

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE )  
JUSTICE GRACE )

FRIDAY, THE 20<sup>th</sup> DAY  
OF NOVEMBER, 2020

BETWEEN:

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 approving the publication, abbreviated, and long-form notices of the settlement approval hearing (“Notices of Hearing”) and approving the plan of dissemination of those notices (“Notice Plan”), was heard this day at the Court House, 80 Dundas Street, London, Ontario.

**ON READING** the materials filed, including the settlement agreement with British Airways PLC (the “Settling Defendant”) dated for reference June 8, 2020 attached to this Order


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A TRUE COPY  
Superior Court  
of Justice  
Pour copie conforme  
Cour Supérieure  
de Justice

as Schedule "A" (the "Settlement Agreement"), and on hearing the submissions of counsel for the Plaintiffs and Counsel for the Settling Defendant;

**AND ON BEING ADVISED** that the Plaintiffs and the Settling Defendant consent to this Order and that Air Canada takes no position on this motion:

1. **THIS COURT ORDERS** that, for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that the customer information provided by any Defendant who has entered into a settlement with the Plaintiffs, and International Air Transport Association, a non-party to this action, in accordance with the Order dated May 2, 2008, attached hereto as Schedule "B" (the "May 2 Order"), can be used by Epiq Class Action and Claims Solutions, Inc (formerly known as The Garden City Group LLP) for the limited purpose of disseminating the Notice of Hearing in accordance with the Order, subject to the same terms and conditions as the May 2 Order.
3. **THIS COURT ORDERS** that the publication, abbreviated, and long-form Notices of Hearing are approved substantially in the form attached hereto as Schedules "C" to "E".
4. **THIS COURT ORDERS** that the Notice Plan is approved in the form attached hereto as Schedule "F" and that the Notices of Hearing shall be disseminated in accordance with the Plan of Dissemination.



  
\_\_\_\_\_  
The Honourable Justice Grace

## **SCHEDULE "A"**

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

Between:

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

and

BRITISH AIRWAYS PLC

Executed June 8, 2020



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

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

**RECITALS**

A. **WHEREAS** the Actions have been commenced in the Courts alleging that the Defendants, including British Airways, participated in an unlawful conspiracy pursuant to which British Airways and its alleged co-conspirators, including the Defendants, agreed to, among other things, fix, raise, maintain or stabilize the prices of Airfreight Shipping Services in violation of Part VI of the *Competition Act* and the common law and/or civil law;

B. **WHEREAS**, the Ontario Action was certified as a national class proceeding under the *Ontario Class Proceedings Act, 1992* by Order dated August 26, 2015 and amended December 21, 2018. The certified class being defined as follows:

Persons who purchased Airfreight Shipping Services\* during the period January 1, 2000 to September 11, 2006, including those persons who purchased Airfreight Shipping Services through freight forwarders, from any air cargo carrier, including, without limitation, the defendants, but not including Integrated Air Cargo Shippers\*\*.

Excluded from the Class are:

- a) Defendants and their unnamed co-conspirators\*\*\* and their respective parents, employees, subsidiaries, affiliates, officers and directors,
- b) persons currently resident in Australia who paid identified amounts totalling more than AUD\$20,000 for the carriage of goods to or from Australia, including in each instance a component by air during the period January 1, 2000 to January 11, 2007,
- c) persons who commence litigation in respect of Airfreight Shipping Services in a jurisdiction other than Canada prior to the conclusion of the trial of the common issues, and
- d) persons who timely and validly opted out of the litigation pursuant to the order of the Ontario court dated March 6, 2008.

\* Airfreight Shipping Services are defined as airfreight cargo shipping services for shipments to or from Canada (excluding shipments to and from the United States).

\*\*Integrated Air Cargo Shipper is defined as an air cargo shipper that manages an integrated system of people, airplanes, trucks, and all other resources necessary to move airfreight cargo from a customer's point of origin to the delivery destination, and for greater certainty includes but is not limited to FedEx, UPS, DHL and TNT.

\*\*\* Unnamed co-conspirators are defined as Aerolineas Brasileiras S.A (d/b/a Absa Cargo Airline), Air China Cargo Company Ltd. (d/b/a Air China Cargo), Air China Ltd. (d/b/a Air China), Air Mauritius Ltd., Airways Corporation of New Zealand Ltd. (d/b/a Airways New Zealand), Alitalia Linee Aeree Italiane S.p.A., All Nippon Airways Co., Ltd., DAS Air Ltd. ( d/b/a Das Air Cargo), El Al Israel Airlines, Emirates Airlines (d/b/a Emirates), Ethiopian Airlines Corp., EV A Air, Kenya Airways Ltd., Malaysia Airlines, Nippon Cargo Airlines Co., Ltd., Saudi Arabian Airlines, Ltd., South African Airways (Proprietary), Ltd., Thai Airways International Public Co., Ltd., and Viacao Aerea Rio-Grandense, S.A.

- C. **AND WHEREAS** British Airways expressly denies and does not admit, through the execution of this Settlement Agreement, any allegation of unlawful conduct alleged in the Actions;
- D. **AND WHEREAS** the Plaintiffs, Class Counsel and British Airways agree that neither the fact of this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against British Airways or evidence of the truth of any of the Plaintiffs' allegations against British Airways, which British Airways expressly denies;
- E. **AND WHEREAS** British Airways would assert a number of defences to the Plaintiffs' claims if the Actions proceeded further as against it;
- F. **AND WHEREAS**, despite British Airways' belief that it is not liable in respect of the claims as alleged in the Actions and have good defences thereto, British Airways is entering 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 a final resolution of all claims asserted or which could have been asserted against it by the Plaintiffs on their own behalf and on behalf of the Settlement Class, and to avoid

the risks inherent in uncertain, complex and protracted litigation, and thereby to put to rest this controversy with valued business customers;

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 British Airways under this Settlement Agreement and the value of the cooperation British Airways agrees 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 British Airways, and (ii) the desirability of permitting the settlement to be consummated as provided by the terms of this Settlement Agreement;

H. **AND WHEREAS** the deadline for Settlement Class Members to opt-out of the Actions has passed and nine Persons exercised the right to opt-out of the Actions;

I. **AND WHEREAS** arm's-length settlement negotiations have taken place between British Airways and the Plaintiffs, and this Settlement Agreement, which embodies all of the terms and conditions of the settlement between British Airways and the Plaintiffs, both individually and on behalf of the Settlement Class, has been reached, subject to approval of the Ontario Court;

J. **AND WHEREAS** Class Counsel, on their own behalf and on behalf of the Plaintiffs and the proposed Settlement Class, have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, having regard to the burdens and expense in prosecuting the Actions, including the risks and uncertainties associated with trials and appeals, the Plaintiffs and Class Counsel have concluded that a settlement with British Airways according to the terms set forth below is fair, reasonable and in the best interests of the Plaintiffs and the Settlement Class;

K. **AND WHEREAS** the Plaintiffs and British Airways therefore wish to, and hereby do, finally resolve, without admission of liability, all of the Actions and the Released Claims as against British Airways, subject to the approval of the Ontario Court;

L. **AND WHEREAS** for the purposes of settlement only and contingent on approval by the Ontario Court as provided for in this Settlement Agreement, the Parties have consented to certification of the Ontario Action as a class proceeding and have consented to a Settlement Class;

M. **AND WHEREAS** the Plaintiffs in the Ontario Action assert that they are adequate class representatives for the Settlement Class and will seek to be appointed representative plaintiffs in the Ontario Action;

N. **AND WHEREAS** British Airways does not hereby attorn to the jurisdiction of the Courts or any other court or tribunal in respect of any civil, criminal or administrative process except to the extent they have previously done so in the Actions and as is expressly provided in this Settlement Agreement with respect to the Actions;

**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 Plaintiffs and British Airways that the Ontario Action be settled and dismissed with prejudice as to British Airways only, and the BC Action and Quebec Action be dismissed as against British Airways, all without costs as to the Plaintiffs, the Settlement Class or British Airways subject to the approval of the Ontario Court and on the terms and conditions of this Settlement Agreement, as follows:

## SECTION 1 - DEFINITIONS

For the purpose of this Settlement Agreement only, including the recitals and schedule hereto:

- (a) **Actions** means the Ontario Action, the Quebec 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 or in relation to the Settlement Fund, including the costs of notices and claims administration, but excluding Class Counsel Fees and Class Counsel Disbursements.
- (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 (i) with an origin point in Canada and a destination point in the United States or (ii) with an origin point in the United States and a destination point in Canada, but includes airfreight cargo shipping services in which the freight (i) travelled by truck from Canada to the United States, and then by air from the United States to a third country, or (ii) travelled by air from a third country to the United States, and then by truck from the United States to Canada.
- (d) **Approval Hearing** means the hearing to approve a motion brought by Class Counsel for the certification of the Ontario Action as a class proceeding on the basis of this Settlement Agreement and for the Ontario Court's approval of the settlement provided for in this Settlement Agreement.

- (e) **Approval Order** means any order of the Ontario Court, in the form attached as Schedule A hereto or such other form of order as agreed upon by the Plaintiffs and British Airways, approving this Settlement Agreement.
- (f) **BC Action** means the proceeding commenced in the British Columbia Supreme Court, under Vancouver Registry No. S067490.
- (g) **BC Counsel** means Camp Fiorante Matthews Mogeran.
- (h) **BC Court** means the Supreme Court of British Columbia.
- (i) **British Airways** means British Airways PLC and all of its present and former affiliates and related companies (also referred to herein as the "**Settling Defendant**").
- (j) **Claim** shall have the meaning attributed to it in Section 1(jj)
- (k) **Claims Administrator** means the Person proposed by Class Counsel and appointed by the Ontario Court to administer the Settlement Fund in accordance with the provisions of this Settlement Agreement and the Distribution Protocol, and any employees of such Person.
- (l) **Class Counsel** means Ontario Counsel, Quebec Counsel and BC Counsel.
- (m) **Class Counsel Disbursements** include the disbursements and applicable taxes incurred by Class Counsel in the prosecution of the Actions, as well as any adverse costs awards issued against the Plaintiffs in the Actions.
- (n) **Class Counsel Fees** means the fees of Class Counsel, and any applicable taxes or charges thereon, including any amounts payable as a result of the Settlement Agreement by Class



Counsel or the Settlement Class Members to any other body or Person, including the Fonds d'aide aux actions collectives in Quebec.

- (o) **Counsel for British Airways** means DLA Piper (Canada) LLP.
- (p) **Courts** means the Ontario Court, the Quebec Court and the BC Court.
- (q) **Defendants** means the entities named as defendants in any of the Actions and any Persons added as defendants in any of the Actions in the future. For greater certainty, Defendants includes the Settling Defendants and the Settled Defendants.
- (r) **Distribution Protocol** means the plan for distributing the Settlement Fund to Settlement Class Members as approved by the Ontario Court, which may, if directed by the Ontario Court, require all or part of the Settlement Fund to be held in trust until the resolution of the Actions in whole or in part.
- (s) **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.
- (t) **Effective Date** means (i) the date upon which the ability to appeal, if an appeal lies therefrom, from the Approval Order has expired without any appeal being taken; or (ii) if any appeals have been taken from the Approval Order, the date upon which all such appeals are concluded by way of a Final (as defined in Section 1(v)) order or judgment. For the purposes of this paragraph, an "appeal" shall not include any appeal that concerns only the issue of Class Counsel Fees or the Distribution Protocol.

- (u) **Execution Date** means the date of the execution of this Settlement Agreement by counsel for all the Plaintiffs and British Airways.
- (v) **Final**, when used in relation to a court order or judgment, means that all rights of appeal from such order or judgment have expired or have been exhausted (including a right of appeal arising after the granting of leave if leave to appeal is required), and the ultimate court of appeal to which an appeal (if any) was taken has upheld such order or judgment.
- (w) **Foreign Claim** shall have the meaning attributed to it in Section 5.1(a)(i).
- (x) **Non-Settling Defendants** means any Defendant that is not (i) the Settling Defendant; (ii) a Settled Defendant; or (iii) a Defendant against whom the Actions have been dismissed or discontinued, either before or after the Execution Date.
- (y) **Ontario Action** means the proceeding commenced in the Ontario Court bearing Court File No. 50389CP (London).
- (z) **Ontario Counsel** means Siskinds LLP and Harrison Pensa LLP.
- (aa) **Ontario Court** means the Ontario Superior Court of Justice.
- (bb) **Party and Parties** means British Airways, the Plaintiffs, and, where necessary, the Settlement Class Members.
- (cc) **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.

- (dd) **Plaintiffs** means Airia Brands Inc., StarTech.com Ltd., QCS-Quick Cargo Service GmbH, Karen McKay and Cartise Sports Inc., individually and collectively.
- (ee) **Proportionate Liability** means the proportion of any judgment that, had British Airways not settled, the Ontario Court would have apportioned to British Airways and/or the Released Parties, whether pursuant to *pro rata*, proportionate fault, *pro tanto*, or another method.
- (ff) **Purchase Period** means January 1, 2000 up to and including September 11, 2006.
- (gg) **Quebec Action** means the proceeding commenced in the Quebec Court, under Court File No. 500-06-000344-065.
- (hh) **Quebec Counsel** means Liebman Legal Inc.
- (ii) **Quebec Court** means the Quebec Superior Court.
- (jj) **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 and Class Counsel Disbursements), 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 Releasing Parties, 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, during the Purchase Period, 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 Releasing Parties and Released Parties relating to Airfreight Shipping Services.

