accordance with the Plan of Notice and the directions of the Court. The costs of publishing the First Notice shall be paid from the Escrow Account as and when incurred.

### **Approval Motion and Notice**

3.5 The Plaintiff, Snelgrove, will thereafter bring the Approval Motion before the Court in accordance with the Court's directions. The Settling Defendants will consent to the Approval Order, subject to the content of the Approval Order sought at the Approval Motion being satisfactory to the Settling Defendants, and for the purposes of the Settlement only.

3.6 Upon the granting of the Approval Order, Class Counsel or the Administrator, as the case may be, shall cause the Second Notice to be published and disseminated in accordance with the Plan of Notice as approved by the Court. The costs of publishing the Second Notice shall be paid from the Escrow Account as and when incurred.

### **Notice of Termination**

3.7 If this Agreement is terminated after the First Notice has been published and disseminated, a notice of the termination will be given to the Class. Class Counsel will cause the notice of termination, in a form approved by the Court, to be published and disseminated as the Court directs. The costs of publishing a notice of termination shall be paid from the Escrow Account as and when incurred.

### **Report to the Court**

3.8 After publication and dissemination of each of the notices required by this Section, Class Counsel or the Administrator, as the case may be, shall file with the Court an affidavit confirming publication and dissemination.

## **SECTION 4 – SETTLEMENT BENEFIT**

### **Payment of Settlement Amount**

4.1 Within thirty (30) days after execution of this Agreement, the Settling Defendants' insurer shall cause \$50,000.00 of the Settlement Amount to be paid into the Escrow Account on behalf of Cathay, to be held in trust and used only for the purpose of paying the cost of the First Notice. Within thirty (30) business days after the Court issues an Order approving the Settlement Agreement, the Settling Defendants' insurer shall cause \$1,850,000.00 to be paid into the Escrow Account on behalf of Cathay, in full satisfaction of the Released Claims against the Releasees.

4.2 Neither the Settling Defendants nor the Settling Defendants' insurer shall have any obligation to pay any amount to the Plaintiffs, the Class Members or Class Counsel (other than the payment by the Settling Defendants' insurer pursuant to Section 4.1) with respect to this Settlement Agreement or the Action for any reason whatsoever, including any amount for damages, interest, legal fees (including Class Counsel fees), disbursements, taxes of any kind, costs and expenses relating in any way to the Action, including as described in Sections 3.4 to 3.7, the Released Claims, the Settlement, and Administration Expenses.

4.3 In no event shall the total Administrative Expenses relating to this Settlement exceed \$125,000 prior to the Effective Date.

4.4 Class Counsel shall account to the Court and the Settling Defendants for all payments it makes from the Escrow Account. In the event this Agreement is terminated, this accounting shall be delivered no later than ten (10) days after the termination.

4.5 Any dispute concerning the entitlement to or quantum of expense incurred by Class Counsel and/or the Administrator shall be dealt with by a motion to the Court on notice to the Parties.

**Settlement Amount to be Held in Trust**

4.6 Prior to the Approval Order, the administrator agreed upon by the Plaintiffs and the Settling Defendants, and then subsequent to the Approval Order, the Administrator appointed pursuant to the Approval Order, shall maintain the Escrow Account and hold the Settlement Amount in trust in the Escrow Account as provided for in this Agreement. In the event that the Administrator appointed pursuant to the Approval Order is not the same as the administrator agreed upon by the Plaintiffs and the Settling Defendants prior to the Approval Order, then upon the making of the Approval Order, the administrator agreed upon by the Plaintiffs and the Settling Defendants shall immediately transfer the full balance of the Settlement Amount to the Administrator appointed pursuant to the Approval Order. No amount shall be paid out from the Escrow Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Court obtained on notice to the Parties.

**Taxes on Interest**

4.7 Except as expressly provided herein all interest earned on the Settlement Amount shall accrue to the benefit of the Class and shall become and remain part of the Escrow Account.

4.8 Subject to Section 4.9, all taxes payable on any interest which accrues on or otherwise in relation to the Settlement Amount in the Escrow Account shall be the responsibility of the Class. Class Counsel or the Administrator, as appropriate, shall be solely responsible for fulfilling all

tax reporting and payment requirements arising from the Settlement Amount in the Escrow Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Escrow Account.

4.9 The Settling Defendants shall have no responsibility to make any filings relating to the Escrow Account, to pay tax on any income earned by the Settlement Amount, or to pay any taxes on the monies in the Escrow Account, unless this Agreement is terminated, in which case any interest earned on the Settlement Amount in the Escrow Account shall be paid to the Settling Defendants' insurer who, in such case, shall be responsible for the payment of any taxes on such interest not previously paid by Class Counsel.

#### **SECTION 5 – NO REVERSION**

5.1 Unless this Agreement is terminated as provided herein, the Settling Defendants' insurer shall not be entitled to the repayment of any portion of the Settlement Amount and then only to the extent of and in accordance with the terms provided herein.

#### **SECTION 6 – DISTRIBUTION OF THE SETTLEMENT AMOUNT**

6.1 On or after the Effective Date, the Administrator shall distribute the balance of the Settlement Amount remaining in the Escrow Account in accordance with the following priorities:

- (a) to pay Class Counsel Fees;
- (b) to pay all of the costs and expenses reasonably and actually incurred in connection with the provision of the Second Notice, locating Class Members for

the sole purpose of providing notice to them, soliciting Class Members to submit a Claim Form, including the notice expenses reasonably and actually incurred by the Administrator and brokerage firms in connection with the provision of the Second Notice to Class Members (provided, however, that the Administrator shall not pay in excess of fifteen thousand Canadian dollars (CAD\$15,000.00) in the aggregate to all brokerage firms and, if the aggregate amount claimed by such brokerage firms exceeds fifteen thousand Canadian dollars (CAD\$15,000.00), then the Administrator shall distribute the sum of fifteen thousand Canadian dollars (CAD\$15,000.00) to such brokerage firms on a *pro rata* basis);

- (c) to pay all of the Administration Expenses. For greater certainty, the Settling Defendants and the Class are specifically excluded from eligibility for any payment of costs and expenses under this subsection;
- (d) to pay any taxes required by law to be paid to any governmental authority; and
- (e) to pay a *pro rata* share of the balance of the Settlement Amount to each Authorized Claimant in proportion to his, her or its claim as recognized in accordance with the Plan of Allocation.

