

**CANADIAN AIR CARGO SHIPPING SERVICES CLASS ACTION
MULTI-JURISDICTIONAL SETTLEMENT AGREEMENT**

Between:

**AIRIA BRANDS INC., STARTECH.COM LTD.,
QCS-QUICK CARGO SERVICE GMBH,
CARTISE SPORTS INC. and KAREN MCKAY**

and

**SINGAPORE AIRLINES LTD. and
SINGAPORE AIRLINES CARGO PTE. LTD.**

Executed June 24, 2011

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RECITALS

A. WHEREAS the Plaintiffs have commenced the Actions in the Ontario Court, Québec Court and BC Court which alleged that the Defendants, including the Singapore Defendants, participated in an unlawful conspiracy to fix, raise, maintain or stabilize the prices of Airfreight Shipping Services contrary to Part VI of the *Competition Act* and the common law;

B. AND WHEREAS the Singapore Defendants believe that they are not liable in respect of the claims as alleged in the Actions, and whereas the Singapore Defendants believe that they have good and reasonable defences in respect of the Actions;

C. AND WHEREAS the Singapore Defendants assert that they would actively pursue these defences in respect of the merits during the course of certification, during the course of discovery and at trial if the Plaintiffs continued the Actions against them;

D. AND WHEREAS, despite their belief that they are not liable in respect of the claims as alleged in the Actions and have good and reasonable defences in respect of the Actions, the Singapore Defendants have negotiated and entered into this Settlement Agreement to avoid the further expense, inconvenience, and burden of this litigation and any other present or future litigation arising out of the facts that gave rise to this litigation and to achieve final resolutions of all claims asserted or which could have been asserted against them by the Plaintiffs on their own behalf and on behalf of the classes they seek to represent, and to avoid the risks inherent in uncertain, complex and protracted litigation, and thereby to put to rest this controversy with certain of their valued business customers;

E. AND WHEREAS counsel for the Singapore Defendants and counsel for the Plaintiffs have engaged in extensive arm's-length settlement discussions and negotiations in respect of this Settlement Agreement;

F. AND WHEREAS as a result of these settlement discussions and negotiations, the Singapore Defendants and the Plaintiffs have entered into this Settlement Agreement, which embodies all of the terms and conditions of the settlement between the Singapore Defendants and the Plaintiffs, both individually and on behalf of the Settlement Class, subject to approval of the Courts;

G. AND WHEREAS the Plaintiffs have agreed to accept this settlement, in part, because of the value of the Settlement Amount to be paid by the Singapore Defendants under this Settlement Agreement and the value of the cooperation the Singapore Defendants agree to render or make available to the Plaintiffs and/or Class Counsel pursuant to this Settlement Agreement, as well as: (i) the attendant risks of litigation in light of the potential defences that may be asserted by the Singapore Defendants; and (ii) the desirability of permitting the settlement to be consummated as provided by the terms of this Settlement Agreement;

H. AND WHEREAS the Plaintiffs and the Singapore Defendants have agreed that in view of the pending U.S. Class Proceedings, the cooperation that is to be provided by the Singapore Defendants under this Settlement Agreement shall generally be deferred in accordance with the following principles: (i) to the extent that the Singapore Defendants provide Documents and information to the U.S. Class Plaintiffs in the course of discovery in the U.S. Class Proceeding, the Singapore Defendants shall provide equivalent Documents and information to the Plaintiffs at such time or shortly thereafter, subject to the terms and limits set out in this Settlement Agreement; and (ii) to the extent that the Singapore Defendants enter into a settlement of the U.S. Class Proceedings and the Singapore Defendants provide cooperation to the U.S. Class Plaintiffs pursuant to such a settlement, the Singapore Defendants shall provide equivalent cooperation to the Plaintiffs at such time or shortly thereafter, subject to the terms and limits set out in this Settlement Agreement, on the express understanding that the Singapore Defendants have no present intention of settling the U.S. Class Proceedings and there is no certainty as to whether or when such a settlement might occur;

I. AND WHEREAS the Singapore Defendants do not admit, through the execution of this Settlement Agreement, any allegation of unlawful conduct alleged in the Actions;

J. AND WHEREAS the Plaintiffs, Class Counsel and the Singapore 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 Singapore Defendants or evidence of the truth of any of the Plaintiffs' allegations against the Singapore Defendants;

K. AND WHEREAS the Plaintiffs and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, and having regard to the burdens and expense in prosecuting

the Actions, including the risks and uncertainties associated with trials and appeals, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiffs and the classes they seek to represent;

L. AND WHEREAS the Plaintiffs and the Singapore Defendants therefore wish to, and hereby do, finally resolve on a national basis, without any admission of liability, all of the Actions as against the Singapore Defendants;

M. AND 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 Actions as class proceedings and have consented to a Settlement Class in respect of each of the Actions;

N. AND WHEREAS for the purposes of settlement only and contingent on approvals by the Courts as provided for in this Settlement Agreement, the Plaintiffs have consented to a dismissal of the Actions as against the Singapore Defendants and other related entities;

O. AND WHEREAS the Plaintiffs assert that they are adequate class representatives for the Settlement Classes and will seek to be appointed representative plaintiffs in their respective Actions;

P. AND WHEREAS the deadline for Settlement Class Members to opt-out of the Actions has passed;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein, the receipt and sufficiency of which is hereby acknowledged, IT IS HEREBY AGREED by and among the Parties that the Actions be settled and dismissed with prejudice as to the Singapore Defendants only, without costs as to the Plaintiffs, the Settlement Class or the Singapore Defendants, subject to the approval of the Courts, on the following terms and conditions:

SECTION 1 - DEFINITIONS

For the purpose of this Settlement Agreement only, including the Recitals and Schedules herein:

- (a) *Actions* means the Ontario Action, the Québec Action and the BC Action.

- (b) **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, the Escrow Agent, the Claims Administrator and claims administration but excluding Class Counsel Fees.
- (c) **Airfreight Shipping Services** means airfreight cargo shipping services for shipments within, to, or from Canada, but specifically excluding airfreight cargo shipping services for shipments to or from the United States.
- (d) **Approval Hearings** means the hearings to approve motions brought by Class Counsel for the Courts' approvals of the settlement provided for in this Settlement Agreement.
- (e) **BC Action** means the proceeding commenced by Karen McKay in form of an action filed in the BC Court (Vancouver Registry), Court File No. S-067490, filed on November 20, 2006.
- (f) **BC Counsel** means Camp Fiorante Matthews.
- (g) **BC Court** means the Supreme Court of British Columbia.
- (h) **BC Settlement Class** means all Persons resident in the province of British Columbia who purchased Airfreight Shipping Services during the Settlement Class Period, including those Persons who purchased Airfreight Shipping Services through freight forwarders or from any air cargo carrier, including without limitation, the Defendants, and specifically including the Singapore Defendants. Excluded from the BC Settlement Class are the Defendants and their respective parents, employees, subsidiaries, affiliates, officers and directors, and Persons who validly and timely opted-out of the BC Action in accordance with the order of the BC Court dated March 20, 2008.
- (i) **Claims Administrator** means the Person proposed by Class Counsel and appointed by the Courts to administer the Settlement Agreement, including the claims process, in accordance with the provisions of this Settlement Agreement and the Distribution Protocol, and any employees of such Person.

- (j) **Class Counsel** means Ontario Counsel, Québec Counsel and BC Counsel.
- (k) **Class Counsel Fees** include the fees, disbursement, costs, interest, GST or HST (as the case may be) and other applicable taxes or charges of Class Counsel.
- (l) **Common Issue** in each Action means: Did the Singapore Defendants conspire to fix, raise, maintain or stabilize the prices of Airfreight Shipping Services during the Class Period in violation of Part VI of the *Competition Act* and the common law? If so, what damages, if any, did Settlement Class Members suffer?
- (m) **Confidentiality Order** means any order with respect to confidentiality or the sealing of information that is issued by a Court relating to the Actions and any amendments thereto, and any other confidentiality order or undertaking relating to the Actions.
- (n) **Courts** means the Ontario Court, the Québec Court and the BC Court.
- (o) **Defendants** means all defendants named in the Actions, including the Singapore Defendants, and any named or unnamed co-conspirators who may be added as defendants in the Actions in the future.
- (p) **Distribution Protocol** means the plan developed by Class Counsel for holding and distributing the Settlement Amount and accrued interest, in whole or in part, to Settlement Class Members, as approved by the Courts which may, if directed by the Courts, require the Settlement Amount and accrued interest to be held in trust until the resolution of the Actions in whole or in part.
- (q) **Documents** means all papers, computer or electronic records, or other materials within the scope of Rule 1.03(1) and Rule 30.01(1) of the Ontario *Rules of Civil Procedure* and any copies, reproductions, or summaries of the foregoing, including microfilm copies and computer images.
- (r) **Effective Date** means the date when the Final Orders have been received from the Courts approving this Settlement Agreement.
- (s) **Escrow Agent** means the Person agreed to by the Singapore Defendants and Class Counsel or appointed by the Courts to hold and administer the Trust Account.

- (t) **Execution Date** means the date of the execution of this Settlement Agreement by counsel for all the Plaintiffs and the Singapore Defendants.
- (u) **Final Order** means a final order, judgment or equivalent decree entered by a Court in respect of the certification or authorization of an Action as a class proceeding, the approval of this Settlement Agreement and implementing it in accordance with its terms, once the time to appeal such order has expired without any appeal being taken (including a right of appeal arising after the granting of leave if leave to appeal is required), if an appeal lies, or once there has been an affirmation of the approval of this order, judgment, or equivalent decree upon a final disposition of all appeals, and for greater certainty and without limiting the foregoing, includes all orders, judgments and equivalent decrees required to approve and implement this Settlement Agreement, excluding any orders, judgments or equivalent decrees in relation to Class Counsel Fees or the Distribution Protocol.
- (v) **Lufthansa Settlement** means the settlement agreement executed by the Plaintiffs and Deutsche Lufthansa AG, Lufthansa Cargo AG, Swiss International Air Lines Ltd., on December 30, 2006, as approved and implemented by orders issued by the Courts.
- (w) **Non-Settling Defendants** means any Defendant that is not a Settling Defendant or a Settled Defendant, or any Defendant that terminates its own settlement agreement in accordance with its terms, whether or not such settlement agreement is in existence at the Execution Date.
- (x) **Notice and Administration Contribution Amount** means the sum of two hundred and fifty thousand Canadian dollars (CAD \$250,000).
- (y) **Notice of Approval Hearings** means the form or forms of notice, agreed to by the Plaintiffs and the Singapore Defendants, or such other form or forms as may be approved by the Courts, which inform(s) the Settlement Class of: (i) the proposed Settlement Class; (ii) the dates and locations of the Approval Hearings; and (iii) the principal elements of this Settlement Agreement.
- (z) **Notice of Certification, Settlement Approval and Claims Procedure** means the form or forms of notice, agreed to by the Plaintiffs and the Singapore Defendants, or such other

form or forms as may be approved by the Courts, which inform(s) the Settlement Class of: (i) the certification or authorization of the Actions; (ii) the identity of the Settlement Class; (iii) the approval of this Settlement Agreement; and (iv) the principal elements of this Settlement Agreement, including the terms of the Distribution Protocol if applicable.

- (aa) *Notices* mean the Notice of Approval Hearings, the Notice of Certification, Settlement Approval and Claims Procedure, and notice of termination.
- (bb) *Ontario Action* means the proceeding commenced by Airia Brands Inc., StarTech.com Ltd., and QCS-Quick Cargo Service GmbH in the form of a Statement of Claim filed in the Ontario Court (London Registry)(Court File No. 50389 CP), filed on July 6, 2006.
- (cc) *Ontario Counsel* means Siskinds LLP, Sutts, Strosberg LLP and Harrison Pensa LLP.
- (dd) *Ontario Court* means the Ontario Superior Court of Justice.
- (ee) *Ontario Settlement Class* means all Persons, other than members of the Québec Settlement Class or the BC Settlement Class, who purchased Airfreight Shipping Services during the Settlement Class Period, including those Persons who purchased Airfreight Shipping Services through freight forwarders, from any air cargo carrier, including without limitation, the Defendants, and specifically including the Singapore Defendants. Excluded from the Ontario Settlement Class are the Defendants and their respective parents, employees, subsidiaries, affiliates, officers and directors, and Persons who validly and timely opted-out of the Ontario Action in accordance with the order of the Ontario Court dated March 6, 2008.
- (ff) *Other Action* means actions or proceedings, other than the Actions, relating to the Released Claims commenced by a Settlement Class Member either before or after the Effective Date.
- (gg) *Party and Parties* means the Plaintiffs, Settlement Class Members and the Singapore Defendants.
- (hh) *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.