(kk) ***Released Parties*** means, jointly and severally, individually and collectively, British Airways, and all of its 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 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.

- (ll) **Releasing Parties** 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.
- (mm) **Settled Defendants** means Deutsche Lufthansa AG, Lufthansa Cargo AG, Swiss International Air Lines Ltd., Japan Airlines International Co., Ltd., Scandinavian Airlines System, Cargolux Airline International, Qantas Airways Limited, Singapore Airlines Ltd., Singapore Airlines Cargo PTE Ltd., Societe Air France, Koninklijke Luchtvaart Maatschappij N.V. (KLM), Royal Dutch Airlines, Martinair Holland N.V., LAN Airlines S.A., LAN Cargo S.A., Polar Air Cargo LLC, Atlas Air Worldwide Holdings Inc., Korean Air Lines Co., Asiana Airlines Inc., Cathay Pacific Ltd. and any other Defendant who has entered into a settlement agreement with the Plaintiffs relating to the allegations asserted in the Actions and whose settlement agreement becomes effective in accordance with its terms, whether or not such settlement agreement is in existence at the Execution Date.
- (nn) **Settlement Agreement** means this agreement, including the recitals and schedule.
- (oo) **Settlement Amount** means the sum of nine million Canadian dollars (CAD \$9,000,000) paid in three equal installments on 15 October 2020, 15 April 2021 and 15 October 2021.
- (pp) **Settlement Class and Settlement Class Members** means all Persons who purchased Airfreight Shipping Services during the Purchase 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 British Airways. Excluded from the 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.

- (qq) **Settlement Fund** means the escrow account established pursuant to Section 2.1 of this Settlement Agreement, including all monies held therein in accordance with the terms of this Settlement Agreement. The Settlement Fund shall be maintained in Canadian currency.
- (rr) **U.S. Litigation** means the class action that proceeded 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.
- (ss) **U.S. Settlement** means the settlement entered into by British Airways with the plaintiffs in the U.S. Litigation, dated May 20, 2011.

## SECTION 2- SETTLEMENT BENEFITS

### 2.1 The Settlement Fund

- (a) The Settlement Fund shall be established as an escrow account at a Canadian financial institution designated by Class Counsel and administered by Class Counsel until the Ontario Court has appointed a Claims Administrator, at which time Class Counsel will cede control to the Claims Administrator. The Settlement Fund shall be administered pursuant to this Settlement Agreement and subject to the Ontario Court's continuing supervision and control. No monies shall be paid from the Settlement Fund, except in accordance with this

Settlement Agreement, or in accordance with orders of the Ontario Court obtained after notice to the Parties.

- (b) The escrow account shall be established and maintained in a manner that minimizes transactional costs and risks and maximizes the amount available for distribution. All transactional costs associated with maintaining the Settlement Fund shall be paid from the Settlement Fund.
- (c) Class Counsel and Claims Administrator shall cause the Settlement Fund 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 I bank (a bank listed in Schedule I of the *Bank Act*, S.C. 1991, c. 46). All interest earned on the Settlement Fund shall become and remain part of the Settlement Fund.
- (d) The Plaintiffs and British Airways acknowledge that the Settlement Class includes both shippers and freight forwarders, and both customers and non-customers of British Airways, and that the Settlement Agreement makes no determination as to which Settlement Class Members are entitled to distribution of the Settlement Fund, or as to the formula for determining the amounts to be distributed. At a time within their discretion, the Plaintiffs shall prepare and submit a Distribution Protocol to the Ontario Court for approval.
- (e) After the Effective Date, the Settlement Fund shall be distributed in accordance with the Distribution Protocol.

## **2.2 Payment of the Settlement Benefits**

- (a) Except as otherwise provided herein, British Airways agrees to pay the Settlement Amount in full satisfaction of all of the Claims within the scope of the Released Claims against the Released Parties.
- (b) Except as otherwise provided herein, British Airways 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. For greater certainty, but without limiting the generality of the foregoing, British Airways shall have no responsibility or liability as a result of any decrease or depreciation of the value of the Settlement Fund, howsoever caused, including, but not limited to, a decrease or depreciation in the value of any investments purchased by Class Counsel or the Claims Administrator, or the payment of any Class Counsel Fees, Class Counsel Disbursements, or any Administration Expenses, except as otherwise provided herein.
- (c) British Airways, directly or through its counsel or designee, shall wire transfer the Settlement Amount in three equal installments on 15 October 2020, 15 April 2021 and 15 October 2021. into the Settlement Fund.
- (d) If the Settlement Fund must be returned to British Airways pursuant to Section 11.2(b)(iv) of this Settlement Agreement, then Class Counsel and/or the Claims Administrator, as the case may be, shall be obliged to return the Settlement Fund to British Airways.

## **2.3 Taxes**

- (a) All taxes (including any interest and penalties) due with respect to the income earned by the Settlement Fund shall be paid from the Settlement Fund. Except as provided for in



Section 11.2(b)(iv), none of the income earned by the Settlement Fund, including interest earned thereon, will be reported as taxable to British Airways.

- (b) Except as provided for in Section 11.2(b)(iv), Class Counsel and/or the Claims Administrator shall be solely responsible for filing all informational and other tax returns necessary to report any net taxable income earned by the Settlement Fund and shall file all informational and other tax returns necessary to report any income earned on the Settlement Fund and shall be solely responsible for taking out of the Settlement Fund, as and when legally required, any tax payments, including interest and penalties due on income earned by the Settlement Fund.
- (c) Except as provided for in Section 11.2(b)(iv), British Airways shall have no responsibility to make any filings relating to the Settlement Fund, will not be considered a payee of any income earned on the Settlement Fund, and will have no responsibility to pay tax on any interest or income earned by the Settlement Fund or pay taxes, if any, on the Settlement Fund.

### **SECTION 3- COOPERATION**

#### **3.1 Cooperation in the Continued Prosecution of the Non-Settling Defendants**

- (a) Within ninety (90) days after the Effective Date or at any time mutually agreed upon by the Parties, British Airways shall provide to Class Counsel the following information to the extent it (1) is currently in existence; (2) is in the power, possession or control of British Airways; (3) is reasonably accessible; and (4) has not already been produced in the Actions:
  - (i) electronic transaction data, which data includes pricing and surcharge information, reflecting British Airways' Airfreight Shipping Services during the Purchase Period

and until September 31, 2008. The transactional sales data shall be produced in Microsoft Excel or such other format as may be agreed upon by Counsel for British Airways and Class Counsel;

- (ii) electronic transactional cost data reflecting British Airways' Airfreight Shipping Services during the Purchase Period and until September 31, 2008. The cost data will have sufficient information to identify, insofar as possible, particular input costs including fuel, handling, and other costs. The cost data shall be produced in Microsoft Excel or such other format as may be agreed upon by Counsel for British Airways and Class Counsel;
- (iii) reasonable assistance in understanding the transactional sales and cost data produced by British Airways pursuant to Section 3.1(a)(i) or (ii) or otherwise in the Actions, including a reasonable number of written and/or telephonic communications with Class Counsel and/or the Plaintiffs' experts and between technical personnel;
- (iv) any Documents provided by British Airways to plaintiffs in the U.S. Litigation, including pursuant to the U.S. Settlement, and any pre-existing translations of those Documents and any pre-existing and non-privileged electronic coding. In addition, where the Documents previously produced in the U.S. Litigation contain bates stamps on their face, a field will be produced containing the corresponding bates stamps of the first page of each Document;
- (v) any Documents produced by British Airways to the Canadian Competition Bureau, the United States Department of Justice, the European Commission, Australian

Competition and Consumer Commission, the Korean Fair Trade Commission, the New Zealand Commerce Commission, and/or to any other governmental antitrust authority, and any pre-existing translations of those Documents and any pre-existing and non-privileged electronic coding;

- (vi) any responses to written interrogatories provided by British Airways to plaintiffs in the U.S. Litigation and any pre-existing translations of those written interrogatories;
  - (vii) any responses to requests to admit provided by British Airways to plaintiffs in the U.S. Litigation and any pre-existing translations of those requests to admit;
  - (viii) any affidavits or declarations of current or former employees, officers or directors of British Airways, including all exhibits thereto, taken in the U.S. Litigation, and any pre-existing translations of those affidavits or declarations; and
  - (ix) electronic copies of transcripts of all depositions or other live testimony of current or former employees, officers or directors of British Airways, including all exhibits thereto, taken in the U.S. Litigation, and any pre-existing translations of those transcripts.
- (b) The obligation to produce Documents pursuant to Section 3.1(a) is a continuing one to the extent Documents responsive to Section 3.1(a) are identified following the initial productions. British Airways shall make reasonable efforts to provide the information specified above in Section 3.1(a) but cannot, and does not, make any representation that it has, can or will produce a complete set of the Documents and information described in Section 3.1(a), and it is understood and agreed that the failure to produce a complete set of

the Documents and information described in Section 3.1(a) shall not constitute a breach or violation of this Settlement Agreement.

- (c) Within ninety (90) days after the Effective Date or at any time mutually agreed upon by the Parties, British Airways shall provide to Class Counsel British Airways' customer information provided to Epiq Class Action and Claims Solutions, Inc. (formerly known as Garden City Group, LLC) in accordance with the order of the Ontario Court, dated May 2, 2008.
- (d) After the Execution Date, British Airways will make itself reasonably available to respond to reasonable questions respecting the information provided to Epiq Class Action and Claims Solutions, Inc. in accordance with the order of the Ontario Court, dated May 2, 2008 to any Court-appointed notice provider and/or the Claims Administrator. Further in the event that any Court-appointed notice provider and/or Claims Administrator is a Person other than Epiq Class Action and Claims Solutions, Inc., British Airways consents to such information being shared with the Court-appointed notice provider and/or Claims Administrator, provided such Person executes an undertaking in accordance with the confidentiality order issued by the Ontario Court, dated February 14, 2014.
- (e) Within ninety (90) days after the Execution Date or at any time mutually agreed upon by the Parties, Counsel for British Airways will meet with Class Counsel in-person in Ontario to provide an oral evidentiary proffer over a period of up to one (1) business day. The proffer shall include information originating with the Settling Defendants relating to the allegations in the Actions. Notwithstanding any other provision of this Settlement Agreement, and for greater certainty, it is agreed that all statements made and information

provided by Counsel for British Airways are privileged, will be kept strictly confidential, and may not be directly or indirectly disclosed to any other Person, unless disclosure is ordered by the Court. Further, absent a Court order, Class Counsel will not attribute any factual information obtained from the proffer to British Airways and/or Counsel for British Airways. Notwithstanding the foregoing, Class Counsel may: (1) use information obtained from the proffer in the prosecution of the Proceedings, including for the purpose of developing the Distribution Protocol or any other allocation plan relating to any settlement or judgment proceeds, except the prosecution of any claims against Released Parties; and (2) may rely on such information to certify that, to the best of Class Counsel's knowledge, information and belief, such information has evidentiary support or will likely have evidentiary support after reasonable opportunity for further investigation or discovery, but, absent a Court Order, the Plaintiffs shall not introduce any information from a proffer into the record or subpoena any Counsel for British Airways related to a proffer.

- (f) Within ninety (90) days after the Execution Date or at any time mutually agreed upon by the Parties, British Airways shall, upon the agreement of Class Counsel and Counsel for British Airways, acting reasonably, upon at least thirty (30) days' notice, and subject to any legal restrictions, make reasonable efforts to make available at a mutually convenient time, up to four (4) current or former officers, directors or employees of British Airways who have knowledge about the allegations in the Actions to provide information regarding the allegations raised in the Actions in a personal interview with Class Counsel and/or experts retained by Class Counsel. Such personal interviews shall take place in Ontario and shall not exceed eight (8) hours and may occur on more than a single day, but not more than two (2) days per interview. Notwithstanding the foregoing, in the event that the Parties agree that

the personal interviews will take place in a location outside Ontario, British Airways agrees to pay the associated airfare for two representatives of Class Counsel to travel to the location of the interviews, provided that the representatives travel on a flight operated by British Airways (including any alliance or code-sharing partners). If the flight time is greater than three (3) hours, British Airways will pay the associated airfare for business class seats. Costs incurred by, and the expenses of, the interviewee in relation to such interviews, excluding costs of an interpreter or otherwise related to foreign language translation in connection with interviews, shall be the responsibility of the Settling Defendants. If a proposed interviewee refuses to provide information, or otherwise cooperate, the Settling Defendants shall use best efforts to make him/her available for an interview with Class Counsel and/or experts retained by Class Counsel. British Airways shall have the right to have counsel present at interviews by Class Counsel. The failure of a proposed interviewee to agree to make him or herself available, or to otherwise cooperate with the Plaintiffs, shall not constitute a violation of this Settlement Agreement.

- (g) It is understood that the evidentiary proffers and interviews described in Section 3.1(e) and (f) and the evidentiary proffers and/or interviews of employees described in Section 3.1(e) and (f) might take place before the Effective Date. In such event:
  - (i) any Documents or information provided in the course of those evidentiary proffers and/or interviews shall be subject to the terms and protections of this Settlement Agreement; and
  - (ii) in the event that this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, the Documents and information

provided during the evidentiary proffers and/or interviews shall not be used by the Plaintiffs or Class Counsel, whether directly or indirectly, in any way for any reason, including, without limitation, against the Released Parties as an admission or evidence of any violation of any statute or law, or of any liability or wrongdoing by the Released Parties or of the truth of any claims or allegations 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 the event of such non-approval, termination or failure to take effect, Class Counsel will make reasonable efforts to return all copies of any Documents received during, and destroy all copies of any notes taken during (or subsequent reports provided about), these evidentiary proffers and/or interviews and to provide written confirmation to British Airways of having done so.

