

**CANADIAN HEATING APPLIANCES CLASS ACTION NATIONAL SETTLEMENT  
AGREEMENT**

Made as of February 20, 2023

Between

**FRÉDÉRIC MORIER**

(the “**Plaintiff**”)

and

**OUELLET CANADA INC., STELPRO DESIGN INC., GLEN DIMPLEX AMERICAS LTD  
and THERMON GROUP HOLDINGS INC.**

(the “**Defendants**”)

## SOMMAIRE INFORMATIF

Par la présente Transaction<sup>1</sup>, le Demandeur et les Défenderesses conviennent de régler hors Cour l'action collective relative aux appareils de chauffage dans le cadre de laquelle le Demandeur alléguait que différents modèles de chaufferettes portatives et permanentes fabriqués jusqu'en 2016 étaient affectés d'un vice caché posant un risque d'arc électrique et d'incendie. La Transaction et le règlement hors Cour interviennent au bénéfice du groupe suivant (les « **Membres du règlement** ») :

*Toutes les personnes, physiques ou morales, domiciliées ou résidant au Canada qui étaient propriétaires au moment du jugement d'autorisation d'une des chaufferettes identifiées à l'**Annexe B** de la présente Transaction.*

La Transaction intervient sans admission de responsabilité des Défenderesses, et aux seules fins de mettre un terme aux procédures judiciaires.

De par la Transaction, les Défenderesses octroient une compensation aux Membres du règlement sous la forme d'un rabais applicable à l'acquisition d'une chaufferette de remplacement auprès du manufacturier en cause, dont le montant varie en fonction de l'année d'acquisition de la chaufferette initiale, tel que décrit à l'**Annexe B**. De plus, les Défenderesses supportent les frais d'avis et de mise en œuvre de la présente Transaction, et paieront les honoraires et déboursés des avocats des Membres jusqu'à concurrence du montant prévu à la présente Transaction, sujet à l'approbation de la Cour.

En contrepartie, le Demandeur et les Membres du règlement octroient une quittance complète et finale aux Défenderesses et les entités leurs étant liées pour toute réclamation, cause d'action, recours ou autre découlant des allégations de l'action collective et des pièces à son soutien, de la fabrication et de la vente des chaufferettes en litige, directement ou indirectement. Le Demandeur et les Membres du règlement s'engagent également à ne pas entreprendre d'autres recours envers les parties quittancées à ces égards.

Le présent sommaire est un résumé de la Transaction et n'en fait pas partie et ne peut servir à l'interpréter ou être opposé aux parties. Les droits et obligations des parties découlant de la Transaction ainsi que son mécanisme de mise en œuvre sont uniquement prévus dans la Transaction et dans tout jugement de la Cour à intervenir en lien avec la Transaction.

Les Membres du règlement ont intérêt à prendre connaissance de la Transaction et des avis à être diffusés afin d'être informés de l'intégralité de leurs droits.

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<sup>1</sup> La Transaction a été rédigée en anglais compte tenu de la portée nationale du règlement et aux fins d'assurer sa mise en œuvre dans toutes les provinces canadiennes.

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## **RECITALS**

- A. **WHEREAS** on or around March 25, 2019, Ouellet Canada Inc. ("**Ouellet**"), Stelpro Design Inc. ("**Stelpro**"), Glen Dimplex Americas ("**Glen Dimplex**") and Thermon Heating Systems Inc., issued a joint public notice to discontinue the use of certain portable and permanent heaters (the "**Joint public notice**");
- B. **WHEREAS** Thermon Canada, Inc. is the successor entity to CCI Thermal Technologies Inc., which manufactured certain heating elements incorporated in certain Heaters;
- C. **WHEREAS** Thermon Canada, Inc. is a wholly-owned indirect subsidiary of Thermon Group Holdings, Inc. ("**Thermon**");
- D. **WHEREAS** on or around April 10, 2019, Health Canada issued a Consumer Product Recall concerning 4,800-watt construction heaters manufactured by Stelpro and Uniwatt, sold from January 2000 to April 2009;
- E. **WHEREAS** according to the information provided on Health Canada's Consumer Product Recall, approximately 199,660 units of these affected products were sold in Canada;
- F. **WHEREAS** on or around April 10, 2019, Health Canada issued a Consumer Product Recall concerning electric construction heaters sold under the Chromalox, Centurion, Electromode, Westcan and Dimplex brands, sold from 1992 to 2006;
- G. **WHEREAS** according to the information provided on Health Canada's Consumer Product Recall, approximately 420,000 units of these affected products were sold in Canada;
- H. **WHEREAS** on or around April 10, 2019, Health Canada issued a Consumer Product Recall concerning portable and permanent heating appliances manufactured by Ouellet, Global Commander and Electrimart, sold from 1989 to April 2016;
- I. **WHEREAS** according to the information provided on Health Canada's Consumer Product Recall, approximately 291,375 units of these affected products were sold in Canada;
- J. **WHEREAS** the Plaintiff commenced the Proceeding on behalf of Class Members against the Defendants before the Superior Court of Quebec, judicial district of Montreal alleging that the Heaters are defective in their manufacture and seeking a partial restitution of the price paid in relation thereto and other compensatory damages, in the court file bearing number 500-06-000994-190 (the "**Class Action**");
- K. **WHEREAS** Ouellet and Stelpro have their head office in Quebec;
- L. **WHEREAS** the Parties submit themselves to the jurisdiction of the Superior Court of Québec sitting in the District of Montreal for the purposes of the Settlement only, whether the Class Members are residents or non-residents of the Province of Québec;