- (ii) ***Plaintiffs*** mean Airia Brands Inc. (formerly known as Nutech Brands Inc.), StarTech.com Ltd., QCS-Quick Cargo Service GMBH, Cartise Sports Inc. and Karen McKay, individually and collectively.
- (jj) ***Proportionate Liability*** means the proportion of any judgment that, had the Singapore Defendants not settled, a court or other arbiter would have apportioned to the Singapore Defendants and/or the Releasees, whether pursuant to *pro rata*, proportionate fault, *pro tanto*, or another method.
- (kk) ***Proportionate Liability of the Non-Settling Defendants*** means the proportion of any judgment that, had the Singapore Defendants not settled, a court or other arbiter would have apportioned to the Non-Settling Defendants and/or any affiliates of the Non-Settling Defendants, whether pursuant to *pro rata*, proportionate fault, *pro tanto*, or another method.
- (ll) ***Québec Action*** means the proceeding commenced by Cartise Sports Inc. in the Québec Court, under Court File No. 500-06-000344-065, on May 5, 2006.
- (mm) ***Québec Counsel*** means Liebman & Associates.
- (nn) ***Québec Court*** means the Québec Superior Court.
- (oo) ***Québec Settlement Class*** means all individuals resident in the province of Québec and all legal persons resident in the province of Québec established for a private interest, partnership or association in the province of Québec which, at all times between May 5, 2005 and May 5, 2006, had under its direction or control no more than 50 persons bound to it by a contract of employment, who purchased Airfreight Shipping Services during the Settlement Class Period, including those legal persons who purchased Airfreight Shipping Services through freight forwarders, from any air cargo carrier, including without limitation, the Defendants, and specifically including the Singapore Defendants, during the Settlement Class Period. Excluded from the Québec Settlement Class are the

Defendants and their respective parents, employees, subsidiaries, affiliates, officers and directors, and Persons who validly and timely opted-out of the Québec Action in accordance with the order of the Québec Court dated April 14, 2008.

- (pp) **Recitals** means the recitals to this Settlement Agreement;
- (qq) **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, in this or any other Canadian or foreign jurisdiction (all of the foregoing, collectively, "Claims" or, individually, a "Claim"), that Releasers, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, relating in any way to any conduct anywhere, from the beginning of time to the date hereof, in respect of the purchase, sale, pricing, discounting, marketing, distributing of or compensation for, Airfreight Shipping Services, specifically including, without limitation, any Claims in any way related to air cargo rates or prices, fuel surcharges, security surcharges, customs surcharges or fees, war risk surcharges, navigation surcharges, commissions, incentives, rebates, discounts, credits, yields or any other element of the price of or compensation related to Airfreight Shipping Services or relating to any conduct alleged (or which could have been alleged) in the Actions including, without limitation, any Claims, whether in Canada or elsewhere, resulting from or relating to the purchase of Airfreight Shipping Services. However, nothing herein shall release any Claims for negligence, breach of contract, bailment, failure to deliver, lost goods, delayed or damaged goods or comparable claim between any of the Releasers and Releasees relating to Airfreight Shipping Services.
- (rr) **Releasees** means, jointly and severally, individually and collectively, the Singapore Defendants, and all of their respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of

their respective past, present and future 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 always the Non-Settling Defendants and any affiliates of the Non-Settling Defendants.

- (ss) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members, on behalf of themselves and any person or entity claiming by or through them as a parent, subsidiary, affiliate, predecessor, successor, shareholder, partner, director, owner of any kind, agent, principal, employee, contractor, attorney, heir, executor, administrator, insurer, devisee, assignee, or representative of any kind.
- (tt) **Schedules** mean the schedules to this Settlement Agreement.
- (uu) **Settled Defendant and Settled Defendants** means, individually or collectively, Deutsche Lufthansa AG, Lufthansa Cargo AG, Swiss International Air Lines Ltd., Japan Airlines International Co., Ltd., Scandinavian Airlines System, Qantas Airways Limited, Cargolux Airline International, and/or any other Defendant who has entered into a settlement agreement with the Plaintiffs relating to the allegations asserted in the Actions, whether or not such settlement agreement was in existence at the Execution Date of this Settlement Agreement.
- (vv) **Settlement Agreement** means this agreement, including the Recitals and Schedules.
- (ww) **Settlement Amount** means the sum of eight hundred thousand Canadian dollars (CAD \$800,000).
- (xx) **Settlement Class and Settlement Class Members** means all Persons included in the Ontario Settlement Class, the Québec Settlement Class and the BC Settlement Class.
- (yy) **Settlement Class Period** means January 1, 2000 up to and including September 11, 2006.
- (zz) **Singapore Defendants** means Singapore Airlines Ltd. and Singapore Airlines Cargo PTE Ltd.

- (aaa) ***Trust Account*** means an interest bearing account at a Canadian Schedule 1 bank in Ontario under the control of the Escrow Agent for the benefit of the Settlement Class Members.
- (bbb) ***U.S. Class Plaintiffs*** means the plaintiffs in the U.S. Class Proceedings.
- (ccc) ***U.S. Class Proceedings*** means the class action proceedings pending in the United States District Court for the Eastern District of New York under the caption *In re Air Cargo Shipping Services Antitrust Litigation*, 06-MD-1775 (JG)(VVP)(E.D.N.Y.), and including 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.
- (ddd) ***U.S. Class Settlement*** means any future class settlement in respect the claims of the proposed class as against the Singapore Defendants in respect of the U.S. Class Proceeding.
- (eee) ***U.S. Cooperation Date*** means the later of the following two dates, either: (i) the Effective Date; or (ii) the date on which the Singapore Defendants have entered into a U.S. Class Settlement, and the Singapore Defendants have begun to provide substantive cooperation to the U.S. Class Plaintiffs pursuant to a U.S. Class Settlement.
- (fff) ***U.S. Document Discovery Date*** means the later of the following two dates, either: (i) the Effective Date; or (ii) the date when the Singapore Defendants have begun to produce pre-existing business documents to the U.S. Class Plaintiffs pursuant to their discovery obligations as part of the U.S. Class Proceedings.
- (ggg) ***U.S. Deposition Date*** means the later of the following two dates, either (i) the Effective Date; or (ii) the date on when the Singapore Defendants have received the documentary transcripts and/or video recordings of the depositions of the officers, directors and employees of the Singapore Defendants that were conducted in the U.S. Class Proceedings pursuant to the discovery process in the U.S. Class Proceedings.

SECTION 2 - SETTLEMENT APPROVAL

2.1 Best Efforts

The Parties shall use their best efforts to effectuate this settlement and to secure the prompt, complete and final dismissal with prejudice of the Actions as against the Singapore Defendants.

2.2 Motions Approving Notice of Approval Hearings

(a) At a time mutually agreed to by the Parties after the Settlement Agreement is executed, the Plaintiffs shall bring motions before the Courts for orders approving the Notice of Approval Hearings.

(b) The Ontario, Québec and British Columbia orders approving the Notice of Approval Hearings referred to in section 2.2(a) shall be in the form agreeable to the Plaintiffs and the Singapore Defendants.

2.3 Motions for Certification or Authorization and Approval of the Settlement

(a) As soon as practicable after the orders referred to in sections 2.2(a) and 2.2(b) are granted, after the Notice of Approval Hearings has been published, the Plaintiffs shall bring motions before the Courts for orders certifying or authorizing each of the Actions commenced in their respective jurisdictions as a class proceeding for settlement purposes and approving this Settlement Agreement.

(b) The Ontario order approving this Settlement Agreement referred to in section 2.3(a) shall be in the form attached hereto as Schedule "A1" except that paragraphs 4, 24, and 27 of the Ontario order need only be substantially in the form set out in Schedule "A1".

(c) The Québec and British Columbia orders approving the Settlement Agreement referred to in section 2.3(a) shall be in the form attached hereto respectively in Schedule "A2" and "A3" except that paragraphs 24 and 27 of the Québec order and paragraphs 18 and 21 of the British Columbia order need only be substantially in the form set out respectively in Schedule "A2" and "A3".

(d) The form and content of the orders approving this Settlement Agreement contemplated in this section 2.3 shall be considered a material term of this Settlement Agreement and the failure of any Court to approve the orders contemplated herein shall give rise to a right of termination pursuant to section 11 of this Settlement Agreement.

2.4 Pre-Motion Confidentiality

Until the first of the motions required by section 2.2(a) is brought, the Parties shall keep all of the terms of this Settlement Agreement, and any information or Documents related thereto, confidential and shall not disclose them without the prior written consent of counsel for the Singapore 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) or as otherwise required by law.

2.5 Sequence of Motions

(a) The Plaintiffs in Québec and British Columbia shall not proceed with the motions to approve the Notice of Approval Hearings contemplated in section 2.2(a) unless and until the Ontario Court approves the Notice of Approval Hearings. The motions to approve the Notice of Approval Hearings may be filed in Québec and British Columbia, but, if necessary, Québec and BC Counsel will seek an adjournment of their hearings to permit the Ontario Court to render its decision on the approval of the Notice of Approval Hearings. The Singapore Defendants may agree to waive this provision.

(b) Subject to section 2.5(c) of this Settlement Agreement, the Plaintiffs in Québec and British Columbia shall not proceed with the motions contemplated in section 2.3(a) unless and until the Ontario Court certifies the Ontario Action and approves this Settlement Agreement. The motions for certification or authorization, and settlement approval may be filed in Québec and British Columbia, but, if necessary, Québec and BC Counsel will seek an adjournment of their hearings to permit the Ontario Court to render its decision on the certification and settlement approval motion. The Singapore Defendants may agree to waive this provision.

(c) Notwithstanding section 2.5(b) of this Settlement Agreement, in the event that the Plaintiffs, Class Counsel and the Singapore Defendants agree and the Courts determine that it is appropriate to conduct coordinated or simultaneous Approval Hearings in respect of all of the

Actions, the motions for certification and settlement approval can be heard in a coordinated or simultaneous manner by the Courts.

SECTION 3 - SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

(a) The Singapore Defendants agree to pay the Settlement Amount in full satisfaction of all of the Released Claims against the Releasees.

(b) The Singapore Defendants shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement, provided however that the Singapore Defendants shall pay the Notice and Administration Contribution Amount pursuant to section 10.2(c). For greater certainty, but without limiting the generality of the foregoing, the Singapore Defendants shall have no responsibility or liability as a result of any decrease or depreciation of the value of the funds in the Trust Account, howsoever caused, including, but not limited to, a decrease or depreciation in the value of any investments purchased by the Escrow Agent or the Claims Administrator, or the payment of any Class Counsel Fees or any Administration Expenses.

(c) The Singapore Defendants shall, within fifteen (15) business days of the date of the execution of this Settlement Agreement, pay the Settlement Amount to the Escrow Agent for deposit into the Trust Account. The Escrow Agent shall maintain the Trust Account as provided for in this Settlement Agreement. The Escrow Agent 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 Singapore Defendants, and in any event, after all appeals related thereto have been disposed of.

3.2 Taxes and Interest

(a) Except as hereinafter provided, all interest earned on the monies in the Trust Account shall accrue to the benefit of the Settlement Class and shall become and remain part of the Trust Account.

(b) Subject to section 3.2(c), all taxes payable on any interest which accrues on the monies in the Trust Account shall be the responsibility of the Settlement Class. The Escrow Agent and/or

the Claims Administration shall be solely responsible to fulfill all tax reporting and payment requirements arising from the monies in the Trust Account, including any obligation to report taxable income and make tax payments, and the Escrow Agent and/or Claims Administrator shall not report any part of the Trust Account, including interest earned thereon, as taxable to the Singapore Defendants. All taxes (including interest and penalties) due with respect to the income earned on the monies in the Trust Account shall be paid from the Trust Account.

(c) The Singapore 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 by the monies in the Trust Account 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 monies in the Trust Account or otherwise shall be paid to the Singapore Defendants who, in such case, shall be responsible for the payment of all taxes on such interest.

3.3 The Trust Account

(a) The Trust Account shall be administered by the Escrow Agent pursuant to this Settlement Agreement and subject to the continuing supervision and control of the Courts. The Parties agree that no monies shall be paid by the Escrow Agent from the Trust Account to any Person without:

- (i) the specific authorization of both Class Counsel and counsel for the Singapore Defendants, and such authorization shall not be unreasonably withheld if to do so would be inconsistent with this Settlement Agreement; or
- (ii) orders from one or more of the BC Court, Ontario Court, or Québec Court, as required by this Settlement Agreement, issued with notice to or with consent of the Plaintiffs and the Singapore Defendants. Class Counsel and the Singapore Defendants agree to cooperate, in good faith, to reach an appropriate escrow agreement in conformance with this Settlement Agreement.

(b) The Trust Account shall be established and maintained in a manner that minimizes transactional costs, minimizes risks, and maximizes the amount available for distribution to the Settlement Class. All transactional costs associated with maintaining the Trust Account shall be paid from the Trust Account, except where agreed to by Class Counsel and the Singapore Defendants.

(c) The Escrow Agent shall cause the Trust Account to be invested in guaranteed investment vehicles or liquid money market accounts or equivalent securities with a rating equivalent to or better than that of a Canadian Schedule 1 bank. All interest earned on the monies in the Trust Account shall become and remain part of the Trust Account.

3.4 Cooperation

(a) To the extent not previously provided to the Plaintiffs and subject to the limitations set forth in this Settlement Agreement, the Singapore Defendants agree to provide cooperation to the Plaintiffs and Class Counsel in accordance with the requirements of sections 3.4, 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10 of this Settlement Agreement.

(b) The Parties respectively acknowledge and agree that all information and Documents provided by the Singapore Defendants or their counsel to Class Counsel, the Plaintiffs and the Plaintiffs' experts under this Settlement Agreement may be used by Class Counsel, the Plaintiffs and the Plaintiffs' experts only in connection with the investigation, prosecution and settlements of the claims in the Actions, and shall not be used directly or indirectly for any other purpose, including the prosecution of any claim against the Releasees.