- (h) Subject to the rules of evidence, any Court order with regard to confidentiality and the other provisions of this Settlement Agreement, the Settling Defendants agree to use reasonable efforts to provide or obtain affidavits from appropriate current or former officers, directors and/or employees of the Released Parties for use at trial or otherwise in the Actions for the sole purpose of supporting the submission into evidence of: (1) any information, transactional data and/or Documents provided by the Released Parties in accordance with this Settlement Agreement or as otherwise produced by the Released Parties in the Actions; and/or (2) any Documents produced by the Defendants that were created by, sent to, or received by British Airways. If, and only if, a Court should determine that affidavits are inadequate for the purpose of submitting into evidence such information or Documents, British Airways agrees to use reasonable efforts to make available for testimony at trial or

otherwise appropriate current or former officers, directors and/or employees of the Released Parties, as is reasonably necessary for the prosecution of the Actions and, specifically, for the purpose of admitting into evidence any such information or Documents. The Plaintiffs will work to minimize any burden on the Released Parties pursuant to this section.

- (i) Nothing in this Settlement Agreement shall require, or shall be construed to require, British Airways (or any of its former or current officers, directors or employees) to perform any act which would violate any provincial, federal or foreign law, to disclose or produce any Documents or information prepared by or for counsel for British Airways, or to disclose or produce any Documents or information in breach of any order, regulatory directive, rule or provincial, federal or foreign law, or produce any Document or information subject to solicitor-client privilege, litigation privilege, or any other privilege, or to disclose or produce any Documents or information they obtained on a privileged or co-operative basis from any Person, including any party to any action or proceeding. The British Airways is not required to create a privilege log. However, if a relevant privilege log was created in the context of the U.S. Litigation, Counsel for British Airways have created a relevant privilege log, or there is some other pre-existing Document containing identifying information regarding the withheld Documents, British Airways will provide Class Counsel with a copy of such log or Document.
- (j) If any Documents protected by any privilege and/or any privacy law or other rule or law of this or any applicable jurisdiction are accidentally or inadvertently produced by British Airways, such Documents shall be promptly returned to British Airways and the Documents and the information contained therein shall not be disclosed or used directly or



indirectly, except with the express written permission of British Airways, and the production of such Documents shall in no way be construed to have waived in any manner any privilege or protection attached to such or other Documents.

- (k) British Airways' obligation to cooperate as particularized in this Section 3.1 shall not be affected by the release provisions contained in this Settlement Agreement. Unless this Settlement Agreement is terminated or otherwise fails to take effect for any reason (at which time British Airways' obligation to cooperate ceases), British Airways' obligations to cooperate shall cease at the date of a settlement or final judgment in the Actions with or against all Defendants, except that British Airways' obligations pursuant to Section 3.1(d) shall continue until all settlement funds and/or court awards have been distributed. For greater certainty, the Plaintiffs' failure to strictly enforce any of the deadlines for British Airways to provide cooperation pursuant to this Section 3.1 is not a waiver of the cooperation rights granted by Section 3.1.
- (l) Subject to Section 3.1(m), the provisions set forth in this Section 3.1 are the exclusive means by which the Plaintiffs, Class Counsel and Settlement Class Members may obtain discovery or information or Documents from British Airways or their current or former officers, directors or employees, except that: (1) the Plaintiffs reserve their right to issue subpoenas for trial witnesses who were employed by British Airways should that become necessary, but only after consulting with Counsel for British Airways and subject to all available objections such former employee and/or British Airways may have or assert to such subpoenas; (2) the Plaintiffs may exercise any rights they have to seek to obtain discovery in the Actions as against knowledgeable officers, directors and/or employees of British Airways, if such individual(s) fails to cooperate in accordance with Sections

3.1(h)(f) and (h) and the provisions of this Settlement Agreement.. Subject to the foregoing exception, the Plaintiffs, Class Counsel and Settlement Class Members agree that they shall not pursue any other means of discovery against, or seek to compel the evidence of, British Airways or their current or former officers, directors or employees, whether in Canada or elsewhere and whether under the rules or laws of this or any other Canadian or foreign jurisdiction.

- (m) In the event that British Airways materially breaches this Section 3.1, Class Counsel may move before the Courts to enforce the terms of this Settlement Agreement, seek an order setting aside Section 3.1(l) and allowing the Plaintiffs to obtain discovery or information from British Airways as if British Airways remained parties to the Actions, or seek such other remedy that is available at law.
- (n) A material factor influencing British Airways' decision to enter into this Settlement Agreement is its desire to limit the burden and expense of the Actions on itself and on its former and current officers, directors and employees. Accordingly, Class Counsel agree to exercise good faith in seeking cooperation from British Airways and from its former and current officers, directors and employees, and to avoid seeking information that is unnecessary, cumulative or duplicative and otherwise agree to avoid imposing undue or unreasonable burden or expense on British Airways or on its former and current officers, directors and employees.
- (o) Notwithstanding any other provision of this Settlement Agreement, British Airways (and any of its former or current officers, directors or employees) is not required to produce any Documents or information where such production would be contrary to the rules, or laws

#### **4.6 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 Person, including Non-Settling Defendants, other than the Released Parties.

### **SECTION 5 - BAR ORDER**

#### **5.1 Ontario Bar Order**

- (a) The Plaintiffs in the Ontario Action shall seek a bar order from the Ontario Court providing for the following:
- (i) 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, in respect of any Released Claims, by any Non-Settling Defendant or any other Person against a Released Party, or by a Released Party against any Non-Settling Defendant or any other Person, are barred, prohibited and enjoined. If contrary to the Ontario Approval Order a foreign court permits a Releasing Party to bring a claim in respect of a Released Claim against a Non-Settling Defendant, another Defendant or a Released Party in a jurisdiction outside of Ontario (the "Foreign Claim") then that Non-Settling Defendant, other Defendant or Released Party will not be prohibited by the Approval Order from bringing a claim for contribution, indemnity or other claims over against a Released Party or other Person, including a Non-Settling Defendant or other Defendant, in respect of the Foreign Claim, to the extent such a claim exists under the applicable law;
- (ii) that if, in the absence of Section 5.1(a)(i) above, a Person or Persons 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 Released Parties, in any Canadian or foreign jurisdiction:

- (A) the Releasing Party or Releasing Parties (including without limitation the Plaintiffs and the Settlement Class Members) are prohibited and barred from bringing or pursuing the claim that gives rise to the claim for contribution, indemnity, or other claim over against any one or more of the Released Parties;
- (B) for greater certainty, the Releasing Parties shall not be entitled to claim or recover from that Person or Persons 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 Released Parties proven at trial or otherwise;
- (C) 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; and
- (D) the Ontario Court shall have full authority to determine the Proportionate Liability at the trial or other disposition of the Ontario Action, whether or

not the Released Parties remain in the Ontario Action or appear at the trial or other disposition, and the Proportionate Liability shall be determined as if the Released Parties are parties to the Ontario Action for that purpose and any such finding by the Ontario Court in respect of the Proportionate Liability shall only apply in the Ontario Action and shall not be binding upon the Released Parties in any other proceedings;

- (iii) that if, in the absence of Section 5.1(a)(i) above, 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 Released Parties, then nothing in the Approval 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 Ontario Action;
- (iv) a Non-Settling Defendant may, upon motion on at least ten (10) days' notice to counsel for British Airways, seek an order from the Ontario Court for the following:
  - (A) documentary discovery and an affidavit of documents in accordance with the Ontario *Rules of Civil Procedure* from British Airways;
  - (B) oral discovery of a representative of British Airways, the transcript of which may be read in at trial;
  - (C) leave to serve a request to admit on British Airways in respect of factual matters; and/or

- (D) the production of a representative of British Airways to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.
  
- (v) British Airways retains all rights to oppose such motion(s);
  
- (vi) on any motion brought pursuant to Section 5.1(a)(iv), the Ontario Court may make such Orders as to costs and other terms as it considers appropriate;
  
- (vii) to the extent that an order is granted pursuant to Section 5.1(a)(iv) and discovery is provided to a Non-Settling Defendant, a copy of all discovery provided, whether oral or documentary in nature, shall be provided by British Airways to the Plaintiffs and Class Counsel within ten (10) days of such discovery being provided to a Non-Settling Defendant;
  
- (viii) the Ontario Court will retain an ongoing supervisory role over the discovery process and British Airways will attorn to the jurisdiction of the Ontario Court for these purposes; and
  
- (ix) a Non-Settling Defendant may effect service of the motion(s) referred to in Section 5.1(a)(iv) on British Airways by service on Counsel for British Airways.

## **5.2 Material Term**

- (a) Without derogating from the materiality of any other term or condition of this Settlement Agreement, for greater certainty, the form and content of the Approval Order (including, without limiting the generality of the foregoing, the matters contemplated in this Section 5) shall be considered a material term of the Settlement Agreement and the failure of the

Ontario Court to approve the bar orders shall give rise to a right of termination pursuant to Section 11.1(a) of this Settlement Agreement.

## **SECTION 6 - SETTLEMENT APPROVAL**

### **6.1 Best Efforts**

- (a) The Parties shall use their best efforts to effectuate the settlement provided for in this Settlement Agreement, secure the prompt, complete and final dismissal with prejudice of the Actions as against British Airways.

### **6.2 Approval Hearing**

- (a) As soon as practicable after the Execution Date, the Plaintiffs in the Ontario Action shall bring a motion before the Ontario Court for an order approving the notices described in Section 7.1(a).
- (b) As soon as practicable after the order referred to in Section 6.2(a) has been issued and the notices described in Section 7.1(a) have been published, the Plaintiffs in the Ontario Action shall file a motion before the Ontario Court in relation to the Approval Hearing.
- (c) Subject to 6.2(a) and (b), the Plaintiffs in the Ontario Action shall seek to schedule the motions described in Section 6.2(a) and (b) at a time determined in their full and complete discretion subject always to the availability of Counsel for British Airways.
- (d) The Plaintiffs agree that, for settlement purposes, the only class that they will seek to assert is the Settlement Class.

- (e) If this Settlement Agreement is approved by the Ontario Court, the Plaintiffs and British Airways shall jointly seek entry of an Approval Order in the form attached hereto as Schedule "A" or such other form as agreed upon by the Plaintiffs and British Airways.
- (f) In the event that the BC and/or Quebec Court require an Approval Hearing to proceed in British Columbia and/or Quebec, the Parties, acting reasonably, will seek to reach agreement on terms relating to the approval of this Settlement Agreement in British Columbia and/or Quebec, including the form of a draft Approval Order(s), and the Settlement Agreement shall not be effective until such Approval Orders are obtained and become Final.

### **6.3 Dismissal of BC and Quebec Actions**

- (a) After the Execution Date and as soon as practical after the Approval Order is issued, the Plaintiffs in the BC and Quebec Actions shall seek orders from the BC and Quebec Courts dismissing the BC and Quebec Actions as against British Airways, with prejudice and without costs.

### **6.4 Pre-Motion Confidentiality**

- (a) Until the motion required by Section 6.2(a) is filed, this Settlement Agreement and all of its terms shall be kept confidential and shall not be disclosed by either the Plaintiffs, Class Counsel or British Airways, without the prior written consent of Counsel for British Airways or Class Counsel respectively, except as may be required for the purposes of ongoing securities disclosure obligations, financial reporting or the preparation of financial records (including without limitation tax returns and financial statements), as necessary to give effect to its terms, or as otherwise required by law.



## SECTION 7- NOTICE TO SETTLEMENT CLASS

### 7.1 Notices Required

- (a) The proposed Settlement Class shall be given a single notice of: (1) the proposed certification of the Settlement Class as against British Airways, for settlement purposes only; (2) the date and location of the Approval Hearing; (3) the core elements of the Settlement Agreement and the Distribution Protocol, if applicable; and (4) if brought with the hearing to approve the Settlement Agreement, the hearing to approve Class Counsel Fees and Class Counsel Disbursements.
- (b) If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect, the proposed Settlement Class shall be given notice of such event.

### 7.2 Form and Distribution of Notices

- (a) The notices shall be in a form agreed upon by the Parties and approved by the Ontario Court or, if the Parties cannot agree on the form of the notices, the notices shall be in a form ordered by the Ontario Court.
- (b) The notices shall be disseminated by a method agreed upon by the Parties and approved by the Ontario Court or, if the Parties cannot agree on a method for disseminating the notices, the notices shall be disseminated by a method ordered by the Ontario Court.
- (c) With the object of reducing the costs of notice, Class Counsel shall use their reasonable best efforts to coordinate the provision of notice pertaining to this Settlement Agreement with the provision of notice for any other settlements that have been or may be reached in the Actions. The costs of provision of notice shall be allocated proportionally among settlements.

- (d) British Airways consents to Epiq Class Action and Claims Solutions, Inc. (formerly known as Garden City Group, LLC) using British Airways' customer information provided to Epiq Class Action and Claims Solutions, Inc. in accordance with the order of the Ontario Court, dated May 2, 2008 for the purpose of facilitating the dissemination of the notices required in Section 7.1(a).

### **SECTION 8 – ADMINISTRATION AND IMPLEMENTATION**

- (a) Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement shall be determined by the Ontario Court on motions brought by Class Counsel.