- M. **WHEREAS** the Defendants and the Releasees deny and do not admit, through the execution of this Settlement Agreement or otherwise, any allegation of unlawful conduct alleged in the Proceeding, or in any Other Actions, and otherwise deny all liability and assert that they have complete defences in respect of the merits of the Proceeding and any Other Actions or otherwise;
- N. **WHEREAS** the Parties do not know whether any of the Heaters have been found to be defective and whether any individual Heater poses an actual hazard, and have agreed that offering a compensation for the purchase of a replacement heater is a fair, adequate and sufficient remedy given the circumstances at hand;
- O. **WHEREAS**, the Plaintiff and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement entered into after the Parties have engaged in arm's-length settlement discussions and negotiations, and based on their analyses of the facts and law applicable to the Plaintiff's claims, and having regard to the burdens and expense in prosecuting the Proceeding, including the risks and uncertainties associated with trials and appeals, the Plaintiff and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiff and the Class Members;
- P. **WHEREAS**, the Plaintiff, Class Counsel and the 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 Defendants or evidence of the truth of any of the Plaintiff's allegations against the Defendants, which the Defendants expressly deny;
- Q. **WHEREAS**, although the Defendants deny the Plaintiff's allegations in the Proceeding, deny any wrongdoing of any kind, and believe that the Proceeding is without merit, the Defendants also have taken into account the uncertainty, risk, and delay inherent in litigation and agreed to enter into the Settlement Agreement in order to achieve a full and final nation-wide resolution of all claims that were or could have been asserted against them by the Plaintiff and the Settlement Class in the Proceeding and to avoid further litigation expense and inconvenience, and to remove the distraction of burdensome and protracted litigation;
- R. **WHEREAS**, the Parties intend and desire to compromise, resolve, dismiss and release all allegations and claims for damages or other relief relating to design, manufacture, distribution, sale or marketing of the Heaters that are set forth in the Proceeding and that have been or could have been brought against any Defendants in the Proceeding and in any action filed, litigation pending or claim pursued by any Plaintiff, person or entity who is a member of the Settlement Class;
- S. **WHEREAS**, the Parties therefore wish to, and hereby do, finally resolve on a national basis, without admission of liability, all of the Proceeding as against the Defendants;
- T. **WHEREAS**, the Parties consent to authorization of the Proceeding as class proceedings, and to the Settlement Classes and Common Issue in respect thereof, solely for the purposes of implementing this Settlement Agreement in a coordinated and consistent manner across Canada and contingent on approval by the Court as provided for in this Settlement Agreement, on the express understanding that such authorization shall not derogate from the respective rights of the Parties in the event that this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason;

U. **WHEREAS**, the Representative Plaintiff asserts that he is an adequate class representative for the Settlement Class and will seek to be appointed representative plaintiff in the Settlement Proceeding.

**NOW THEREFORE**, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Proceeding be declared settled out of Court, all without costs as to the Plaintiff, the Class Members and the Defendants, subject to the approval of the Court, on the following terms and conditions:

**I. DEFINITIONS**

1. The following definitions apply to the Settlement Agreement and the Schedules and to all legal proceedings arising therefrom. Unless the context otherwise requires, a word or phrase that expresses a number shall be construed so that the singular includes the plural and vice versa, and a word or phrase that is used in the masculine gender shall be construed to include the feminine and vice versa:

- i. **“Agreement”** or **“Settlement Agreement”** means this Settlement Agreement, including the Recitals and all Schedules attached hereto.
- ii. **“Approval Hearing”** means the hearing on the Motion for Settlement Approval in accordance with the requirements of Article 590 of the *Code of Civil Procedure* and the terms and conditions set forth in paragraph 36.
- iii. **“Approval Judgment”** shall mean the Judgment to be rendered by the Court on the Motion for Settlement Approval, in accordance with the terms and conditions set forth in paragraph 36.
- iv. **“Claim”** means a request for compensation pursuant to this Settlement Agreement submitted by a Settlement Class Member by way of a Claim Form to be filed with the Manufacturers.
- v. **“Claim Form”** means the form to be used by Settlement Class Members for filing a Claim. The proposed Claim Form is subject to Court approval and attached hereto as Schedule A.
- vi. **“Claims Deadline”** means six (6) months from the date the Settlement Notice is first published, and is the date by which all Claim Forms must be postmarked or received by the Manufacturers to be considered timely. The Claims Deadline shall be clearly set forth in the Approval Judgment, and the front page of the Claim Form.
- vii. **“Class Counsel”** means the law firm Roy Bastien Avocats Inc.
- viii. **“Class Counsel Fees”** means the amount of CDN \$500,000, or other amount determined by the court not exceeding CDN \$500,000, inclusive of taxes and disbursement, payable by the Defendants within 30 days after the Effective Date.
- ix. **“Class Members”** means “All persons, natural or legal, domiciled or residing in Canada, who were owners of the heaters identified in **Schedule B** to this Agreement on the date of the Pre-Approval Judgment”.