(c) The Parties further acknowledge and agree that all information and Documents provided by the Singapore Defendants or their counsel to Class Counsel, the Plaintiffs, and the Plaintiffs' experts under this Settlement Agreement shall be held and treated in strict confidence in accordance with this Settlement Agreement, and shall not be otherwise disclosed to any other Person in any manner, directly or indirectly, by Class Counsel, the Plaintiffs or the Plaintiffs' experts in any way for any reason except in accordance with the terms of this Settlement Agreement and any applicable Confidentiality Order, or otherwise with the express prior written consent of the Singapore Defendants or their counsel. Class Counsel, the Plaintiffs and the Plaintiffs' experts shall take all reasonable steps and precautions to ensure and maintain the confidentiality of information and Documents and any related work product of Class Counsel and the Plaintiffs' experts.

3.5 Cooperation - Limited to Allegations in the Actions

(a) The cooperation that is to be provided by the Singapore Defendants under this Settlement Agreement shall be limited to the allegations contained in the Actions.

3.6 Cooperation – Scope of Cooperation

(a) Within thirty (30) days following the Effective Date or at a time mutually agreed upon by Class Counsel and the Singapore Defendants, and subject to the other provisions of sections 3.4, 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10 of this Settlement Agreement, the Singapore Defendants shall make reasonable efforts to produce to the Plaintiffs a set of existing electronic transactional data relating to the Singapore Defendants' Airfreight Shipping Services during the Settlement Class Period, which data shall include pricing and surcharge information to the extent reasonably available. Counsel for the Singapore Defendants has informed Class Counsel that the Singapore Defendants are in the possession of electronic transactional data for a substantial part of the Settlement Class Period, but the Singapore Defendants do not have complete electronic transactional data for the entire Settlement Class Period. Counsel for the Singapore Defendants agree to be reasonably available as necessary to respond to Class Counsel's questions regarding the set of electronic transactional data produced by the Singapore Defendants.

(b) Within thirty (30) days following the earlier of the U.S. Document Discovery Date or the U.S. Cooperation Date, or at a time mutually agreed upon by Class Counsel and the Singapore Defendants, and subject to the other provisions of sections 3.4, 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10 of this Settlement Agreement, the Singapore Defendants shall produce to the Plaintiffs:

(i) any pre-existing business Documents that the Singapore Defendants have produced to the U.S. Class Plaintiffs in the U.S. Class Proceeding as part of their discovery obligations in the U.S. Class Proceedings or a part of a U.S. Class Settlement and that relate to the allegations in the Actions.

(c) To the extent not already produced in (b) above, within thirty (30) days following the U.S. Cooperation Date, or at a time mutually agreed upon by Class Counsel and the Singapore Defendants, and subject to the other provisions of sections 3.4, 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10 of this Settlement Agreement, the Singapore Defendants shall produce any pre-existing business Documents that have been provided (if any) by the Singapore Defendants to the Canadian Competition Bureau and that relate to the allegations in the Actions.

(d) Within thirty (30) days following the U.S. Deposition Date, or at a time mutually agreed upon by Class Counsel and the Singapore Defendants, and subject to the other provisions of

sections 3.4, 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10 of this Settlement Agreement, the Singapore Defendants shall to the extent possible under any protective orders issued in respect of the U.S. Class Proceedings:

- (i) produce to the Plaintiffs any transcripts or, video depositions in the Singapore Defendants' possession, taken by the U.S. Class Plaintiffs in respect of the officers, directors and employees of the Singapore Defendants in the course of the U.S. Proceedings and that relate to the allegations in the Actions, but only to the extent that the Singapore Defendants are lawfully permitted to do so in accordance with copyright and other legal and/or contractual protections that exist in the United States;
- (ii) in the event that the Singapore Defendants are lawfully permitted to produce part, but not all, of the transcripts or, video depositions in the Singapore Defendants' possession, as described in section 3.6(d)(i), to the extent possible, the Singapore Defendants shall produce to the Plaintiffs copies of the transcripts or video depositions that have been redacted to exclude any portion of such transcript or video depositions that the Singapore Defendants are not lawfully permitted to disclose; and
- (iii) in the event that the Singapore Defendants are not lawfully permitted to produce such transcripts or, video depositions in the Singapore Defendants' possession, as described in section 3.6(d)(i) and are unable to provide redacted copies in accordance with section 3.6(d)(ii), the Singapore Defendants shall provide their consent in respect of any request or application by the Plaintiffs to obtain access to such transcripts or video depositions that are held by a third-party in the United States.

(e) The obligation to produce Documents, transcripts and video depositions pursuant to sections 3.6(a) – (d) is a continuing one to the extent Documents, transcripts and video depositions responsive to sections 3.6(a), (b) and (d) are identified and produced to the U.S. Class Plaintiffs following the initial productions in respect of discovery in the U.S. Class Proceedings and/or pursuant to a U.S. Class Settlement.

(f) Subject to section 3.7 of this Settlement Agreement, within thirty (30) days following the U.S. Cooperation Date, but no later than one year after the Effective Date, or at a time mutually agreed upon by Class Counsel and the Singapore Defendants, and subject to the other provisions of sections 3.4, 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10 of this Settlement Agreement, the Singapore Defendants shall, through one (1) or two (2) meetings between counsel for the Singapore Defendants and Class Counsel, to be scheduled at a reasonable time and at a location in Canada or the United States chosen by the Singapore Defendants in their sole discretion, and for a total duration that does not exceed eight (8) hours in the aggregate for one or both meetings, provide a verbal evidentiary proffer, which will include information originating with the Singapore Defendants and being within their possession, custody or control relating to the allegations in the Actions including, without limitation, information with respect to the dates, locations, subject matter, and participants in any meetings or discussions between competitors relating to the purchase, sale, pricing, discounting, marketing or distributing of air cargo shipping services. The Parties agree that there shall be no audio or video recording and no written transcription of any statements made or information provided by counsel for the Singapore Defendants at the proffer, and that Class Counsel may only make notes of their own thoughts and impressions at the proffer for the purpose of formulating legal advice, pursuing litigation and/or for the purpose of advancing settlement discussions in the interests of the Settlement Classes. The Parties agree that any such notes and any other communications, information and Documents relating to the proffer are privileged, shall be kept strictly confidential and will not be used by Class Counsel for any purpose other than the investigation, prosecution and settlement of the claims in the Proceedings.

(g) Subject to section 3.7 of this Settlement Agreement, within sixty (60) days following the later of the U.S. Deposition Date or the hearing of the certification motion as against the Non-Settling Defendants in the Actions, or at a time mutually agreed upon by Class Counsel and the Singapore Defendants, the Singapore Defendants shall, at the request of Class Counsel and upon reasonable notice, and subject to any legal restrictions under any applicable domestic or foreign laws, engage in reasonable efforts to make available up to two (2) current and/or former directors, officers or employees of the Singapore Defendants who have knowledge of the allegations raised in the Actions and who have already been deposed in the U.S. Class Proceedings, to provide information relating to the allegations in the Actions in a personal interview with Class Counsel and/or experts retained by Class counsel in the Actions, at a

location chosen by the Singapore Defendants in their sole discretion. Each such interview shall last no more than eight (8) hours, including reasonable breaks, and may occur on more than a single day, but not more than two (2) days. Within sixty (60) days following the U.S. Cooperation Date, or at a time mutually agreed upon by Class Counsel and the Singapore Defendants, the Singapore Defendants shall, at the request of Class Counsel and upon reasonable notice, and subject to any legal restrictions under any applicable domestic or foreign laws, engage in reasonable efforts to make available up to one (1) additional current and/or former director, officer or employee of the Singapore Defendants who has knowledge of the allegations raised in the Actions, to provide information relating to the allegations in the Actions in a personal interview with Class Counsel and/or experts retained by Class Counsel in the Actions, at a location chosen by the Singapore Defendants in their sole discretion. Such interview shall last no more than eight (8) hours, including reasonable breaks, and may occur on more than a single day, but not more than two (2) days. The reasonable costs incurred by, and the reasonable expenses of, the current directors, officers or employees in relation to such interviews shall be the responsibility of the Singapore Defendants. If such current and/or former directors, officers or employees refuse to provide information, or otherwise cooperate, the Singapore Defendants shall engage their reasonable efforts to make such Person available for an interview but the failure or refusal of any specific current and/or former director, officer or employee to agree to make him or herself available or to otherwise cooperate with the Plaintiffs, shall not constitute a breach or violation of the obligations of the Singapore Defendants under this Settlement Agreement, and shall not provide any basis for the termination of this Settlement Agreement.

(h) Within sixty (60) days following the U.S. Cooperation Date, but no later than sixty (60) days before the first day of the trial of the Action or Actions, subject to the rules of evidence, the other provisions of this Settlement Agreement and any Confidentiality Order, the Singapore Defendants agree to engage in reasonable efforts to produce at trial and/or discovery or through acceptable affidavits or other testimony in the Actions, up to two (2) current directors, officers or employees of the Singapore Defendants who are qualified to establish for admission into evidence any of the Singapore Defendants' Documents and information provided as cooperation pursuant to section 3.6 of this Settlement Agreement, and agree to authenticate Documents produced by the Defendants that were created by, sent to, or received by the Singapore Defendants. The reasonable costs incurred by, and the reasonable expenses of, the current

directors, officers or employees in relation to such cooperation shall be the responsibility of the Singapore Defendants. If such directors, officers or employees refuse to provide such cooperation, the Singapore Defendants shall engage their reasonable efforts to make such Person available to provide such cooperation relating to authentication but the failure or refusal of any specific director, officer or employee to agree to make him or herself available or to otherwise cooperate with the Plaintiffs, shall not constitute a breach or violation of the obligations of the Singapore Defendants under this Settlement Agreement, and shall not provide any basis for the termination of this Settlement Agreement.

(i) A material factor influencing the Singapore Defendants' decision to execute this Settlement Agreement is their desire to limit the burden and expense of ongoing cooperation relating to the Actions. Accordingly, Class Counsel undertake to exercise good faith in seeking cooperation from the Singapore Defendants and to avoid requesting information that is unnecessary, cumulative or duplicative and agree otherwise to avoid imposing undue or unreasonable burden or expense on the Singapore Defendants.

3.7 Cooperation – Election to Provide Cooperation in Conjunction with U.S. Class Settlement

(a) Notwithstanding the provisions of sections 3.6(f) and 3.6(g), in the event that a U.S. Class Settlement occurs, the Parties agree that the Singapore Defendants shall have the right to elect to conduct the verbal evidentiary proffer contemplated by section 3.6(f) and the witness interviews contemplated by section 3.6(g) concurrently with (i.e., at the same time as and at the same place as) any verbal evidentiary proffer and/or the witness interviews contemplated by the U.S. Class Settlement. In the event that the Singapore Defendants make such an election, notwithstanding anything to the contrary in sections 3.6(f) and 3.6(g) above:

- (i) any Documents and information provided in the course of those interviews shall be subject to the terms and protections of this Settlement Agreement;
- (ii) counsel for the Singapore Defendants will, if requested, meet Class Counsel for one (1) further meeting lasting no more than three (3) hours to address, to the extent known, Canada-specific issues raised in the Actions that were not addressed at the verbal evidentiary proffer conducted pursuant to a U.S. Class Settlement;

- (iii) the cooperation so provided shall fully satisfy the Singapore Defendants' obligations under sections 3.6(f) and 3.6(g) of this Settlement Agreement, as the case may be; and
- (iv) in the event that this Settlement Agreement is terminated in accordance with section 11 or otherwise fails to come into effect, the information and Documents provided during the evidentiary proffer and witness interviews shall not be used by the Plaintiffs or Class Counsel against the Singapore Defendants as an admission or evidence of any violation of any statute or law, or of any liability or wrongdoing by the Singapore Defendants or any Defendant, or of the truth of any claims or allegations contained in the Statements of Claim or any other pleading filed by Plaintiffs in the Actions, and such information shall not be discoverable by any person or treated as evidence of any kind, unless otherwise ordered by a Court. In order to give effect to this section, Class Counsel agrees to return all copies of any Documents received during, and destroy all copies of any notes taken during (or subsequent reports provided about), these meetings and interviews and to provide written confirmation to the Singapore Defendants of having done so.

3.8 Cooperation – Pending Certification Motion

(a) The Parties acknowledge and agree that within ten (10) days following the Execution Date, the Singapore Defendants shall advise the Ontario Court and the Non-Settling Defendants that the Singapore Defendants withdraw the affidavits sworn by Kevin Chia and Lionel Kwok and filed by the Singapore Defendants in respect of the pending certification motion in the Ontario Court. The Plaintiffs and Class Counsel further agree that pending approval of this Settlement Agreement by the Courts, they will not seek certification or authorization of the Actions as class proceedings as against the Singapore Defendants except as set out in this Settlement Agreement and they will not require any further participation or evidence from the Singapore Defendants in respect of the pending certification motion as against the Non-Settling Defendants, including any form of cross-examination or examination, subject only to the exception that if the Court rules or determines that the affidavit of Lionel Kwok may not be withdrawn, the Plaintiffs shall have the right to cross-examine Lionel Kwok. The provisions of this section shall not derogate from the respective rights of the Plaintiffs, the Settlement Class

Members, Class Counsel and the Singapore Defendants pursuant to section 11.2(a)(iii) of this Settlement Agreement in the event of a termination of this Settlement Agreement or this Settlement Agreement otherwise fails to take effect.