### **SECTION 9- CLASS COUNSEL FEES AND ADMINISTRATION EXPENSES**

#### **9.1 Class Counsel Fees**

- (a) Class Counsel shall seek the approval of the Ontario Court and such other Court(s) as may be necessary of their Class Counsel Fees and Class Counsel Disbursements. Class Counsel may seek such approval contemporaneously with the Approval Hearing or at such other time as they shall determine in their sole discretion.
- (b) Class Counsel shall be reimbursed and paid for approved Class Counsel Fees and Class Counsel Disbursements solely out of the Settlement Fund after the Effective Date. No Class Counsel Fees or Class Counsel Disbursements shall be paid from the Settlement Fund prior to the Effective Date.
- (c) British Airways shall not be liable for any Class Counsel Fees, Class Counsel Disbursements, costs of notices or the Plaintiffs' or Settlement Class Members' experts, advisors, agents, or representatives. For greater certainty, other than the payment of the

Settlement Amount and subject to Section 3.1(f), British Airways shall have no further liabilities or debts in respect of this Settlement Agreement or the administration thereof.

## **9.2 Administration Expenses**

- (a) Class Counsel or Claims Administrator shall pay British Airways' proportionate share of the costs of the notices referred to in Section 7.1 of this Settlement Agreement out of the Settlement Fund. Any such costs can be paid as they are incurred.
- (b) With the object of reducing the costs of claims administration, Class Counsel shall use their reasonable best efforts to coordinate the claims administration process pertaining to this Settlement Agreement with the claims administration process pertaining to any other settlements that have been or may be reached in the Actions. The costs of the claims administration process shall be allocated proportionally among settlements and shall be paid from the Settlement Fund.
- (c) Aside from payment of the Settlement Amount and subject to Section 3.1(f), British Airways is not liable to pay any further amount on account of any Administrative Expenses, Class Counsel Fees, or Class Counsel Disbursements, including the cost of notice, regardless of whether or not the Settlement Fund is sufficient to pay for British Airways' proportional share of the Administration Expenses, Class Counsel Fees, Class Counsel Disbursements, or other such shared costs.

## **SECTION 10 - IMPLICATIONS OF SETTLEMENT**

### **10.1 No Admission of Liability**

- (a) The Plaintiffs and British Airways expressly reserve all of their rights if this Settlement Agreement is terminated or otherwise fails to take effect for any reason. Further, the

Plaintiffs and British Airways 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 of any jurisdiction, or of any wrongdoing or liability by British Airways or any Released Party, or of the truth of any of the claims or allegations contained in the Actions or any other pleading filed by the Plaintiffs or any Settlement Class Member.

**10.2 Agreement Not Evidence**

- (a) The Plaintiffs and British Airways 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 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 enforce this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law.

**10.3 No Further Litigation**

- (a) Except as otherwise provided in this Settlement Agreement, no Class Counsel nor anyone currently or hereafter employed by, or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any Claim made or action within the scope of the Released Claims commenced by any Person. Moreover,

unless otherwise ordered by a court, no Class Counsel nor anyone currently or hereafter employed by or a partner with Class Counsel, may divulge to anyone for any purpose any information, including, without limitation, Documents 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.

- (b) Section 10.3(a) does not apply to the involvement of any Person in the continued prosecution of the Actions against any Non-Settling Defendants or, in the event that Ontario Action is decertified, continuation of the Claims as alleged in the Actions against the Non-Settling Defendants in the form of individual claims, group proceedings, test cases, or otherwise.
- (c) Section 10.3(a) shall be inoperative to the extent that it is inconsistent with BC Counsel's obligations under Section 3.2-10 of the Law Society of British Columbia's *Code of Professional Conduct for British Columbia*.

## SECTION 11- TERMINATION OF SETTLEMENT AGREEMENT

### 11.1 Right of Termination

- (a) Only if one or more of the following events occur, the Plaintiffs and British Airways shall each, in their respective sole discretion, have the option to terminate this Settlement Agreement in its entirety:
  - (i) the Ontario Court declines to approve this Settlement Agreement or any material part hereof;
  - (ii) the Ontario Court declines to sign the Approval Order;

- (iii) the Approval Order is materially modified or set aside on appeal; or
  - (iv) any Court declines to dismiss the Actions as against British Airways.
- (b) In addition, the Plaintiffs shall have the option to terminate this Settlement Agreement in its entirety if the Settlement Amount is not paid in accordance with Section 2.2(a).
- (c) Any order, ruling or determination made by any Court with respect to Class Counsel Fees, Class Counsel Disbursements 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.
- (d) If pursuant to Section 11.1(a) or (b) above, the Plaintiffs or British Airways wish to terminate the Settlement Agreement, notice of such decision to terminate the Settlement Agreement must be provided in writing to the Plaintiffs or British Airways, as applicable, within thirty (30) days of an event under Section 11.1(a) or (b) having occurred.

## **11.2 Effect of Termination Generally**

- (a) Except as provided in Section 11.3(a), if this Settlement Agreement is terminated or otherwise fails to take effect for any reason, it shall have no further force and effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.
- (b) If this Settlement Agreement is terminated or otherwise fails to take effect for any reason:
- (i) no Approval Hearing shall proceed;

- (ii) the Parties will cooperate in seeking to have any issued Approval Order set aside and declared null and void and of no force or effect, and without prejudice to any position that any of the Parties may later take on any issue in the Actions or any other litigation. Any Person attempting to rely on such Approval Order shall be estopped from doing so;
- (iii) Class Counsel shall forthwith deliver consents in writing authorizing British Airways to bring a motion before the Ontario Court for an order:
  - (A) declaring this Settlement Agreement to be null and void and of no force or effect (except for the provisions set out in Section 11.3(a));
  - (B) setting aside any Approval Order;
  - (C) setting aside any order approving Class Counsel Fees; and
  - (D) directing that the balance in the Settlement Fund less any deductions provided for in this Settlement Agreement be paid to British Airways, including interest.
- (iv) Class Counsel or the Claims Administrator shall thereupon pay to British Airways the balance in the Settlement Fund, including interest, less British Airways' proportionate costs of notice to the extent same has already been incurred or is payable. Despite Section 2.3, if the Settlement Agreement is terminated, to the extent the balance in the Settlement Fund is paid to British Airways, British Airways shall be responsible for the payment of taxes owed with respect to income on such amounts paid to British Airways.

- (c) In the event that the Settlement Agreement is terminated or otherwise fails to take effect for any reason, the Plaintiffs shall, upon request by British Airways, make reasonable efforts to return to British Airways all Documents and notes or records of information (and all copies of such Documents and notes or records of information), provided by British Airways under this Settlement Agreement or otherwise. In the event any Documents and notes or records of information are incapable of being physically returned to British Airways, the Plaintiffs shall make reasonable efforts to destroy all such Documents and notes or records of information (howsoever recorded) and provide British Airways with a written certification by Class Counsel of such destruction. The requirements of this Section shall also apply to all Documents and notes or records of information shared by Class Counsel with experts and any Court-appointed notice provider or the Claims Administrator or that the experts, the Court-appointed notice provider or the Claims Administrator themselves created. Nothing contained in this Section 11.2(c) shall be construed to require Class Counsel to destroy any of their work product. However, any documents or information provided by British Airways and/or Counsel for British Airways, or received from British Airways and/or Counsel for British Airways 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 British Airways. 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.



### **11.3 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 2.2(d), 3.1(g), 3.1(k), 7.1(b), 7.2, 10.1, 10.2, 11.2, and 12.1 and the definitions in Section 1 applicable thereto shall survive the termination and continue in full force and effect.

## **SECTION 12 - DETERMINATION OF DISPUTES**

### **12.1 Disputes**

- (a) British Airways and the Plaintiffs 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) Notwithstanding any other provision herein, British Airways and the Plaintiffs shall bear their own costs of such Court hearing or reference, unless the Ontario Court or referee in its, his or her discretion finds it reasonable to assess such costs solely to British Airways or the Plaintiffs. Notwithstanding any other provision herein, the Plaintiffs and British Airways 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.

## SECTION 13 - MISCELLANEOUS

### 13.1 Governing Law

- (a) Subject to Section 13.1(b), this Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- (b) Notwithstanding Section 13.1(a), for matters relating specifically to the BC Action or the Quebec Action, the BC Court or Quebec Court, as applicable, shall apply the law of its own jurisdiction and the laws of Canada applicable therein.

### 13.2 Ongoing Jurisdiction and Motions for Directions

- (a) Each of the Courts shall retain exclusive jurisdiction over the Action commenced in its jurisdiction and the Parties thereto. Notwithstanding the foregoing, the Ontario Court has jurisdiction to approve Class Counsel Fees and Class Counsel Disbursements for all Class Counsel.
- (b) The Plaintiffs and British Airways 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, unless the Courts require otherwise, 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 interpreting, implementing, administering, and enforcing the settlement provided for in this Settlement Agreement.

- (d) The Plaintiffs or British Airways may apply to the Ontario Court for directions in respect of the interpretation, implementation, administration or enforcement of this Settlement Agreement.
- (e) All motions contemplated by this Settlement Agreement shall be on notice to the Plaintiffs and British Airways.

### **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, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
  - (ii) only in the case where the time for doing an act expires on a holiday (as "holiday" is defined in the *Interpretation Act*, RSC 1985, c I-21), the act may be done on the next day that is not a holiday.

#### **13.4 Language**

- (a) The Plaintiffs and British Airways acknowledge that they have required and consented that this Settlement Agreement be prepared in English.

#### **13.5 Entire Agreement**

- (a) This Settlement Agreement, including the recitals herein, constitutes the entire agreement among the Plaintiffs and British Airways, 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 this Settlement Agreement. 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 British Airways 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.
- (c) The recitals to this Settlement Agreement are material and integral parts hereof and are fully incorporated into, and form part of, this Settlement Agreement.

#### **13.6 Binding Effect**

- (a) This Settlement Agreement shall be binding upon, and enure to the benefit of the Releasing Parties, the Released Parties 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 Releasing Parties and every covenant and agreement made herein by British Airways shall be binding upon all of the Released Parties.

- (b) 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.
- (c) This Settlement Agreement constitutes a transaction in accordance with *Civil Code of Quebec* art. 2631 et seq., and the Plaintiffs and British Airways are hereby renouncing any errors of fact, of law, and/or of calculation.
- (d) This Settlement Agreement may not be modified or amended except in writing and on consent of all the Plaintiffs and British Airways and any such modification or amendment must be approved by the Ontario Court.

**13.7 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:

If to: THE PLAINTIFFS and/or CLASS COUNSEL,

Charles M. Wright & Linda J. Visser  
Siskinds <sup>LLP</sup>  
680 Waterloo Street  
London, ON N6A 3V8

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

Irwin I. Liebman  
Liebman Legal Inc.  
1 Westmount Square, suite 350  
Montréal, QC H3Z 2P9

Tel.: (514) 846-0666  
Fax: (514) 935-2314  
Email: irwin@liebmanlegal.com

David Jones  
Camp Fiorante Matthews Mogerman  
#400-856 Homer Street  
Vancouver, BC V6B 2W5

Tel: (604) 869-7555  
Fax: (604) 689-7554  
Email: djones@cfmlawyers.ca

If to: BRITISH AIRWAYS

David Neave  
Rebecca von Rüti  
DLA Piper (Canada) LLP  
Suite 2800, Park Place  
666 Burrard St  
Vancouver BC V6C 2Z7

Tel: (604) 687-9444  
Fax: (604) 687-1612  
Email: david.neave@dlapiper.com  
rebecca.vonruti@dlapiper.com

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

### 13.8 Survival

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

### **13.9 Acknowledgements**

- (a) Each of the Plaintiffs and British Airways 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.

### **13.10 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.

### **13.11 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 or electronic signature shall be deemed an original signature.

**13.12 Execution Date**

- (a) The Plaintiffs and British Airways have executed this Settlement Agreement as of the date on the cover page.

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

**AIRIA BRANDS INC., STARTECH.COM LTD., and QCS-QUICK CARGO SERVICE GMBH**, on their own behalf and on behalf of the Settlement Class, by their counsel

Name of Authorized Signatory: Linda Visser

Signature of Authorized Signatory: Linda Visser  
Siskinds LLP  
Ontario Counsel

**CARTISE SPORTS INC.**, by its counsel

Name of Authorized Signatory: Linda Visser per

Signature of Authorized Signatory: Linda Visser  
Liebman Legal Inc.  
Quebec Counsel

**KAREN MCKAY**, by her counsel

Name of Authorized Signatory: Linda Visser per

Signature of Authorized Signatory: Linda Visser  
Camp Fiorante Matthews Mogerman  
BC Counsel

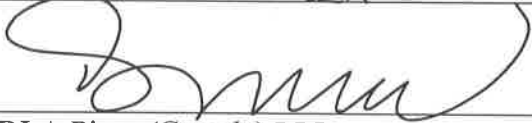


**BRITISH AIRWAYS PLC**, by its counsel

Name of Authorized Signatory:

DAVID T. NEAVE

Signature of Authorized Signatory:



DLA Piper (Canada) LLP

**SCHEDULE "A"**

Court File No. 50389CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE  
JUSTICE GRACE

)  
)

●, THE ● DAY  
OF ●, 2020

BETWEEN:

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  
(Settlement Approval – British Airways)**

**THIS MOTION** made by the Plaintiffs for an Order certifying the Ontario Action as a class proceeding for settlement purposes only as against British Airways PLC (“British Airways”) and approving the settlement agreement entered into with British Airways, was heard this day at the Court House, 80 Dundas Street, London, Ontario.

