

COUR SUPÉRIEURE

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE QUÉBEC

N° : 200-06-000114-093

DATE : 26 octobre 2016

SOUS LA PRÉSIDENTE DE : L'HONORABLE CATHERINE LA ROSA, j.c.s.

CAROLE OUELLET,

Demanderesse

c.

HITACHI, LTD., HITACHI CANADA, LTD., HITACHI AMERICA, LTD. et HITACHI ASIA, LTD.

et

IRICO GROUP CORPORATION et IRICO DISPLAY DEVICES CO., LTD.

et

LG ELECTRONICS, INC., LG ELECTRONICS CANADA et LG ELECTRONICS TAIWAN TAIPEI CO., LTD.

et

LP DISPLAYS INTERNATIONAL, LTD. (autrefois connue sous LG PHILIPS DISPLAY)

et

KONINKLIJKE PHILIPS ELECTRONICS N.V.

et

PHILIPS ELECTRONICS INDUSTRIES, LTD., PHILIPS ELECTRONICS INDUSTRIES (TAIWAN), LTD., PHILIPS ELECTRONICS NORTH AMERICA CORPORATION et PHILIPS ELECTRONICS, LTD.

et

SAMSUNG ELECTRONICS CO., LTD., SAMSUNG SDI CO., LTD. (autrefois connue sous SAMSUNG DISPLAY DEVICE CO.), SAMSUNG ELECTRONICS AMERICA, INC., SAMSUNG ELECTRONICS CANADA, INC. et SAMSUNG SDI AMERICA, INC.

et
SAMTEL COLOR, LTD.
et
**TOSHIBA CORPORATION, TOSHIBA AMERICA CONSUMER PRODUCTS, LLC et
TOSHIBA OF CANADA LIMITED**

Défenderesses

et

FONDS D'AIDE AUX RECOURS COLLECTIFS

Mis en cause

JUGEMENT

(autorisant l'exercice d'une action collective aux fins de règlement seulement et avec certaines défenderesses seulement et approuvant l'Entente Hitachi)

[1] **Considérant** que les parties sont impliquées dans un litige de la nature d'une action collective;

[2] **Considérant** qu'une entente de règlement (ci-après l'« Entente Hitachi ») a été conclue entre la demanderesse et les défenderesses Hitachi, Ltd., Hitachi Asia, Ltd., Hitachi America, Ltd. et Hitachi Canada, Ltd. (ci-après « Hitachi » ou les « Défenderesses qui règlent¹ »);

[3] **Considérant** que la demanderesse demande :

- a) l'autorisation d'exercer une action collective contre les Défenderesses qui règlent seulement et aux fins de règlement seulement;
- b) de lui octroyer, aux fins de l'Entente Hitachi seulement, le statut de représentante des Membres du Groupe visé par le Règlement au Québec²; et
- c) l'approbation de l'Entente Hitachi;

¹ « *Settling Defendants* ».

² « *Quebec Class Members* ».

[4] **Considérant** les documents soumis au soutien de la demande au moyen d'un volume intitulé « *JOINT MOTION RECORD Settlement Approval - Toshiba, Hitachi and LG Settlements (Returnable October 18, 2016)* // DOSSIER DE DEMANDE CONJOINTE Approbation des Ententes Toshiba, Hitachi et LG (audience du 18 octobre 2016) », qui comprend notamment :

- (a) la demande et la procédure analogue en Ontario (Notice of motion);
- (b) l'Entente Hitachi;
- (c) la déclaration sous serment d'Andrea DeKay, associée chez Siskinds LLP, avocats du groupe ontarien et les pièces à son soutien;
- (d) la déclaration sous serment de la demanderesse, de même que celle du demandeur de l'Ontario;

[5] **Considérant** les représentations des avocats lors de l'audience qui a été tenue par voie de vidéoconférence conjointement devant cette Cour et devant le tribunal de l'Ontario dans l'affaire ci-après :

- *Fanshawe College v Hitachi, Ltd et al*, Ontario Superior Court of Justice (London) Court File No. 59044CP.

[6] **Considérant** l'expiration de l'échéance fixée pour s'opposer à l'Entente Hitachi sans qu'il y ait eu objection écrite à l'Entente Hitachi;

[7] **Considérant** qu'aucun Membre du Groupe visé par le Règlement au Québec ne s'est présenté devant cette Cour afin de s'opposer à l'approbation de l'Entente Hitachi;

[8] **Considérant** l'article 590 du *Code de procédure civile*;

[9] **Considérant** que la demande a dûment été notifiée au Fonds d'aide aux actions collectives;

[10] **Considérant** les représentations des avocats que le *Règlement sur le pourcentage prélevé par le Fonds d'aide aux actions collectives*, en vigueur à ce moment, sera respecté dans le cadre du protocole de distribution qui sera soumis au Tribunal pour approbation;

[11] **Considérant** qu'après examen, il y a lieu de faire droit à la demande de la demanderesse.

POUR CES MOTIFS, LE TRIBUNAL :

[12] **DÉCLARE** que l'Entente Hitachi est incorporée par référence, dans son entièreté, au présent jugement et en forme donc partie intégrante et que les définitions contenues dans l'Entente Hitachi devront être utilisées afin d'interpréter le présent jugement;

[13] **AUTORISE** l'exercice d'une action collective contre les Défenderesses qui règlent seulement et aux seules fins de l'Entente Hitachi ;

[14] **ORDONNE** qu'aux fins de règlement, le Groupe du Québec soit défini ainsi :

Toutes les personnes physiques qui résident au Québec et qui ont acheté des Produits avec un tube cathodique au Canada, au cours de la Période visée par le Recours, ainsi que toute personne morale de droit privé, toute société ou toute association résidant au Québec et qui, en tout temps entre le 16 mars 2008 et le 15 mars 2009, comptait sous son contrôle ou sa direction, au plus 50 personnes liées à elle par contrat de travail ayant acheté les mêmes produits ci-haut décrits au Canada au cours de la Période visée par le recours, à l'exception des Personnes exclues.

[15] **ATTRIBUE** à la demanderesse, Carole Ouellet, aux fins d'approbation de l'Entente Hitachi, le statut de représentante des Membres du Groupe visé par le Règlement au Québec;

[16] **IDENTIFIE**, aux seules fins de l'Entente Hitachi, la question commune dans le Recours du Québec comme étant la suivante :

- Est-ce que les Défenderesses qui règlent ont comploté pour fixer, augmenter, maintenir ou stabiliser les prix pour les Tubes cathodiques³ au Canada ou ailleurs, au cours de la Période visée par le recours⁴? Le cas échéant, est-ce que les Membres du Groupe visé par le Règlement au Québec ont subi des dommages?

[17] **DÉCLARE** que le présent jugement, incluant l'autorisation d'exercer une action collective aux fins de règlement seulement et contre les Défenderesses qui règlent seulement, la définition du Groupe et la question commune n'affectent en rien les droits et moyens de défense des Défenderesses qui ne sont pas parties à l'Entente⁵ Hitachi dans les Procédures⁶;

³ « Cathode Ray Tubes »

⁴ « Class Period ».

⁵ « Non-Settling Defendants ».

⁶ « Proceedings ».