3.9 Cooperation - Confidentiality

(a) Prior to the Effective Date, the Parties acknowledge and agree that all information and Documents provided by the Singapore Defendants or their counsel to Class Counsel, the Plaintiffs or the Plaintiffs' experts under this Settlement Agreement shall be held and treated in strict confidence in accordance with this Settlement Agreement, and shall not otherwise be disclosed to any Person in any manner, directly or indirectly, by Class Counsel, the Plaintiffs or the Plaintiffs' experts in any way for any reason except with the prior written consent of the Singapore Defendants or their counsel or except as required by law.

(b) After the Effective Date, the Parties acknowledge and agree that all information and Documents provided by the Singapore Defendants or their counsel to Class Counsel, the Plaintiffs, and the Plaintiffs' experts under this Settlement Agreement shall be held and treated in strict confidence in accordance with this Settlement Agreement, and shall not be otherwise disclosed to any other Person in any manner, directly or indirectly, by Class Counsel, the Plaintiffs or the Plaintiffs' experts in any way for any reason except in accordance with this Settlement Agreement and any applicable Confidentiality Order or with the express prior written consent of the Singapore Defendants or their counsel or except as required by law. If, at a time after the Effective Date, the Plaintiffs, the Settlement Class Members and/or Class Counsel, acting reasonably, conclude that it is reasonably necessary to disclose or provide information or Documents obtained from the Singapore Defendants which are not otherwise publicly available information or Documents to the Non-Settling Defendants or any affiliates of the Non-Settling Defendants, or to file such information or Documents in the Actions, and such disclosure is not otherwise prohibited by this Settlement Agreement or a Confidentiality Order, then the Plaintiffs, the Settlement Class Members and/or Class Counsel shall provide the Singapore Defendants with an advance written description of the information or Documents that are to be provided to the Non-Settling Defendants or their affiliates or filed with the Courts at least thirty (30) days in advance of the proposed disclosure, in order that the Singapore Defendants may have a reasonable opportunity to intervene for the purposes of seeking or claiming relief under a Confidentiality Order or other similar relief. In the event that the Singapore Defendants intervene

for these purposes, the Plaintiffs, the Settlement Class Members and Class Counsel shall not oppose the positions taken by the Singapore Defendants.

(c) In addition to and without detracting from the protections set out in sections 3.9 of this Settlement Agreement, in the event that Class Counsel, the Plaintiffs, and the Plaintiffs' experts are required to disclose or provide information or Documents obtained from the Singapore Defendants which are not otherwise publicly available information or Documents to the Non-Settling Defendants or any affiliates of the Non-Settling Defendants, or seek to disclose or provide such information or Documents to the Non-Settling Defendants or any affiliates of the Non-Settling Defendants or to file such information or Documents in the Actions, the Plaintiffs, Class Counsel and the Singapore Defendants shall engage all reasonable efforts permitted by law to protect and preserve the confidentiality of the Singapore Defendants' confidential and proprietary information contained in the information and Documents provided by the Singapore Defendants. In particular but without limitation, the Plaintiffs and Class Counsel shall treat and classify any information and Documents provided by the Singapore Defendants pursuant to this section in accordance with the highest level of confidentiality protection afforded under any existing or future Confidentiality Order issued by the Courts in the Actions, and the Plaintiffs and Class Counsel shall oppose any challenges by the Non-Settling Defendants or any other Person to the confidential treatment of any such information or Documents under any existing or future Confidentiality Order issued by the Courts in the Actions.

(d) Class Counsel and the Plaintiffs shall seek to obtain, on or about the same time as the motions to approve the Settlement Agreement (and in any event, before any information of Documents provided by the Singapore Defendants is disclosed in the Actions) on notice to the Singapore Defendants, a Confidentiality Order from the Ontario Court in a form satisfactory to the Singapore Defendants, acting reasonably. Class Counsel and the Plaintiffs shall also seek to obtain, on notice to the Singapore Defendants, confidentiality and/or protective orders in a form acceptable to the Singapore Defendants, acting reasonably, from the BC Court and the Québec Court before any disclosure of any Document or information is made in the BC Action or the Québec Action, respectively.

(e) In addition to and without detracting from the protections set out in sections 3.9 of this Settlement Agreement, the Parties further respectively acknowledge and agree that the Plaintiffs,

the Settlement Class Members, Class Counsel and the Plaintiffs' experts shall not, without the express prior written consent of the Singapore Defendants or their counsel, directly or indirectly, disclose any information or Documents obtained from the Singapore Defendants to any person or entity outside Canada, except for disclosure to the Non-Settling Defendants and/or Plaintiffs' experts, on the condition that they provide a confidentiality undertaking in a form acceptable to the Singapore Defendants, and except in the event that a Court expressly orders such information or Documents to be disclosed.

(f) The confidentiality protections in this section will continue to bind Plaintiffs, Settlement Class Members and Class Counsel after the Effective Date and even in the event that the Settlement Agreement is terminated or otherwise fails to take effect for any reason.

3.10 Cooperation – Limits and Protections

(a) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Singapore Defendants to disclose or produce: (i) any communications, discussions or agreements between the Singapore Defendants and government authorities in Canada or elsewhere in connection with any regulatory or criminal investigations relating to Airfreight Shipping Services or any other air cargo or air passenger services that are not otherwise lawfully in the public domain; (ii) any information or Documents created for or by government authorities in Canada or elsewhere in connection with any regulatory or criminal investigations relating to Airfreight Shipping Services or any other air cargo or air passenger services that are not otherwise lawfully in the public domain; and (iii) any notes, transcripts, testimony or other information or Documents relating to meetings or interviews with government authorities in Canada or elsewhere in connection with any regulatory or criminal investigations relating to Airfreight Shipping Services or any other air cargo or air passenger services that are not otherwise lawfully in the public domain.

(b) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Singapore Defendants (or any of their former officers, directors or employees) to perform any act which would violate any provincial, federal or foreign law, to disclose or produce any information or Documents prepared by or for counsel for the Singapore Defendants, or to disclose or produce any information or Documents in breach of any order, privacy law or rule, regulatory directive, regulatory policy, regulatory agreement or law of any jurisdiction, or

subject to solicitor-client privilege, litigation privilege, attorney-client privilege, work product doctrine, common interest privilege, joint defence privilege or any other privilege, or to disclose or produce any information or Documents the Singapore Defendants obtained on a privileged or co-operative basis from any party to any action or proceeding who is not a Singapore Defendant. If any information or Documents protected by any privilege and/or by any order, privacy law or rule, regulatory directive, regulatory policy, regulatory agreement or law of any jurisdiction are accidentally or inadvertently produced by the Singapore Defendants, the Plaintiffs and Class Counsel shall promptly return such information and/or Documents to the Singapore Defendants and such information and/or Documents shall not be disclosed or used, directly or indirectly, except with the express prior written consent of the Singapore Defendants, and the production of such information and/or Documents shall in no way be construed to constitute a waiver of privilege or protection by the Singapore Defendants in connection with such information and/or Documents.

(c) Notwithstanding their obligations to cooperate as set forth in sections 3.6 and 3.7 of this Settlement Agreement, if the Singapore Defendants reasonably believe that any of their applications or agreements with government authorities in Canada or elsewhere in connection with any regulatory or criminal investigations relating to Airfreight Shipping Services or other air cargo or air passenger services (without admitting that any such applications or agreements exist) would be endangered by the production or disclosure of information or Documents which would otherwise be required to be produced to the Plaintiffs pursuant to the terms of this Settlement Agreement, the Singapore Defendants may withhold such information or Documents. To the extent that the Singapore Defendants withhold such information or Documents, pursuant to this section, the Singapore Defendants shall provide to Class Counsel a description of the type of information or Document to be withheld, and the basis for withholding such information. The Singapore Defendants shall work in good faith with such government authorities to obtain permission to disclose the information or Documents being withheld. If on the earlier of the date the Plaintiffs would ordinarily be entitled to obtain documentary productions from the Defendants pursuant to the Ontario *Rules of Civil Procedure* or the date which is eighteen (18) months from the execution of this Settlement Agreement, information or Documents continue to be withheld by the Singapore Defendants pursuant to this section, the Singapore Defendants shall forthwith provide such information or Documents to the Plaintiffs subject to the terms of this

Settlement Agreement, unless any of the Courts, pursuant to motions filed by the Singapore Defendants or otherwise, orders to the contrary.

(d) The Singapore Defendants' obligation to cooperate as particularized in this section 3.6 and 3.7 shall not be affected by the release provisions contained in this Settlement Agreement. The Singapore Defendants' obligation to cooperate shall cease at the date of a settlement or final judgment in the Actions with or against all Defendants.

(e) The provisions set forth in sections 3.4, 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10 of this Settlement Agreement shall constitute the exclusive means by which the Plaintiffs, Settlement Class Members and Class Counsel may obtain discovery from the Singapore Defendants, their current and former directors, officers or employees and the Releasees, and after the Execution Date, the Plaintiffs, Settlement Class Members and Class Counsel shall pursue no other means of discovery against the Singapore Defendants, their current and former directors, officers or employees and the Releasees, whether in Canada or elsewhere and whether under the rules or laws of this or any other Canadian or foreign jurisdiction. Notwithstanding section 3.6(g), 3.6(h) and 3.7 and notwithstanding the above in this section 3.10, the Plaintiffs are at liberty to exercise any rights they have to seek to obtain discovery of any current or former officer, director or employee of Singapore who is put forward by Singapore under section 3.6(g), 3.6(h) or 3.7 but who fails to cooperate in accordance with that section.

SECTION 4 - DISTRIBUTION OF THE SETTLEMENT AMOUNT AND ACCRUED INTEREST

4.1 Distribution Protocol

(a) The Plaintiffs and the Singapore Defendants acknowledge that the Settlement Class includes Persons who purchased Airfreight Shipping Services from any air cargo carrier, including those Persons who purchased Airfreight Shipping Services through freight forwarders, and that this Settlement Agreement makes no determination as to which Settlement Class Members are entitled to distribution from the Trust Account or as to the formula for determining the allocation of the monies in the Trust Account.

(b) After the Effective Date, at a time wholly within the discretion of Class Counsel, Class Counsel will seek orders from the Courts approving the Distribution Protocol. Class Counsel

shall engage in reasonable consultation with counsel for the Singapore Defendants regarding the terms of the Distribution Protocol. Subject to any required amendments by the Courts, Plaintiffs and Class Counsel will undertake to ensure that the Distribution Protocol provides for consideration for all Settlement Class Members who purchased Airfreight Shipping Services direct from an air cargo carrier or through a freight forwarder, including Settlement Class Members who are resident inside Canada and outside Canada, provided that such Settlement Class Members file a complete and timely claim form, as required by the Distribution Protocol and/or any orders of the Courts.

(c) After the Courts have approved the Distribution Protocol, the monies in the Trust Account shall be transferred by the Escrow Agent to the Claims Administrator and distributed to eligible Settlement Class Members in accordance with the terms of the Distribution Protocol and/or any orders of the Courts.

4.2 No Responsibility for Administration or Fees

The Singapore 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 5 - RELEASES AND DISMISSALS

5.1 Release of Releasees

(a) Upon the Effective Date, and in consideration of the provision of cooperation and the payment of the Settlement Amount and for other valuable consideration set forth in this Settlement Agreement, the Releasers forever and absolutely release the Releasees from the Released Claims and agree that they will not seek to institute, maintain, prosecute or continue to prosecute any suit, action or other proceeding, or collect from or proceed against the Releasees or any of them based on the Released Claims.

(b) The Plaintiffs and Settlement Class Members acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the subject matter of the Settlement Agreement, and that it is their intention to release fully, finally and forever all Released Claims, and in furtherance of such

intention, this release shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

(c) It shall be a condition of receipt of funds under this Settlement Agreement that each Settlement Class Member receiving funds execute a written release in favour of the Releasees in respect of all Released Claims, in a form to be approved by the Singapore Defendants. Such written release will be contained within the body of the claim form to be filed by Settlement Class Members for compensation pursuant to the Distribution Protocol.

5.2 Covenant Not To Sue

(a) Notwithstanding section 5.1 of this Settlement Agreement, 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 Releasors do not release the Releasees but instead covenant and undertake not to sue, make any claim in any way or to threaten, commence, or continue any claim in any jurisdiction against the Releasees, arising from or in any way related to the Released Claims.

(b) The Plaintiffs and Settlement Class Members acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the subject matter of the Settlement Agreement, and that it is their intention to fully, finally and forever covenant and undertake not to sue or make any claim against the Releasees arising from or in any way related to the Released Claims, and in furtherance of such intention, this covenant not to sue shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

5.3 No Further Claims

(a) The Releasors shall not now or hereafter commence, institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Releasees or any other Person who may claim contribution or indemnity, or other claims over relief, from any Releasee in respect of any Released Claim or any matter related thereto, except for the continuation of the Actions against the Non-Settling Defendants or unnamed co-conspirators that are not Releasees, and, in the event that a future contested certification hearing

in the Actions is not resolved in favour of the Plaintiffs, continuation of the claims as alleged in the Actions against the Non-Settling Defendants or unnamed co-conspirators that are not Releasees in the form of individual claims, group proceedings, or test cases.