## **SECTION 7 – EFFECT OF SETTLEMENT**

### **No admission of Liability**

7.1 Whether or not this Agreement is terminated, this Agreement, anything contained in it, any and all negotiations, discussions, and communications associated with this Agreement, shall not be deemed, construed or interpreted as a concession or admission of wrongdoing or liability



by the Releasees, or as a concession or admission by the Releasees of the truthfulness of any claim or allegation asserted in this Action. Neither this Agreement nor anything contained herein shall be used or construed as an admission by the Releasees of any fault, omission, liability or wrongdoing in connection with any statement, release, written document, offering document or financial report, or otherwise, and in fact the Settling Defendants continue to vigorously dispute and contest the allegations made in this Action.

**Agreement Not Evidence**

7.2 The Parties agree that, whether or not it is terminated, unless otherwise agreed, this Agreement and anything contained herein, any and all negotiations, documents, discussions and proceedings associated with this Agreement, and any action taken to implement this Agreement, shall not be referred to, offered as evidence or received as evidence or interpreted in this Action or in any other pending or future civil, criminal, quasi-criminal, administrative action, disciplinary investigation or other proceeding as any presumption, concession or admission: (i) of the validity of any claim that has been or could have been asserted in the Action by the Plaintiffs against the Defendants, or the deficiency of any defence that has been or could have been asserted in the Action; (ii) of wrongdoing, fault, neglect or liability by the Settling Defendants; and (iii) that the consideration to be given hereunder represents the amount that could be or would have been recovered in the Action after trial.

7.3 Notwithstanding Section 7.2, this Agreement may be referred to or offered as evidence in order to obtain the orders or directions from the Court contemplated by this Agreement, in a proceeding to approve or enforce this Agreement, to defend against the assertion of Released Claims, or as otherwise required by law.

### **Restrictions On Further Litigation**

7.4 Class Counsel, and anyone currently or hereafter employed by, associated with, or a partner with Class Counsel may not, directly or indirectly participate or be involved in, or in any way assist with respect to any claim made by any person in relation to the purchase, sale, acquisition, retention, exchange or distribution of Eligible Shares, any representations made directly or indirectly, concerning Cathay and its subsidiaries, their operations, financial statements or financial results.

7.5 Class Counsel also is prohibited from divulging to anyone for any purpose any information obtained in the course of the negotiation, preparation or execution of this Agreement, without the prior written consent of the Settling Defendants or unless ordered to do so by a court.

### **SECTION 8 – CERTIFICATION FOR SETTLEMENT ONLY**

#### **Consent to Certification**

8.1 The Settling Defendants will consent to certification of the Action as a class proceeding, pursuant to Sections 2, 5 and 6 of the CPA, solely for the purpose of effecting this Agreement.

8.2 The Parties agree that the only common issue that the Plaintiffs will seek to define is the Common Issue and the only class that they will assert is the Class.

#### **Certification Without Prejudice**

8.3 The Parties agree that the certification of the Action as a class proceeding in accordance with Sections 8.1 and 8.2 hereof is for the sole purpose of effecting the Settlement. In the event that this Agreement is terminated as provided herein, the Certification Order shall be vacated or

set aside as set out herein, and shall be without prejudice to any position that any of the Parties may later take on any issue in the Action including in a subsequent certification motion. In particular, the fact of the Settling Defendants's consent to certification for settlement purposes shall not be referenced in any way in the further prosecution of the Action, nor shall such consent be deemed to be an admission by the Settling Defendants that the Plaintiffs have met any of the requisite criteria for certification of the Action as a class proceeding.

## **SECTION 9 - OPTING OUT**

### **Awareness of any Potential Opt-Outs**

9.1 The Plaintiffs and Class Counsel represent and warrant that:

- (a) they are unaware of any Class Member who has expressed an intention to opt-out of the Class; and
- (b) they will not encourage or solicit any Class Member to opt-out of the Class.

### **Opt-Out Procedure**

9.2 Each Class Member who wishes to exclude themselves from the Class must submit a properly completed Opt-Out Form along with all required supporting documents to Class Counsel on or before the Opt-Out Deadline.

9.3 In order to remedy any deficiency in the completion of the Opt-Out Form, Class Counsel may require and request that additional information be submitted by a Class Member who submits an Opt-Out Form.

9.4 If a Class Member fails to submit a properly completed Opt-Out Form and/or all required supporting documents to Class Counsel or fails to remedy any deficiency by the Opt-Out Deadline, the Class Member shall not have opted out of the Proceeding, subject to any order of the Court to the contrary, and will in all other respects to be subject to, and bound by, the provisions of this Agreement and the releases contained herein.

9.5 The Opt-Out Deadline will not be extended unless the Court orders otherwise.

9.6 Opt-Out Parties will be excluded from any and all rights and obligations arising from the Settlement. Class Members who do not opt-out shall be bound by the Settlement and the terms of this Settlement Agreement regardless of whether the Class Member files a Claim Form or receives compensation from the Settlement.