**ON READING** the materials filed, including the settlement agreement entered into between the Plaintiffs and British Airways dated as of ●, 2020 and attached to this Order as Appendix “A” (the “Settlement Agreement”), and on hearing the submissions of counsel for the Plaintiffs and Counsel for British Airways, including that British Airways denies and does not admit, through the execution of the Settlement Agreement, any allegation of unlawful conduct alleged in the Ontario Action;

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

1. **THIS COURT ORDERS** that the definitions set out in the Settlement Agreement shall apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that this Action is certified as a class proceeding as against British Airways only and for settlement purposes only.
3. **THIS COURT ORDERS** that the Settlement Class is defined as:

All Persons who purchased Airfreight Shipping Services during the Purchase 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 British Airways. Excluded from the 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 (i) with an origin point in Canada and a destination point in the United States or (ii) with an origin point in the United States and a destination point in Canada, but includes airfreight cargo shipping services in which the freight (i) travelled by truck from Canada to the United States, and then by air from the United States to a third country, or

(ii) travelled by air from a third country to the United States, and then by truck from the United States to Canada.

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

Did British Airways conspire to fix, raise, maintain or stabilize the prices of Airfreight Shipping Services during the Purchase 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 this Order, and is binding upon the representative plaintiffs and all Settlement Class Members, and where any term of this Order and the Settlement Agreement conflict, the term contained in this Order shall govern.
9. **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 this Action.

10. **THIS COURT ORDERS** that, upon the Effective Date, each Settlement Class Member shall be deemed to have consented to the dismissal as against the Released Parties, without costs and with prejudice, of any and all of the Settlement Class Member's Released Claims in any jurisdiction.
11. **THIS COURT ORDERS** that, upon the Effective Date, any and all Released Claims commenced in Ontario by any Settlement Class Member shall be dismissed against the Released Parties, without costs and with prejudice.
12. **THIS COURT ORDERS** that, subject to paragraph 13 and upon the Effective Date, the Releasing Parties shall be deemed to, and do hereby, release and forever discharge the Released Parties of and from any and all Released Claims.
13. **THIS COURT ORDERS** that the use of the terms "Releasing Parties" and "Released Claims" in this Order does not constitute a release of Claims by those Settlement Class Members who are resident in any jurisdiction where the release of one tortfeasor is a release of all tortfeasors.
14. **THIS COURT ORDERS** that, upon the Effective Date, for any Settlement Class Member who is resident in any jurisdiction where the release of one tortfeasor is a release of all tortfeasors, the Releasing Parties do not release the Released Parties but instead covenant and undertake not to sue, make in any way any Claim within the scope of the Released Claims or to threaten, commence, or continue any Claim within the scope of the Released Claims in any jurisdiction against the Released Parties.

15. **THIS COURT ORDERS** that, upon the Effective Date, the Releasing Parties 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 Claim within the scope of the Released Claims against any Released Party or any other Person who may claim contribution or indemnity from any Released Party in respect of any Released Claim, except for the continuation of the Actions against the Non-Settling Defendants and, in the event that the Ontario Action is decertified, continuation of the Claims as alleged in the Actions against the Non-Settling Defendants in the form of individual claims, group proceedings, test cases, or otherwise.
16. **THIS COURT ORDERS** that, notwithstanding the continuation of the Actions against the Non-Settling Defendants or, in the event that the Ontario Action is decertified, continuation of the Claims as alleged in the Actions against the Non-Settling Defendants in the form of individual claims, group proceedings, test cases, or otherwise, 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, in respect of any Released Claims, by any Non-Settling Defendant or any other Person against a Released Party, or by a Released Party against any Non-Settling Defendant or any other Person, are barred, prohibited and enjoined. If contrary to this Order a foreign court permits a Releasing Party to bring a claim in respect of a Released Claim against a Non-Settling Defendant, another Defendant or a Released Party in a jurisdiction outside of Ontario (the "Foreign Claim") then that Non-Settling Defendant, other Defendant or Released Party will not be prohibited by this Order from bringing a claim for contribution, indemnity or other claims over against a Released Party or other Person, including a Non-Settling Defendant or other Defendant, in respect of the Foreign Claim, to the extent such a claim exists under the applicable law.

17. **THIS COURT ORDERS** that if, in the absence of paragraph 16 above, a Person or Persons 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 Released Parties, in any Canadian or foreign jurisdiction:

- (a) the Releasing Party or Releasing Parties (including without limitation the Plaintiffs and the Settlement Class Members) are prohibited and barred from bringing or pursuing the claim that gives rise to the claim for contribution, indemnity, or other claim over against any one or more of the Released Parties;
- (b) for greater certainty, the Releasing Parties shall not be entitled to claim or recover from that Person or Persons 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 Released Parties proven at trial or otherwise;
- (c) 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;
- (d) this Court shall have full authority to determine the Proportionate Liability at the trial or other disposition of this Action, whether or not the Released Parties remain in this Action or appear at the trial or other disposition, and the Proportionate

Liability shall be determined as if the Released Parties 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 Released Parties in any other proceedings.

18. **THIS COURT ORDERS** that if, in the absence of paragraph 16 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 Released Parties, 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 this Action.
  
19. **THIS COURT ORDERS** that, subject to paragraph 20 hereof, a Non-Settling Defendant may, upon motion to the Court brought on at least ten (10) days' notice to counsel for British Airways, seek orders for the following:
  - (i) documentary discovery and an affidavit of documents in accordance with the *Rules of Civil Procedure* from British Airways;
  - (ii) oral discovery of a representative of British Airways, the transcript of which may be read in at trial;
  - (iii) leave to serve a request to admit on British Airways in respect of factual matters; and/or
  - (iv) the production of a representative of British Airways to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.



For greater certainty, if British Airways brings a claim for contribution and indemnity or other claims over against a Non-Settling Defendant, nothing in this paragraph is intended to or does affect or limit in any way any documentary or oral discovery rights under the *Rules of Civil Procedure* or otherwise of that Non-Settling Defendant or British Airways in that claim, and such rights may be exercised by the parties in that claim notwithstanding any other provision in this paragraph.

20. **THIS COURT ORDERS** that British Airways retains all rights to oppose such motion(s) brought under paragraph 19. On any motion brought pursuant to paragraph 19, the Court may make such orders as to costs and other terms as it considers appropriate.
21. **THIS COURT ORDERS** that a Non-Settling Defendant may effect service of the motion(s) referred to in paragraph 19 on British Airways by service on counsel of record for British Airways in this Action.
22. **THIS COURT ORDERS** that for purposes of enforcement of this Order, this Court will retain an ongoing supervisory role and British Airways will attorn to the jurisdiction of this Court for this purpose.
23. **THIS COURT ORDERS** that, except as provided in this Order and the Settlement Agreement, this 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 this Action.

24. **THIS COURT ORDERS** that the Released Parties have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement.
25. **THIS COURT 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 Plaintiffs on a motion in the Action brought on notice to British Airways.
26. **THIS COURT ORDERS** that, after the Effective Date, the Settlement Amount may be used to pay Class Counsel Disbursements incurred for the benefit of the Settlement Class in the continued prosecution of the Ontario Action against the Non-Settling Defendants. This paragraph shall not be interpreted as affecting the rights of the Plaintiffs or the Settlement Class to claim such Class Counsel Disbursements in the context of a future costs award in their favour against the Non-Settling Defendants, or the rights of the Non-Settling Defendants to oppose and resist any such claim.
27. **THIS COURT ORDERS** that, upon the Effective Date, this Action be and is hereby dismissed against British Airways without costs and with prejudice.
28. **THIS COURT ORDERS** that this Order shall be declared null and void in the event that the Settlement Agreement is terminated in accordance with its terms.
29. **THIS COURT ORDERS** that the approval of the Settlement Agreement and any reasons given by this Court in relation thereto, except any reasons given in connection with paragraphs 16 to 21 of this Order, are without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing Ontario Action and, without restricting the generality of the foregoing, may not be relied on by any Person to establish jurisdiction, the criteria for certification (including class definition) or the existence or

elements of the causes of action asserted in the Ontario Action as against the Non-Settling Defendants.

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The Honourable Justice Grace

**SCHEDULE "B"**



**ONTARIO  
SUPERIOR COURT OF JUSTICE**

) **FRIDAY** , the **2<sup>ND</sup>** day  
 )  
 ) of **MAY** , 2008

BETWEEN:

**NUTECH BRANDS INC.**

Plaintiff

- 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., and SWISS INTERNATIONAL AIR LINES LTD.**

Defendants

*Proceeding under the Class Proceedings Act, 1992*

**ORDER**

**THESE MOTIONS**, made by the Plaintiff for an Order that the International Air Transport Association ("IATA"), a non-party to this action, provide to The Garden City Group ("Garden City") customer records it has maintained for IATA member air cargo carriers who shipped to, from or within Canada between January 1, 2000 and September 11, 2006, and for an Order that the Non-Settling Defendants provide to Garden City certain specified customer information, both for the limited purpose of disseminating a court-approved Notice of Proposed Settlement, was heard this day at the Court House, 80 Dundas Street, London, Ontario.

ON READING the materials filed and on hearing the submissions of Counsel for the Plaintiff and the Non-Settling Defendants:

1. **THIS COURT ORDERS AND DECLARES** that for the purposes of this Order, Non-Settling Defendants is defined as follows:

(a) **“Non-Settling Defendants”** means Air Canada, AC Cargo Limited Partnership, Societe Air France, Koninklijke Luchvaart Maatschappij N.V. dba KLM, Royal Dutch Airlines, Asiana Airlines Inc., British Airways PLC, Cathay Pacific Airways Ltd., 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., and Singapore Airlines Cargo PTE Ltd.

2. **THIS COURT ORDERS** that, subject to paragraph 7 of this Order, on or before May 15, 2008 , the Non-Settling Defendants provide to Garden City their respective customer information as set forth in Schedule "A" for the limited purpose of providing a Notice of Proposed Settlement in accordance with the Order dated March 6, 2008 (the "March 6, 2008 Order"), attached hereto as Schedule "B".

3. **THIS COURT ORDERS** that, subject to paragraph 7 of this Order, IATA, a non-party to this action, is to provide to Garden City with records it has maintained for IATA member air cargo carriers of names and addresses of customers who shipped to, from or within Canada between January 1, 2000 and September 11, 2006, for the limited purpose of providing a Notice of Proposed Settlement in accordance with the March 6, 2008 Order.

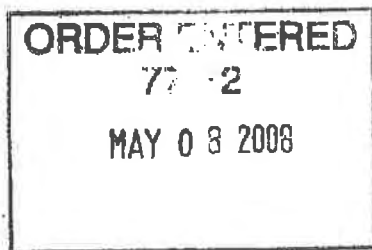
4. **THIS COURT ORDERS** that Garden City shall maintain the confidentiality of the customer information provided by the Non-Settling Defendants and by IATA in accordance with this Order and shall not disclose such information to any other person or their counsel.
5. **THIS COURT ORDERS** that within 90 days of the final disposition of the within Action, which time period may be amended by written agreement of the parties or Order of this Court, Garden City shall delete and destroy all customer information provided to it by the Non-Settling Defendants and IATA, including any copies or references thereto (the "Deletion"), and shall certify to this Court that the Deletion has occurred, and shall provide a copy of the certification of Deletion to the Non-Settling Defendants and IATA.
6. **THIS COURT ORDERS** that Garden City, Jeanne Finnegan, and any employees, subcontractors or agents thereof who will have access to the information provided pursuant to paragraphs 2 and 3 of this Order irrevocably attorn in writing to the jurisdiction of this Court for the purpose of this Order, the March 6, 2008 Order, and any issues or disputes relating thereto, including, without limiting the foregoing, this Court's monitoring and enforcement of this Order and the March 6, 2008 Order and the restrictions pursuant to which the information listed in Schedule "A" is provided.
7. **THIS COURT ORDERS** that the information to be provided pursuant to paragraphs 2 and 3 of this Order is not required to be provided unless and until the Non-Settling Defendants are provided a copy of the written attornment required by paragraph 6 of this Order.

8. **THIS COURT ORDERS** that this Order is without prejudice to any position a Non-Settling Defendant may take in this or any other proceeding on any issue, including the issue of whether this action should be certified as a class proceeding. No person may rely, cite or refer to all or any part of this Order or any reasons given by the Court in support of the Order as authority against any of the Non-Settling Defendants in this or any other proceeding. For greater certainty, this Order and the Court's reasons in support of this Order are not binding on and shall have no effect on this Court's ruling in this or any other proceeding as against the Non-Settling Defendants.

Date:

May 2, 2008

  
The Honourable Madam Justice Leitch





**SCHEDULE "A"**

**SCHEDULE A**  
**CUSTOMER LISTS FROM THE NON-SETTLING DEFENDANTS**

1. Air Canada and AC Cargo Limited Partnership ("Air Canada")

Air Canada will produce in electronic form a list of all its customers, including addresses, who who shipped to, from or within Canada from January 1, 2001 through the present, as can be generated from an accessible electronic database. It is agreed that "customers" refers in each case to the party which actually made the payment to Air Canada for the shipping services.

2. Societe Air France ("Air France")

Air France will produce an electronic list of "customers under account" and "walk-up customers" who shipped to or from Canada as can be generated from Air France from an accessible electronic format for the period September 2003 to September 2006. Air France will not produce customer information for the period prior to September 2003 as this information is not maintained by Air France in a reasonably accessible format.

3. Koninklijke Luchtvaart Maatschappij N.V. dba KLM, Royal Dutch Airlines ("KLM")

KLM will produce a customer list, including addresses, for customers who shipped to, or from Canada as can be generated from KLM from an accessible electronic format for the period January 1, 2005 through September 11, 2006 and a second customer list, including only names, for those customers who shipped to or from Canada as can be generated from an accessible electronic format, for the period January 1, 2000 to January 1, 2005.