[18] **ORDONNE** et **DÉCLARE** que l'Entente Hitachi lie toutes les parties ainsi que tous les Membres du Groupe visé par le Règlement au Québec, incluant les personnes mineures et celles qui sont inaptes;

[19] **DÉCLARE** que l'Entente Hitachi est valable, équitable, raisonnable, dans le meilleur intérêt des Membres du Groupe visé par le Règlement au Québec et constitue une transaction au sens de l'article 2631 du *Code civil du Québec*;

[20] **APPROUVE** l'Entente Hitachi en accord avec l'article 590 du *Code de procédure civile* et **ORDONNE** qu'elle soit mise en œuvre en conformité avec ses termes;

[21] **DÉCLARE** qu'à compter de la Date d'entrée en vigueur⁷, chaque Membre du Groupe visé par le Règlement au Québec sera réputé consentir irrévocablement au rejet de ses Autres Recours⁸ contre les Parties quittancées⁹, sans frais et sans réserve;

[22] **DÉCLARE** qu'à compter de la Date d'entrée en vigueur, tout Autre Recours débuté au Québec doit être et est, par le présent jugement, rejeté contre les Parties quittancées, sans frais et sans réserve;

[23] **ORDONNE** et **DÉCLARE** qu'à compter de la Date d'entrée en vigueur, chaque Partie donnant quittance¹⁰ sera considérée avoir donné une quittance complète, générale et finale aux Parties Quittancées eu égard aux Réclamations Quittancées¹¹;

[24] **DÉCLARE** que, à compter de la Date d'entrée en vigueur, chaque Partie donnant quittance ne pourra directement ou indirectement, au Canada ou ailleurs, pour son propre compte ou pour le compte de tout groupe ou de toute autre personne, intenter, continuer, maintenir ou faire valoir toute poursuite, action, cause d'action, réclamation ou demande contre l'une ou l'autre des Parties Quittancées ou toute autre personne qui pourrait réclamer une contribution, une indemnité ou toute autre réclamation de n'importe laquelle des Parties Quittancées, en rapport avec les Réclamations Quittancées ou toute autre matière y étant liée, à l'exception de ce qui suit :

- a) la continuation des Procédures contre les Défenderesses qui ne sont pas parties à l'Entente Hitachi, ou tout autre coconspirateur non désigné dans les Procédures; ou

⁷ « *Effective Date* ».

⁸ « *Other Actions* ».

⁹ « *Releasees* ».

¹⁰ « *Releasor* ».

¹¹ « *Released Claims* ».

- b) si les Procédures ne sont pas autorisées comme action collective, la continuation des recours sur une base individuelle contre les Défenderesses qui ne sont pas parties à l'Entente Hitachi, ou tout autre coconspirateur non désigné dans les Procédures;

[25] **DÉCLARE** que, par l'Entente Hitachi, la demanderesse et les Membres du Groupe visé par le Règlement au Québec renoncent expressément au bénéfice de la solidarité envers les Défenderesses qui ne sont pas parties à l'Entente Hitachi, eu égard aux faits et gestes des Défenderesses qui règlent;

[26] **DÉCLARE** que la demanderesse et les Membres du Groupe visé par le Règlement ne pourront dorénavant réclamer et obtenir que les dommages, y incluant les dommages punitifs, les intérêts et les frais (y compris les frais d'enquête en vertu de l'article 36 de la Loi sur la concurrence), attribuables aux ventes ou aux agissements des Défenderesses qui ne sont pas parties à l'Entente Hitachi;

[27] **DÉCLARE** que tout recours en garantie ou autre mise en cause pour obtenir une contribution ou une indemnité des Parties Quittancées, ou se rapportant aux Réclamations Quittancées, sera irrecevable et non avenu dans le cadre des Procédures;

[28] **DÉCLARE** que le droit des Défenderesses qui ne sont pas parties à l'Entente Hitachi d'interroger les Défenderesses qui règlent sera régi par les règles du *Code de procédure civile* et que les Défenderesses qui règlent conservent tous leurs droits de s'opposer à de tels interrogatoires en vertu du Code de procédure civile;

[29] **DÉCLARE** que les Défenderesses qui ne sont pas parties à l'Entente Hitachi pourront valablement notifier toute procédure pouvant être requise pour faire valoir leurs droits découlant des paragraphes qui précèdent aux Défenderesses qui règlent en notifiant telle procédure à l'avocat *ad litem* de cette partie, tel qu'il est identifié dans le présent jugement;

[30] **DÉCLARE** que cette Cour conservera un rôle de surveillance continue, aux fins d'administration et d'exécution de l'Entente Hitachi et du présent jugement et **CONSTATE** que les Défenderesses qui règlent reconnaissent la compétence de cette Cour aux fins d'exécution, d'administration et de mise en œuvre de l'Entente Hitachi, sujette aux termes et conditions stipulés dans l'Entente Hitachi et le présent jugement;

[31] **DÉCLARE** que le présent jugement n'affecte en rien les droits qu'ont ou pourraient avoir les Membres du Groupe visé par le Règlement contre les Défenderesses qui ne sont pas parties à l'Entente Hitachi ou tout autre coconspirateur non désigné dans les Procédures qui ne sont pas des Parties Quittancées Hitachi;

[32] **DÉCLARE** que les Parties Quittancées n'ont aucune responsabilité ou obligation quelconque quant à l'administration de l'Entente Hitachi, y compris dans la gestion, le placement ou la distribution du Montant de l'Entente¹² Hitachi ou avec le protocole de distribution;

[33] **ORDONNE** que toute somme composant le Montant de l'Entente Hitachi soit détenue en fidéicommiss par Siskinds LLP au bénéfice des Membres du Groupe visé par le Règlement, jusqu'à ce que de futurs jugements soient rendus à ce sujet;

[34] **CONSTATE** que l'Entente Hitachi prévoit que son approbation est conditionnelle à l'approbation par le tribunal de l'Ontario et le tribunal de la Colombie-Britannique et que le présent jugement n'aura aucune force exécutoire et ne produira aucun effet à moins que de tels jugements ne soient obtenus en Ontario et en Colombie-Britannique;

[35] **ORDONNE** que le présent jugement soit nul et non avenue s'il y est mis fin selon les termes de l'Entente Hitachi;

[36] **DÉCLARE** qu'à compter de la Date d'entrée en vigueur, par le présent jugement, le présent dossier sera réglé à l'amiable contre les Défenderesses qui règlent;

[37] **DISPENSE** la demanderesse et les Défenderesses qui règlent de publier tout avis en lien avec le présent jugement ou l'Entente Hitachi;

[1] **SANS FRAIS de justice.**


CATHERINE LA ROSA, j.c.s.

Me Karim Diallo
Siskinds Desmeules (casier 15)

Avocats de la demanderesse

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Avocats de la défenderesse Hitachi

¹² « Settlement Amount ».

Me Pierre Y. Lefebvre

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Avocate du Fonds d'aide aux recours collectifs

**CANADIAN CRT PRODUCTS CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

Made as of January 19, 2016

Between

**THE FANSHAWE COLLEGE OF APPLIED ARTS AND TECHNOLOGY,
CURTIS SAUNDERS, DAVE DAGG AND CAROLE OUELLET**

and

**JAPAN DISPLAY INC., F/K/A HITACHI DISPLAYS LTD., HITACHI LTD.,
HITACHI ASIA, LTD., HITACHI AMERICA, LTD.,
HITACHI ELECTRONIC DEVICES (USA), INC., AND HITACHI CANADA, LTD.**

**CANADIAN CRT PRODUCTS CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

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**CANADIAN CRT PRODUCTS CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

RECITALS

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

B. WHEREAS the Settling Defendants expressly deny, through the execution of this Settlement Agreement or otherwise, any allegation of unlawful or otherwise wrongful conduct alleged in the Proceedings or otherwise;

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

D. WHEREAS the Settling Defendants are entering into this Settlement Agreement in order to achieve a final and nation-wide resolution of all claims asserted or which could have been asserted against the Hitachi Releasees by the Plaintiffs and the Settlement Class in the Proceedings, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;