#### **Notification of Number of Opt-Outs**

9.7 Within fifteen (15) days after the Opt-Out Deadline, Class Counsel shall report to the Court and the Parties the number of Eligible Shares held by each Opt-Out Party, a summary of the information delivered by each Opt-Out Party, and the total number of Eligible Shares held by the Opt-Out Parties.

9.8 Class Counsel shall also provide to Counsel for the Settling Defendants copies of all of the Opt-Out Forms submitted by Opt-Out Parties at the same time as the report in Section 9.7.

### **SECTION 10 – TERMINATION OF THE AGREEMENT**

#### **General**

10.1 This Agreement shall, without notice, be automatically terminated if:

- (a) An order substantially in the form of the Approval Order satisfactory to the Settling Defendants is not granted by the Court; or
- (b) the Approval Order is reversed on appeal and the reversal becomes a Final Order.

10.2 This Agreement shall be terminated if Cathay elects to terminate the Agreement in accordance with Section 10.5 forthwith upon delivery to Class Counsel of the notice of election to terminate contemplated by that Section.

10.3 In the event this Agreement is terminated in accordance with its terms:

- (a) the Parties will be restored to their respective positions prior to the execution of this Agreement;
- (b) the Plaintiffs and the Settling Defendants will consent to an Order vacating or setting aside of any order certifying this Action as a class proceeding for the purposes of implementing this Agreement and such order shall include a declaration that the prior consent certification of this Action for settlement purposes shall not be deemed to be an admission by the Settling Defendants that the Action met any of the criteria for certification as a class action, and no Party to this Action and no other person may rely upon the fact of the prior consent certification order for any purpose whatsoever;
- (c) the Escrow Settlement Amount will be returned to the Settling Defendants' insurer in accordance with Section 10.9(d) hereof;

- (d) this Agreement will have no further force and effect and no effect on the rights of the Parties except as specifically provided for herein;
- (e) all statutes of limitation applicable to the claims asserted in this Action shall be deemed to have been tolled during the period beginning with the execution of this Agreement and ending with the day on which the orders contemplated by Section 10.9 are entered;
- (f) any costs reasonably incurred by the Administrator and paid out of the Escrow Account for performing the services required to prepare to implement this Settlement, and amounts paid for the publication and dissemination of notices are non-recoverable from the Plaintiffs, the Class Members, the Administrator or Class Counsel;
- (g) this Agreement and the consent certification order will not be introduced into evidence or otherwise referred to in any litigation against the Settling Defendants.

10.4 Notwithstanding the provisions of Section 10.3(d), if this Agreement is terminated, the provisions of this Section 10 and Sections 1, 2, 3.7, 3.8, 4.2, 4.8, 4.9, 5.1, 7.1, 7.2, 7.3, 7.5, 8.3, and 15 shall survive termination and shall continue in full force and effect.

**Effect of Exceeding the Opt-Out Threshold, Conditions Precedent and Right to Terminate**

10.5 Notwithstanding any other provision in this Agreement, Cathay may, in its discretion, elect to terminate the Agreement if the total number of Eligible Shares held by Opt-Out Parties exceeds the Opt-Out Threshold, provided that all Settling Defendants elect to terminate and notice of the election to terminate is provided by Counsel for the Settling Defendants to Class

Counsel within twenty (20) days of Class Counsel notifying Counsel for the Settling Defendants of the number of Opt-Outs pursuant to Section 9.7, after which date their right to terminate the Agreement will have expired.

10.6 If the Opt-Out Threshold is not exceeded, Cathay's right to terminate this Agreement pursuant to the provisions of this Section is inoperative and of no force and effect.

10.7 The Opt-Out Threshold shall be stated in the Collateral Agreement signed contemporaneously with the execution of this Agreement. The Collateral Agreement will state the Opt-Out Threshold shall be kept confidential by the Parties and their counsel, and may be shown to the Court solely for purposes of the Settlement Approval Hearing but shall not be otherwise disclosed by the Parties and their counsel, unless disclosure is ordered by the Court or the Settling Defendants provides prior written consent to disclosure.

**Allocation of Monies in the Escrow Account Following Termination**

10.8 The Administrator and/or Class Counsel shall account to the Court and the Parties for the amounts maintained in and disbursed from the Escrow Account. If this Agreement is terminated, this accounting shall be delivered no later than ten (10) days after such termination.

10.9 If this Settlement Agreement is terminated, the Settling Defendants shall, within thirty (30) days after termination, apply to the appropriate Court, on notice to the Plaintiffs and the Administrator, as may be necessary, for an order:

- (a) declaring this Settlement Agreement null and void and of no force or effect except for the provisions listed in Section 10.4;

- (b) determining whether a notice of termination shall be sent out to the Class Members and, if so, the form and method of disseminating such a notice;
- (c) requesting an order setting aside, *nunc pro tunc*, all prior orders or judgments entered by the Court in accordance with the terms of this Agreement, including any order certifying the Action as a class proceedings for the purposes of implementing this Agreement; and
- (d) authorizing the payment of all remaining funds in the Escrow Account, including accrued interest, to the Settling Defendants' insurer.

10.10 Subject to Section 10.11, the Parties shall consent to the orders sought in any motion made by the Settling Defendants pursuant to Section 10.9.

#### **Disputes Relating to Termination**

10.11 If there is any dispute about the termination of this Agreement, the Court shall determine any dispute by motion made by a Party on notice to the other Parties.

#### **No Right to Terminate**

10.12 For greater certainty, no dispute or disagreement among the Plaintiffs and/or members of the Class or any of them about the proposed distribution of the Settlement Amount or the Plan of Allocation shall give rise to a right to terminate this Agreement.