- x. **“Common Issue”** in the Settlement Proceeding means: “Were the Defendants, or any of them, negligent in the manufacture, distribution, sale and/or recall of the Heaters?”
  - xi. **“Court”** means the Superior Court of Quebec, in the District of Montreal, presided by the Honourable Sylvain Lussier, S.C.J., or any other judge of the Court as the occasion may require.
  - xii. **“Defendants”** means Ouellet Canada Inc., Stelpro Design Inc., Glen Dimplex Americas Ltd. and Thermon Group Holdings inc.
  - xiii. **“Effective Date”** means the date on which the Approval Judgment granting the Motion for Settlement Approval becomes final. In the event that the Approval Judgment is not rendered or refuses to approve the Settlement Agreement, the Effective Date shall be the date such judgment is reversed by an appeal court, as the case may be.
  - xiv. **“Glen Dimplex Heater”** or **“Glen Dimplex Heaters”** means one or more portable and/or permanent heater bearing the following model numbers:
    - Chromalox, Centurion, Electromode, Westcan and Dimplex models:
    - GCH4800;
    - GCH4800B;
    - GCH4831;
    - CCONS4800;
    - ECH-48;
    - ECH4800B;
    - BCH4800;
    - DCH-4831;
    - DCH4831A; and
    - DCH4831R.
- sold, distributed or otherwise acquired in Canada between 1992 and June 2006.
- xv. **“Heater”** or **“Heaters”** means one or more of the Ouellet Heaters, the Stelpro Heaters and the Glen Dimplex Heaters.
  - xvi. **“Manufacturers”** means Ouellet Canada Inc., Stelpro Design Inc. and Glen Dimplex Americas Ltd.
  - xvii. **“Motion for Settlement Approval”** means the motion to be brought in the Proceeding seeking the approval of this Settlement Agreement pursuant to Article 590 of the *Code of Civil Procedure* c. C-25.01 and the approval and granting of the Releases.
  - xviii. **“Notice”** or **“Notices”** means the notices to be approved by the Court for disseminating the fact that the Class Action has been authorized for the purpose of settlement and providing information as to the ability of the persons who fall

within the Settlement Class to opt out of the Settlement Proceeding and providing the date for the Settlement Approval Motion, as provided herein and includes the Short-Form General Notice (substantially in the form attached as **Schedule D**) and the Long-Form General Notice (substantially in the form attached as **Schedule E**).

- xix. **“Notice date”** or **“Notices dates”** means the date upon which the Notice is first published or disseminated to the Class Members.
- xx. **“Notice Expenses”** means the reasonable costs and expenses incurred in connection with preparing, printing, mailing, disseminating, posting, emailing, Internet hosting and/or publishing the Notices and Settlement Notice, and all other aspects of administering the Notice Program.
- xxi. **“Notice Program”** or **“Notice Programs”** means the plan approved by the Court for disseminating the Notices and Settlement Notice, substantially in the manner provided for in the Notice Dissemination Plan which is attached as **Schedule C**.
- xxii. **“Opt-Out Deadline”** means the date which is forty-five (45) days after the Notice Date, or such other date as approved by the Court.
- xxiii. **“Other Actions”** means actions or proceedings, other than the Settlement Proceeding, relating to Released Claims commenced by a Settlement Class Member before any jurisdiction in Canada either before or after the Effective Date.
- xxiv. **“Ouellet Heater”** or **“Ouellet Heaters”** means one of more portable and/or permanent heater bearing the following model numbers:
  - 1. Ouellet: OCC4800 / OAE5000T / OCH4800 / OCH4800WB / OCH4800RF
  - 2. Electrimart: CH48 / ECH48
  - 3. Global Commander: CHG4800 / CCG4800sold, distributed or otherwise acquired in Canada between 1989 and 2016.
- xxv. **“Party or Parties”** means one or more of the Plaintiff, Ouellet Canada Inc., Stelpro Design Inc., Glen Dimplex Americas Ltd. and Thermon Group Holdings inc.
- xxvi. **“Person”** means any adult individual or minor child or any corporation, trust, partnership, limited liability company or other legal entity, and their respective successors or assigns.
- xxvii. **“Pre-Approval Judgment”** means the Judgment to be rendered by the Court with respect to the authorization of the Class Action for settlement purposes only and for the dissemination of the Notices, in accordance with the terms and conditions provided in paragraph 25.