E. WHEREAS the Settling Defendants do not hereby attorn to the jurisdiction of the Courts or any other court or tribunal in respect of any civil, criminal or administrative process except to the extent expressly provided in this Settlement Agreement with respect to the Proceedings;

F. WHEREAS Counsel for the Settling Defendants and Class Counsel have engaged in arm's-length settlement discussions and negotiations, resulting in this Settlement Agreement relating to Canada;

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

H. 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, having regard to the burdens and expense in prosecuting the Proceedings, including the risks and uncertainties associated with trials and appeals, and having regard to the value of the Settlement Amount and other consideration set forth in the Settlement Agreement, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiffs and the classes they seek to represent;

I. WHEREAS the Parties therefore wish to and hereby finally resolve on a national basis, without admission of liability, all of the Proceedings as against the Settling Defendants;

J. WHEREAS for the purposes of settlement only and contingent on approvals by the Courts as provided for in this Settlement Agreement, the Parties have consented to certification or authorization of the Proceedings as class proceedings and have consented to a Settlement Class and a Common Issue in each of the Proceedings;

K. WHEREAS the Plaintiffs assert that they are adequate class representatives for the classes they seek to represent and will seek to be appointed representative plaintiffs in their respective Proceedings;

L. WHEREAS the deadline for Settlement Class Members to opt-out of the Proceedings has passed and there were no opt-outs;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, it is agreed by the Parties that the Ontario Proceeding and BC Proceeding be settled and dismissed as to the Settling Defendants only, and the Quebec Proceeding be settled without reservation as against the Settling Defendants, all without costs as to the Plaintiffs, the classes they seek to

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represent or the Settling Defendants, subject to the approval of the Courts, on the following terms and conditions:

Section 1 - Definitions

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

- (1) *Administration Expenses* means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiffs, Class Counsel or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices and claims administration but excluding Class Counsel Fees.
- (2) *BC Action* means the BC Action as defined in Schedule A.
- (3) *BC Counsel* means Camp Fiorante Matthews Mogerman.
- (4) *BC Court* means the Supreme Court of British Columbia.
- (5) *Claims Administrator* means the firm proposed by Class Counsel and appointed by the Courts to administer the Settlement Amount in accordance with the provisions of this Settlement Agreement and the Distribution Protocol, and any employees of such firm.
- (6) *Class Counsel* means Ontario Counsel, Quebec Counsel and BC Counsel.
- (7) *Class Counsel Fees* include the fees, disbursements, costs, interest, and/or charges of Class Counsel, and any GST, HST and other applicable taxes or charges thereon, including any amounts payable by Class Counsel or the Settlement Class Members to any other body or person as a result of this Settlement Agreement, including the Fonds d'aide aux recours collectif in Quebec.
- (8) *Class Period* means March 1, 1995 to November 25, 2007.
- (9) *Common Issue* in each Proceeding means: Did the Settling Defendants conspire to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for, CRT directly or indirectly in Canada during the Class Period? If so, what damages, if any, did Settlement Class Members suffer?

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- (10) *Counsel for the Settling Defendants* means Affleck Greene McMurtry LLP.
- (11) *Courts* means the Ontario Court, the Quebec Court and the BC Court.
- (12) *CRT* means cathode ray tubes, including colour picture tubes (CPT) and colour display tubes (CDT).
- (13) *CRT Products* mean CRT and products containing CRT.
- (14) *Date of Execution* means the date on the cover page as of which the Parties have executed this Settlement Agreement.
- (15) *Defendants* means the entities named as defendants in any of the Proceedings as set out in Schedule A, and any persons added as defendants in the Proceedings in the future. For greater certainty, Defendants includes the Settling Defendants.
- (16) *Distribution Protocol* means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as approved by the Courts.
- (17) *Effective Date* means the date when Final Orders have been received from all Courts approving this Settlement Agreement.
- (18) *Excluded Persons* means each Defendant, the directors and officers of each Defendant, the subsidiaries or affiliates of each Defendant, the entities in which each Defendant or any of that Defendant's subsidiaries or affiliates have a controlling interest and the legal representatives, heirs, successors and assigns of each of the foregoing.
- (19) *Final Order* means a final judgment entered by a Court in respect of the certification or authorization of a Proceeding as a class proceeding and the approval of this Settlement Agreement once the time to appeal such judgment has expired without any appeal being taken, if an appeal lies and there is a Person with standing to appeal, or once there has been affirmation of the certification or authorization of a Proceeding as a class proceeding and the approval of this Settlement Agreement upon a final disposition of all appeals.
- (20) *Hitachi Displays* means the entity Hitachi Displays, Ltd. named as a defendant in the Proceedings. Subsequent to the filing of the Proceedings, Hitachi Displays, Ltd. changed its

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name to Japan Display East Inc. on April 1, 2012. On April 1, 2013, Japan Display Inc., Japan Display West Inc. and Japan Display Central Inc. all merged into Japan Display East Inc., which subsequently changed its name to Japan Display Inc. ("JDI"). JDI is a party to this Settlement Agreement solely as the successor in interest to Hitachi Displays, Ltd. and nothing in this Settlement Agreement is intended to, nor shall be interpreted to, affect the rights or liabilities between or among the Plaintiffs, Settling Defendants and JDI as a result of JDI being the successor in interest to Japan Display West Inc. and Japan Display Central Inc.

(21) *Hitachi Releasees* means, jointly and severally, individually and collectively, the Settling Defendants and Japan Display Inc. and all of their present and former, direct and indirect, subsidiaries, divisions, Affiliates (any other entity that is now or was previously owned by Hitachi, Ltd., where "owned" means holding more than 50% or greater equity or beneficial interest), partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, Affiliated, and their respective officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives, and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing, excluding the Non-Settling Defendants named as defendants in the Proceedings as of the Date of Execution.

(22) *Non-Settling Defendant* means any Defendant that is not a Settling Defendant or a Settled Defendant, and includes any Defendant that terminates its own settlement agreement in accordance with its terms or whose settlement otherwise fails to take effect for any reason, whether or not such settlement agreement is in existence at the Date of Execution.

(23) *Ontario Action* means the Ontario Action as defined in Schedule A.

(24) *Ontario Counsel* means Siskinds LLP.

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

(26) *Other Actions* means actions or proceedings, excluding the Proceedings, relating to Released Claims commenced by a Settlement Class Member either before or after the Effective Date.

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(27) *Parties* means the Settling Defendants, the Plaintiffs, and, where necessary, the Settlement Class Members.

(28) *Person* means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.

(29) *Plaintiffs* means the individuals and entities named as plaintiffs in the Proceedings as set out in Schedule A.

(30) *Proceedings* means the BC Action, the Quebec Action, and the Ontario Action as defined in Schedule A.

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

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

(33) *Quebec Action* means the Quebec Action as defined in Schedule A.

(34) *Quebec Counsel* means Siskinds Desmeules s.e.n.c.r.l.

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

(36) *Released Claims* means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses (including Administration Expenses), penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, in law, under statute or in equity, relating in any way to any conduct anywhere, during the Class Period, in respect of the purchase, sale, pricing, discounting, marketing or distributing of CRT Products in Canada, or relating to any conduct alleged (or which could have been alleged) in the Proceedings

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including, without limitation, any such claims which have been asserted or could have been asserted, directly or indirectly, whether in Canada or elsewhere, in respect of the purchase, sale, pricing, discounting, marketing or distributing of CRT Products in Canada. However, nothing herein shall be construed to release any claims that are not related to the allegations in the Proceedings, including any claims related to or arising from any alleged product defect, breach of contract, or similar claim between the Parties relating to CRT Products.

(37) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members and their respective parents, subsidiaries, affiliates, predecessors, successors, heirs, executors, administrators, insurers and assigns.