5.4 Dismissal of the Actions as Against the Singapore Defendants

(a) The Ontario Action and the BC Action shall be dismissed, without costs and with prejudice, as against the Singapore Defendants.

(b) The Québec Action shall be settled, without costs and without reservation as against the Singapore Defendants, and the Parties shall file a declaration of settlement out of court in the Québec Court in respect of the Singapore Defendants.

5.5 Dismissal of Other Actions as Against the Singapore Defendants

(a) Upon the Effective Date, all Other Actions which were commenced in Ontario, British Columbia or any other jurisdiction in Canada except Québec by any Settlement Class Member shall be dismissed against the Releasees without costs and with prejudice.

(b) 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 Releasees.

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

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

(e) Each Settlement Class Member who files a claim form must execute a consent to the dismissal of any Other Actions against the Releasees, without costs and with prejudice. Such consent will be contained within the body of the claim form to be filed by Settlement Class Members for compensation pursuant to the Distribution Protocol, in a form to be approved by the Singapore Defendants.

5.6 Claims Against Other Entities Reserved

(a) 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 Defendant, including Non-Settling Defendants, other than the Releasees.

5.7 Releases and Covenants Not to Sue

(a) The form and content of the releases and covenants not to sue contemplated in sections 5.1 to 5.6 of this Settlement Agreement shall be considered a material term of the Settlement Agreement in favour of the Singapore Defendants and the failure of any Court to approve the releases or covenants not to sue contemplated herein shall give rise to a right of termination by the Singapore Defendants pursuant to section 11 of this Settlement Agreement. For greater certainty, and notwithstanding any other term of this Settlement Agreement, the Plaintiffs and Class Counsel shall not have any right of termination in the event that the Court fails to approve the releases and/or covenants not to sue contemplated herein, or if the Court approves the releases and/or covenants not to sue contemplated herein in a materially modified form.

SECTION 6 - BAR ORDER

6.1 Ontario and British Columbia Bar Order

(a) The Plaintiffs, Class Counsel and the Singapore Defendants agree that the Ontario and BC orders approving this Settlement Agreement must include a bar order. The bar order shall be in a form agreed to by the Plaintiffs and the Singapore Defendants, and shall include:

- (i) A provision that all claims for contribution, indemnity or other claims over, whether asserted or unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in the Actions or otherwise, by any Non-Settling Defendant or any other Person or party (including a Settled Defendant), against a Releasee, or by a Releasee against a Non-Settling Defendant, are barred, prohibited and enjoined in accordance with the terms of this section;
- (ii) a provision governing the rights of the Plaintiffs and the Settlement Class Members to assert claims against the Non-Settling Defendants in the continuation of the Proceedings, provided that under such a provision, if a Court determines

that, in the absence of the provision set out in section 6.1(a)(i), the Non-Settling Defendants would have the right to make claims for contribution and indemnity or other claims over whether in equity or in law, by statute or otherwise, from or against the Releasees, then the Plaintiffs and the Settlement Class Members in the Ontario Action and the BC Action shall not be entitled to claim or recover from the Non-Settling Defendants that portion of any 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*) that corresponds to the Proportionate Liability of the Releasees proven at trial or otherwise, and the Court shall have full jurisdiction to determine the Proportionate Liability of the Releasees at trial or other disposition of the Action, whether or not the Releasees appear at trial or other disposition and the Proportionate Liability of the Releasees shall be determined as if the Releasees are parties to the relevant Proceedings and any determination by the Court in respect of the Proportionate Liability of the Releasees shall only apply in the relevant Proceedings and shall not be binding on the Releasees in any other proceedings; and

- (iii) a provision governing the ability of the Non-Settling Defendants to bring a motion to seek discovery of the Singapore Defendants for the purposes of the continuation of the Proceedings, provided that under such a provision, the Singapore Defendants shall retain and reserve all of their rights to oppose such a motion.

6.2 Québec Waiver of Solidarity Order

(a) The Plaintiffs, Class Counsel and the Singapore Defendants agree that the Québec order approving this Settlement Agreement must include an order that provides for a waiver of solidarity. The waiver of solidarity order shall be in a form agreed to by the Plaintiff and the Singapore Defendants, and shall include:

- (i) a provision that the Plaintiff in Québec and the Québec 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 Singapore Defendants;

- (ii) a provision that the Plaintiff in Québec and the Québec 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 the Proportionate Liability of the Non-Settling Defendants;
- (iii) a provision that any action in warranty or any other claim or joinder of parties to obtain any contribution or indemnity from the Singapore Defendants or relating to the Released Claims shall be inadmissible, null and void in the context of the Québec Action; and
- (iv) a provision that the ability of Non-Settling Defendants to seek discovery from the Singapore Defendants shall be determined according to the provisions of the *Code of Civil Procedure*, and the Singapore Defendants shall retain and reserve all of their rights to oppose such discovery under the *Code of Civil Procedure*.

6.3 Material Term

The form and content of the bar orders and waiver of solidarity order contemplated in sections 6.1 and 6.2 of this Settlement Agreement shall be considered material terms of the Settlement Agreement in favour of the Singapore Defendants and the failure of any Court to approve the bar order or waiver of solidarity order contemplated herein shall give rise to a right of termination by the Singapore Defendants pursuant to section 11 of this Settlement Agreement. For greater certainty, and notwithstanding any other term of this Settlement Agreement, the Plaintiffs and Class Counsel shall not have any right of termination in the event that the Court fails to approve the bar order and/or the waiver of solidarity order contemplated herein, or if the Court approves the bar order and/or the waiver of solidarity order contemplated herein in a materially modified form. In particular but without limitation, while the Plaintiffs may reserve their right to seek full joint and several liability and/or damages from the Non-Settling Defendants, the Plaintiffs shall not be entitled to terminate the settlement if one or more Courts rule that one or more of the Plaintiffs must limit their claims at any time in the Actions to the joint and several liability and/or damages that arise from the Proportionate Liability of the Non-Settling Defendants.

SECTION 7 - EFFECT OF SETTLEMENT

7.1 No Admission of Liability

(a) The Plaintiffs, Class Counsel and the Singapore Defendants expressly reserve all of their rights if this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason. The Plaintiffs, Class Counsel and the Singapore Defendants agree that, whether or not this Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, Documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by any of the Singapore Defendants or by any Releasee, or of the truth of any of the claims or allegations contained in the Proceedings or any other pleading filed by the Plaintiffs or any other Settlement Class Member.

7.2 Agreement Not Evidence

(a) The Plaintiffs, Class Counsel and the Singapore Defendants 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 present, pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law or as provided in this Settlement Agreement.

7.3 No Further Litigation

(a) Except as otherwise provided in this Settlement Agreement, no Class Counsel, Plaintiff, Settlement Class Member nor anyone currently or hereafter employed by, associated with, or a partner with Class Counsel, any Plaintiff or Settlement Class Member may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any Person which relates to or arises from the Released Claims. Moreover, no Class Counsel, Plaintiff, Settlement Class Member nor anyone currently or hereafter employed by, associated with, or a partner with Class Counsel, any Plaintiff or Settlement Class Member

may divulge to anyone for any purpose any information, including, without limitation, any Documents or information obtained in the course of the Actions or the negotiation and preparation of this Settlement Agreement, except to the extent such information is otherwise publicly available or otherwise ordered by a court.

(b) For greater certainty, section 7.3(a) does not apply to the involvement of any Person in the continued investigation and prosecution of the Actions as against any Non-Settling Defendant or any named or unnamed co-conspirators who are not Releasees, or in the event that a future contested certification hearing in the Actions is not resolved in favour of the Plaintiffs, the continuation and prosecution of the claims as alleged in the Actions against the Non-Settling Defendants or unnamed co-conspirators that are not Releasees in the form of individual claims, group proceedings, or test cases.

SECTION 8 - CERTIFICATION OR AUTHORIZATION FOR SETTLEMENT ONLY

8.1 Settlement Class and Common Issue

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

(b) The Plaintiffs agree that, in the motions for certification or authorization of the Actions as class proceedings and for the approval of this Settlement Agreement, the only common issue that the Plaintiffs will seek to define is the Common Issue and the only classes that they will assert are the Settlement Class. The Plaintiffs acknowledge that the Singapore Defendants agree to the definition of the Common Issue for purposes of settlement only.

8.2 Certification or Authorization Without Prejudice in the Event of Termination

(a) In the event this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, the Parties agree that any prior certification or authorization of a Proceeding as a class proceeding pursuant to this Settlement Agreement, or any amended certification of a Proceeding as a class proceeding pursuant to this Settlement Agreement, including the definition of the Settlement Class and the statement of the

Common Issue, shall be without prejudice to any position that any of the Parties may later take on any issue in the Proceedings or any other litigation.

SECTION 9 - NOTICE TO SETTLEMENT CLASS

9.1 Notices Required

(a) The proposed Settlement Class shall be given the following notice in respect of each Action in Ontario, Québec and British Columbia: (i) Notice of Approval Hearings; (ii) Notice of Certification, Settlement Approval and Claims Procedure; (iii) termination of this Settlement Agreement if it is terminated after notice is provided in accordance with (i) above or as otherwise ordered by the Courts.

9.2 Distribution of Notices

(a) The manner of publication and distribution of the Notices will be agreed upon by the Plaintiffs and the Singapore Defendants or in such form or manner as approved by the Courts.

(b) With the object of reducing the costs of notice, Class Counsel shall use their reasonable best efforts to coordinate the publication and distribution of the Notices pertaining to this Settlement Agreement with the provision of notice for any other settlements that have been or may be reached in the Actions, including the proposed settlements involving Scandinavian Airlines System, Qantas Airways Limited and Cargolux Airline International, and/or the U.S. Class Proceedings. Without limiting the generality of the foregoing, the Plaintiffs and the Singapore Defendants agree that extensive worldwide notice of the Actions has already been provided to the Settlement Class as a result of the notice program created and administered by the Garden City Group for the Lufthansa Settlement. The Plaintiffs shall, to the extent reasonable, rely on the prior extensive worldwide notice of the Proceedings and the information gathered as a result of the Garden City Group notice program, for the purposes of satisfying the notice obligations arising as a result of this Settlement Agreement.

SECTION 10 - CLASS COUNSEL FEES AND ADMINISTRATION EXPENSES

10.1 Class Counsel Fees

(a) Class Counsel may seek the Courts' approval to pay Class Counsel Fees and Administration Expenses contemporaneously with seeking approval of this Settlement

Agreement or at such other time as they shall determine in their sole discretion. The Settlement Defendants shall take no position in respect of Class Counsel's motion for payment of Class Counsel Fees.

- (b) Class Counsel Fees may only be paid out of the Trust Account after the Effective Date.
- (c) The Singapore Defendants shall not be liable for any fees, disbursements or taxes, including but not limited to Class Counsel Fees and any fees, disbursements or taxes of Class Counsel's, the Plaintiffs' or the Settlement Class Members' respective lawyers, experts, advisors, agents, or representatives.

10.2 Administration Expenses

- (a) The Escrow Agent shall pay the Singapore Defendants' proportionate share of the costs of the Notices referred to in section 9 of this Settlement Agreement out of the Trust Account.
- (b) Except as provided in section 10.2(a), Administrative Expenses may only be paid out of the Trust Account after the Effective Date.
- (c) The Singapore Defendants shall, within fifteen (15) business days of the date of the execution of this Settlement Agreement, pay the Notice and Administration Contribution Amount to the Escrow Agent for deposit into the Trust Account. The Plaintiffs and the Singapore Defendants respectively acknowledge and agree that this contribution amount may be less than, or conversely may exceed, the proportionate share of the Singapore Defendants relating to the costs of Administration Expenses, notice, or other shared costs. For greater certainty, the Singapore Defendants shall not be entitled to a refund in the event that the Notice and Administration Contribution Amount exceeds the proportionate share of the Singapore Defendants relating to the costs of the Administration Expenses, notice or other shared costs, and the Singapore Defendants shall not be required to pay additional amounts in the event that the Notice and Administration Contribution Amount is less than the proportionate share of the Singapore Defendants relating to the costs of the Administration Expenses, notice or other shared costs.
- (d) The Escrow Agent shall maintain the Trust Account as provided for in this Settlement Agreement. The Escrow Agent 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 Singapore Defendants, and in any event, after all appeals related thereto have been disposed of.

(e) Except for the payment of the Notice and Administration Contribution Amount pursuant to section 10.2(c), the Singapore Defendants shall not be liable to pay any further amount on account of Administration Expenses, including without limitation the cost of providing any notices required by the Courts.

SECTION 11 - TERMINATION OF SETTLEMENT AGREEMENT

11.1 Right of Termination

(a) The Plaintiffs and Class Counsel shall have the right to terminate this Settlement Agreement, in the event that:

- (i) any Court declines to certify a Settlement Class or the Settlement Classes or to approve this Settlement Agreement or any material term or part hereof, and the Court's order or judgment has become a Final Order;
- (ii) any Court approves this Settlement Agreement in a materially modified form, subject to the provisions of this Settlement Agreement governing materiality, and the Court's order or judgment has become a Final Order; or
- (iii) any orders approving this Settlement Agreement made by the Ontario Court, the BC Court or the Québec Court do not become Final Orders.