#### **SECTION 11 – DETERMINATION THAT THE SETTLEMENT IS FINAL**

11.1 The Settlement shall be considered final on the Effective Date.

#### **SECTION 12 – RELEASES AND JURISDICTION OF THE COURT**



### **Release of Releasees**

12.1 As of the Effective Date the Releasors forever and absolutely release, waive and forever discharge the Releasees from the Released Claims.

12.2 The Releasors acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the Action and the subject matter of this Agreement, and that it is their intention to release fully, finally and forever all Released Claims, and in furtherance of such intention, this release and, subject to the provisions of Section 10, this Agreement, shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

### **No Further Claims**

12.4 As of the Effective Date, the Releasors and Class Counsel shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Ontario 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 of the Releasees or any other person who may claim contribution or indemnity from any of the Releasees in respect of any Released Claim.

### **Dismissal of the Action**

12.6 As of the Effective Date, this Action shall be dismissed as against the Settling Defendants and Anthony Ng with prejudice and without costs.

### **No Claims in Interim**

12.7 As of the date of this Agreement, Class Counsel do not represent plaintiffs in any other proceeding related to any matter at issue in this Action.

## **SECTION 13 – ADMINISTRATION**

### **Appointment of the Administrator**

13.1 The Court will appoint the Administrator to serve until such time as the Settlement Amount is distributed in accordance with the Plan of Allocation, to implement this Agreement and the Plan of Allocation, on the terms and conditions and with the powers, rights, duties and responsibilities set out in this Agreement and in the Plan of Allocation.

13.2 If the approval of the Settlement becomes final as contemplated by Section 11.1 the Court will fix the Administrator's compensation and payment schedule.

### **Information and Assistance from the Settling Defendants**

13.3 Cathay shall, within five (5) business days of the Effective Date authorize and direct Cathay's transfer agent to deliver an electronic list of the names and addresses of persons who purchased, sold or held Eligible Shares during the Class Period to Class Counsel and the Administrator. Any fees and expenses required to be paid to Cathay's transfer agent so as to accomplish this shall be paid by the Administrator.

13.4 Class Counsel and/or the Administrator may use the information obtained in accordance with Sections 13.3 for the purpose of delivering the Second Notice and for the purposes of administering and implementing this Agreement, the Plan of Notice and the Plan of Allocation.

13.5 Any information obtained or created in the administration of this Agreement is confidential and, except as required by law, shall be used and disclosed only for the purpose of distributing notices and the administration of this Agreement and the Plan of Allocation.

### **Claims Process**

13.6 In order to seek payment from the Settlement Amount, a Class Member must submit a completed Claim Form to the Administrator, in accordance with the provisions of the Plan of Allocation, on or before the Claims Bar Deadline. Class Members shall be bound by the terms of the Settlement regardless of whether they submit a completed Claim Form or receive payment from the Settlement Amount.

13.7 In order to remedy any deficiency in the completion of a Claim Form, the Administrator may require and request that additional information be submitted by a Class Member who submits a Claim Form. Such Class Members shall have until the later of thirty (30) days from the date of the request from the Administrator or the Claims Bar Deadline to rectify the deficiency. Any person who does not respond to such a request for information within this period shall be forever barred from receiving any payments pursuant to the Settlement, subject to any order of the Court to the contrary, but will in all other respects be subject to, and bound by, the provisions of this Agreement and the releases contained herein.

13.8 By agreement between the Administrator and Class Counsel, and on Notice to Counsel for the Settling Defendants, the Claims Bar Deadline may be extended. Class Counsel and the Administrator shall agree to extend the Claims Bar Deadline if, in their opinions, doing so will not adversely affect the efficient administration of the Settlement and it is in the best interests of the Class to do so.

### **Disputes Concerning the Decisions of the Administrator**

13.9 In the event that a Class Member disputes the Administrator's decision, whether in whole or in part, the Class Member may appeal the decision to the Court. The decision of the Court will be final with no right of appeal.

13.10 No action shall lie against Class Counsel or the Administrator for any decision made in the administration of this Agreement and Plan of Allocation without an order from the Court authorizing such an action.

### **Conclusion of the Administration**

13.11 Following the Claims Bar Deadline, and in accordance with the terms of this Agreement, the Plan of Allocation, and such further approval or order of the Court as may be necessary, or as circumstances may require, the Administrator shall distribute net Escrow Settlement Amount to Authorized Claimants.

13.12 No claims or appeals shall lie against Class Counsel or the Administrator based on distributions made substantially in accordance with this Agreement, the Plan of Allocation, or with any other order or judgment of the Court.

13.13 If the Escrow Account is in a positive balance (whether by reason of tax refunds, uncashed cheques or otherwise) after one hundred eighty (180) days from the date of distribution of the Escrow Settlement Amount to the Authorized Claimants, the Administrator shall donate such balance to the Small Investor Protection Association (Canada), *cy pres*.

13.14 Upon the conclusion of the administration, and before distribution of the Escrow Settlement Amount to the Authorized Claimants, the Administrator shall report to the Court on the administration and shall account for all monies it has received, administered and proposes to distribute in accordance with this Agreement and the Plan of Allocation.

#### **SECTION 14 – THE FEE AGREEMENT AND CLASS COUNSEL FEES**

##### **Motion for Approval of Class Counsel Fees**

14.1 At the Approval Hearing, Class Counsel may seek the approval of Class Counsel Fees to be paid as a first charge on the Settlement Amount. Class Counsel are not precluded from making additional applications to the Court for expenses incurred as a result of implementing the terms of the Agreement. All amounts awarded on account of Class Counsel Fees shall be paid from the Settlement Amount.