(38) **Settled Defendants** means Chunghwa Picture Tubes Ltd., Chunghwa Picture Tubes (Malaysia) SDN. BHD, Tatung Company, Tatung Company of America, Inc., Tatung Co. of Canada Inc., Panasonic Corporation f/k/a Matsushita Electric Industrial Co. Ltd., Panasonic Corporation of North America, Panasonic Canada Inc., and MT Picture Display Co., Ltd.

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

(40) **Settlement Amount** means USD\$2,050,000.

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

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

(43) **Settling Defendants** means Hitachi Displays n/k/a/ Japan Display Inc., Hitachi Ltd., Hitachi Asia, Ltd., Hitachi America, Ltd., Hitachi Electronic Devices (USA), Inc., and Hitachi Canada, Ltd.

(44) **Trust Account** means an interest-bearing trust account at a Canadian Schedule I bank or equivalent under the control of Ontario Counsel or the Claims Administrator, once appointed, for the benefit of the Settlement Class Members or the Settling Defendants, as provided for in this Settlement Agreement.

(45) **U.S. Litigation** means the class action proceeding pending in the United States District Court for the Northern District of California, under the caption *In re Cathode Ray Tube (CRT)*

Antitrust Litigation, 07-MDL-1917, and includes all actions transferred by the Judicial Panel for Multidistrict Litigation for coordination, all actions pending such transfer, and all actions that may be transferred in the future.

Section 2 - Settlement Approval

2.1 Best Efforts

(1) The Parties shall use their best efforts to effectuate this settlement and to secure the prompt, complete and final dismissal with prejudice of the BC Action and Ontario Action as against the Settling Defendants, and a prompt, complete and final declaration of settlement out of Court of the Quebec Action.

2.2 Motions for Approval of Notice

(1) At a time mutually agreed to by the Parties, the Plaintiffs shall bring motions before the Courts for orders approving the notices described in Section 11.1(1).

(2) The Ontario order approving the notices described in Section 11.1(1) shall be substantially in the form attached as Schedule B. The BC and Quebec orders approving the notices described in Section 11.1(1) shall be agreed upon by the Parties and shall mirror the substance and, where possible, the form of the Ontario order.

2.3 Motions for Certification or Authorization and Approval of the Settlement

(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 as against the Settling Defendants, for settlement purposes and approving this Settlement Agreement as soon as practicable after:

- (a) the orders referred to in Section 2.2(2) are granted,
- (b) the notices described in Section 11.1(1) have been published; and
- (c) the deadline for Settlement Class Members to object to the Settlement Agreement has expired.

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(2) The Ontario order certifying the Ontario Action for settlement purposes and approving this Settlement Agreement shall be substantially in the form attached as Schedule C. The BC and Quebec orders certifying or authorizing the BC and Quebec Actions for settlement purposes and approving this Settlement Agreement shall be agreed upon by the Parties and shall mirror the substance and, where possible, the form of the Ontario order.

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

2.4 Pre-Motion Confidentiality

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

Section 3 - Settlement Benefits

3.1 Payment of Settlement Amount

(1) Within thirty (30) days of execution of the Settlement Agreement, JDI shall pay the Settlement Amount to Ontario Counsel for deposit into the Trust Account to be held for the benefit of Settlement Class Members. The Settlement Amount shall be converted into Canadian currency upon deposit into the Trust Account.

(2) The Settlement Amount shall be all-inclusive and shall be in full satisfaction of all settlement payment obligations of the Settling Defendants under the Settlement Agreement and in full satisfaction of the Released Claims against the Hitachi Releasees. Neither Settling Defendants nor any of the other Hitachi Releasees have any obligation to pay any amount other than the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement or the Proceedings.

(3) Once a Claims Administrator has been appointed, Ontario Counsel shall transfer the Trust Account to the Claims Administrator.

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(4) Ontario Counsel or the Claims Administrator, as applicable, shall maintain the Trust Account as provided for in this Settlement Agreement. Ontario Counsel or the Claims Administrator, as applicable, shall not pay out all or part of the monies in the Trust Account, except in accordance with this Settlement Agreement or in accordance with an order of the Courts obtained after notice to the Settling Defendants.

3.2 Taxes and Interest

(1) Except as hereinafter provided, all interest earned on the Settlement Amount in the Trust Account shall accrue to the benefit of the Settlement Classes and shall become and remain part of the Trust Account. Neither JDI, Settling Defendants, nor any of the Hitachi Releasees has any obligation to pay any amount other than the Settlement Amount, for any reason, pursuant to or in furtherance of the Settlement Agreement.

(2) Subject to Section 3.2(3), all taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be paid from the Trust Account. Ontario Counsel or the Claims Administrator, as appropriate, shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned on the Settlement Amount shall be paid from the Trust Account.

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

3.3 Intervention in the U.S. Litigation

(1) The Settling Defendants shall not oppose any application by or on behalf of the Plaintiffs to intervene in the U.S. Litigation in order to gain access to discovery documents and other documents and information subject to protective order. For greater certainty, it is agreed and understood that nothing in this Settlement Agreement requires or shall be construed to require

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the Settling Defendants to make a motion or otherwise participate in or support a motion seeking to have the U.S. protective order lifted.

Section 4 - Cooperation

4.1 Extent of Cooperation

(1) Within thirty (30) days of the Effective Date, or at a time mutually agreed upon by the Parties, and subject to any court order with respect to confidentiality and the terms of this Settlement Agreement, JDI shall:

- (a) make reasonable best efforts to provide to Class Counsel summaries of existing transactional data for sales by the Settling Defendants of CRT Products delivered in Canada between March 1, 1995 and November 25, 2009, to the extent that such data has not previously been produced pursuant to Section 12.2(1). The data shall be provided in Microsoft Excel format or such other format as agreed upon by the Parties. JDI shall bear no liability with respect to the completeness or accuracy of the information provided pursuant to this Section;
- (b) provide reasonable assistance to Class Counsel in understanding the transactional sales produced by the Settling Defendants. If Counsel for the Settling Defendants are unable to provide an adequate response to Class Counsel's questions, JDI shall request that a current employee of Settling Defendants be reasonably available to Class Counsel to respond to Class Counsel's questions. The unavailability of a current employee, the inability of a current employee to respond to Class Counsel's questions, or the failure of an employee to agree to make him or herself available to or otherwise cooperate with the Plaintiffs shall not constitute a breach or violation of this Settlement Agreement;
- (c) provide to Class Counsel any transcripts or video recordings of all depositions of current or former employees, directors or officers of the Settling Defendants which relate to allegations raised in the Proceedings taken in the course of the U.S. Litigation to the extent permitted by law or court order in the U.S. Litigation;

