Court File No.: xxxxxxxx-CP

ONTARIO
SUPERIOR COURT OF JUSTICE

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| THE HONOURABLEJUSTICE [*name*] | )))) |  [*day*], THE  [date] DAY OF [*month*], 20xx |

BETWEEN**:**

[*names of Plaintiffs]*

Plaintiffs

- and -

[*names of Defendants*]

Defendants

Proceeding under the *Class Proceedings Act*, *1992*

ORDER[[1]](#footnote-1)

**(NOTICE APPROVAL AND
CONSENT CERTIFICATION FOR SETTLEMENT PURPOSES)[[2]](#footnote-2)**

**THIS MOTION** made by the Plaintiff(s) for an Order approving the form and content of the notices of certification and settlement approval hearing (the “Notices”) and the method of dissemination of the Notices, and certifying this action as a class proceeding for settlement purposes only as against [*insert Defendant(s) intending to be bound by the settlement agreement*] (collectively, the “Settling Defendant(s)”) was heard this day [by judicial videoconference at (*City*)] [at *address of courthouse*], Ontario.

**ON READING** the materials filed, including the settlement agreement with the Settling Defendant(s) dated as of [*insert date*] attached to this Order as Appendix “A” (the “Settlement Agreement”), and on hearing the submissions of counsel for the Plaintiff(s) and counsel for the Settling Defendant(s), [*the Non-Settling Defendant(s) taking no position*];[[3]](#footnote-3)

**AND ON BEING ADVISED** that the Plaintiff(s) and the Settling Defendant(s) consent to this Order [*and that the Non-Settling Defendant(s) take no position*];

1. **THIS COURT ORDERS** that, in addition to the definitions used elsewhere in this Order, for the purposes of this Order, the definitions set out in the Settlement Agreement apply to, and are incorporated into, this Order.
2. **THIS COURT ORDERS** that this action is certified as a class proceeding as against the Settling Defendant(s) for settlement purposes only.
3. **THIS COURT ORDERS** that the Settlement Class is defined as: “[*insert class definition*]”.
4. **THIS COURT ORDERS** that [*name(s)*] is/are hereby appointed as the representative plaintiff(s) on behalf of the Settlement Class.
5. **THIS COURT ORDERS** that [*name(s) of firm(s)*] are hereby appointed as Class Counsel in this action.
6. **THIS COURT DECLARES** that the following claims are asserted on behalf of the Settlement Class: [*list the certified causes of action*].
7. **THIS COURT DECLARES** that the relief sought by the Settlement Class is: [*list the types of relief sought in relation to the certified causes of action*].
8. **THIS COURT ORDERS** that the following issue(s) is/are common to the Settlement Class: [*insert common issue(s)*]
9. **THIS COURT ORDERS** thatthe Settlement Class Members shall be given notice of the settlement approval hearing, the certification of this action and the opt-out process[[4]](#footnote-4) in substantially the form[s] set out in Appendix “B”[[5]](#footnote-5) and in the manner set out in Appendix “C”.[[6]](#footnote-6)
10. **THIS COURT ORDERS** that Settlement Class Members may opt out of this class proceeding by following the opt-out process set out in the Notice[s], by no later than [*time*] on [*date*].[[7]](#footnote-7)
11. **THIS COURT ORDERS** that any person who opts out of this action in accordance with the provisions for doing so in the Notice[s] and paragraph 10 of this order shall be excluded from the Settlement Class and the action.[[8]](#footnote-8)
12. **THIS COURT ORDERS** that within thirty (30) days of the opt-out deadline, Class Counsel shall provide to the Defendant(s) a report containing the names of each person who has validly and timely opted out of the proceeding and a summary of the information delivered by such persons pursuant to paragraph 10 above.
13. **THIS COURT ORDERS** that if the Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, this Order, including certification for settlement purposes only, shall be set aside and declared null and void and of no force or effect without the need for any further order of this Court.[[9]](#footnote-9)
14. **THIS COURT ORDERS** that this Order is contingent upon a parallel order(s) being made by the [*insert province*] Court in the action titled [*insert file name and no.*], and the terms of this Order shall not be effective unless and until such an order is made by the [*insert province*] Court.[[10]](#footnote-10)
15. **THIS COURT ORDERS** that this Order, including but not limited to the certification of the action as against the Settling Defendant(s) for settlement purposes only and the definition of the Settlement Class and Common Issue(s), and any reasons given by the Court in connection with this Order, are without prejudice to the rights and defences of the Non-Settling Defendant(s) in connection with the action and, without restricting the generality of the foregoing, may not be relied on by any person to establish jurisdiction, the criteria for certification (including class definition) or the existence or elements of the causes of action asserted in the action, as against the Non-Settling Defendant(s).[[11]](#footnote-11)

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|  | The Honourable Justice [•] |

1. Prepared by the Ontario Class Action Bench-Bar Liaison Committee as a guide for courts and practitioners. This template should be tailored to suit the particular circumstances of each case. [↑](#footnote-ref-1)
2. If notice approval and certification for settlement purposes are sought at separate hearings, or if the action has already been certified against the Settling Defendants, the provisions of this template related to notice approval can be extracted for use in a standalone notice approval order. The provisions related to certification for settlement purposes can be added to the settlement approval order as necessary. [↑](#footnote-ref-2)
3. If the opt out period has expired, the following recital can be added: “AND ON BEING ADVISED that the opt out period has expired.” [↑](#footnote-ref-3)
4. If some defendants have already settled, there will already have been an order certifying for settlement purposes and the opt-out period will already have been triggered and expired. See *e.g. Eidoo v. Infineon Technologies AG,* 2012 ONSC 7299, paras 29-33, *Nutech Brands Inc. v. Air Canada,* [2008] O.J. No. 1065 (S.C.J.), para 20, and *Urlin Rent a Car v. Furukawa Electric*, 2016 ONSC 7965, para. 22. [↑](#footnote-ref-4)
5. Appendix B contains one or more forms of notice, depending on where and how they are to be disseminated. [↑](#footnote-ref-5)
6. Appendix C contains the distribution plan for the Notices. [↑](#footnote-ref-6)
7. This provision should be deleted if the opt-out period has already expired. [↑](#footnote-ref-7)
8. This provision should be deleted if the opt-out period has already expired. [↑](#footnote-ref-8)
9. If this Order and certification for settlement purposes are set aside, the class may need to be notified, which notice may be the subject of a separate order. [↑](#footnote-ref-9)
10. This provision is only necessary if the Order is contingent upon one or more parallel orders being made. [↑](#footnote-ref-10)
11. This provision need only be considered if the matter involves Non-Settling Defendant(s). [↑](#footnote-ref-11)