14.2 The Settling Defendants acknowledge that they are not parties to the motion concerning the approval of Class Counsel Fees, they will have no involvement in the approval process to determine the amount of Class Counsel Fees and they will not take any position or make any submissions to the Court concerning Class Counsel Fees, except as requested and required by the Court. Subject to the foregoing, the Plaintiffs will provide the Settling Defendants with notice of the motion to approve Class Counsel Fees and copies of the materials filed with the Court and the Settling Defendants and their counsel are entitled to attend any motion for approval of Class Counsel Fees.

14.3 The procedure for, and the allowance or disallowance by the Court of any requests for Class Counsel Fees to be paid out of the Settlement Amount are not part of the Settlement provided for herein, except as expressly provided in Section 6.1, and are to be considered by the

Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement provided for herein.

14.4 Any order or proceeding relating to Class Counsel Fees, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Agreement or affect or delay the finality of the Approval Order and the Settlement of this Action provided herein.

**Payment of Class Counsel Fees**

14.5 Forthwith after the Settlement becomes final, as contemplated in Section 11.1, and the time for the Settling Defendants to elect to terminate pursuant to Section 10.5 has expired or the Settling Defendants have waived their collective right to elect to terminate the Agreement, the Administrator shall pay to Class Counsel in trust the Class Counsel Fees approved by the Court from the Escrow Account.

**SECTION 15 – MISCELLANEOUS**

**Motions for Directions**

15.1 Any one or more of the Parties, Class Counsel, or the Administrator may apply to the Court for directions in respect of any matter in relation to this Agreement and the Plan of Allocation.

15.2 All motions contemplated by this Agreement shall be on notice to the Parties.

**Settling Defendants Have No Responsibility or Liability for Administration**

15.3 Except for the obligations in respect of the performance of the obligations under Sections 4.1 and 13.3, the Settling Defendants shall have no responsibility for and no liability whatsoever with respect to the administration or implementation of this Agreement and the Plan of Allocation, including, without limitation, the processing and payment of claims by the Administrator.

**Headings, etc.**

15.4 In this Agreement:

- (a) the division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (b) the terms “the Agreement”, “this Agreement”, “herein”, “hereto” and similar expressions refer to this Agreement and not to any particular section or other portion of the Agreement;
- (c) all amounts referred to are in lawful money of Canada; and
- (e) “person” means any legal entity including, but not limited to, individuals, corporations, sole proprietorships, general or limited partnerships, limited liability partnerships or limited liability companies, by whatever name in the jurisdiction in which the person is domiciled.

15.5 In the computation of time in this Agreement, except where a contrary intention appears:

- (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

### **Governing Law**

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

15.7 The Parties agree that the Court shall retain exclusive and continuing jurisdiction over this Proceeding, the Parties and Class Members to interpret and enforce the terms, conditions and obligations under this Agreement and the Approval Order.

### **Severability**

15.8 Any provision hereof that is held to be inoperative, unenforceable or invalid in any jurisdiction shall be severable from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

### **Entire Agreement**

15.9 This Agreement and the Collateral Agreement constitute 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 Agreement and the Collateral Agreement, unless expressly incorporated herein. This Agreement may not be modified or amended except in writing and on consent of all Parties and any such modification or amendment must be approved by the Court.

### **Binding Effect**

15.10 If the Settlement is approved by the Court and becomes final as contemplated in Section 11, this Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Class Members, the Settling Defendants, Class Counsel, the Releasees and the Releasors, the insurer, or, any of them, and all of their respective heirs, executors, predecessors, 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.

### **Survival**

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

### **Negotiated Agreement**

15.12 This Agreement and the underlying settlement have been the subject of arm's length negotiations and many discussions among the undersigned and counsel. Each of the undersigned 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 drafters of this Agreement shall have no force and effect. The Parties

further agree that the language contained in or not contained in previous drafts of the Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Agreement.

### **Recitals**

15.13 The recitals to this Agreement are true, constitute material and integral parts hereof and are fully incorporated into, and form part of, this Agreement.

### **Acknowledgements**

15.14 Each Party hereby affirms and acknowledges that:

- (a) its signatory has the authority to bind the Party for which it is signing with respect to the matters set forth herein and has reviewed this Agreement; and
- (b) the terms of this Agreement and the effects thereof have been fully explained to it by his or its counsel;
- (c) he, she or its representative fully understands each term of this Agreement and its effect.

### **Counterparts**

15.15 This Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a signature delivered by email or facsimile shall be deemed an original signature for purposes of executing this Agreement.

### **Confidentiality and Communications**

15.16 In any public discussion of, comment on, press release or other communication of any kind (with the media or otherwise) about this Agreement and the Plan of Allocation, the Plaintiffs and Class Counsel agree and undertake to describe the Settlement and the terms of this Agreement as fair, reasonable and in the best interests of the Class.

15.17 Nothing in this Section shall prevent the Parties or their counsel, or any of them, from reporting to their clients, from complying with any order of the Court, or from making any disclosure or comment required by this Agreement, or from making any necessary disclosure or comment for the purposes of any applicable securities or tax legislation or from making any disclosure or comment to Class Members or the Court or for the purposes of any proceedings as between the Defendants.

15.18 Without limiting the generality of the foregoing, the Parties specifically agree that the Parties will not make any public statements, comment or any communication of any kind about any negotiations or information exchanged as part of the settlement process, unless required to do so by law. In addition, to the extent that there is public discussion of, comment on or communication of any kind about this Agreement, the Parties and their counsel agree and undertake to make no statement or comment that the Agreement is other than fair, reasonable and in the best interests of the Class, unless required to do so by law.