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- (d) provide electronic copies of any documents (as defined in Rule 30.01 of the Ontario *Rules of Civil Procedure*) produced by the Settling Defendants in the U.S. Litigation, including, but not limited to, any pre-existing documents provided to counsel for the plaintiffs in the U.S. Litigation pursuant to any settlement agreement entered into between the plaintiffs in the U.S. Litigation and the Settling Defendants;
 - (e) to the extent not included in production under Section 4.1(1)(d), provide electronic copies of any pre-existing documents (as defined in Rule 30.01 of the Ontario *Rules of Civil Procedure*) provided by the Settling Defendants to the United States Department of Justice, , or the Canadian Competition Bureau, concerning the allegations in the Proceedings, excluding documents created for the purpose of being so provided; and
 - (f) provide reasonable assistance to Class Counsel in understanding specific Documents produced by the Settling Defendants pursuant to this section 4.1(1). Counsel for the Settling Defendants shall be reasonably available to answer questions that Class Counsel has about specific Documents that were produced pursuant to this section 4.1(1), up to a maximum of ten (10) hours. As part of this process, Counsel for the Settling Defendants will make inquiries of the Settling Defendants, as required in order to answer the questions posed by Class Counsel. The inability of Counsel for the Settling Defendants to respond to Class Counsel's questions shall not constitute a breach or violation of this Settlement Agreement.
- (2) The obligation to provide documents pursuant to this Section 4.1(1) shall be a continuing obligation to the extent documents are identified by the Settling Defendants following the initial productions pursuant to this Settlement Agreement.
- (3) Subject to the rules of evidence, any court order with respect to confidentiality and the other provisions of this Settlement Agreement, JDI shall use reasonable efforts to produce at trial and/or discovery or through acceptable affidavits or other testimony in the Proceedings, (i) a current employee of the Settling Defendants qualified to establish for admission into evidence sales by the Settling Defendants of CRT Products delivered in Canada during the Class Period; (ii) current employees of the Settling Defendants qualified to establish for admission into

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evidence any documents and information originating from or created by the Settling Defendants provided as cooperation pursuant to Section 4.1 of this Settlement Agreement, or provided as cooperation pursuant to a settlement agreement with a Settled Defendant, that the Parties, acting reasonably, agree may be necessary for the prosecution of the Proceedings as against the Non-Settling Defendants and may be presented to the Courts. The failure of a specific officer, director or employee of the Settling Defendants to agree to make him or herself available, or to otherwise cooperate with the Plaintiffs, shall not constitute a violation of this Settlement Agreement. The Plaintiffs shall be responsible for all reasonable expenses of any representative in relation to an attendance pursuant to this Section.

(4) Nothing in this Settlement Agreement shall be construed to require the Settling Defendants to perform any act, including the transmittal or disclosure of any information, written or oral, including documents, which would violate the law of this or any jurisdiction.

(5) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Settling Defendants to disclose or produce any documents or information prepared by or for Counsel for the Settling Defendants, or that is not within the Settling Defendants' power, custody or control, or to disclose or produce any documents or information in breach of any order, regulatory directive, rule or law of this or any jurisdiction, or subject to solicitor-client privilege, litigation privilege, or any other privilege, or to disclose or produce any information or documents they obtained on a privileged or co-operative basis from any party to any action or proceeding who is not a Settling Defendant.

(6) If any documents protected by any privilege and/or any privacy law or other rule or law of this or any applicable jurisdiction are accidentally or inadvertently disclosed or produced, such documents shall be promptly returned to the producing party and the documents and the information contained therein shall not be disclosed or used directly or indirectly, except with the express written permission of the producing party, and the production of such documents shall in no way be construed to have waived in any manner any privilege or protection attached to such documents.

(7) The obligations to cooperate as particularized in this Section shall not be affected by the release provisions contained in Section 7 of this Settlement Agreement. The obligations to cooperate shall cease at the date of final judgment in the Proceedings against all Defendants. In

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the event that any of the Settling Defendants materially breach this Section 4.1, Class Counsel may move before the Courts to enforce the terms of this Settlement Agreement or seek such other remedy that is available at law.

(8) The provisions set forth in this Section 4.1 are the exclusive means by which the Plaintiffs, Class Counsel and Settlement Class Members may obtain discovery or information or Documents from the Settling Defendants or their current or former officers, directors or employees. The Plaintiffs, Class Counsel and Settlement Class Members agree that they shall not pursue any other means of discovery against, or seek to compel the evidence of, the Settling Defendants or their current or former officers, directors, employees, agents, or counsel, whether in Canada or elsewhere and whether under the rules or laws of this or any other Canadian or foreign jurisdiction.

(9) A material factor influencing JDI's decision to execute this Settlement Agreement is its desire to limit the burden and expense of this litigation. Accordingly, Class Counsel agree to exercise good faith in seeking cooperation from the Settling Defendants and to avoid seeking information that is unnecessary, cumulative or duplicative and agree otherwise to avoid imposing undue or unreasonable burdens or expense on the Settling Defendants.

(10) The scope of the Settling Defendant's cooperation under this Settlement Agreement shall be limited to the allegations asserted in the Proceedings as presently filed.

(11) The Settling Defendants make no representation and shall bear no liability in respect of the accuracy of or that they have, can or will produce a complete set of documents or any of the information described herein, and the failure to do so shall not constitute a breach or violation of the Settlement Agreement.

4.2 Limits on Use of Documents

(1) It is understood and agreed that all documents made available or provided by JDI to Plaintiffs and Class Counsel under this Settlement Agreement, shall be used only in connection with the prosecution of the claims in the Proceedings, and shall not be used directly or indirectly for any other purpose. Plaintiffs and Class Counsel agree they will not publicize the documents and information provided by JDI beyond what is reasonably necessary for the prosecution of the Proceedings or as otherwise required by law.

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(2) If the Plaintiffs or Class Counsel intend to produce or file in the Proceedings any documents or other information provided by JDI as cooperation under this Settlement Agreement (and such disclosure is not otherwise prohibited by this Settlement Agreement) which, at the time of being provided, were marked or designated by the Settling Defendants as "Confidential – Subject to Procedure Under Section 4.2(2) of the Settlement Agreement", Class Counsel shall provide Counsel for the Settling Defendants with an advance description of the documents or other information sought to be produced or filed in the Proceedings at least thirty (30) days in advance of the proposed production or filing, in order that the Settling Defendants may intervene for the purposes of bringing a motion for a sealing or confidentiality order or similar relief. If the Settling Defendants intervene for this purpose, the Plaintiffs, Settlement Class Members and Class Counsel shall not oppose the position taken by the Settling Defendants, provided that the order is similar in form and content to the previous confidentiality order obtained in the Proceedings. The Plaintiffs or Class Counsel shall not produce or file the confidential information or documents until the Settling Defendant's motion has been decided and all applicable and all applicable appeal periods have expired except, so as not to delay the prosecution of the Proceedings, Class Counsel may provide, on an interim basis, documents of information to counsel for the Non-Settling Defendants provided that counsel for the Non-Settling Defendants agree that they will keep the documents or information confidential and/or on an external-counsel only basis as appropriate until the Settling Defendant's motion has been decided and all applicable appeal periods have expired.

(3) In the event that a person applies for an order requiring the Plaintiffs or Settlement Class Members to disclose or produce any documents or other information provided by JDI as cooperation under this Settlement Agreement which, at the time of being provided, were marked or designated by the Settling Defendants as "Confidential – Subject to Procedure Under Section 4.2(2) of the Settlement Agreement", Class Counsel shall notify Counsel for the Settling Defendants of such application promptly upon becoming aware of it in order that the Settling Defendants may intervene to oppose such disclosure or production. In no circumstances shall the Plaintiffs, Settlement Class Members or Class Counsel apply for or consent to such an application for disclosure or production.

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Section 5 - Distribution of the Settlement Amount and Accrued Interest

5.1 Distribution Protocol

(1) At a time wholly within the discretion of Class Counsel, but on notice to the Settling Defendants, Class Counsel will make an application seeking orders from the Courts approving the Distribution Protocol.

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

5.2 No Responsibility for Administration or Fees

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

Section 6 - Termination of Settlement Agreement

6.1 Right of Termination

(1) In the event that:

- (a) any Court declines to approve this Settlement Agreement or any material part hereof;
- (b) any Court declines to certify or authorize the Settlement Class;
- (c) any Court approves this Settlement Agreement in a materially modified form; or
- (d) any orders approving this Settlement Agreement made by the Ontario Court, the British Columbia Court or the Quebec Court do not become Final Orders or are issued in a materially modified form;

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each of the Settling Defendants, Class Counsel, and the Plaintiffs shall have the right to terminate this Settlement Agreement by delivering a written notice pursuant to Section 14.18 within 30 days following the event described above and, except as provided for in Section 6.4, if the Settling Defendants, Class Counsel or the Plaintiffs exercise their right to terminate, the Settlement Agreement shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.