4. Asiana Airlines Inc. ("Asiana")

Asiana will produce, in electronic form, lists of its customers, including addresses as available, who shipped to or from Canada from January 1, 2000 through to September 11, 2006, as can be generated from information contained in current and legacy centralized electronic databases.

5. British Airways PLC ("BA")

BA will produce in electronic form, names and partial address information for customers who shipped to, from or within Canada between January 1, 2000 and September 11, 2006.

6. Cathay Pacific Airways Ltd. ("Cathay")

Cathay will produce a computer-readable list of the names and addresses of its freight forwarder customers or the corresponding IATA codes for same that are readily accessible electronically within Cathay's own records who shipped to or from Canada during the period January 1, 2000 to September 11, 2006. Plaintiffs agree that Cathay

need not undertake the manual examination of any waybills or other similar records in order to provide the requested information.

7. Japan Airlines International Co., Ltd. ("JAL")

For Shipments from Canada to the rest of the world, JAL will provide customer names and addresses for JAL's current freight forwarder customers who do not participate in CASS. For Shipments from Brazil or Mexico to Canada, JAL will provide customer names and addresses for JAL's freight forwarder customers, based on the recollection of relevant JAL employees. For Shipments from Japan to Canada, JAL will provide customer names and addresses of JAL's freight forwarder customers for the period April 1, 2005 to September 11, 2006, in electronic form. For shipments from non-Japan Asia and Oceania to Canada, JAL will provide customer names and addresses of JAL's freight forwarder customers, based on the recollection of relevant JAL employees. Plaintiffs agree that JAL need not undertake the manual examination of any waybills or other similar records in order to provide the requested information.

8. Scandinavian Airlines System ("SAS")

SAS will produce the contact information for its customers who shipped to or from Canada from January 1, 2000 to September 11, 2006 for which SAS maintains electronic records in its centralized database in Denmark. Plaintiffs agree that SAS need not produce any additional contact information not in its centralized database.

9. Korean Air Lines Co., Ltd. ("Korean Air")

Korean Air will produce a list of the names and addresses of its customers who shipped to, from or within Canada during the period January 1, 2000 and September 11, 2006.

10. Cargolux Airline International ("Cargolux")

Cargolux will produce in electronic form, a list of its customers, including addresses, who shipped airfreight cargo to or from Canada via air, for the period January 1, 2003 through September 11, 2006.

11. Lan Airlines S.A and Lan Cargo S.A. ("LAN")

LAN will produce in electronic form, a list of all its customers, including addresses, who shipped to, from or within Canada from January 1, 2000 through September 11, 2006.

12. Atlas Air Worldwide Holdings Inc., and Polar Air Cargo Inc. ("Polar Air")

Polar Air will produce, in electronic form, a list of all its customers, including addresses, who shipped to, from or within Canada for the period January 1, 2005 to September 11, 2006. Polar Air will also search its centralized database system and produce in electronic form, a list of customers, including address, who shipped to, from or within Canada for the period from mid-2004 through December 31, 2004.

13. Singapore Airlines Ltd. ("SIA") and Singapore Airlines Cargo PTE Ltd. ("SIAC")

SIAC will produce in electronic form a list of its customers who shipped to and from Canada, including addresses, compiled from all relevant SIAC stations for the period April 1, 2003 through September 11, 2006, and from individual SIAC stations, to the extent possible, for the period August 1, 2001 through April 1, 2003. Plaintiffs agree that SIAC need not undertake the manual examination of any waybills or other similar records in order to provide the requested information.

**SCHEDULE "B"**

ONTARIO  
SUPERIOR COURT OF JUSTICE

The Honourable Madam

Justice Leitch

) Thursday, the 6<sup>th</sup> day  
)  
) of March, 2008



NUTECH BRANDS INC.

Plaintiff

- 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., and SWISS INTERNATIONAL AIR LINES LTD.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION made by the Plaintiff for an Order that the Ontario Action be certified as a class proceeding for settlement purposes only as against the Defendants Deutsche Lufthansa AG, Lufthansa Cargo AG, and Swiss International Air Lines Ltd. (collectively "Lufthansa") and for an Order approving the Summary Notice and Notice of Proposed Settlement to class members and approving the method of dissemination of the said notices, was heard this day at the Court House, 80 Dundas Street, London, Ontario.

ON READING the materials filed and on hearing the submissions of Counsel for the Plaintiff, Counsel for Lufthansa and Counsel for the Non-Settling Defendants:

1. **THIS COURT ORDERS AND DECLARES** that for the purposes of this Order, the definitions set out in the Settlement Agreement apply and are incorporated into this Order except for the definition of Non-Settling Defendants which shall be as set out in this paragraph:

(a) **"Non-Settling Defendants"** means Air Canada, AC Cargo Limited Partnership, Societe Air France, Koninklijke Luchvaart Maatschappij N.V. dba KLM, Royal Dutch Airlines, Asiana Airlines Inc., British Airways PLC, Cathay Pacific Airways Ltd., 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., and Singapore Airlines Cargo PTE Ltd.

2. **THIS COURT ORDERS** that the Ontario Action is certified as a class proceeding, for settlement purposes only, as against Lufthansa.

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

All Persons, other than members of the Québec Settlement Class or the BC Settlement Class, who purchased Airfreight Shipping Services\* during the period January 1, 2000 to September 11, 2006, including those Persons who purchased Airfreight Shipping Services through freight forwarders, from any air cargo carrier, including without limitation, the Defendants, and specifically including Lufthansa. Excluded from the Ontario Settlement Class are the Defendants and their respective parents, employees, subsidiaries, affiliates, officers and directors.

\*Airfreight Shipping Services are defined as 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** this Order, including, without limiting the generality of the foregoing, the certification of this action against Lufthansa and the definitions of Settlement Class, Purchase Period and Common Issue, is without prejudice to any position a Non-Settling Defendant may take in this or any subsequent proceeding on any issue, including the issue of whether this action should be certified ~~in whole or in part~~ as a class proceeding. No person may rely, cite or refer to all or any part of this Order or any reasons given by the Court in support of the Order as ~~substantive~~ authority against any of the Non-Settling Defendants in this or any other proceeding. For greater certainty, this Order, the Court's reasons in support of the Order and the certification of this action for settlement purposes is not binding on and shall have no effect on this Court's ruling in this or any other proceedings as against the Non-Settling Defendants.
5. **THIS COURT ORDERS** that Nutech Brands Inc. is appointed as the representative plaintiff for the Ontario Settlement Class.
6. **THIS COURT ORDERS** that the following issue is common to the Ontario Settlement Class:

Did Lufthansa agree to fix, raise, maintain or stabilize the price of airfreight cargo shipping services, including surcharges, during the period January 1, 2000 to September 11, 2006? If so, what damages did the Ontario Settlement Class Members suffer?
7. **THIS COURT ORDERS** that members of the Ontario Settlement Class who wish to opt-out of the Ontario Action must do so by sending an opt-out request to The Garden City Group, at the address to be provided, postmarked, on or before the date which is 30 days in advance of the date of the U.S. fairness hearing, which date will be inserted into the Summary Notice and the long form Notice of Proposed Settlement prior to publication.



8. **THIS COURT ORDERS** that all opt-out requests include the following information:

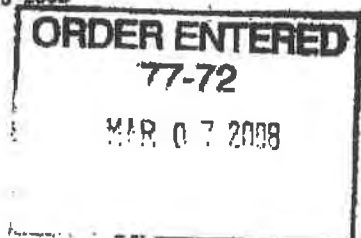
- (a) Name, address, phone number and email address of the person(s) seeking to opt out of the Actions;
- (b) All trade names or business names and addresses the person(s) seeking to opt out has/have used, as well as any parents, subsidiaries or affiliates that have purchased Air freight Shipping Services at any time during the relevant period and are also requesting to be excluded from the Actions and the Settlement Classes;
- (c) The name of the Action (*Canadian Air Cargo Shipping Services Class Action*);
- (d) To the extent such information may be available, the value of all Air Freight Shipping Services the person(s) seeking to opt out has/have purchased between January 1, 2000 and September 11, 2006; and
- (e) A signed statement that "I/we hereby request that I/we be excluded from the Actions and the Settlement Classes in the *Canadian Air Cargo Shipping Services Class Actions*."

9. **THIS COURT ORDERS** that any person who validly opts out of the Ontario Action shall be excluded from the Ontario Settlement Class and the continuing Ontario Action against the Non-Settling Defendants, including any future settlements or judgments, shall have no rights with respect to the Settlement Agreement entered into with the Lufthansa and shall receive no payments as provided in the Settlement Agreement entered into with Lufthansa.

10. **THIS COURT ORDERS** that any person who does not validly opt out in the manner and time prescribed above, shall be deemed to have elected to participate in the Settlement Agreement entered into with Lufthansa and in the remainder of the Ontario Action.
11. **THIS COURT ORDERS** that the Summary Notice and the long form Notice of Proposed Settlement are approved substantially in the form attached hereto as Schedule "A" and "B".
12. **THIS COURT ORDERS** that notice be given to the class at least thirty days in advance of the settlement approval hearing as follows:
  - (a) The long form Notice of Proposed Settlement, in substantially the form attached hereto as Schedule "B", be sent by first class mail to each potential class member whose address has been obtained from any Defendant, including Lufthansa, and to any potential class member who requests a copy of the notice;
  - (b) The Summary Notice, in substantially the form attached hereto as Schedule "A", be published in accordance with the plan described in the Affidavit of Jeanne Finnegan, attached hereto as Schedule "C"; and
  - (c) The long form Notice of Proposed Settlement be posted at [www.aircargosettlement.com](http://www.aircargosettlement.com).

13. **THIS COURT ORDERS** that The Garden City Group be appointed to disseminate the Summary Notice and the Notice of Proposed Settlement in accordance with the terms of this Order, and to receive opt-out requests from Settlement Class Members.

Date: MAR 06 2008



A handwritten signature in black ink, appearing to read "The Honourable Madam Justice Leitch".

The Honourable Madam Justice Leitch

**SCHEDULE "A"**

Legal Notice

**If you purchased Air Cargo Shipping Services within, to or from either the United States or Canada from January 1, 2000 to September 11, 2006, your rights could be affected by a Settlement**

**What are the Settlements about?**

Plaintiffs claim that Deutsche Lufthansa AG, Lufthansa Cargo AG and Swiss International Air Lines Ltd., along with numerous other air cargo carriers, conspired to fix the prices of air cargo shipping services in violation of U.S. antitrust laws and Canadian competition law. The Settlements provide an \$85 million U.S. Fund to pay valid class member claims, and \$5,338 million USD Canadian Fund that Canadian Class Counsel will request to have held in trust for future benefit of the Canadian classes.

**Who is a Class Member?**

You are a class member if you purchased air cargo shipping services, from ANY cargo carrier, for shipments within, to or from either the United States or Canada. This also includes services purchased through freight forwarders. All you need to know is in the Notice of Proposed Settlement, including information on who is or is not a class member.

**How do I get Payment in the U.S. Settlement?**

You must file a Claim Form. To obtain a Claim Form, and for information on deadlines, call the number below or visit [www.aircargosettlement.com](http://www.aircargosettlement.com).

**What are my rights?**

If you do NOT want to take part in the U.S. Settlement or the Canadian Settlement, you have the right to "opt out." To "opt out" of the U.S. or Canadian Settlements, you

must do so by [Insert Date], 200\_. Class members have the right to object to the U.S. or Canadian Settlements. If you object, you must do so by [Insert Date], 200\_. You may speak to your own attorney at your own expense for help. For more information on how to "opt out" or object, visit [www.aircargosettlement.com](http://www.aircargosettlement.com) or call the number below.

Final Approval Hearings to consider approval of the U.S. and Canadian Settlements and requests by the lawyers for attorneys' fees and costs will be held at the United States District Court for the Eastern District of New York on July 30, 2008; the Ontario Superior Court of Justice on [Insert Date], 200\_; the Quebec Superior Court on [Insert Date], 200\_; and at the Supreme Court of British Columbia on [Insert Date], 200\_. For more information on the locations and times of the Hearings, visit [www.aircargosettlement.com](http://www.aircargosettlement.com), or call the number below.

**This is a Summary, where can I get more information?**

You can get complete Settlement information, including a copy of the full Notice of Proposed Settlement and U.S. Claim Form, and register to receive updates about the administration of the Canadian Settlement, by visiting [www.aircargosettlement.com](http://www.aircargosettlement.com), calling the number below, or writing to Air Cargo Settlement, c/o The Garden City Group, Inc., P.O. Box 9162, Dublin, OH 43017-4162, USA.