- xxviii. **“Pre-Approval Motion”** means the motion to be brought in the Proceeding before the Court seeking to authorize the Class Action for settlement purposes only, to approve the Common Issue, to appoint the Plaintiff as Representative Plaintiff, and to approve the Notices, and the Opt-Out Deadline.
- xxix. **“Proceeding”** means the proceeding commenced by the Plaintiff, Frédéric Morier, in the Court, Court File no. 500-06-000994-190, in the judicial district of Montreal.
- xxx. **“Recalls”** means the voluntary nation-wide recall of the Ouellet Heaters, Stelpro Heaters and Glen Dimplex Heaters, on or around March 25, 2019.
- xxxi. **“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, penalties, and lawyers' fees, known or unknown, suspected or unsuspected, in law, under statute or in equity, that the Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have against the Defendants and/or the Releasees, relating in any way to any conduct anywhere, from the beginning of time to the date hereof, in respect of the producing design, sale, marketing, advertising, manufacture, distribution, donation, purchase, recall, withdrawal from sale, possession, handling, exposure, or use of a Ouellet Heater, Stelpro Heater or Glen Dimplex Heater, or relating to any conduct alleged (or which could have been alleged) in the Proceeding including, without limitation, any such claims that have been asserted or could have been asserted, whether in Canada or elsewhere, as a result of the purchase or ownership of a Ouellet Heater, Stelpro Heater, or Glen Dimplex Heater.
- xxxii. **“Releasees”** means the Defendants and all of their present and former direct and indirect parents, owners, subsidiaries, divisions, affiliates, associates, partners, joint ventures, franchisees, dealers, distributors, 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, mandataries, shareholders, attorneys, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing. It is expressly understood that, to the extent a Releasee is not a Party to the Settlement Agreement, all such Releasees are intended third party beneficiaries of the Settlement Agreement.
- xxxiii. **“Releasors”** means, jointly and severally, individually and collectively, the Plaintiff, the Settlement Class Members, the Parties' attorneys, the Defendants as between themselves with respect to Released Claims, and their respective subsidiaries, affiliates, predecessors, successors, heirs, executors, administrators, insurers and assigns.
- xxxiv. **“Representative Plaintiff”** or **“Plaintiff”** means the plaintiff in the Settlement Proceeding, Frédéric Morier.

- xxxv. **“Right to Opt-Out”** means the right of a Class member to opt-out of the Settlement in accordance with the terms and conditions set out in paragraphs 32 to 35 of the Settlement Agreement.
- xxxvi. **“Schedules”** means the Schedules attached to this Settlement Agreement.
- xxxvii. **“Settlement Class Member”** means a Class Member who has not validly opt out of the Settlement Class in accordance with orders of the Court.
- xxxviii. **“Settlement Notice”** means the notice to the Settlement Class advising of the approval of the Settlement by the Court and the right to make a Claim, as provided herein and includes the Short-Form Settlement Notice (substantially in the form attached as **Schedule F**) and the Long-Form Settlement Notice (substantially in the form attached as **Schedule G**).
- xxxix. **“Settlement Notice Date”** means the date upon which the Settlement Notice is first published or disseminated to the Settlement Class.
- xl. **“Stelpro Heater”** or **“Stelpro Heaters”** means one or more portable and/or permanent heater bearing the following models numbers:
1. Stelpro Design: PCH48T / PCH4800T
  2. Uniwatt: UCH48 / UCH48T / UCH4800 / UCH4800T
- sold, distributed or otherwise acquired in Canada, between 2000 and 2009.

## **II. SCOPE OF THE SETTLEMENT AGREEMENT**

2. The preamble hereto forms an integral part hereof, as if recited at length herein.
3. Except for the terms related to the approval of Notice in paragraphs 26 through 31, and the approval of the fees and disbursements of Class Counsel in paragraphs 54 and 55, the Settlement Agreement is conditional upon the Court’s entire approval, failing which the Settlement Agreement shall be deemed null and void and shall not create any rights or obligations in favor of or against the Parties and Class Members.
4. The Parties agree to cooperate and use their best efforts to demonstrate the fairness and reasonableness of the Settlement Agreement and to work towards its implementation for the benefit of Class Members.
5. Whether or not this Settlement Agreement is terminated or approved, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and Proceeding associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Defendants, or of the truth of any of the claims or allegations contained in the Proceeding or any other pleading filed by the Plaintiff.
6. The Parties agree that, whether or not the Settlement Agreement is terminated or approved, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and Proceeding associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be

referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law.

7. In the event that Other Actions are instituted in a province outside of Quebec in relation to any Released Claim, the Parties undertake to take all necessary steps to have the Settlement Agreement homologated and enforced before the court having jurisdiction in that province.

### **III. SETTLEMENT BENEFITS**

8. The settlement benefits to be paid and supported by the Defendants to the Class Members for the settlement of the Class Action are the following:
  - a) Compensation applicable to a purchase of a replacing heating device sold by Ouellet, Stelpro or Glen Dimplex, depending on the Manufacturer having made the unit any Class Member initially purchased, as more fully described in Schedule H;
  - b) Notices Expenses including all expenses incurred for the complete implementation of the Notice Dissemination Plan;
  - c) All fees and costs related to the implementation of the Settlement, including administration fees; and
  - d) Class Counsel Fees, in accordance with paragraphs 54 and 55 of the Settlement Agreement.
9. The Manufacturers will proceed to the distribution of the compensation to the Class Members, according to the process, terms and conditions provided for in the Settlement Agreement.
10. In the event that the Settlement Agreement is not approved, the Defendants shall nonetheless be responsible for all fees and costs incurred and/or incurred to date, excluding the Class Counsel Fees, but including, without limitation, all Notices Expenses, and fees and costs related to the implementation of the Settlement.

#### **A. Claim Form**

11. All Claims must be submitted with a Claim Form and received by the Manufacturers, or postmarked by the Claims Deadline. The Claims Deadline shall be clearly set forth in the Settlement Notice, the websites of the Manufacturers and of Class Counsel, and the Claim Form.
12. Settlement Class Members who do not timely submit a completed Claim Form shall not be eligible to receive compensation pursuant to this Settlement Agreement but will be bound by the remaining terms. However, the Manufacturers may, in their discretion, allow a Settlement Class Member who makes a timely Claim to remedy deficiencies in such Claim Form or related documentation within thirty (30) days of their request for same.