- (2) Any order, ruling or determination made (or rejected) by any Court with respect to
- (a) Class Counsel Fees,
 - (b) the Distribution Protocol, or
 - (c) documentary confidentiality as provided in Section 4.2(2) above,

shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

6.2 If Settlement Agreement is Terminated

- (1) If this Settlement Agreement is terminated in accordance with its terms or otherwise fails to take effect for any reason:
- (a) no motion to certify or authorize any of the Proceedings as a class proceeding on the basis of this Settlement Agreement, or to approve this Settlement Agreement, which has not been heard, shall proceed;
 - (b) any order certifying or authorizing a Proceeding as a class proceeding on the basis of the Settlement Agreement or 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) any prior certification or authorization of a Proceeding as a class proceeding on the basis of this Settlement Agreement, including the definitions of the Settlement Class and the Common Issue pursuant to this Settlement Agreement, 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;

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- (d) within ten (10) days of such termination having occurred, Class Counsel shall destroy all documents or other materials provided by JDI under this Settlement Agreement or containing or reflecting information derived from such documents or other materials received from JDI and, to the extent Class Counsel has disclosed any documents or information provided by JDI to any other person, shall recover and destroy such documents or information. Class Counsel shall provide Counsel for the Settling Defendants with a written certification by Class Counsel of such destruction. Nothing contained in this Section 6.2(d) shall be construed to require Class Counsel to destroy any of their work product. However, any documents or information provided by JDI, or received from JDI in connection with this Settlement Agreement, may not be disclosed to any person in any manner or used, directly or indirectly, by Class Counsel or any other person in any way for any reason, without the express prior written permission of JDI. Class Counsel shall take appropriate steps and precautions to ensure and maintain the confidentiality of such documents, information and any work product of Class Counsel; and
- (e) Class Counsel shall forthwith deliver consents in writing to Counsel for the Settling Defendants authorizing the Settling Defendants to obtain orders declaring the Settlement Agreement to be null and void and of no force and effect (except for the provisions set out in Section 6.4), setting aside any orders certifying or authorizing the Proceedings as class proceedings on the basis of the Settlement Agreement and directing Ontario Counsel to pay the balance in the Trust Account in accordance with Section 6.3.

6.3 Allocation of Settlement Amount Following Termination

- (1) If the Settlement Agreement is terminated in accordance with its terms, then within thirty (30) business days of written notice advising that the Settlement Agreement has been terminated, Ontario Counsel shall pay to JDI the Settlement Amount, as converted into Canadian dollars at the time of deposit into the Trust Account pursuant to Section 3.1(1), (i) plus all accrued interest thereon, (ii) less the costs of the notice required by Section 11.1(1), and any necessary translation of the notice, unless the notice required in Section 11.1(1) has been disseminated in conjunction with a notice involving a settlement with another Defendant.

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6.4 Survival of Provisions After Termination

(1) If this Settlement Agreement is terminated, the provisions of Sections 3.2(3), 6.2(1), 6.3, 6.4, 9.1, 9.2 and 12.2(5), and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of the interpretation of Sections 3.2(3), 6.2(1), 6.3, 6.4, 9.1, 9.2 and 12.2(5) within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

Section 7 - Releases and Dismissals

7.1 Release of Hitachi Releasees

(1) Upon the Effective Date, subject to Section 7.2, and in consideration of payment of the Settlement Amount and for other valuable consideration set forth in the Settlement Agreement, the Releasers forever and absolutely release the Hitachi Releasees from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have.

7.2 Covenant Not To Sue

(1) Upon the Effective Date, 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 Hitachi 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 Hitachi Releasees in respect of or in relation to the Released Claims.

7.3 No Further Claims

(1) Upon the Effective Date, 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 Hitachi Releasee or any other person who may claim contribution or indemnity from any Hitachi Releasee in respect of any Released Claim, except for the continuation of the Proceedings against the Non-Settling Defendants or unnamed co-conspirators

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that are not Hitachi Releasees or, if the Proceedings are not certified or authorized, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against any Non-Settling Defendant or unnamed co-conspirator that is not a Hitachi Releasee.

7.4 Dismissal of the Proceedings

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

(2) Upon the Effective Date, the Quebec Action shall be declared settled, without costs and without reservation as against the Settling Defendants.

7.5 Dismissal of Other Actions

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

(2) Upon the Effective Date, the BC Action and the Ontario Action shall be dismissed with prejudice and without costs as against the Hitachi Releasees.

(3) Upon the Effective Date, all Other Actions commenced in British Columbia or Ontario by any Settlement Class Member shall be dismissed against the Hitachi Releasees, without costs and with prejudice.

(4) Each member of the Quebec Settlement Class who makes a claim under this Settlement Agreement shall be deemed to irrevocably consent to the dismissal, without costs and without reservation, of his, her or its Other Actions against the Hitachi Releasees.

(5) Each Other Action commenced in Quebec by a member of the Quebec Settlement Class who makes a claim under this Settlement Agreement shall be dismissed as against the Hitachi Releasees, without costs and without reservation.

(6) Upon the Effective Date, the Quebec Action shall be declared settled, without costs and without reservation as against the Hitachi Releasees.

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(7) The releases contemplated in this Section shall be considered a material term of the Settlement Agreement and the failure of any Court to approve the releases contemplated herein shall give rise to a right of termination pursuant to Section 6.1 of the Settlement Agreement.

Section 8 - Bar Order, Waiver of Solidarity Order and Other Claims

8.1 Ontario and British Columbia Bar Order

(1) Bar orders shall be granted by the Ontario Court and the BC Court providing for the following:

(a) if the Ontario Court or BC Court, as applicable, ultimately determines that there is a right of contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise:

(A) all claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in the Ontario or BC Action, as applicable, by any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Hitachi Releasee, or any other person or party that is not a Hitachi Releasee against a Hitachi Releasee, or by a Hitachi Releasee against any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Hitachi Releasee, or any other person or party that is not a Hitachi Releasee, are barred, prohibited and enjoined in accordance with the terms of this Section;

(B) the Ontario or BC Plaintiff, as applicable, and the Ontario or BC Settlement Class Members, as applicable, shall not be entitled to claim or recover from the Non-Settling Defendants and/or named or unnamed co-conspirators that are not Hitachi Releasees and/or any other person or party that is not a Hitachi Releasee that portion of any damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs (including

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investigative costs claimed pursuant to s. 36 of the *Competition Act*) that corresponds to the Proportionate Liability of the Hitachi Releasees proven at trial or otherwise;

- (C) the Ontario or BC Plaintiff, as applicable, and the Ontario or BC Settlement Class Members, as applicable, shall limit their claims against the Non-Settling Defendants and/or any named or unnamed co-conspirators that are not Hitachi Releasees and/or any other person or party that is not a Hitachi Releasee to include, and shall be entitled to recover from the Non-Settling Defendants and/or any named or unnamed co-conspirator that is not a Hitachi Releasee and/or any other person or party that is not a Hitachi Releasee, only those claims for damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs (including investigative costs claimed pursuant to s. 36 of the *Competition Act*) attributable to the aggregate of the several liability of the Non-Settling Defendants and/or named or unnamed co-conspirators that are not Hitachi Releasees and/or any other person or party that is not a Hitachi Releasee, and, for greater certainty, the Ontario or BC Settlement Class Members, as appropriate, shall be entitled to claim and recover on a joint and several basis as between the Non-Settling Defendants and/or named or unnamed co-conspirators that are not Hitachi Releasees and/or any other person or party that is not a Hitachi Releasee, to the extent provided by law; and
- (D) the Ontario and BC Court, as applicable, shall have full authority to determine the Proportionate Liability of the Hitachi Releasees at the trial or other disposition of the relevant Proceeding, whether or not the Hitachi Releasees remain in the relevant Proceeding or appear at the trial or other disposition, and the Proportionate Liability of the Hitachi Releasees shall be determined as if the Hitachi Releasees are parties to the relevant Proceeding and any