888-000-0000

[www.AirCargoSettlement.com](http://www.AirCargoSettlement.com)

**MECHANICAL SPECIFICATIONS**

File Name: LFT Short Form  
Publication: TBD  
Issue Date: TBD  
Order #: TBD  
Size: 5.75" x 5.25"  
Comments:

Body Font: Times, 8pt  
Headline Font: Arial, 12p  
Create Date/Time: 7/3/07  
Last Edit Date: 12/4/07  
Last Edit Time: 11:00 AM PST  
Operator: ND

**SCHEDULE "B"**

NUTECH BRANDS INC. v. AIR CANADA CARGO et al	Ontario Superior Court of Justice Court File No. 50389CP
KAREN McKAY v. ACE AVIATION HOLDING INC. et al	Supreme Court of British Columbia Vancouver Registry No. S-067490
CARTISE SPORTS INC. v. DEUTSCHE LUFTHANSA AG et al	Québec Superior Court 500-06-000344-065

**NOTICE OF PROPOSED SETTLEMENT  
OF CANADIAN CLASS ACTIONS WITH DEFENDANTS  
DEUTSCHE LUFTHANSA AG, LUFTHANSA CARGO AG, AND  
SWISS INTERNATIONAL AIR LINES LTD.**

**THIS NOTICE MAY AFFECT YOUR RIGHTS  
PLEASE READ CAREFULLY**

**TO: All persons and entities that purchased air cargo shipping services from any air cargo carrier for shipments within, to, or from Canada (except shipments between Canada and the United States) during the period from January 1, 2000 to September 11, 2006, including those persons and entities that purchased air cargo shipping services through freight forwarders.**

This notice has been directed to you because your legal rights may be affected by the settlement of certain class action lawsuits pending in Canada against Deutsche Lufthansa AG, Lufthansa Cargo AG, and Swiss International Air Lines Ltd. (throughout this notice, these three companies will be referred to as "Lufthansa"). These lawsuits were filed by certain plaintiffs on behalf of you and other class members who purchased air cargo shipping services from Lufthansa for shipments within, to, or from Canada (except shipments between Canada and the United States). The lawsuits allege that Lufthansa, along with numerous other air cargo carriers, conspired to fix the prices of air cargo shipping services in violation of Canadian competition law. Lufthansa has entered into a Settlement Agreement with the Canadian plaintiffs, which includes, among other things, the payment of USD \$5,338,000 by Lufthansa to the Canadian classes, and the provision by Lufthansa of information that will assist the classes in pursuing their claims against other air cargo carriers involved in the alleged price fixing conspiracy.

A similar class action lawsuit is pending in the United States. A Settlement Agreement has been reached in the United States between the U.S. plaintiffs and Lufthansa. If you purchased Air Cargo Shipping Services for shipments between the United States and Canada you are included as a class member in the U.S. Settlement Agreement and you must refer to the U.S. Notice of Proposed Class Action Settlement to review how your rights are affected. The U.S. Settlement Agreement and the U.S. Notice of Proposed Class Action Settlement are available at [www.aircargosettlement.com](http://www.aircargosettlement.com).

QUESTIONS? CALL U.S. & CANADA (TOLL-FREE) 1(800) 749-3518;  
INTERNATIONAL (TOLL): 1(XXX) XXX-XXXX; OR VISIT [www.aircargosettlement.com](http://www.aircargosettlement.com)  
*A complete list of Air Cargo Settlement toll-free and toll telephone numbers by country is enclosed with this Notice,  
and the list is also available by visiting the website.*

## I. What is a Class Action Lawsuit?

Class actions are lawsuits in which the claims and rights of many people are decided in a single court proceeding brought by representative plaintiffs. This avoids the necessity for hundreds or even thousands of people to file similar individual lawsuits, enables the court to resolve these claims in a more efficient and economical way, and seeks to assure that people with similar claims are treated similarly. In a class action, the court has a responsibility to ensure that prosecution and resolution of the class claims by the representative plaintiffs and the lawyers representing the class (here, because Settlements have been reached, "Settlement Class Counsel") are fair. Settlement Class Members are NOT individually responsible for the costs or fees of Settlement Class Counsel, which are subject to court award. In this case, all such costs and fees will be paid from the Settlement Fund.

## II. Overview of the Canadian Class Action Lawsuits

Class action lawsuits are currently pending against Lufthansa in three separate Canadian courts: the Supreme Court of British Columbia, the Ontario Superior Court of Justice, and the Québec Superior Court (collectively the "Canadian Class Actions"). Plaintiffs allege that Lufthansa and other Defendants participated in a conspiracy to fix, raise, maintain, or stabilize prices of air cargo shipping services, through a number of mechanisms, including, *inter alia*, levying inflated surcharges, jointly agreeing to eliminate or prevent discounting on prices charged for air cargo shipping, and agreeing on yields and customer allocations. Plaintiffs allege that, as a result, they and Canadian Settlement Class Members paid substantially more for air cargo shipping services than they would have paid in the absence of this alleged conduct.

The Canadian Class Actions deal in large part with surcharges charged by Defendants. Surcharges are fees, in addition to normal air cargo shipping rates, that air cargo carriers charge to customers, purportedly to compensate the air cargo carriers for certain external costs, including, for example, increased costs for fuel and increased costs related to security measures taken after the September 2001 attacks in the United States. Plaintiffs allege that Defendants participated in a conspiracy to set the prices of these surcharges, as well as the yields collected by Defendants.

Lawyers for Lufthansa and Canadian Settlement Class Counsel each conducted an extensive investigation and economic analysis with respect to the damages allegedly suffered by the Settlement Classes due to the Defendants' alleged conduct. As a result, Plaintiffs obtained significant knowledge regarding the claims and defenses in this case before executing the Canadian Settlement Agreement.

## III. SUMMARY OF THE PROPOSED CANADIAN SETTLEMENT AGREEMENT

The following description of the proposed Canadian Settlement Agreement is only a summary. The Canadian Settlement Agreement can be viewed at a website created for this Settlement ([www.aircargosettlement.com](http://www.aircargosettlement.com)).

### A. The Settlement Agreement Approval Process

All three Canadian Courts must approve the Canadian Settlement Agreement before it enters into effect. Each Court will hold a public hearing in which arguments will be made as to why the Canadian Settlement Agreement should be approved. Implementation of the Canadian Settlement Agreement is dependent upon approval of the U.S. Settlement Agreement in the

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U.S. Court. In the event that the U.S. Settlement Agreement is not approved by the U.S. Court, the Canadian Plaintiffs and Lufthansa each may choose to terminate the Canadian Settlement Agreement.

**B. Overview of the Canadian Settlement Agreement**

**1. Settlement Class Membership and Representation**

The Canadian Settlement Agreement creates three Settlement Classes. Each Settlement Class falls under the jurisdiction of one Court. Thus, legal and natural persons resident in British Columbia fall within the British Columbia Settlement Class and the jurisdiction of the Supreme Court of British Columbia; legal and natural persons resident in Québec (including corporations with 50 or less employees) comprise the Québec Settlement Class and fall under the jurisdiction of the Québec Superior Court; and legal and natural persons excluding members of the British Columbia Settlement Class or the Québec Settlement Class fall within the Ontario Settlement Class and under the jurisdiction of the Ontario Superior Court of Justice.

Collectively, the British Columbia Settlement Class, the Quebec Settlement Class, and the Ontario Settlement Class include:

All persons who purchased Airfreight Shipping Services to, from, or within Canada during the period from January 1, 2000 to September 11, 2006, including those Persons who purchased Airfreight Shipping Services through freight forwarders, from any air cargo carrier, including without limitation, the Defendants, and specifically including Lufthansa. Excluded from the Settlement Class(es) are the Defendants and their respective parents, employees, subsidiaries, affiliates, officers and directors.

In order to be a member of one or more of the Settlement Classes you must have made at least one purchase of air cargo shipping services during the period from January 1, 2000 through September 11, 2006.

**PURCHASES OF AIR CARGO SHIPPING SERVICES FOR SHIPMENTS BETWEEN THE UNITED STATES AND CANADA DURING THE SETTLEMENT CLASS PERIOD FALL UNDER THE U.S. SETTLEMENT AGREEMENT AND NOT THE CANADIAN SETTLEMENT AGREEMENT. IF YOU PURCHASED AIR CARGO SHIPPING SERVICES FOR SHIPMENTS BETWEEN THE UNITED STATES AND CANADA YOU ARE A CLASS MEMBER IN THE U.S. CLASS ACTION AND YOU MUST REFER TO THE U.S. NOTICE OF PROPOSED SETTLEMENT TO REVIEW HOW YOUR RIGHTS ARE AFFECTED.**

The following law firms are Counsel for the Canadian Settlement Classes ("Canadian Settlement Class Counsel"): Siskinds<sup>LLP</sup>, Sufts, Strosberg<sup>LLP</sup>, Harrison Pensa<sup>LLP</sup>, Camp Florante Matthews, and Liebman & Associés.

**2. Benefits to the Settlement Classes from the Canadian Settlement Agreement**

**The Canadian Settlement Fund:** Subject to the terms of the Canadian Settlement Agreement, Lufthansa has agreed to pay USD \$5,338,000 into the Settlement Fund for the benefit of the Canadian Settlement Classes.

**Cooperation:** Under the terms of the Canadian Settlement Agreement, Lufthansa authorizes

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Canadian Settlement Class Counsel, and/or their experts to participate in any proceedings, depositions, attorney meetings, or interviews in which U.S. Settlement Class Counsel participate under the terms of the U.S. Settlement Agreement and that Canadian Settlement Class Counsel reasonably believes relate to air cargo shipping services within, to, or from Canada during the relevant time period. The Canadian Settlement Classes are also entitled to any and all cooperation materials that have been or will be provided by Lufthansa to U.S. Settlement Class Counsel. In addition, Lufthansa will provide, at its own expense, current or former directors, officers and employees for interviews, declarations and/or affidavits, depositions, and testimony at trial, under the specific terms set out in the Canadian Settlement Agreement. Lufthansa will make reasonable efforts to have former directors, officers, and employees appear for interviews, depositions, and trial testimony and provide declarations and/or affidavits.

As outlined above, Lufthansa has agreed to provide extensive cooperation and support for the Settlement Class' continuing litigation against the Defendants who are named as parties in the lawsuits.

Lufthansa does not admit through the execution of the Canadian Settlement Agreement any allegation of unlawful conduct. If a Settlement were not reached in these cases, Lufthansa would assert a number of defenses to Plaintiffs' claims.

### C. The Release

**IF YOU DO NOT EXCLUDE YOURSELF FROM THE CANADIAN CLASS ACTIONS, WHEN THE SETTLEMENT AGREEMENT BECOMES FINAL, YOU WILL BE RELEASING LUFTHANSA FOR ALL CLAIMS ASSOCIATED WITH THIS CASE AND YOU WILL BE BOUND BY THE RELEASE AND/OR COVENANT NOT TO SUE, WHICH IS CONTAINED IN THE CANADIAN SETTLEMENT AGREEMENT. QUÉBEC SETTLEMENT CLASS MEMBERS WHO HAVE COMMENCED PROCEEDINGS OR COMMENCE PROCEEDINGS AND FAIL TO DISCONTINUE SUCH PROCEEDINGS BY THE DEADLINE FOR EXCLUSION FROM THE QUÉBEC CLASS SHALL BE DEEMED TO HAVE OPTED OUT.**

**The Release contained in the Canadian Settlement Agreement is set forth below:**

Upon the Effective Date, and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Settlement Agreement, including Lufthansa's commitment to provide continuing compliance with the cooperation provisions of this Settlement Agreement set forth in [this Agreement], the Releasing Parties shall be deemed to, and do hereby, release and forever discharge the Released Parties of and from any and all Claims arising from or in any way related to the Released Claims.

"Released Parties" means, jointly and severally, individually and collectively, Lufthansa, and all of its respective present and former, direct and indirect, predecessors, successors, parents, subsidiaries, divisions, departments, affiliates, heirs, executors, administrators, and any and all past, present, and future officers, directors, stockholders, partners, agents, attorneys, servants, employees, and assignees. Notwithstanding the foregoing, "Released Parties" does not include any other Defendant who was formerly or is currently, named in the Actions or who may be named in the Actions in the future.

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INTERNATIONAL (TOLL): 1(XXX) XXX-XXXX; OR VISIT [www.aircargosettlement.com](http://www.aircargosettlement.com)  
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and the list is also available by visiting the website.*

**“Releasing Parties”** means, 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 an heir, administrator, devisee, predecessor, successor, parent, subsidiary, representative of any kind, shareholder, partner, director, owner of any kind, affiliate, assignee, agent, employee, contractor, attorney, or insurer, who do not validly and timely opt out of the Actions in the manner and time prescribed below, and Class Counsel, on behalf of themselves and any person or entity claiming by or through them as an heir, administrator, devisee, predecessor, successor, parent, subsidiary, representative of any kind, shareholder, partner, director, owner of any kind, affiliate, assignee, agent, employee, contractor, attorney, or insurer.

**“Released Claims”** means any Claims arising from, or in any way related to, the pricing of or compensation related to Airfreight Shipping Services (specifically including, without limitation those Claims in any way related to cargo rates, fuel surcharges, security surcharges, customs surcharges, war risk surcharges, navigation surcharges, commissions, incentives, rebates, credits, and yields), whether based on federal or provincial law, statutory or common law, or any other law, code, rule, or regulation of any country or other jurisdiction worldwide, including known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated Claims (specifically including, without limitation those Claims in any way related to cargo rates, fuel surcharges, security surcharges, customs surcharges, war risk surcharges, navigation surcharges, commissions, incentives, rebates, credits, and yields), that have been, could have been, or in the future may be asserted by any of the Releasing Parties in any action or proceeding in any court or forum, in any country or other jurisdiction worldwide regardless of legal theory, and regardless of the type or amount of relief or damages claimed. Nothing herein shall be construed to include within “Released Claims” any Claims solely relating to conduct occurring after the Execution Date of this Settlement Agreement.

Notwithstanding the Release contained in the Canadian Settlement Agreement, for Settlement Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Canadian Settlement Agreement provides that those Settlement Class Members do not release Lufthansa 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 Lufthansa, for claims associated with this case.