13. Claim Forms must be signed by hand or electronically by the Settlement Class Member who must attest to the truth and accuracy of the information provided therein and acknowledge that knowingly submitting a false Claim could constitute civil or criminal fraud.
14. Claim Forms will be made available on the websites of the Manufacturers. Such Claim Form must include the following information and/or affirmations as it relates to Class Members:
  - a) Telephone number or contact information for use, if necessary, in validating Claims;
  - b) Evidence of the year of manufacture of the Heater, either a picture including the serial number or a proof of purchase, if available;
  - c) Name and location of the store at which the Heater was purchased, if available.
15. Settlement Class Members may submit completed and signed (either by hand or electronically) Claim Forms to the Manufacturers either by mail, private courier, online or as an attachment to an email, depending on the Manufacturer to whom the Claim Form is submitted.
16. The Parties agree that information provided by Settlement Class Members on Claim Forms shall be kept confidential, shall be used only for purposes of reviewing or administering the Settlement, and shall not be used for marketing or any other commercial purposes.

**B. Value of the compensation**

17. The value of the compensation offered to Class Members who have submitted a Claim Form, and who are eligible to obtain such compensation according to the Manufacturers, will be determined according to the Compensation Chart which is attached as Schedule H.
18. All compensation issued in accordance with the Compensation Chart shall be used towards the purchase of a replacing heating device, to be determined by the Manufacturers.
19. Notwithstanding the values set out in the Compensation Chart, Class Members who do not provide in the Claim Form the serial number or a picture of the manufacturing label of the Heater will only be eligible for a \$10 compensation applicable to the purchase of a replacing heating device.

**C. Claims Administration**

20. The Manufacturers will administer the Notice Program and Claims process, and oversee the distribution of the compensation to Settlement Class Members in accordance with the terms of the Settlement and the Approval Judgment.
21. The Manufacturers shall administer the terms of this Settlement Agreement by resolving Claims in a cost effective and timely manner.

22. The Manufacturers will review and validate all Claims submitted by Settlement Class Members.
23. The determination of the validity of Claims submitted by Settlement Class Members (or by Persons who purport to be members of the Settlement Class) shall be made by the Manufacturers. The Manufacturers shall have the discretion to review Claims with the objectives of efficiency and effecting substantial justice to the Parties and the Manufacturers.
24. The Manufacturers shall have the right to contact Settlement Class Members to validate Claims. The validity of a Claim will be assessed based on the totality of the Claim. Issues regarding the validity of Claims that cannot be resolved by the Manufacturers shall be submitted to the Parties' Counsel for resolution and, if no resolution is reached, to a third party claim administrator, which decision shall be final and binding.

#### **IV. SETTLEMENT PRE-APPROVAL PROCEEDING**

25. Within thirty (30) days after execution of the Settlement Agreement, or such other period of time as the Parties may mutually agree, Class Counsel shall file with the Court a Pre-Approval Motion.

#### **V. NOTICES TO THE SETTLEMENT CLASS**

26. The Notices and Settlement Notice shall be the only notices to Class Members with respect to the Settlement and no other notices shall be published or disseminated to Class Members following the Pre-Approval Judgment.
27. The Parties acknowledge that the Court may modify the text and manner of dissemination and publication of the Notices and provide for the dissemination of additional notices, which shall not constitute grounds for invalidity or termination of the Settlement.
28. The purpose of the Short Form General Approval Notice is to inform Class Members of the following:
  - (a) The existence of the Class Action;
  - (b) The occurrence of the Pre-Approval Judgment, including the definition of Class Members;
  - (c) The conclusion of the Settlement Agreement, and the fact that it will be submitted to the Court for approval, specifying the date, place, and time of the Approval Hearing;
  - (d) The terms of the Settlement Agreement, including the indemnification of Class Members and the conditions thereto;
  - (e) The consequences and effect of the Court's approval of the Settlement Agreement;
  - (f) The existence of the Right to Opt-Out and the process;
  - (g) The right of Class Members to be heard by the Court with respect to the Settlement Agreement, including the right to raise an objection.

29. The Short Form General Approval Notice will be released as soon as possible and no later than 30 days after the Pre-Approval Judgment, as per the Notice Program, Schedule C:
30. The Detailed General Approval Notice will be released at the same time as the Short Form General Approval Notice and will remain available during the full execution of the Settlement Agreement. In addition to the information contained in the Short Form General Approval Notice, the Detailed General Approval Notice will contain all of the information required under Article 590 C.C.P., as well as a list of anticipated questions and answers thereto.
31. In the event that the Court refuses to grant the Pre-Approval Motion, the Settlement Agreement shall be null and void and shall not give rise to any rights or obligations in favor or against the Parties.

#### **VI. OPTING OUT**

32. A member of a Settlement Class may opt-out of the Settlement Proceeding, and exercise the Right to Opt-Out will result in loss of entitlement to the benefits of the Settlement and loss of Class Membership.
33. The exercise of the Right to Opt-Out will be done by sending a written election to opt-out, signed by the Person, by mail, or courier to the Court, or to Class Counsel who irrevocably undertakes to file all opt-out forms in the Court record.
34. An election to opt-out will only be effective if it is actually sent to the Court or to Class Counsel and received or post-marked on or before the Opt-Out Deadline.
35. Class Members who have not exercised the Right to Opt-Out prior to the expiration of the Opt-Out Deadline shall be irrevocably deemed to have elected to participate in the Class Action and shall be bound by the Settlement Agreement upon its approval by the Court, if any, and by any subsequent judgment or order of the Court, if any.