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determination by the Ontario or BC Court, as applicable, in respect of the Proportionate Liability of the Hitachi Releasees shall only apply in the relevant Proceeding and shall not be binding on the Hitachi Releasees in any other proceeding;

- (b) a Non-Settling Defendant may, on motion to the Ontario Court or the BC Court, as appropriate, determined as if the Settling Defendants remained party to the Ontario Action or BC Action, as appropriate, and on at least ten (10) days' notice to Counsel for the Settling Defendants, and not to be brought unless and until the action against the Non-Settling Defendants has been certified and all appeals or times to appeal have been exhausted, seek orders for the following:
- (A) documentary discovery and an affidavit of documents (list of documents in British Columbia) from the Settling Defendants in accordance with the Ontario or British Columbia's rules of procedure, as applicable;
 - (B) oral discovery of a representative of the Settling Defendants, the transcript of which may be read in at trial;
 - (C) leave to serve a request to admit (notice to admit in British Columbia) on the Settling Defendants in respect of factual matters; and/or
 - (D) the production of a representative of the Settling Defendants to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.
- (c) The Settling Defendants retain all rights to oppose any motion brought pursuant to Section 8.1(1)(b), including any such motion brought at trial seeking an order requiring the Settling Defendants to produce a representative to testify at trial. For greater certainty, nothing herein shall prevent the Hitachi Releasees from seeking a protective order to maintain confidentiality and protection of proprietary information in respect of documents produced or information obtained from discovery in accordance with Section 8.1(1)(b);
- (d) on any motion brought pursuant to Section 8.1(1)(b), the Ontario or BC Court, as applicable, may make such Orders as to costs and other terms as it considers appropriate;

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- (e) to the extent that an order is granted pursuant to Section 8.1(1)(b) and discovery is provided to a Non-Settling Defendant, a copy of all discovery provided, whether oral or documentary in nature, shall be provided by the Settling Defendants to the Plaintiffs and Class Counsel within ten (10) days of such discovery being provided to a Non-Settling Defendant;
- (f) the Ontario or BC Court, as applicable, will retain an ongoing supervisory role over the discovery process and the Settling Defendants will attorn to the jurisdiction of the Ontario or BC Court, as applicable, for these (but no other) purposes; and
- (g) a Non-Settling Defendant may effect service of the motion(s) referred to in Section 8.1(1)(b) on a Settling Defendant by service on Counsel for the Settling Defendants.

8.2 Quebec Waiver or Renunciation of Solidarity Order

- (1) A waiver or renunciation of solidarity shall be granted by the Quebec Court providing for the following:
 - (a) the Quebec Plaintiff and the Quebec Settlement Class Members expressly waive and renounce the benefit of solidarity against the Non-Settling Defendants with respect to the facts, deeds or other conduct of the Hitachi Releasees;
 - (b) the Quebec Plaintiff and the Quebec Settlement Class Members shall henceforth only be able to claim and recover damages, including punitive damages, interests and costs (including investigative costs claimed pursuant to s. 36 of the *Competition Act*) attributable to the conduct of the Non-Settling Defendants, the sales by the Non-Settling Defendants, and/or other applicable measure of Proportionate Liability of the Non-Settling Defendants;
 - (c) any claims in warranty or any other claim or joinder of parties to obtain any contribution or indemnity from the Hitachi Releasees or relating to the Released Claims shall be inadmissible and void in the context of the Quebec Action; and

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- (d) the ability of Non-Settling Defendants to seek discovery from the Settling Defendants shall be determined according to the provisions of the *Code of Civil Procedure*, and the Settling Defendants shall retain and reserve all of their rights to oppose such discovery under the *Code of Civil Procedure*.

8.3 Claims Against Other Entities Reserved

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

Section 9 - Effect of Settlement

9.1 No Admission of Liability

- (1) The Plaintiffs and the Hitachi Releasees expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason. Further, whether or not this Settlement Agreement 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 the Settling Defendants or any other Hitachi 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

- (1) The Parties agree that, whether or not it 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 approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, or as otherwise required by law.

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9.3 No Further Litigation

(1) No Class Counsel, nor anyone currently or hereafter employed by or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any person which relates to or arises from the Released Claims, except in relation to the continued prosecution of the Proceedings against any Non-Settling Defendant or unnamed co-conspirators that are not Hitachi Releasees or, if the Proceedings are not certified or authorized, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against any Non-Settling Defendant or unnamed co-conspirator that is not a Hitachi Releasee. 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 unless ordered to do so by a court.

(2) Section 9.3(1) of this Settlement Agreement, and only Section 9.3(1), shall be inoperative to the extent that it requires any lawyer who is a member of the Law Society of British Columbia (the "LSBC") to breach his or her obligations under Chapter 3.2-10 of the LSBC's Code of Professional Conduct by refraining from participation or involvement in any claim or action in a British Columbia court. This Section 9.3(2) shall not affect or render inoperative any other section or provision of this Settlement Agreement.

Section 10 - Certification or Authorization for Settlement Only

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

(3) The Parties agree that the certification or authorization of the Proceedings as against the Settling Defendants for the purpose of implementing this Settlement Agreement, shall not

derogate in any way from the rights of the Plaintiffs as against the Non-Settling Defendants and other parties that are not Hitachi Releasees.

Section 11 - Notice to Settlement Classes

11.1 Notices Required

(1) The proposed Settlement Classes shall be given a single notice of (i) the certification or authorization of the Proceedings as class proceedings as against the Settling Defendants for settlement purposes; (ii) the hearings at which the Courts will be asked to approve the Settlement Agreement; and (iii) if they are brought with the hearings to approve the Settlement Agreement, the hearings to approve Class Counsel Fees and/or a Distribution Protocol.

(2) The proposed Settlement Classes shall also be given a notice of: (i) approval of the Settlement Agreement; (ii) approval of the Distribution Protocol, if granted by the Courts, and (iii) Notice of Termination (if the Settlement Agreement is terminated or otherwise fails to take effect).

11.2 Form and Distribution of Notices

(1) The notices shall be in a form agreed upon by the Parties and approved by the Courts or, if the Parties cannot agree on the form of the notices, the notices shall be in a form ordered by the Courts.

(2) The notices shall be disseminated by a method agreed upon by the Parties and approved by the Courts or, if the Parties cannot agree on a method for disseminating the notices, the notices shall be disseminated by a method ordered by the Courts.

Section 12 – Administration and Implementation

12.1 Mechanics of Administration

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

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12.2 Information and Assistance

(1) JDI will make reasonable best efforts to provide a list of the names and addresses of Persons, if any, in Canada who purchased CRT Products from the Settling Defendants during the Class Period and the Purchase Price paid by each such person for such purchases. Where possible and applicable, the Settling Defendants will make reasonable efforts to provide the name of the corporate contact person for each direct purchaser customer.

(2) The information required by Section 12.2(1) shall be delivered to the Class Counsel within fifteen (15) days of the Date of Execution. The information shall be delivered in Microsoft Excel or such other format as may be agreed upon by Counsel for the Settling Defendants and Class Counsel.