(b) The Singapore Defendants shall further have the right to terminate this Settlement Agreement in the event:

- (i) the form and content of any of the Final Orders approved by the Ontario Court, the Québec Court and the BC Court fails to comply with sections 2.3(b) and 2.3(c) of this Settlement Agreement; or
- (ii) the form and content of any of the Final Orders approved by the B.C. Court, the Ontario Court and the Québec Court fails to comply with sections 6 and 7 of this Settlement Agreement.

(c) To exercise a right of termination under sections 11.1(a) or 11(b), a terminating party shall deliver a written notice of termination pursuant to section 13.15 of this Settlement Agreement. Upon delivery of such a written notice, this Settlement Agreement shall be terminated and, except as provided for in section 11.4, it 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.

(d) Any order, ruling or determination made by any Court with respect to Class Counsel Fees or the Distribution Protocol 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.

11.2 If Settlement Agreement is Terminated

(a) If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, the Plaintiffs, Class Counsel and the Singapore Defendants agree:

- (i) no motion to certify or authorize any of the Actions as a class proceeding on the basis of this Settlement Agreement or to approve this Settlement Agreement, which has not been decided, shall proceed;
- (ii) any order certifying or authorizing an Action 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;
- (iii) any prior certification or authorization of an Action as a class proceeding that has occurred after the date of this Settlement Agreement, including the definitions of the Settlement Classes and the Common Issue, and any prior procedural or substantive ruling in respect of the ongoing Actions that has occurred after the date of this Settlement Agreement, shall be without prejudice to any position that the Singapore Defendants may later take on any procedural or substantive issue in the ongoing Actions or any other litigation;

- (iv) within ten (10) days of such termination or failure having occurred, Class Counsel shall destroy all Documents or other information provided by the Singapore Defendants as cooperation under this Settlement Agreement, or containing or reflecting information derived from such Documents or other information, and to the extent that Class Counsel has disclosed any Documents or other information provided by the Singapore Defendants to any other person (including Plaintiffs' experts), shall recover and destroy such Documents and other information. Class Counsel shall provide the Singapore Defendants with a written certification by Class Counsel of such destruction. Nothing contained in this subsection shall be construed to require Class Counsel to destroy any of their work product;
- (v) Class Counsel shall forthwith deliver consents in writing to counsel for the Singapore Defendants authorizing the Singapore Defendants to bring motions before each of the Courts for orders:
 - (A) directing that the balance in the Trust Account shall be paid to the Singapore Defendants, including interest;
 - (B) declaring that this Settlement Agreement to be null and void and of no force or effect (except for the provisions set out in section 11.4 of this Settlement Agreement); and
 - (C) setting aside any order certifying or authorizing the Proceedings as a class proceeding on the basis of this Settlement Agreement; and
- (vi) the Parties shall negotiate in good faith to determine a new timetable, if the Proceedings are to continue against the Singapore Defendants.

11.3 Allocation of Monies in the Trust Account Following Termination

- (a) If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, the Escrow Agent shall return to the Singapore Defendants all monies in the Trust Account including all accrued interest, less the costs of the Escrow Agent that have been incurred but not paid to date, and less the costs of the Notices that

have been incurred but not paid to date, within thirty (30) business days of such termination or event having occurred.

11.4 Survival of Provisions After Termination

(a) If this Settlement Agreement is terminated or otherwise fails to take effect for any reason, the provisions of sections 3.2(b)-(c), 3.3(a), 3.4(b)-(c), 3.9, 7.1, 7.2, 8.2, 9, 11.2 and 11.3 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(b)-(c), 3.3(a), 3.4(b)-(c), 3.9, 3.10, 7.1, 7.2, 8.2, 9, 11.2, and 11.3 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 12 - DETERMINATION OF DISPUTES

12.1 Disputes

(a) The Plaintiffs and the Singapore Defendants agree that all disputes, claims, or controversies arising in connection with, pursuant to, or related to the implementation or interpretation of the terms of this Settlement Agreement shall be finally resolved by the Ontario Court, or if the Ontario Court directs, by a referee appointed by the Ontario Court. To the extent necessary, the referee appointed under this section shall have the authority to conduct a reference in accordance with the Ontario *Rules of Civil Procedure*.

(b) The Plaintiffs and the Singapore Defendants shall bear their own costs of such Court hearing or reference, unless the Court or referee in its, his or her discretion finds it reasonable to assess such costs solely to the Plaintiffs or the Singapore Defendants. The Plaintiffs and the Singapore Defendants shall each be responsible for one half of the fees and disbursements of the referee, as fixed by the Ontario Court.

(c) In considering the reasonableness of any request made pursuant to the provisions of this Settlement Agreement, the Ontario Court or the referee shall weigh the burden and expense of complying with the request against the importance of the subject matter of the request to the Plaintiffs' prosecution of the claims as alleged in the Actions, as well as the corresponding interest of the Singapore Defendants in achieving a full resolution and closure of the Actions.

SECTION 13 - MISCELLANEOUS

13.1 Releasees Have No Liability for Administration

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

13.2 Motions for Directions

(a) Class Counsel or the Singapore Defendants may apply to the Ontario Court for directions in respect of the interpretation, implementation, administration or enforcement of this Settlement Agreement.

(b) Class Counsel may apply to the Ontario Court for directions in respect of the Distribution Protocol.

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

13.3 Interpretation

(a) The division of this Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall in no way define, extend, or describe the scope of this Settlement Agreement or the intent of any provision thereof.

(b) The terms "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.

(c) In the computation of time in this Settlement Agreement, except where a contrary intention appears,

- (i) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and

- (ii) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

13.4 Ongoing Jurisdiction

(a) Each of the Courts shall retain exclusive jurisdiction over the Action commenced in its jurisdiction, the parties thereto and the application brought in those Actions for approval of Class Counsel Fees.

(b) The Plaintiffs and the Singapore Defendants intend and agree that no Court shall make any order or give any direction in respect of any matter of shared jurisdiction unless that order or direction is conditional upon a complementary order or direction being made or given by the other Court(s) with which it shares jurisdiction over that matter.

(c) Notwithstanding the above, the Ontario Court shall exercise jurisdiction with respect to interpretation, implementation, administration, and enforcement of the terms of this Settlement Agreement, and the Parties submit to the jurisdiction of the Ontario Court for purposes of implementing, administering, and enforcing the settlement provided for in this Settlement Agreement. Issues related to the administration of the Settlement Agreement, the Trust Account, the appointment of referees, and other matters not specifically related to the claim of a BC Settlement Class Member or a Québec Settlement Class Member shall be determined by the Ontario Court.

13.5 Governing Law

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

13.6 Entire Agreement

(a) This Settlement Agreement, including the Recitals herein, constitutes the entire agreement among the Plaintiffs and the Singapore Defendants, and no representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement, other than the representations, warranties, and covenants contained and memorialized in such document. This Settlement Agreement supersedes any and all prior and contemporaneous

agreements, understandings, undertakings, negotiations, representations, warranties, promises, and inducements concerning the Actions.

(b) The Plaintiffs and the Singapore Defendants 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.

13.7 Amendments

(a) This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto and any such modification or amendment must be approved by the Courts with jurisdiction over the matter to which the amendment relates.

13.8 Binding Effect

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

13.9 Negotiated Agreement

(a) 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.

13.10 Language

(a) The Plaintiffs and the Singapore Defendants 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. The Plaintiffs and the Singapore Defendants shall prepare a French translation of this Settlement Agreement as and when required by the Courts. The Plaintiffs and the Singapore Defendants shall each pay one half of the cost of such translation in the event such

translation is required by the Courts. The Plaintiffs and the Singapore Defendants agree that such translation is for convenience only. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall be considered.

13.11 Transaction

(a) This Settlement Agreement constitutes a transaction in accordance with *Civil Code of Québec* art. 2631 et seq., and the Plaintiffs and the Singapore Defendants are hereby renouncing any errors of fact, of law, and/or of calculation.

13.12 Recitals

(a) The Recitals to this Settlement Agreement are material and integral parts hereof and are fully incorporated into, and form part of, this Settlement Agreement.

13.13 Schedules

(a) The Schedules to this Settlement Agreement are material and integral parts hereof and are fully incorporated into, and form part of, this Settlement Agreement.

13.14 Acknowledgements

- (a) Each of the Parties hereby affirms and acknowledges that:
- (i) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood this Settlement Agreement;
 - (ii) 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;
 - (iii) he, she or the Party's representative fully understands each term of this Settlement Agreement and its effect; and
 - (iv) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of this Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

13.15 Notice

(a) Any and all notices, requests, directives, or communications required by this Settlement Agreement shall be in writing and shall, unless otherwise expressly provided herein, be given personally, by express courier, by postage prepaid mail, by facsimile transmission, or by email .pdf files, and shall be addressed as follows:

FOR THE PLAINTIFFS AND CLASS COUNSEL:

Charles M. Wright
SISKINDS^{LLP}
680 Waterloo Street
London, ON N6A 3V8

Tel.: (519) 672-2121
Fax: (519) 672-6065
Email: charles.wright@siskinds.com

Irwin Liebman
LIEBMAN & ASSOCIÉS
1 carrée Westmount, bureau/Suite 1500
Montréal, QC H3Z 2P9

Tel.: (514) 846-066
Fax: (514) 935-2314
Email: irwin@liebman.org

J. J. Camp, Q.C.
CAMP FIORANTE MATTHEWS
4th Floor, Randall Bldg
555 West Georgia St.
Vancouver, BC V6B 1Z6

Tel.: (604) 331-9520
Fax: (604) 689-7554
Email: jjcamp@cfmlawyers.ca

FOR THE SINGAPORE DEFENDANTS:

Christopher P. Naudie
OSLER, HOSKIN & HARCOURT LLP
P.O. Box 50
1 First Canadian Place
Toronto, ON M5X 1B8

Tel: 416-862-6811
Fax: 416-862-8666
Email: cnaudie@osler.com

or to any such address or individual as may be designated by further notice in writing given by any Party to another.

13.16 Survival

(a) The representations and warranties contained in this Settlement Agreement shall survive its execution and implementation.

13.17 Authorized Signatures

(a) 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.

13.18 Counterparts

(a) This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

(b) For purposes of executing this Settlement Agreement a facsimile signature shall be deemed an original signature.

13.19 Date of Execution

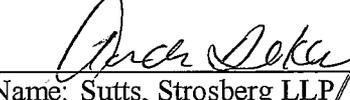
(a) The Plaintiffs and the Singapore Defendants have executed this Settlement Agreement as of the date on the cover page.

IN WITNESS WHEREOF, the Plaintiffs and the Singapore Defendants hereto have caused this Settlement Agreement to be executed, by their duly authorized counsel, as follows:

**AIRIA BRANDS INC., STARTECH.COM LTD., QCS-
QUICK CARGO SERVICE GMBH, CARTISE
SPORTS INC. and KAREN MCKAY, by their counsel**

By: 
Name: Siskinds LLP
Title: Counsel in the Ontario Action

By:  For:
Name: Harrison Pensa LLP
Title: Counsel in the Ontario Action

By:  For:
Name: Sutts, Strosberg LLP
Title: Counsel in the Ontario Action

By: *Andrea Fiorante*
Name: Camp Fiorante
Title: Counsel in the BC Action

By: *Andrea Fiorante*
Name: Liebman & Associés
Title: Counsel in the Québec Action

SINGAPORE AIRLINES LTD., by its counsel

By: *Osler, Hoskin & Harcourt LLP* / ^{per} *Chris Naudie*
Name: Osler, Hoskin & Harcourt LLP
Title: Canadian Counsel

SINGAPORE AIRLINES CARGO PTE LTD.,
by its counsel

By: *Osler, Hoskin & Harcourt LLP* / ^{per} *Chris Naudie*
Name: Osler, Hoskin & Harcourt LLP
Title: Canadian Counsel

SCHEDULE "A1"

Court File No. 50389CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable) , the day
Justice Leitch) of , 2011

B E T W E E N :

AIRIA BRANDS INC., STARTECH.COM LTD.,
AND QCS-QUICK CARGO SERVICE GMBH

Plaintiffs

-and-

AIR CANADA, AC CARGO LIMITED PARTNERSHIP, SOCIETE AIR FRANCE,
KONINKLIJKE LUCHTVAART MAATSCHAPPIJ N.V. dba KLM, ROYAL DUTCH
AIRLINES, ASIANA AIRLINES INC., BRITISH AIRWAYS PLC, CATHAY PACIFIC
AIRWAYS LTD., DEUTSCHE LUFTHANSA AG, LUFTHANSA CARGO AG, JAPAN
AIRLINES INTERNATIONAL CO., LTD., SCANDINAVIAN AIRLINES SYSTEM,
KOREAN AIR LINES CO., LTD., CARGOLUX AIRLINE INTERNATIONAL, LAN
AIRLINES S.A, LAN CARGO S.A., ATLAS AIR WORLDWIDE HOLDINGS INC., POLAR
AIR CARGO INC., SINGAPORE AIRLINES LTD., SINGAPORE AIRLINES CARGO PTE
LTD., SWISS INTERNATIONAL AIR LINES LTD., QANTAS AIRWAYS LIMITED, and
MARTINAIR HOLLAND N.V.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION made by the Plaintiffs for an Order certifying the Action as a class proceeding for settlement purposes only as against Singapore Airlines Ltd. and Singapore Airlines Cargo PTE Ltd. (the "Singapore Defendants"), and approving the settlement agreement entered into with the Singapore Defendants was heard this day at the Court House, 80 Dundas Street, London, Ontario.

