

# POLYCHLOROPRENE DISTRIBUTION PROTOCOL

The procedures set forth herein are intended to govern the administration of the settlement funds paid in accordance with the Settlement Agreements. The procedures shall be implemented by the claims administrator, subject to the ongoing authority and supervision of the courts. This Distribution Protocol operates with respect to Polychloroprene and Polychloroprene Products, as defined in the Settlement Agreements.

## 1. **QUALIFICATION CATEGORIES**

1.1 Settlement Class members shall qualify for benefits under these Settlement Agreements in one of four categories:

Distributors Settlement Class Members who purchased Polychloroprene in raw form and who resold the Polychloroprene in raw form to a further purchaser

Manufacturers Settlement Class Members who purchased Polychloroprene in raw form and manufactured Polychloroprene Products

Intermediaries Settlement Class Members who are not Distributors, Manufacturers or Consumers

Consumers Settlement Class Members who purchased Polychloroprene Products for personal consumption or use

## 2. **SETTLEMENT BENEFITS AVAILABLE TO DISTRIBUTORS AND MANUFACTURERS**

2.1 A settlement fund equal to the total Settlement Amount plus accrued interest less (a) applicable Class Counsel Fees, disbursements and taxes, (b) proportionate costs of notice, (c) costs of administration, and (d) monies allocated to the Intermediaries and Consumers settlement fund in section 3 of this protocol, shall be available to compensate Distributors and Manufacturers.

### 2.2 **Eligibility**

Subject to the approval of the claims administrator, a Distributor or Manufacturer shall be eligible for compensation out of the Distributors and Manufacturers settlement fund upon filing a properly completed claim form postmarked before the claim deadline, and upon establishing: (a) that the Distributor purchased Polychloroprene in Canada directly from one or more of the Defendants (excluding purchases from E.I. du Pont Canada Company) between January 1, 1999 and December 31, 2003 or that the Manufacturer purchased Polychloroprene in Canada (excluding purchases from E.I. du Pont Canada Company) between January 1, 1999 and December 31, 2003; and (b) the dollar amount of the Polychloroprene purchased between January 1, 1999 and December 31, 2003.

To be deemed sufficient to establish that a Distributor purchased Polychloroprene in Canada directly from one or more of the Defendants (excluding purchases from E.I. du Pont Canada Company) between January 1, 1999 and December 31, 2003 or that a Manufacturer purchased Polychloroprene in Canada (excluding purchases from E.I. du Pont Canada Company) between January 1, 1999 and December 31, 2003, and to be deemed sufficient to establish the dollar value of the Polychloroprene purchased between January 1, 1999 and December 31, 2003, "Product Purchase Verification" in one of the following forms must be included with each claim form:

a. Proof of purchase confirming the Distributor purchased Polychloroprene in Canada directly from one or more of the Defendants (excluding purchases from E.I. du Pont Canada Company) between January 1, 1999 and December 31, 2003 or that the Manufacturer purchased Polychloroprene in Canada (excluding purchases from E.I. du Pont Canada Company) between January 1, 1999 and December 31, 2003, and confirmation that compensation in respect of such purchases has not been previously made;

b. Seller's sales records, if available, verifying the sale of Polychloroprene to the Distributor or Manufacturer between January 1, 1999 and December 31, 2003, and confirmation that compensation in respect of such purchases has not been previously made. Where available, such information will be provided directly by the Settling Defendant(s) to the claims administrator. Distributors and Manufacturers for whom such information is available will be advised of the sales information submitted by the Defendant sellers and they will be entitled to rely on such information without taking additional steps to establish their purchases of Polychloroprene in Canada; or

c. If a Distributor or Manufacturer is unable to provide any of the documentation as specified above in paragraphs (a) or (b), or providing that information is impractical, a Distributor or Manufacturer may submit to the claims administrator such other objective verification as may be acceptable to the claims administrator. Such other objective verification must be accompanied by an affidavit from the Distributor or Manufacturer stating that steps taken by the Distributor or Manufacturer to obtain the Product Purchase Verification outlined in subparagraphs (a) and (b) above and the responses, if any, to those steps.