### **Notice**

15.19 Any notice, instruction, motion for Court approval or motion for directions or Court orders sought in connection with this Agreement or any other report or document to be given by

any party to any other party shall be in writing and delivered personally, by facsimile or e-mail during normal business hours, or sent by registered or certified mail, or courier postage paid:

**For D. Kingsley Snelgrove and Patrick F. Peidl**

Charles Wright  
Nicholas Baker  
**Siskinds LLP**  
680 Waterloo Street  
London, ON N6A 3V8

Telephone: (519) 660-7868  
Facsimile: (519) 660-7869  
Email: nicholas.baker@siskinds.com

**For Cathay**

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Jennifer Teskey  
**Norton Rose Fulbright Canada LLP**  
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**and to**  
Michael Woollcombe

**VC & Co. Incorporated**  
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**For Luc Perron, John Duncanson and John Housser**

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Jennifer Teskey  
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Telephone: (416) 216-4073  
Facsimile: (416) 216-1981  
Email: jeremy.devereux@nortonrosefulbright.com

**For Raymond Lo and Paul Wong**

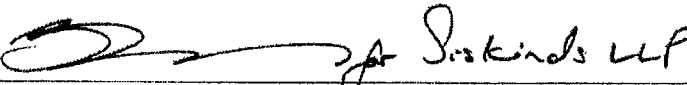
Peter Wardle  
Simon Bieber  
**Wardle Daley Bernstein LLP**  
401 Bay Street, Suite 2104

Toronto, ON M5H 2Y4

Telephone: (416) 351-2771  
Facsimile: (416) 351-9196  
Email: sbieber@wdblaw.ca

**Date of Execution**

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

		
Date	<i>August 21, 2013</i>	Siskinds LLP on their own behalf, as Class Counsel and as counsel for the Plaintiffs
Date		Norton Rose Fulbright Canada LLP as Counsel for the Settling Defendant: Cathay

Date		Norton Rose Fulbright Canada LLP as Counsel for the Settling Defendants: Luc Perron, John Duncanson and John Housser

Date		Wardle Daley Bernstein LLP as Counsel for the Settling Defendant: Paul Wong

Toronto, ON M5H 2Y4

Telephone: (416) 351-2771  
Facsimile: (416) 351-9196  
Email: sbieber@wdblaw.ca

**Date of Execution**

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

Date		Siskinds LLP on their own behalf, as Class Counsel and as counsel for the Plaintiffs
		<i>J. Daley for Norton Rose Fulbright Canada LLP</i>
Date <i>August 21, 2013</i>		Norton Rose Fulbright Canada LLP as Counsel for the Settling Defendant: Cathay

		<i>J. Daley for Norton Rose Fulbright Canada LLP</i>
Date <i>August 21, 2013</i>		Norton Rose Fulbright Canada LLP as Counsel for the Settling Defendants: Luc Perron, John Duncanson and John Housser

Date		Wardle Daley Bernstein LLP as Counsel for the Settling Defendant: Paul Wong

Toronto, ON M5H 2Y4

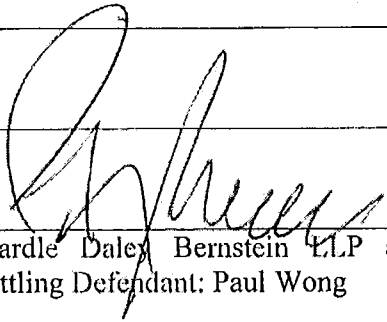
Telephone: (416) 351-2771  
Facsimile: (416) 351-9196  
Email: sbieber@wdblawn.ca

**Date of Execution**

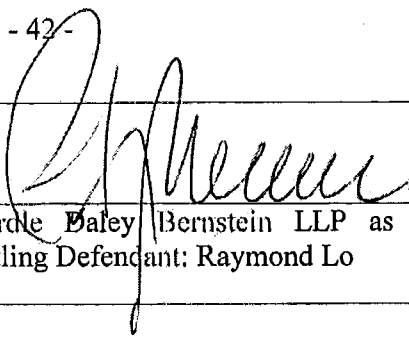
17.20 The Parties have executed this Settlement Agreement as of the date on the cover page.

Date		Siskinds LLP on their own behalf, as Class Counsel and as counsel for the Plaintiffs
Date		Norton Rose Fulbright Canada LLP as Counsel for the Settling Defendant: Cathay

Date		Norton Rose Fulbright Canada LLP as Counsel for the Settling Defendants: Luc Perron, John Duncanson and John Housser

		
Date	August 21, 2013	Wardle Daley Bernstein LLP as Counsel for the Settling Defendant: Paul Wong

---

		
Date	August 11, 2013	Wardle Daley Bernstein LLP as Counsel for the Settling Defendant: Raymond Lo



# CATHAY FOREST PRODUCTS CORP. OPT-OUT FORM

Must Be Postmarked  
No Later Than  
\_\_\_\_\_, 2013

I, the undersigned, request to be excluded from this class action ("Action").

By completing this form, I understand that I am excluding myself from all aspects of the Action, and that I will not be eligible to participate in the proposed Settlement of the Action. As such, I also understand and acknowledge that I will not be able to claim and receive any compensation from an approved Settlement.

I acknowledge and agree that Siskinds LLP ("Class Counsel") may disclose all information relating to my opt-out request to the Court and the Defendants' counsel in this matter.

Last Name  M.I.  First Name

Address 1

Address 2

City  State  Zip Code

Province  Postal Code  Country Name/Abbreviation

Social Insurance Number/Social Security Number/Unique Tax Identifier

Telephone Number (Work)  -  -  Telephone Number (Home)  -  -

You must also accompany your Opt-Out Form with brokerage statements, or other transaction records, listing all of your purchases or other acquisitions and sales of Cathay shares between November 9, 2009 through to and including August 21, 2013.

Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

This completed and signed request for exclusion must be sent to Class Counsel at:

Siskinds LLP  
680 Waterloo Street  
London, ON N6A 3V8  
Attn: Nicholas C. Baker



**CATHAY FOREST PRODUCTS CORP. SECURITIES LITIGATION**

**NOTICE OF CERTIFICATION FOR SETTLEMENT PURPOSES  
AND  
NOTICE OF COURT HEARING FOR SETTLEMENT APPROVAL**

**Read this notice carefully as it may affect your legal rights**

**Who this Notice is For:**

This notice is directed to everyone that acquired shares of Cathay Forest Products Corp. ("Cathay", CUSIP Number 14915N and stock symbol "CFZ") from November 9, 2009 through to and including August 21, 2013.

**What the Action is About**

An action has been commenced in the Ontario Superior Court of Justice against Cathay and certain of its former directors, including certain of its former executive officers.

The Plaintiff alleges that Cathay's December 11, 2009 prospectus and some of Cathay's other disclosures were materially misleading..

**Class Certification to give effect to Settlement**

The Plaintiff has entered into a settlement, with Cathay, Luc Perron, John Duncanson, John Housser, Raymond Lo and Paul Wong ("Settling Defendants" and "Settlement"). The Settlement is described below.

On September 9, 2013, the Court certified the action as a class proceeding for settlement purposes. Certification against the Settling Defendants was obtained with their consent, but is conditional upon the Court's approval of the Settlement. Certification was also granted against the Defendant, Anthony Ng, who has not defended the action.

In granting certification, the Court appointed Siskinds LLP as Class Counsel and defined the Class or Class Members as follows:

All persons, wherever they may reside or be domiciled, other than Excluded Persons and Opt-Out Parties, who purchased or otherwise acquired, sold or held Eligible Shares.\*

\*The terms "Eligible Shares, Excluded Persons and Opt-Out Parties" are defined in the Settlement Agreement which can be found on the website of Siskinds LLP, at <http://www.classaction.ca>.

**The Terms of the Settlement**

The Settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault on the part of any of the Settling Defendants, all of whom have denied, and continue to deny, the allegations made against them in the action.

The Settlement has a value of CAD \$1.9 million to the Class Members before deductions for legal fees and expenses to administer the Settlement.

The certification of the action was conditional and will be of no force or effect if the Court does not approve the Settlement or if the Settling Defendants terminate the Settlement Agreement. The Settling Defendants may terminate the Settlement Agreement if Class Members holding a certain number of Eligible Shares exclude themselves from the Class, a process known as "opting-out", described further below.

The Plaintiff and Class Counsel recommend the Settlement to Class Members. In reaching the Settlement, Class Counsel considered the estimated total damages suffered by Class Members, legal limitations on the value of certain claims that could be advanced, the challenges of obtaining evidence in the People's Republic of China, where Cathay carries on business, Cathay's constrained financial position, the potential availability of liability insurance in the event of a judgment, the potential enforceability of a judgment against Cathay and certain of the individual Defendants and the value of a relatively early settlement.

A more complete explanation of the Settlement and why Class Counsel recommends the Settlement will be provided to the Court and may be reviewed by you. The materials Class Counsel will file with the Court for the purposes of seeking approval of the Settlement will be posted at <http://www.classaction.ca> no later than October 15, 2013.

Copies of the Settlement Agreement and the proposed Plan of Allocation (the proposed methodology for distributing the settlement monies may be found on the website of Class Counsel, at <http://www.classaction.ca>.

**Participating in the Settlement or Excluding Yourself from the Class Action and the Settlement**

Unless a Class Member opts out, if the Settlement is approved, the Class Member will be entitled to participate in the Settlement and will be bound by the terms of the Settlement. A Class Member who participates (i.e., does not opt-out) will not be permitted to bring other legal proceedings in relation to the matters alleged in the action against the Defendants, including Anthony Ng, or any person released by the approved Settlement. Conversely, Class Members who opt-out of the class action will no longer be Class Members and will not be able to participate in the Settlement and make a claim to receive compensation from the Settlement monies.

Class Members who wish to opt-out must submit a completed Opt-Out Form, and required supporting documentation to Class Counsel, Siskinds LLP, at the following address, postmarked no later than **●, 2013** (the "Opt-Out Deadline"):

Nicholas C. Baker  
Siskinds LLP  
P.O. Box 2520  
London, ON Canada N6A 3V8

Siskinds LLP will mail or email Opt-Out Forms to any Class Member who requests an Opt-Out Form. Opt-Out Forms may also be obtained from the website of Siskinds LLP, at <http://www.classaction.ca>.

**Next Step - Settlement Approval Hearing will be held in London, Ontario**

The Settlement must be approved by the Court before it can come into force and effect and before Class Members can make a claim for compensation. Class Members may, but are not required to, attend the Settlement Approval Hearing that will be held on November 22, 2013, 2:30 p.m. E.S.T, at the courthouse located at 80 Dundas Street, London, Ontario. At the same time, Class Counsel will request that the Court also approve its claim for legal fees, to be paid out of the Settlement Amount, and which will not exceed 25% of the Settlement Amount, plus disbursements and applicable taxes.

If the Settlement is approved by the Court, then a further notice will be published that will explain how Class Members can make a claim to receive compensation from the Settlement Amount. To receive such notice by mail or email, you may provide contact information to Class Counsel.

Class Members that approve of or do not oppose the Settlement do not need to appear at the Approval Hearing or take any other action at this time.