#### **VII. SETTLEMENT APPROVAL PROCEEDING**

36. Following the publication of the Notices, the Plaintiff shall file with the Court a Motion for Settlement Approval for the purpose of holding the Approval Hearing, which application shall not be filed before the expiration of the Opt-Out Deadline.
37. Class Members who wish to raise an objection at the Approval Hearing are requested to notify the Parties' counsel in writing of the reasons for their objection at least five (5) days prior to the Approval Hearing.

#### **VIII. SUBMISSION TO THE JURISDICTION OF THE COURT**

38. The Parties submit themselves to the jurisdiction of the Court, and agree that the Court shall have exclusive and continuing jurisdiction over the Parties for all purposes relating to the implementation, effectuation, interpretation, administration, monitoring and enforcement of this Settlement Agreement and its Schedules, any litigation or dispute that may arise therefrom, and all provisions thereof with respect to all Parties hereto and all beneficiaries hereof, including the Plaintiff, Class Counsel and the Defendants, The Settlement Agreement and its Schedules will be governed and construed in accordance

with the laws in force in the Province of Québec and the Parties submit to the exclusive jurisdiction of the Superior Court of Québec in this regard;

**IX. RELEASES AND DISMISSALS**

**A. Release of Releasee**

39. Upon the Effective Date, and following the completion of all of the Defendants' obligations under the Settlement Agreement, the Representative Plaintiff on behalf of the Class Members who have not exercised the Right to Opt-Out, and on behalf of their agents, representatives, assigns and successors, if any, hereby grants a full, general and final release in favor of the Defendants, and Defendants' Counsel, their agents, representatives, insurers, employees, professionals, servants, assigns and successors for any and all Released Claims that the Representative and Class Members may have, directly or indirectly, relating to the alleged facts of the Proceeding in the Class Action and the exhibits in support thereof.
40. The Plaintiff and Settlement Class Members acknowledge that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true regarding the subject matter of the Settlement Agreement, and 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 additional or different facts.

**B. Covenant Not to Sue**

41. Upon the Effective Date, and notwithstanding the provisions set forth at paragraph 39, for any Settlement Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasers do not release the Releasees but instead the Releasers covenant and undertake not to make any claim in any way or to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims. For greater certainty, Sections VIII and IX continue to apply to residents of Quebec.

**C. No Further Claims**

42. Upon the Effective Date, each Releaser shall not now or hereafter institute, continue, maintain, intervene in 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 proceeding, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity, or other claims over relief, from any Releasee, whether to legislation or at common law or equity in respect of any Released Claim. For greater certainty and without limiting the generality of the foregoing, the Releasers shall not assert or pursue a Released Claim, against any Releasee under the laws of any foreign jurisdiction.

**D. Dismissal of the Proceeding**

43. Upon the Effective Date, the Proceedings shall be declared settled out of Court, with prejudice and without costs as against the Defendants.

**E. Dismissal of Other Actions**

44. Settlement Class Members who have commenced Other Actions or commence Other Actions and fail to discontinue such Other Actions by the Opt-Out Deadline shall be deemed to have opted out and consented to consent to the dismissal, without costs and with prejudice, of his, her or its Other Actions against the Releasees.

**F. Material Term**

45. The releases, covenants, dismissals, and granting of consent contemplated in this Section shall be considered a material term of the Settlement Agreement and the failure of the Ontario or Quebec Court to approve the releases, covenants, dismissals, and granting of consent contemplated herein shall give rise to a right of termination pursuant to Section XIII of the Settlement Agreement.

**X. BAR ORDER, WAIVER OF SOLIDARITY ORDER AND OTHER CLAIMS**

**A. Renunciation of Solidarity and/or Joint and Several Liability**

46. Class Counsel shall seek a declaration by the Court that the Plaintiff and the Settlement Class Members have renounced the benefit of solidarity or any joint and several liability. The declaration obtained will provide for the following:
- a) the Plaintiff and Settlement Class Members expressly waive and renounce the benefit of solidarity or any joint and several liability against any other Person or party that is not a Releasee with respect to the facts, deeds or other conduct of the Releasees; and
  - b) any claims in warranty or any other claim or joinder of parties to obtain any contribution or indemnity from the Releasees or relating to the Released Claims shall be inadmissible and void in the context of the Proceeding or any Other Action.

**B. Bar Order**

47. Class Counsel shall seek a bar order from the Court providing that all claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in the Proceedings or any Other Actions, or otherwise, by any Defendant, any named or unnamed co-conspirator that is not a Releasee, or any other Person or party against a Releasee, or by a Releasee against any Settled Defendant, any named or unnamed co-conspirator that is not a Releasee, or any other Person or party, are barred, prohibited and enjoined in accordance with the terms of this Section (unless such claim is made in respect of a claim by a Person who has validly opted-out of the Proceedings).

**C. Claims Against Other Entities Reserved**

48. Except as provided herein, this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by the Releasors against any Person other than the Releasees.