(3) If not already provided pursuant to Section 4.1(1)(a), within fifteen (15) days of the Effective Date, the Settling Defendants will make reasonable efforts to provide to Class Counsel Purchase Price information in respect of Persons, if any, in Canada who purchased CRT Products from the Settling Defendants during the Class Period. The Purchase Price information shall be provided in Microsoft Excel format or such other format as agreed upon by the Parties.

(4) Class Counsel may use the information provided under Section 12.2(1) to:

- (a) facilitate the dissemination of the notices required in Section 11.1(1);
- (b) facilitate the dissemination of notice of any subsequent settlement agreement reached in the Proceedings, any related approval hearings, and any other major steps in the Proceedings;
- (c) facilitate the claims administration process with respect to this Settlement Agreement and any other settlement agreement achieved in the Proceedings; and
- (d) as otherwise authorized in Section 4.

(5) All information provided by JDI pursuant to Section 12.2(1) shall be dealt with in accordance with Section 4, except that Class Counsel may disclose all information provided by JDI pursuant to Section 12.2(1) to any Court-appointed notice provider and/or any Court-appointed Claims Administrator, to the extent reasonably necessary for the purposes enumerated

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in Section 12.2(4). Any Court-appointed notice provider and/or any Court-appointed Claims Administrator shall be bound by the same confidentiality obligations set out in Section 4. If this Settlement Agreement is terminated, all information provided by JDI pursuant to Section 12.2(1) shall be dealt with in accordance with Section 6.2(1)(d) and no record of the information so provided shall be retained by Class Counsel in any form whatsoever.

(6) JDI will make itself reasonably available to respond to questions respecting the information provided pursuant to Sections 12.2(1) and (3) from Class Counsel or any Court-appointed notice provider and/or Claims Administrator.

(7) JDI's obligations pursuant this Section 12.2 shall not be affected by the release provisions contained in Section 7 of this Settlement Agreement. Unless this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, JDI's obligations to cooperate pursuant to this Section 12.2 shall cease when the Proceedings are resolved as against all Defendants and all settlement funds or court awards have been distributed.

(8) JDI and the Settling Defendants shall bear no liability with respect to the completeness or accuracy of the information provided pursuant to this Section 12.2.

Section 13 - Class Counsel Fees and Administrative Expenses

(1) Ontario Counsel shall pay the costs of the notices required by Section 11 from the Trust Account, as they become due. Subject to Section 6.3, the Hitachi Releasees shall not have any responsibility for the costs of the notices.

(2) Except as provided in Section 13(1), Class Counsel Fees and Administration Expenses may only be paid out of the Trust Account after the Effective Date.

(3) Class Counsel may seek the Courts' approval to pay Class Counsel Fees and Administration Expenses contemporaneous with seeking approval of this Settlement Agreement or at such other time as they may determine in their sole discretion.

(4) Class Counsel reserve the right to bring motions to the Courts for payment out of the Trust Account for any future adverse cost awards and future disbursements.

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

Section 14 - Miscellaneous

14.1 Motions for Directions

(1) Class Counsel or the Hitachi Releasees may apply to the Ontario Court and/or such other Courts as may be required by the Courts for directions in respect of the interpretation, implementation and administration of this Settlement Agreement. Unless the Courts order otherwise, motions for directions that do not relate specifically to the matters affecting the BC Action, and/or the Quebec Action shall be determined by the Ontario Court.

(2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties, except for those motions concerned solely with the implementation and administration of the Distribution Protocol.

14.2 Hitachi Releasees Have No Liability for Administration

(1) The Hitachi Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement or Distribution Protocol.

14.3 Headings, etc.

(1) In this Settlement Agreement:

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

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14.4 Computation of Time

- (1) In the computation of time in this Settlement Agreement, except where a contrary intention appears,
 - (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
 - (b) only in the case where the time for doing an act expires on a holiday as "holiday" is defined in the *Interpretation Act*, RSC 1985, c 1-21), the act may be done on the next day that is not a holiday.

14.5 Ongoing Jurisdiction

- (1) Each of the Courts shall retain exclusive jurisdiction over each Proceeding commenced in its jurisdiction, the Parties thereto and the Class Counsel Fees in those Proceedings.
- (2) No Party shall ask a Court to make any order or give any direction in respect of any matter of shared jurisdiction unless that order or direction is conditional upon a complementary order or direction being made or given by the other Court(s) with which it shares jurisdiction over that matter.
- (3) Notwithstanding Section 14.5(1), the Ontario Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement. Issues related to the administration of this Settlement Agreement, the Trust Account, and other matters not specifically related to the BC Action or the Quebec Action shall be determined by the Ontario Court.
- (4) Notwithstanding Section 14.6(1), the Ontario Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement, and the Plaintiffs and Settlement Class Members attorn to the jurisdiction of the Ontario Court for such purposes. Issues related to the administration of this Settlement Agreement, the Trust Account, and other matters not specifically related to the BC Action or the Quebec Action shall be determined by the Ontario Court.

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14.6 Governing Law

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

(2) Notwithstanding Section 14.6(1), for matters relating specifically to the BC Action or the Quebec Action, the BC or Quebec Court, as applicable, shall apply the law of its own jurisdiction.

14.7 Entire Agreement

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

14.8 Amendments

(1) This Settlement 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 Courts with jurisdiction over the matter to which the amendment relates.

14.9 Binding Effect

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

14.10 Counterparts

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

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14.11 Negotiated Agreement

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

14.12 Language

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais. Nevertheless, if required to by the Courts, Class Counsel and/or a translation firm selected by Class Counsel shall prepare a French translation of the Settlement Agreement, the cost of which shall be paid from the Settlement Amount. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

14.13 Transaction

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

14.14 Recitals

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

14.15 Schedules

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

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14.16 Acknowledgements

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

14.17 Authorized Signatures

- (1) 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 on behalf of the Parties identified above their respective signatures and their law firms.

14.18 Notice

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

For the Plaintiffs and for Class Counsel in the Proceedings:

Charles M. Wright and Andrea DeKay
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Barristers and Solicitors
680 Waterloo Street
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J. J. Camp, Q.C. and Reidar Mogerman
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For the Settling Defendants:

Donald Affleck and Michelle Booth
 AFFLECK GREENE MCMURTRY LLP
 365 Bay Street
 Suite 200
 Toronto, ON M5H 2V1
 Tel: 416.360.2800
 Fax: 416.360.5960
 Email: dsaffleck@agolaw.com
 mbooth@agolaw.com

14.19 Date of Execution

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

THE FANSHAWE COLLEGE OF APPLIED ARTS AND TECHNOLOGY and
 on behalf of the Settlement Class, by its counsel

Name of Authorized Signatory:

Linda Visser

Signature of Authorized Signatory:

hl
 per Siskinds LLP
 Class Counsel

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CURTIS SAUNDERS AND DAVE DAGG, on their own behalf and on behalf of the Settlement Class, by their counsel

Name of Authorized Signatory:

Andrea DeKay

Signature of Authorized Signatory:

Andrea DeKay For
Camp Fiorante Matthews Mogeran

Class Counsel

CAROLE OUELLET, on her own behalf and on behalf of the Settlement Class, by her counsel

Name of Authorized Signatory:

Andrea DeKay

Signature of Authorized Signatory:

Andrea DeKay
Siskinds Desmeules s.e.n.c.r.l.

Class Counsel

JAPAN DISPLAY INC., by their counsel

Name of Authorized Signatory:

Michelle Beath

Signature of Authorized Signatory:

Ma Beath
Affleck Greene McMurtry LLP