ON READING the materials filed, including the settlement agreement entered into by the Plaintiffs and Singapore Defendants dated June 24, 2011 and attached to this Order as Schedule “A” (the “Settlement Agreement”), and on hearing the submissions of counsel for the Plaintiffs and counsel for the Singapore Defendants;

AND ON BEING ADVISED that the Plaintiffs and Singapore Defendants consent to this Order and the Non-Settling Defendants take no position on this Order;

1. **THIS COURT ORDERS** that, in addition to the definitions used elsewhere in this Order, the definitions set out in the Settlement Agreement shall apply to and are incorporated into this Order. The following definitions shall also apply in this Order:

(a) “Proportionate Liability” means the proportion of any judgment that, had the Singapore Defendants not settled, a court or other arbiter would have apportioned to the Singapore Defendants and/or Releasees, whether pursuant to *pro rata*, proportionate fault, *pro tanto*, or another method; and

(b) “Action” means the proceeding commenced by Airia Brands Inc., StarTech.com Ltd., and QCS-Quick Cargo Service GmbH in the form of a Statement of Claim filed in the Ontario Court (London Registry) (Court File No. 50389 CP), filed on July 6, 2006.

2. **THIS COURT ORDERS** that the Action be certified as a class proceeding as against the Singapore Defendants only and for settlement purposes only.

3. **THIS COURT ORDERS** that the Settlement Class be defined as:

All Persons, other than members of the Québec Settlement Class or the BC Settlement Class, who purchased Airfreight Shipping Services during the Settlement Class Period, including those Persons who purchased Airfreight Shipping Services through freight forwarders or from any air cargo carrier, including without limitation, the Defendants, and specifically including the Singapore Defendants. Excluded from the Ontario Settlement Class are the Defendants and their respective parents, employees, subsidiaries, affiliates, officers and directors, and Persons who

validly and timely opted-out of the Ontario Action in accordance with the order of the Ontario Court dated March 6, 2008.

*Airfreight Shipping Services means airfreight cargo shipping services for shipments within, to, or from Canada, but specifically excluding airfreight cargo shipping services for shipments to or from the United States.

4. **THIS COURT ORDERS** that Airia Brands Inc., StarTech.Com Ltd., and QCS-Quick Cargo Service GMBH be appointed as the representative plaintiffs for the Settlement Class.
5. **THIS COURT ORDERS** that the following issue is common to the Settlement Class:

Did the Singapore Defendants conspire to fix, raise, maintain or stabilize the prices of Airfreight Shipping Services during the Class Period in violation of Part VI of the *Competition Act* and the common law? If so, what damages, if any, did Settlement Class Members suffer?
6. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class.
7. **THIS COURT ORDERS** that the Settlement Agreement is approved pursuant to s. 29 of the *Class Proceedings Act, 1992* and shall be implemented in accordance with its terms.
8. **THIS COURT ORDERS** that the Settlement Agreement is incorporated by reference into and forms part of the Order, and is binding upon the representative plaintiffs and all Settlement Class Members.
9. **THIS COURT ORDERS** that each Settlement Class Member is bound by the Settlement Agreement.
10. **THIS COURT ORDERS** that each Settlement Class Member shall consent and shall be deemed to have consented to the dismissal as against the Releasees of any Other Actions he, she or it has commenced, without costs and with prejudice.

11. **THIS COURT ORDERS** that each Other Action commenced by any Settlement Class Member shall be dismissed against the Releasees, without costs and with prejudice.
12. **THIS COURT ORDERS** that this Order, including the Settlement Agreement, is binding upon each Settlement Class Member including those persons who are minors or mentally incapable and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of the Action.
13. **THIS COURT ORDERS** that each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.
14. **THIS COURT ORDERS** that each Releasor 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 Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto, except for the continuation of the Actions against the Non-Settling Defendants or unnamed co-conspirators.
15. **THIS COURT ORDERS** that the Releasees have released and shall be conclusively deemed to have forever and absolutely released each of the other from any and all claims for contribution and indemnity with respect to the Released Claims.
16. **THIS COURT ORDERS** that the use of the terms “Releasors” and “Released Claims” in the Order does not constitute a release of claims by those Settlement Class Members who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors.
17. **THIS COURT ORDERS** that each Settlement Class Member who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors covenants and undertakes not to make any claim in any way nor to threaten, commence, or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

18. **THIS COURT ORDERS** that:

- (a) subject to subparagraph (b) of this paragraph, all claims for contribution and indemnity or other claims over, whether asserted or unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in the Actions or otherwise by any Non-Settling Defendant or any other Person or party (including a Settled Defendant), against a Releasee, or by a Releasee Party against a Non-Settling Defendant, are barred, prohibited and enjoined in accordance with the terms of this paragraph;
- (b) if a person or party is permitted to bring a claim against a Non-Settling Defendant in a jurisdiction outside of Ontario (the “Foreign Claim”) that if brought in Ontario would contravene paragraphs 18 or 19 hereof, then that Non-Settling Defendant is permitted to bring a claim for contribution, indemnity or other claims over against the Releasee thereafter in respect of the Foreign Claim notwithstanding this paragraph, provided that the Non-Settling Defendant establishes that it raised before the foreign court or other arbiter in a timely and proper manner that this Order is an absolute bar to any Foreign Claim arising from the Released Claims.

19. **THIS COURT ORDERS** that if, in the absence of paragraph 18 hereof, the Non-Settling Defendants would have the right to make claims for contribution and indemnity or other claims over, whether in equity or in law, by statute or otherwise, from or against the Releasees:

- (a) the Plaintiffs and the Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants that portion of any 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*) awarded in respect of any claim(s) on which judgment is entered that corresponds to the Proportionate Liability of the Releasees proven at trial or otherwise;

- (b) for greater certainty, the Plaintiffs and the Settlement Class Members shall limit their claims against the Non-Settling Defendants to, and shall be entitled to recover from the Non-Settling Defendants, only those claims for damages, costs and interest attributable to the Non-Settling Defendants' several liability to the Plaintiffs and the Settlement Class Members, if any;
 - (c) this Court shall have full authority to determine the Proportionate Liability at the trial or other disposition of the Action, whether or not the Releasees remain in the Action or appear at the trial or other disposition, and the Proportionate Liability shall be determined as if the Releasees are parties to this Action for that purpose and any such finding by this Court in respect of the Proportionate Liability shall only apply in the Action and shall not be binding upon the Releasees in any other proceedings.
20. **THIS COURT ORDERS** that if, in the absence of paragraph 18 hereof, the Non-Settling Defendants would not have the right to make claims for contribution and indemnity or other claims over, whether in equity or in law, by statute or otherwise, from or against the Releasees, then nothing in this Order is intended to or shall limit, restrict or affect any arguments which the Non-Settling Defendants may make regarding the reduction of any judgment against them in the Action.
21. **THIS COURT ORDERS** that, subject to paragraph 22 hereof, a Non-Settling Defendant may, on motion to the Court brought on at least ten (10) days notice and determined as if the Singapore Defendants are parties to the Action, 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 in accordance with the *Rules of Civil Procedure* O. Reg. 194 from the Singapore Defendants;
 - (b) oral discovery of a representative of the Singapore Defendants, the transcripts of which may be read in at trial;

- (c) leave to serve a request to admit on the Singapore Defendants in respect of factual matters; and/or
 - (d) production of a representative of the Singapore Defendants to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.
22. **THIS COURT ORDERS** that the Singapore Defendants retain all rights to oppose such motion(s) brought under paragraph 21 hereof. Notwithstanding any provision in this order, on any motion brought pursuant to paragraph 21 the Court may make such orders as to costs and other terms as it considers appropriate.
23. **THIS COURT ORDERS** that a Non-Settling Defendant may affect service of the motion(s) referred to in paragraph 21 above on the Singapore Defendants by service on counsel of record for the Singapore Defendants in the Action.
24. **THIS COURT ORDERS** that for purposes of enforcement of the Order, this Court will retain an ongoing supervisory role and the Singapore Defendants will attorn to the jurisdiction of this Court for this purpose.
25. **THIS COURT ORDERS** that, except as provided herein, the Order does not affect any claims or causes of action that any Settlement Class Member has or may have against the Non-Settling Defendants or unnamed co-conspirators in the Action.
26. **THIS COURT ORDERS** that the Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement.
27. **THIS COURT ORDERS** that the Settlement Amount be held in trust for the benefit of the Settlement Class, pending further order of the Court, which shall be sought by the Plaintiff on a motion in the Action brought on notice to the Settling Defendants.
28. **THIS COURT ORDERS** that the Action be dismissed against the Singapore Defendants without costs and with prejudice.

29. **THIS COURT ORDERS** that this Order is contingent upon the approval of the Québec Court and British Columbia Court of the same Settlement Agreement and this Order shall be of no force and effect if such approval is not secured in Québec and British Columbia.

Date:

THE HONOURABLE
JUSTICE LYNN LEITCH

SCHEDULE "A2"

No. S067490
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

KAREN MCKAY

Plaintiff

And:

AIR CANADA, AC CARGO LIMITED PARTNERSHIP,
SOCIETE AIR FRANCE, KONINKLUKE LUCHTVAART
MAATSCHAPPIJ N.V., ASIANA AIRLINES INC., BRITISH
AIRWAYS PLC, CATHAY PACIFIC AIRWAYS LTD.,
DEUTSCHE LUFTHANSA AG, LUFTHANSA CARGO AG,
SWISS INTERNATIONAL AIR LINES LTD., JAPAN AIRLINES
INTERNATIONAL CO., LTD., KOREAN AIR LINES CO., LTD.,
SCANDINAVIAN AIRLINES SYSTEM CARGOLUX AIRLINES
INTERNATIONAL S.A., LAN AIRLINES S.A, LAN CARGO
S.A., ATLAS AIR WORLDWIDE HOLDINGS INC., POLAR AIR
CARGO INC., SINGAPORE AIRLINES LTD., SINGAPORE
AIRLINES CARGO PTE LIMITED.

Defendants

BROUGHT UNDER THE *CLASS PROCEEDINGS ACT*, R.S.B.C. 1996, c. 50

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE)
MR. JUSTICE BAUMAM) , 2011
)

THE APPLICATION of the plaintiff coming on for hearing at Vancouver, British Columbia on and on hearing , counsel for the plaintiff Karen McKay, , counsel for the defendants Singapore Airlines Ltd. and Singapore Airlines Cargo PTE Limited (the "Singapore Defendants"), and counsel for the Non-Settling Defendants, and on reading the material filed including the settlement agreement dated June 24, 2011 (the "Settlement Agreement") attached to this Order as Schedule "A",

AND JUDGMENT being reserved to this date:

THIS COURT ORDERS that:

1. the definitions set out in the Settlement Agreement apply to and are incorporated into this Order. The following definitions shall also apply in this Order:

(a) “Proportionate Liability” means the proportion of any judgment that, had the Singapore Defendants not settled, a court or other arbiter would have apportioned to the Singapore Defendants and/or Releasees, whether pursuant to the *pro rata*, proportionate fault, *pro tanto*, or another method; and

(b) “Action” means the proceeding commenced by Karen McKay in form of an action filed in the BC Court (Vancouver Registry), Court File No. S-067490, filed on November 20, 2006.

2. the Action is certified as a class proceeding as against the Singapore Defendants only and for settlement purposes only.

3. the BC Settlement Class is defined as:

All Persons resident in the province of British Columbia who purchased Airfreight Shipping Services during the Settlement Class Period, including those Persons who purchased Airfreight Shipping Services* through freight forwarders or from any air cargo carrier, including without limitation, the Defendants, and specifically including the Singapore Defendants. Excluded from the BC Settlement Class are the Defendants and their respective parents, employees, subsidiaries, affiliates, officers and directors, and Persons who validly and timely opted-out of the BC Action in accordance with the order of the BC Court dated March 20, 2008.

*Airfreight Shipping Services means airfreight cargo shipping services for shipments within, to, or from Canada, but specifically excluding airfreight cargo shipping services for shipments to or from the United States.

4. Karen McKay is appointed the representative plaintiff for the BC Settlement Class;

5. the Action is certified on the basis of the following issue common to the BC Settlement Class:

Did the Singapore Defendants conspire to fix, raise, maintain or stabilize the prices of Airfreight Shipping Services during the Class Period in violation of Part VI of the Competition Act and the common law? If so, what damages, if any, did Settlement Class Members suffer?