**D. Material Term**

49. The Parties acknowledge that waivers, renunciations of solidarity, bar orders and reservations of rights contemplated in this Section shall be considered a material term of the Settlement Agreement and the failure of the Court to approve the waivers, renunciations of solidarity, bar orders and reservations of rights contemplated herein shall give rise to a right of termination pursuant to Section XIII of the Settlement Agreement.

**XI. EFFECTS OF SETTLEMENT**

50. Nothing in the Settlement Agreement shall constitute or be construed or considered to constitute a waiver by the Defendants of any right or defense to any claim, demand or cause of action of any Class Member who has exercised the Right to Opt-Out or a waiver by the Defendants any right or defense to the Class Action in the event that the Settlement Agreement is not approved by the Court or is otherwise rendered null and void pursuant to any of the provisions of the Settlement Agreement.
51. Conversely, nothing in the Settlement Agreement shall constitute or be construed or considered to constitute a waiver by the Representative Plaintiff and Class Members of any right, claim, demand or cause of action against the Defendants in the event that the Settlement Agreement is not approved by the Court or otherwise becomes null and void pursuant to any provision of the Settlement Agreement.
52. Any obligations of any kind assumed by the Defendants and Defendants' Counsel in performance of the Settlement Agreement do not constitute an admission of liability on the part of the Defendants, nor does the consent of the Defendants to the Settlement Agreement or to the Pre-Approval Judgment or the Approval Judgment.
53. Class Counsel, and anyone currently or hereafter employed by, associated with, or in partnership with Class Counsel, may not 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, these Persons may not divulge to anyone for any purpose any information obtained in the course of the Proceeding or the negotiation and preparation of this Settlement Agreement, except to the extent such information is otherwise publicly available or unless ordered to do so by a court.

**XII. CLASS COUNSEL FEES AND DISBURSEMENTS**

54. At the Approval Hearing, Class Counsel will make representations for approval of its fees and disbursements in accordance with the fee agreement in the Class Action. The Defendants will not make any representations and will defer to the Court.
55. In addition to any other amounts provided for in the Settlement Agreement, the Defendants agree to pay the Class Counsel Fees to Class Counsel on the Effective Date of the Settlement Agreement, to be approved by the Court, which decision shall not affect the validity of the Settlement Agreement and shall not invalidate it.

### **XIII. TERMINATION OF SETTLEMENT AGREEMENT**

#### **A. Right of Termination**

56. In the event that:

- a) The Court declines to authorize the Proceeding for the purposes of the Settlement Agreement;
- b) The Court declines to declare settled out of court the Proceeding against the Defendants;
- c) The Court declines to approve this Settlement Agreement or any material part or approves this Settlement Agreement in a materially modified form;
- d) The Court issues a settlement approval order that is materially inconsistent with the terms of the Settlement Agreement or not substantially in the form attached to this Settlement Agreement as Schedule I;
- e) Any order approving this Settlement Agreement made by the Court does not become a Final Order.

the Plaintiff and the Defendants shall each have the right to terminate this Settlement Agreement by delivering a written notice pursuant to paragraph 69, within thirty (30) days following an event described above.

57. Except as provided for in paragraph 3, if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason.

58. Any order, ruling or determination made or rejected by the Court with respect to Class Counsel Fees 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.

#### **B. If Settlement Agreement is Terminated**

59. If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason:

- a) No motion to authorize the Proceeding as class proceedings on the basis of this Settlement Agreement, or to approve this Settlement Agreement, which has not been decided, shall proceed;
- b) The Parties will cooperate in seeking to have any issued order(s) authorizing the Proceedings as class proceedings on the basis of the Settlement Agreement or approving this Settlement Agreement set aside and declared null and void and of no force or effect, and any Person shall be estopped from asserting otherwise;
- c) Any prior authorization of the Proceedings as class proceedings on the basis of this Settlement Agreement, including the definitions of the Settlement Classes

and the Common Issue pursuant to this Settlement Agreement, shall be without prejudice to any position that any of the Parties or Releasees may later take on any issue in the Proceedings or any Other Actions or other litigation; and

- d) Within ten (10) days of such termination having occurred, Class Counsel shall make reasonable efforts to destroy all documents or other materials provided by the Defendants and/or Counsel for the Defendants under or in relation to this Settlement Agreement or containing or reflecting information derived from such documents or other materials received from the Defendants and/or Counsel for the Defendants and, to the extent Class Counsel has disclosed any documents or information provided by the Defendants and/or Counsel for the Defendants to any other Person, shall make reasonable efforts to recover and destroy such documents or information. Class Counsel shall provide Counsel for the Defendants with a written certification by Class Counsel of such destruction. Nothing contained in this Section shall be construed to require Class Counsel to destroy any of their work product. However, any documents or information provided by the Defendants and/or Counsel for the Defendants, or received from the Defendants and/or Counsel for the Defendants in connection with this Settlement Agreement, may not be disclosed to any Person in any manner or used, directly or indirectly, by Class Counsel or any other Person in any way for any reason, without the express prior written permission of the relevant Defendants. Class Counsel shall take appropriate steps and precautions to ensure and maintain the confidentiality of such documents, information and any work product of Class Counsel derived from such documents or information.

### **C. Survival of Provisions After Termination**

- 60. If this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the provisions of paragraphs 5 and 6, and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of interpreting 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.