### **2.3. Entitlement to Compensation**

Subject to the provisions of section 2.5, Distributors and Manufacturers who satisfy the eligibility requirements outlined in section 2.2 of this Distribution Protocol, shall be entitled to compensation, to be calculated by the claims administrator, in the following manner:

1. A Manufacturer who establishes, to the satisfaction of the claims administrator, that it purchased Polychloroprene in Canada (excluding purchases from E.I. du Pont Canada Company) between January 1, 1999 and December 31, 2003, shall be entitled to the lesser of:

- (i) \$0.08 per dollar spent on Polychloroprene; or

- (ii) a pro-rata share of the Distributors and Manufacturers settlement fund with such share to be based upon the full dollar value of the Manufacturer's established purchases;

2. A Distributor who establishes, to the satisfaction of the claims administrator, that it purchased Polychloroprene in Canada from one or more of the Defendants (excluding purchases from E.I. du Pont Canada Company) between January 1, 1999 and December 31, 2003, shall be entitled to the lesser of:

- (i) \$0.008 per dollar spent on Polychloroprene; or
- (ii) a pro-rata share of the Distributors and Manufacturers settlement fund with such share to be based upon a value equal to 10% of the Distributor's established purchases.

#### **2.4 Disqualification for Opt Outs**

A Distributor or Manufacturer who has opted out of the within proceeding with respect to any Defendant, is pursuing litigation in the United States or Canada against a Defendant, or has settled their claim against any Defendant, is ineligible for payment.

#### **2.5 General Claims Processing Guidelines**

##### **Efficiency**

The claims administrator shall process all claims in a cost-effective and timely manner.

##### **Technical Difficulties**

If during claims processing, the claims administrator finds that technical deficiencies exist in a claimant's claim form, or the Product Purchase Verification, the claims administrator shall notify the claimant of the deficiencies via regular mail and shall allow the claimant thirty (30) days from the date of mailing of such notice to correct the deficiencies. If the deficiencies are not corrected within the thirty (30) day period, the claims administrator shall reject the claim without prejudice to the right of the claimant to resubmit the claim provided the claimant is able to meet the filing deadlines and other requirements set forth in this Distribution Protocol.

Technical deficiencies shall not include missing the deadline for filing the claim form. In no event shall the claims administrator accept claim forms postmarked after the claim deadline.

##### **Notification and Payment of Claims**

The claims administrator shall notify via regular mail all claiming Distributors and Manufacturers as to the approval or rejection of their claims under this Distribution Protocol.

The claims administrator shall make arrangements to pay approved claims as expeditiously as possible.

### **Appeal of Claims**

All claimants shall be granted thirty (30) days from the date notice is sent to them pursuant to section 2.5 of this Distribution Protocol, to appeal the rejection (in whole or in part) of its claim. Such appeal will be on the basis of written submissions, supported only by the documentation originally provided to the claims administrator. Appeals by claimants normally resident in British Columbia shall be determined by the Supreme Court of British Columbia. Appeals by claimants normally resident in Quebec shall be determined by the Quebec Superior Court. Appeals by claimants normally resident in a province or territory other than Quebec shall be determined by the Ontario Superior Court of Justice.

The judgment of the respective court in relation to any appeal from the claims administrator's decision is final and binding and shall not be subject to any further appeal or review whatsoever.

### **3. SETTLEMENT BENEFITS AVAILABLE TO INTERMEDIARIES AND CONSUMERS**

- 3.1** Recognizing the difficulty of accurately identifying the amount of overcharge, if any, actually borne by any given Intermediaries or Consumer, and recognizing the related difficulties in directly compensating Intermediaries and Consumers, compensation for Intermediaries and Consumers will be paid out by the claims administrator through a distribution to organizations which operate for the general benefit of Intermediaries and Consumers.

The compensation available in the settlement fund for these class members shall be equal to the total Settlement Amount plus accrued interest less (a) applicable Class Counsel Fees, disbursements and taxes, (b) proportionate costs of notice, and (c) monies allocated to the Distributors and Manufacturers settlement fund in section 2 of this protocol. If all eligible Distributors and Manufacturers receive the maximum compensation payable to them pursuant to section 2 of this protocol, all remaining monies from the Distributors and Manufacturers settlement fund will be added to the Intermediaries and Consumers settlement fund.

The organizations specified below have been identified as appropriate recipients from the Intermediaries and Consumers fund and will receive funds available to Intermediaries and Consumers in the percentage specified:

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|-----|---|---|
| (a) | AUTO21  | – 50%   |
| (b) | London Community Foundation<br>(for the benefit of Community Foundations<br>across Canada other than in Quebec) | – 32%   |
| (c) | Automobile Protection Association   | – 8%  |
| (d) | Fonds d'Aide  | – A percentage equivalent to the<br>amount prescribed by Quebec<br>statute (c.R-2.1, r.3.1) |

- (e) Option Consommateurs – Half of (10% minus the percentage payable to Fonds d'Aide)
- (f) Centraide (for the benefit of Quebec) – Half of (10% minus the percentage payable to Fonds d'Aide)