6. the Settlement Agreement is fair, reasonable, adequate and in the best interests of the BC Settlement Class;
7. the Settlement Agreement is approved pursuant to s. 35 of the *Class Proceedings Act*, RSBC 1996, c. 50 and shall be implemented in accordance with its terms;
8. the Settlement Agreement is incorporated by reference into and forms part of this Order and is binding upon the representative plaintiff and upon all BC Settlement Class Members;
9. each BC Settlement Class Member is bound by the Settlement Agreement;
10. each BC Settlement Class Member shall consent and shall be deemed to consent to the dismissal as against the Releasees of any Other Actions he, she or it has commenced, without costs and with prejudice;
11. all Other Actions commenced in British Columbia by any BC Settlement Class Members are hereby dismissed against the Releasees, without costs and with prejudice;
12. this Order, including the Settlement Agreement, is binding upon each BC Settlement Class Member, including those persons who are minors or mentally incapable;
13. the Releasers resident in British Columbia are deemed to and do forever covenant not to sue and undertake not to make any Claim in any way or to threaten, commence, or continue any Claim in any jurisdiction against the Releasees arising from or in any way related to the Released Claims;
14. it is a condition of receipt of funds under the Settlement Agreement that each BC Settlement Class Member receiving funds execute a written covenant and undertake not to sue or make any claim in any way nor to threaten, commence, or continue any proceedings in any jurisdiction against the Releasees in respect of or in relation to the

Released Claims;

15. each Releasor 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 Claim within the scope of the Released Claims against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto, except for the continuation of the Actions against the Non-Settling Defendants or un-named co-conspirators;
16. the Releasees have released and shall be conclusively deemed to have forever and absolutely released each of the other from any and all claims for contribution and indemnity with respect to the Released Claims;
17. use of the terms "Releasors", "Releasees" and "Released Claims" in this Order is a matter of form only for consistency with the Settlement Agreement and does not constitute a release of claims by BC Settlement Class Members;
18.
 - (a) subject to subparagraph (b) of this paragraph, all claims for contribution and indemnity or other claims over, whether asserted or unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in the Actions or otherwise by any Non-Settling Defendant or any other Person or Party (including a Settled Defendant), against a Releasee, or by a Releasee against a Non-Settling Defendant, are barred, prohibited and enjoined in accordance with the terms of this paragraph;
 - (b) if a Person or Party is permitted to bring a claim against a Non-Settling Defendant in a jurisdiction outside of British Columbia (the "Foreign Claim") that if brought in British Columbia would contravene paragraphs 18 or 19 hereof, then that Non-Settling Defendant is permitted to bring a claim for contribution, indemnity or other claims over against the Releasees thereafter in respect of the Foreign Claim notwithstanding this paragraph, provided that the Non-Settling Defendant establishes that it raised before the foreign court or

other arbiter in a timely and proper manner that this Order is an absolute bar to any Foreign Claim arising from the Released Claims.

19. if, in the absence of paragraph 18 above, the Non-Settling Defendants would have the right to make claims for contribution and indemnity or other claims over, whether in equity or in law, by statute or otherwise, from or against the Releasees:
 - (a) the Plaintiffs and the BC Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants that portion of any damages (including punitive damages, if any), restitutionary award, disgorgement or profits, interests and costs (including investigative costs claimed pursuant to s. 36 of the *Competition Act*) awarded in respect of any claim(s) on which judgment is entered that corresponds to the Proportionate Liability of the Releasees proven at trial or otherwise;
 - (b) for greater certainty, the Plaintiffs and the BC Settlement Class Members shall limit their claims against the Non-Settling Defendants to, and shall be entitled to recover from the Non-Settling Defendants, only those claims for damages, costs and interest attributable to the Non-Settling Defendants' several liability to the Plaintiffs and the BC Settlement Class Members, if any; and
 - (c) this Court shall have full authority to determine the Proportionate Liability at the trial or other disposition of this Action, whether or not the Releasees remain in this Action or appear at the trial or other disposition, and the Proportionate Liability shall be determined as if the Releasees are parties to this Action for that purpose and any such finding by this Court in respect of the Proportionate Liability shall only apply in this Action and shall not be binding upon the Releasees in any other proceedings.

20. if, in the absence of paragraph 18 hereof, the Non-Settling Defendants would not have the right to make claims for contribution and indemnity or other claims over, whether in equity or in law, by statute or otherwise, from or against the Releasees, then nothing in this Order is intended to or shall limit, restrict or affect any arguments which the Non-Settling Defendants may make regarding the reduction of any judgment against them in the Action.

21. subject to paragraph 22 hereof, a Non-Settling Defendant may, on a motion to the Court brought on at least ten (10) days notice and determined as if the Singapore Defendants are parties to the Action, not 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 in accordance with the *BC Supreme Court Rules* from the Singapore Defendants;
 - (b) oral examination for discovery of a representative of the Singapore Defendants, the transcript of which may be read in at trial;
 - (c) leave to serve a notice to admit on the Singapore Defendants in respect of factual matters; and/or
 - (d) production of a representative of the Singapore Defendants to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.
22. the Singapore Defendants retain all rights to oppose such motion(s) under subparagraph 21(d), hereof. Notwithstanding any provision in this Order, on any motion brought pursuant to this paragraph 21, the Court may make such Orders as to costs and other terms as it considers appropriate.
23. a Non-Settling Defendant may affect service of the motion(s) referred to in paragraph 21 above on the Singapore Defendants by service on counsel of record for the Singapore Defendants in this Action;
24. for purposes of enforcement of this Order, this Court will retain an ongoing supervisory role and the Singapore Defendants will attorn to the jurisdiction of this Court for this purpose;
25. except as provided herein, this Order does not affect any Claims that any BC Settlement Class Member has or may have against the Non-Settling Defendants or unnamed co-conspirators in the Actions;
26. the Releasees have no responsibility for and no liability whatsoever with respect to the

administration of the Settlement Agreement;

27. the Settlement Amount be held in trust for the benefit of the BC Settlement Class, pending further order of the Court, which shall be sought by the Plaintiff on a motion in the Action brought on notice to the Singapore Defendants;
28. the Action be and is hereby dismissed against the Singapore Defendants without costs and with prejudice;
29. this Order shall be declared null and void in the event that the Settlement Agreement is terminated in accordance with its terms;
30. this Order is contingent upon the approval of the Québec Court of the same Settlement Agreement and this Order shall be of no force and effect if such approval is not secured in Québec; and
31. endorsement of this Order by counsel for the Non-Settling Defendants be dispensed with.

BY THE COURT

SCHEDULE "A3"

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
NO: 500-06-000344-065

(Class Action)
SUPERIOR COURT

**PRESIDING: THE HONOURABLE MR. JUSTICE
PAUL-MARCEL BELLAVANCE**

CARTISE SPORTS INC.

Plaintiff

vs.

SINGAPORE AIRLINES CARGO PTE LTD.

-and-

SINGAPORE AIRLINES, LTD.

-and-

AC CARGO LIMITED PARTNERSHIP

-and-

AIR CANADA

-and-

ASIANA AIRLINES INC

-and-

ATLAS AIR WORLDWIDE HOLDINGS INC.

-and-

BRITISH AIRWAYS PLC

-and-

CARGOLUX AIRLINE INTERNATIONAL

-and-

CATHAY PACIFIC AIRWAYS LTD.

-and-

JAPAN AIRLINES INTERNATIONAL CO., LTD.

-and-

KONINKLIJKE LUCHTV AART MAATSCHAPPIJ

N.V. dba KLM, ROYAL DUTCH AIRLINES

-and-

KOREAN AIR LINES CO., LTD.

-and-

LAN AIRLINES S.A.

-and-

LAN CARGO, S.A.

-and-

POLAR AIR CARGO INC.
-and-
SCANDANAVIAN AIRLINES SYSTEM
-and-
SOCIÉTÉ AIR FRANCE

Defendants

JUDGMENT

- (1) **WHEREAS** the parties hereto are involved in a Class Action;
- (2) **WHEREAS** Plaintiff now seeks a Judgment of this Court approving the Settlement Agreement entered into with Singapore Airlines Ltd. and Singapore Airlines Cargo PTE Ltd. (the “Singapore Defendants”);
- (3) **WHEREAS** having taken cognizance of the materials filed relating to the Motion herein, including the Settlement Agreement attached to this Judgment as “Schedule A” (the “Settlement Agreement”) and on hearing the submissions of counsel for the Plaintiff and counsel for the Singapore Defendants;
- (4) **WHEREAS** on being advised that the Plaintiff and the Singapore Defendants consent to this Judgment, and the Non-Settling Defendants take no position in respect of this Judgment;

WHEREFORE, THIS COURT:

- (5) **GRANTS** Plaintiff’s Motion for Approval of a Settlement Transaction;
- (6) **ORDERS AND DECLARES** that in addition to the definitions used elsewhere in this Judgment, for the purposes of this Judgment, the definitions set out in the Settlement Agreement apply to and are incorporated into this Judgment and form an integral part thereof.

(7) **ORDERS** that the Action be authorized as a class action as against the Singapore Defendants only and for settlement purposes only;

(8) **ORDERS** that the Québec settlement class (the “**Settlement Class**” and “**Settlement Class Members**”) be defined as:

all individuals resident in the province of Québec and all legal persons resident in the province of Québec established for a private interest, partnership or association in the province of Québec which, at all times between May 5, 2005 and May 5, 2006, had under its direction or control no more than 50 persons bound to it by a contract of employment, who purchased Airfreight Shipping Services during the Settlement Class Period, including those legal persons who purchased Airfreight Shipping Services* through freight forwarders, from any air cargo carrier, including without limitation, the Defendants, and specifically including the Singapore Defendants, during the Settlement Class Period. Excluded from the Québec Settlement Class are the Defendants and their respective parents, employees, subsidiaries, affiliates, officers and directors, and Persons who validly and timely opted-out of the Québec Action in accordance with the order of the Québec Court dated April 14, 2008.

* Airfreight Shipping Services means airfreight cargo shipping services for shipments within, to, or from Canada, but specifically excluding airfreight shipping services for shipments to or from the United States.

(9) **ORDERS** that Cartise Sports Inc. be appointed as the representative plaintiff for the Settlement Class;

(10) **ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class and constitutes a transaction within the meaning of Article 2631 of the *Civil Code of Québec*, which is binding on all Parties and the Settlement Class Members;

(11) **ORDERS** that the Settlement Agreement is hereby approved pursuant to Article 1025 of the *Code of Civil Procedure* and shall be implemented in accordance with its terms. Where any term of this Judgment and the Settlement Agreement conflict, the term contained in this Judgment shall govern;

- (12) **ORDERS** that the Settlement Agreement is incorporated by reference into and forms part of this Judgment, and is binding upon the representative Plaintiff and all Settlement Class Members;
- (13) **ORDERS** that each Settlement Class Member is bound by the Settlement Agreement;
- (14) **ORDERS** that each Settlement Class Member shall consent and shall be deemed to have consented to the dismissal as against the Releasees of any other actions, he, she or it has commenced, without costs and with prejudice;
- (15) **ORDERS** that each other action commenced by any Settlement Class Member shall be dismissed against the Releasees, without costs and with prejudice;
- (16) **ORDERS** that this Judgment is binding upon each Settlement Class Member;
- (17) **ORDERS** that each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims;
- (18) **ORDERS** that each Releasor 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 Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto, except for the continuation of the Action against the Non-Settling Defendants or unnamed co-conspirators;
- (19) **DECLARES** that, pursuant to the Settlement Agreement, Plaintiff and the 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 Singapore Defendants;
- (20) **ORDERS** that any action in warranty or any other claim or joinder of parties to obtain any contribution or indemnity from the Singapore Defendants relating to the Released Claims shall be inadmissible, null and void in the context of this class action;

(21) **ORDERS** that Plaintiff and the 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*) Competition Act) attributable to the Proportionate Liability of the Non-Settling Defendants, the sales by the Non-Settling Defendants, and/or other applicable measure of the Proportionate Liability of the Non-Settling Defendants;

(22) **DECLARES** that the rights of the Non-Settling Defendants to examine the Singapore Defendants shall be governed by the rules of the *Code of Civil Procedure*, and the Singapore Defendants shall retain and reserve all of their rights to oppose such discovery under the *Code of Civil Procedure*.

(23) **DECLARES** that a Non-Settling Defendant may validly serve the proceedings referred to in the preceding paragraph on the Singapore Defendants by serving such proceedings to that party's *ad litem* attorneys, as identified in this Judgement;

(24) **ORDERS** that for purposes of enforcement of this Judgment, this Court will retain an on-going supervisory role and the Singapore Defendants will attorn to the jurisdiction of this Court for these purposes;

(25) **ORDERS** that except as provided herein, this Judgment does not affect any Claims that any Settlement Class member has or may have against the Non-Settling Defendants or unnamed co-conspirators in the Action;

(26) **ORDERS** that the Releasees have no responsibility for and no liability whatsoever with respect to administration of the Settlement Agreement;

(27) **ORDERS** that the Settlement Amount be held in trust for the benefit of the Settlement Class, pending further order of this Court, which shall be sought by the Plaintiff on a motion in the Action, brought on notice to the Singapore Defendants;

(28) **ORDERS** that the Action be and is hereby dismissed against the Singapore Defendants without costs and with prejudice;

(29) **ORDERS** that this Judgment shall be declared null and void in the event that the Settlement Agreement is terminated in accordance with its terms.

THE WHOLE without costs.

Date: _____, 2011

Paul-Marcel Bellavance, H.J.C.S.
JB 2697