## **XIV. SCHEDULES**

- 61. The following Schedules are an integral part of the Settlement and are incorporated as if they were in the main body of the text:
  - a) Schedule A: Claim Forms;
  - b) Schedule B: List of Heaters;
  - c) Schedule C: Notice Program;
  - d) Schedule D: Short Form General Approval Notice;
  - e) Schedule E: Detailed General Approval Notice;
  - f) Schedule F: Short Form Settlement Notice;
  - g) Schedule G: Long Form Settlement Notice;
  - h) Schedule H: Compensation Chart;
  - i) Schedule I: Settlement Approval Order;

**XV. MISCELLANEOUS**

62. The Settlement Agreement and its Schedules constitute the complete and entire agreement between the Parties.
63. The Settlement Agreement and its Schedules supersede any other prior written or oral agreement regarding the subject matter of the Class Action.
64. This Settlement Agreement may not be modified or amended except in writing and upon consent of the Defendants and Class Counsel and any such modification or amendment must be approved by the Court.
65. The Settlement Agreement constitutes a full and final settlement of any dispute between the Parties and Class Members with respect to the Class Action and the common issues and conclusions sought to be reached as determined by the Pre-Approval Judgment and constitutes a transaction within the meaning of Articles 2631 and following of the *Civil Code of Québec*.
66. The Court shall have exclusive jurisdiction with respect to the implementation, execution, interpretation, administration and enforcement of the Settlement Agreement and its Schedules, and with respect to any litigation arising therefrom, if any. The Settlement Agreement and its Schedules shall be governed by and construed in accordance with the laws in force in the Province of Quebec.
67. In the event of any discrepancy between the text of the Notices contained in the Schedules and the Settlement, the text of the Settlement shall prevail.
68. Subject to the provisions of paragraphs 8 and 9 of the Settlement Agreement, all costs associated with the implementation and execution of the Settlement not specifically provided for in the Settlement Agreement, if any, shall be borne by the Party incurring them and shall not be recoverable from any other Party.
69. Any communication to a Party with respect to the implementation and performance of the Settlement Agreement shall be in writing, either by mail, facsimile, courier or email and addressed as follows:

To the Plaintiff or a Class Member:

Mr. Martin André Roy and/or Ms. Mélanie Bastien and/or Mr. Alexandre Drouin

**ROY BASTIEN AVOCATS INC.**

77 Rachel St. East

Montreal (Quebec) H2W 2T6

Phone : 514 510-3566

Email: [maroy@roybastien.ca](mailto:maroy@roybastien.ca)

[mbastien@roybastien.ca](mailto:mbastien@roybastien.ca)

[adrouin@roybastien.ca](mailto:adrouin@roybastien.ca)

To Ouellet Canada Inc.:

Ms. Anne-Marie Gagné  
**KSA AVOCATS, S.E.N.C.R.L.**  
2875 Laurier Blvd. West – Delta II  
Suite 210  
Quebec (Quebec) G1V 2M2  
Phone : 581 814-5517/ Fax: 418 838-5518  
Email: [amgagne@ksalex.ca](mailto:amgagne@ksalex.ca)

To Stelpro Design Inc.:

Ms. Myriam Brix  
**LAVERY DE BILLY, L.L.P.**  
1 Place Ville Marie  
Suite 4000  
Montreal (Quebec) H3B 4M4  
Phone : 514 871-1522 / Fax: 514 871-8977  
Email: [mbrix@lavery.ca](mailto:mbrix@lavery.ca)

To Glen Dimplex Americas Ltd:

Mr. Guy Poitras  
**GOWLING WLG (CANADA), L.L.P.**  
1 Place Ville Marie  
Suite 3700  
Montreal (Quebec) H3B 3P4  
Phone : 514 878-9641 / Fax: 514 878-1450  
Email: [guy.poitras@gowlingwlg.com](mailto:guy.poitras@gowlingwlg.com)

To Thermon Group Holdings, Inc.:

Mr. Vincent de l'Étoile  
**LANGLOIS LAWYERS, L.L.P.**  
1250 Rene-Levesque Blvd. West  
Suite 2000  
Montreal (Quebec) H3C 4W8  
Phone : 514 842-9512 / Fax: 514 845-6573  
Email: [vincent.deletoile@langlois.ca](mailto:vincent.deletoile@langlois.ca)

70. This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile signature or signature sent by e-mail shall be deemed an original signature for purposes of executing this Settlement Agreement and shall be binding.

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71. The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *Les Parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais.*

In MTL, this 16 day of February 2023



**FRÉDÉRIC MORIER**  
Plaintiff

In MTL, this 16 day of February 2023

*Roy Bastien Avocats inc.*

**ROY BASTIEN AVOCATS INC.**  
Class Counsel

In Québec, this 16<sup>th</sup> day of February 2023



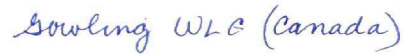
**KSA AVOCATS, S.E.N.C.R.L.**  
On behalf of Ouellet Canada Inc.

In Montreal, this 20<sup>th</sup> day of February 2023



**LAVERY DE BILLY, L.L.P.**  
On behalf of Stelpro Design Inc.

In Montreal, this 16<sup>th</sup> day of February 2023



**GOWLING WLG (CANADA), L.L.P.**  
On behalf of Glen Dimplex Americas Ltd

In Montreal, this 16 day of February 2023



**LANGLOIS LAWYERS, L.L.P.**  
On behalf of Thermon Group Holdings, Inc.