**Class Members May Object to the Settlement**

Class Members that wish to comment on or object to the Settlement should do so in writing. **All comments or objections should be received by Class Counsel (at the address listed below) no later than November 15, 2013.** Class Counsel will file any and all such submissions with the Court. Class Members may attend the Settlement Approval Hearing whether or not an objection was delivered. The Court may permit Class Members to participate in the Approval Hearing whether or not an objection was made.

A written objection should include:

- (i) the Class Member's name, address, telephone number, fax number (where applicable) and email address;
- (ii) a brief statement outlining why they object to the Settlement; and
- (iii) a statement as to whether the objector intends to appear at the Settlement Approval Hearing in person or through a lawyer, and, if through a lawyer, the name, address, telephone number, fax number, and email address of the lawyer.

For any further questions relating to the action, further information, or to deliver a comment or objection please contact Class Counsel:

Nicole Young  
Siskinds LLP  
680 Waterloo Street  
London, ON N6A 3V4  
Tel: 1.800.461.6166 ext. 2380 (toll free)  
Email: [nicole.young@siskinds.com](mailto:nicole.young@siskinds.com)

***Publication of this notice was authorized by the Ontario Superior Court of Justice***

## SCHEDULE "D"

### PLAN OF NOTICE

Capitalized terms used in this Plan of Notice have the meanings ascribed to them in the Settlement Agreement dated August 21, 2013.

*Subject to such alternative or additional direction by the Court, notices provided for as contemplated in the Settlement Agreement will be disseminated as follows:*

#### **PART 1 – FIRST NOTICE**

##### Individual Notice

The First Notice will be mailed, electronically or physically, as may be required, to:

- (a) those persons and entities who have previously contacted Class Counsel for the purposes of receiving notice of developments in the Action; and
- (b) the 15 largest shareholders, excluding those who have been identified as Excluded Persons.

##### Internet Publication

Electronic publication of the First Notice will occur in both the English and French languages on [www.classaction.ca](http://www.classaction.ca).

##### Newspaper Publication

Print publication of the First Notice will be at least ¼ newsprint page in size and will occur at least seventy-five (75) days prior to the Approval Hearing. Publication will be made in Canada:

- (a) in the English language in the business/legal sections of the national editions of *The Globe and Mail*, *The National Post*; and
- (b) in the French language in the business section of *La Presse*.

##### Class Counsel

Class Counsel shall make a toll free number and email address available to the public that will enable Class Members to contact Class Counsel in order that they may, amongst other things:

- (a) obtain more information about the Settlement or how to object to it;
- (b) request that a copy of the Settlement Agreement be electronically or physically mailed to them; and/or
- (c) request that a copy of the Opt-Out Form be electronically or physically mailed directly to them.

In addition, the public may view or obtain copies of the Settlement Agreement, proposed Plan of Allocation and Opt-Out Form from the website of Siskinds LLP: [www.classaction.ca](http://www.classaction.ca).

## **PART 2 – SECOND NOTICE**

### **The Short Form Notice of Settlement will be disseminated as follows:**

Print publication of the Short Form Notice of Settlement will be at least a ¼ page in size and will occur as soon as possible following the date of the Approval Order, and, in any event, no later than fourteen (14) days following that date. Print publication will be made in Canada:

- (a) in the English language in the business/legal sections of the national editions of *The Globe and Mail*, *The National Post*; and
- (b) in the French language in the business section of *La Presse*.

The English and French language versions of the Short Form Notice of Settlement will also be issued (with necessary formatting modifications) across *Marketwire*, a major business newswire in Canada.

### **The Long Form Notice of Settlement will be disseminated as follows:**

#### Internet Publication

The Long Form Notice of Settlement will be posted, in both the English and French languages, on:

- (a) [www.classaction.ca](http://www.classaction.ca); and
- (b) the website of the Administrator.

#### **Individual Notice**

Within thirty (30) days of the date of the Approval Order, Class Counsel shall direct the Administrator to send the Long Form Notice of Settlement and the Claim Form to all putative Class Members as follows:

1. The Administrator shall mail the Long Form Notice of Settlement and the Claim Form to individuals and entities identified as a result of Cathay directing the delivery to Class Counsel and the Administrator of a computerized list in the possession of Cathay's transfer agent containing the names and addresses of persons that obtained Shares during the Class Period; and
2. The Administrator shall send the Long Form Notice of Settlement and the Claim Form to the brokerage firms in the Administrator's proprietary databases requesting that the brokerage firms either send a copy of the Long Form Notice of Settlement and the Claim Form to all individuals and entities identified by the brokerage firms as being Class Members, or to send the names and addresses of all known Class Members to the Administrator who shall mail the Long Form Notice of Settlement and the Claim Form to the individuals and entities so identified.

Class Counsel shall mail or email the Long Form Notice of Settlement and the Claim Form to those persons that have contacted Class Counsel regarding this litigation and have provided Class Counsel with their contact information.

Class Counsel shall make a toll-free number and email address available to the public that will enable Class Members to obtain more information about the settlement, the opt-out process, the claims process, and to request that a copy of the Settlement Agreement, Opt-Out Form, Long Form Notice of Settlement and the Claim Form be sent electronically or physically to them directly. Additionally, the public may view or obtain from the website of Siskinds LLP: [www.classaction.ca](http://www.classaction.ca), copies of the Settlement Agreement, Opt-Out Form, Long Form Notice of Settlement and the Claim Form.

**SNELGROVE**  
Plaintiff

**CATHAY FOREST PRODUCTS CORP. et al.**  
Defendants

Court File No: 4369/11CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

**ORDER**  
**CONSENT CERTIFICATION**  
**AND**  
**NOTICE APPROVAL**

**Siskinds** <sup>LLP</sup>  
Barristers & Solicitors  
680 Waterloo Street  
P.O. Box 2520  
London, ON N6A 3V8

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