The Canadian Settlement Agreement does not settle or compromise any claims other than these Released Claims against the Lufthansa Released Parties. All rights of any Settlement Class Member against former, current, or future Defendants or co-conspirators or any other person or entity other than the Released Parties are specifically reserved by Plaintiffs and the Canadian Settlement Class Members.

#### **D. Canadian Settlement Class Counsel Fees and Costs**

The fees, disbursements, and taxes of Canadian Settlement Class Counsel will be fixed

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and the list is also available by visiting the website.*

by the Courts and will be paid out of the Canadian Settlement Fund. The amounts sought for Canadian Settlement Class Counsel fees will not exceed 25% of the Canadian Settlement Fund, plus disbursements and taxes incurred to the date settlement approval is granted by the Courts. Additionally, Canadian Settlement Class Counsel reserve the right to bring motions to the Courts for payment out of the Canadian Settlement Fund for any future adverse cost awards to a maximum of CDN \$500,000 and future disbursements to a maximum of CDN \$500,000.

#### IV. HOW TO REGISTER TO RECEIVE FURTHER INFORMATION AND SETTLEMENT BENEFITS

Canadian Settlement Class Counsel are proposing to hold the Canadian Settlement Fund in trust for the future benefit of Canadian Settlement Class Members. If you received this notice by mail, you need not take any steps to ensure that further information will be mailed to you. If, however, you did not receive this notice by mail, you must register with the Claims Administrator to ensure that further information will be sent to you by mail, including notice regarding any future distribution of the Canadian Settlement Fund.

You may register online at [www.aircargosettlement.com](http://www.aircargosettlement.com), by completing the Online Registration Form, or by downloading and mailing your completed Registration Form to the Air Cargo Settlement, c/o The Garden City Group, Inc. P.O. Box 9162, Dublin OH, 43017-4162, USA. To register you may also call the Air Cargo Settlement: U.S. or Canada (Toll-Free) at 1 (800) 749-3518; or International at 1 (XXX) XXX-XXXX. A complete list of Air Cargo Settlement toll-free and toll telephone numbers by country is enclosed in the mailing of this Notice, and the list is also available online. You may also write to the Air Cargo Settlement Claims Administrator at the address listed here to request a Registration Form.

#### V. HOW TO EXCLUDE YOURSELF FROM A CLASS

You will be bound by the terms of the Canadian Settlement Agreement, if approved, unless you "opt out." If you choose to remain in the Canadian Settlement Classes and do not opt out, you will not be able to bring or maintain any other claim or legal proceeding alleging acts in violation of the Competition Act, such as price-fixing, or other claims relating to the alleged conduct in the market for air cargo shipping. No further right to opt out of the Canadian Class Actions will be provided in the future. If you opt out of the Canadian Class Actions, you will not be able to participate in the Canadian Settlement Agreement or in any further settlement or judgment achieved against the other non-settling Defendants.

Ontario and/or British Columbia Settlement Classes: If you wish to exclude yourself from one of these Classes, you must do so by sending a written request for exclusion, by certified mail, return receipt requested, postage prepaid, postmarked on or before \_\_\_\_\_ [same as US], to the following address [to be designated by the Courts at the notice approval hearing]:

\_\_\_\_\_  
\_\_\_\_\_

Québec Settlement Class: If you wish to exclude yourself from the Québec Settlement Class, you must do so by sending a written request for exclusion, by certified mail, return receipt requested, postage prepaid, postmarked on or before \_\_\_\_\_ [same as US], to the following address:

QUESTIONS? CALL U.S. & CANADA (TOLL-FREE) 1(800) 749-3518;  
INTERNATIONAL (TOLL): 1(XXX) XXX-XXXX; OR VISIT [www.aircargosettlement.com](http://www.aircargosettlement.com)  
*A complete list of Air Cargo Settlement toll-free and toll telephone numbers by country is enclosed with this Notice, and the list is also available by visiting the website.*

Clerk of the Court  
[address of Québec court]

DELETE SPACE Required Information: All requests for exclusion from the Canadian Class Actions must clearly state:

- your name, address, and phone number
- all trade names or business names and addresses you or your business has used, as well as any parents, subsidiaries or affiliates that have purchased air cargo shipping services at any time during the relevant period and are also requesting to be excluded from the Settlement Class
- the name of the case (*Canadian Air Cargo Shipping Services Class Actions*)
- the Class(es) from which you wish to be excluded
- the value of all air cargo shipping services you have purchased between January 1, 2000 and September 11, 2006
- a signed statement that "I/we hereby request that I/we be excluded from the proposed Settlement Class in the *Canadian Air Cargo Shipping Services Class Action*."

IN ORDER TO BE EXCLUDED FROM THE CANADIAN CLASS ACTIONS, YOU MUST TIMELY REQUEST EXCLUSION IN THE MANNER SET FORTH ABOVE EVEN IF YOU HAVE FILED OR INTEND TO FILE YOUR OWN LAWSUIT AGAINST ANY OF THE DEFENDANTS BASED ON CLAIMS THAT ARISE OUT OF THE CONDUCT AT ISSUE IN THIS LITIGATION. QUÉBEC SETTLEMENT CLASS MEMBERS WHO HAVE COMMENCED PROCEEDINGS OR COMMENCE PROCEEDINGS AND FAIL TO DISCONTINUE SUCH PROCEEDINGS BY THE DEADLINE FOR EXCLUSION FROM THE QUÉBEC CLASS SHALL BE DEEMED TO HAVE OPTED OUT.

#### VI. THE SETTLEMENT APPROVAL HEARINGS

You are not required to attend a settlement approval hearing.

In Canada, each Court must approve the Canadian Settlement Agreement for the Agreement to enter into effect. A motion to approve the Canadian Settlement Agreement will be heard by the Ontario Superior Court of Justice in the City of London on \_\_\_\_\_ at \_\_\_\_\_, the Superior Court of Québec in the City of Montreal on \_\_\_\_\_ at \_\_\_\_\_, and the Supreme Court of British Columbia in the City of [ ] on \_\_\_\_\_ at \_\_\_\_\_. Settlement Class Members are entitled to appear and make submissions at the hearings with respect to the Canadian Settlement Agreement. If you wish to comment on or make an objection to the settlement, a written submission must be delivered by \_\_\_\_\_ to each of the lawyers identified below:

Objections from Settlement Class Members, other than Québec Settlement Class Members, should be sent to Canadian Settlement Class Co-Counsel:

Charles M. Wright  
Siskinds LLP  
680 Waterloo Street  
London, ON N6A 3V8  
1-800-461-6166

Robert E. Kwinter  
Blake, Cassels & Graydon LLP  
199 Bay Street  
Suite 2800, Commerce Court West  
Toronto, ON M5L 1A9  
(416) 863-2400

Canadian Counsel for Lufthansa AG, Lufthansa Cargo AG, and Swiss International Air Lines Ltd.

QUESTIONS? CALL U.S. & CANADA (TOLL-FREE) 1(800) 749-3518;  
INTERNATIONAL (TOLL): 1(XXX) XXX-XXXX; OR VISIT [www.aircargosettlement.com](http://www.aircargosettlement.com)  
A complete list of Air Cargo Settlement toll-free and toll telephone numbers by country is enclosed with this Notice,  
and the list is also available by visiting the website.

**SCHEDULE "C"**

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

NUTECH BRANDS INC.

Plaintiff

- 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., and SWISS INTERNATIONAL AIR LINES LTD.

Defendants

*Proceeding under the Class Proceedings Act, 1992*

AFFIDAVIT OF JEANNE C. FINEGAN, APR

I, Jeanne C. Finegan, of the City of Tigard, in the state of Oregon, in the United States of  
America, MAKE OATH AND SAY AS FOLLOWS:

1. I am a Senior Vice President of The Garden City Group, Inc. ("GCG"), with  
oversight responsibility for GCG Communications, a division of GCG. This affidavit is  
based upon my personal knowledge as well as information provided to me by my associates  
and staff, including information reasonably relied upon in the fields of advertising, media and  
communications.

2. GCG has been retained to develop and implement a legal notice program in the  
United States, Canada, and other countries worldwide ("Notice Program"). The proposed  
Notice Program is designed to provide notice of the proposed class action settlement between  
air cargo Plaintiffs in the above-captioned action and Defendants Deutsche Lufthansa AG,



Lufthansa Cargo AG, and Swiss International Air Lines Ltd. (the "U.S. Settlement"). The Notice Program is also designed to simultaneously provide notice regarding the proposed class action settlement of three similar proceedings in Canadian courts<sup>1</sup> pursuant to the Canadian Air Cargo Shipping Services Class Action Multi-Jurisdictional Settlement Agreement Between Nutech Brands Inc., Cartise Sports Inc. and Karen McKay, and Deutsche Lufthansa AG, Lufthansa Cargo AG and Swiss International Air Lines Ltd., executed December 30, 2006 (the "Canadian Settlement"). This Affidavit describes and details the proposed Notice Program. In addition, this affidavit will address why this worldwide, comprehensive proposed Notice Program is the best notice practicable under the circumstances of this case, and is reasonably calculated to reach the target audience, that is the affected class members, and is consistent with other similar court-approved notice programs.

3. GCG's headquarters are located at 105 Maxess Road in Melville, New York. For more than 20 years, GCG has specialized in the design and implementation of notification campaigns for class action and bankruptcy proceedings. GCG's team has administered more than a thousand settlements, mailed over 150 million notices, processed millions of claims, distributed billions of dollars in compensation, and issued millions of checks in connection with large domestic and international notice campaigns, as well as in connection with highly focused local campaigns for class action proceedings.

4. As Senior Vice President of GCG, in addition to my duties as a Senior Officer of GCG, my responsibilities include, among other things, oversight of day-to-day operations for two GCG Communications offices, in Reston, Virginia and Lake Oswego, Oregon, as well as

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<sup>1</sup> The three Canadian actions are: (1) the proceeding commenced on November 20, 2006 by Karen McKay in the Supreme Court of British Columbia, under Vancouver Registry No. S-067490; (2) the proceeding commenced on July 6, 2006 by Nutech Brands Inc. in the Ontario Superior Court of Justice, under Court File No. 50389 CP, and; (3) the proceeding commenced by Cartise Sports Inc. on May 5, 2006, under Court File No. 500-06-000344-065.



strategic planning, design and implementation of all complex legal notice programs for GCG clients. GCG Communications is located at 11400 Commerce Park Drive, Suite 220, Reston, VA 20191 and 4500 S.W. Kruse Way, Suite 300, Lake Oswego, Oregon 97035.

5. I have more than 20 years of communications and advertising experience. I have been recognized as an expert in legal notice programs, both in federal and state courts in the United States as well as courts in Canada. I have lectured, published and been cited extensively on various aspects of legal noticing, product recall and crisis communications. I have served the Consumer Product Safety Commission ("CPSC") as an expert to determine ways in which the CPSC can increase the effectiveness of its product recall campaigns.

6. I have designed, implemented or consulted on many of the largest and highest profile legal notice communication programs nationally and internationally for a wide range of class actions, regulatory and consumer matters that include product liability, construction defect, antitrust, asbestos, medical/pharmaceutical, human rights, civil rights, telecommunication, media, environment, securities, banking, insurance, and bankruptcies. The cases include, but are not limited to: *In Re Nortel I & II Securities Litigation*, Civil Action No. 01-CV-1855 (RMB), Master File No. 05 MD 1659 (LAP) (S.D.N.Y. 2006); *DeHayos v. Allstate Insurance Company*, Civil Action No SA-01-CA-1010-FB (W.D. Tex. 2006); *SEC v. Vivendi Universal, S.A., et al.*, Case No. 03-CV-10195-PKC (S.D.N.Y. 2003); *In re: John's Manville (Statutory Direct Action Settlement, Common Law Direct Action and Hawaii Settlement)*, Index No 82-11656 (BRL) (Bankr. S.D.N.Y. 2004); *Deke, et al. v. Cardservice International*, Case No. BC 271679 (Los Angeles County Sup. Ct., Cal. 2004); *Sager v. Inamed Corp. and McGhan (Medical Breast Implant Litigation)*, Case No. 01043771 (Santa Barbara County Sup. Ct., Cal. 2004); *Wilson v. Massachusetts Mutual Life Insurance Company*, No. D-101-CV 98-02814 (1st Jud. Dist. Ct., Santa Fe County, N.M.); *In re: Florida Microsoft Antitrust Litigation*, Index No. 99-27340 (11th Jud. Dist. Ct. of Miami, Dade County, Fla.); *In re:*

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*Montana Microsoft Antitrust Litigation*, No. DCV 2000 219 (1st Jud. Dist. Ct., Lewis & Clark County, Mont.); *In re: MCI Non-Subscriber Ratepayers*, MDL No. 1275 (S.D. Ill.); *Sparks v. AT&T Corporation*, No. 96-LM-983 (3d Jud. Cir., Madison County, Ill.); *Pigford v. Glickman*, No. CA 97-19788 (PLF) (D.D.C.); *In re: SmithKline Beecham Clinical Billing*, No. CV 97-L-1230 (3d Jud. Dist., Madison County, Ill.); *Schmidt v. Adidas Salomon A.G.*, No. OCN-L-1248-01 (N.J. Super. Ct.); *MacGregor v. Sehering Plough Corp.*, No. EC248041 (Los Angeles County Sup. Ct., Cal.); *In re: Louisiana-Pacific Inner Seal Siding*, Nos. 879-JE and 1543JE (D. Or.); *Foster v. ABTco Siding Litigation*, No. 95-151-M (Cir. Ct. of Choctaw County, Ala.); *In re: Johns-Manville Phenolic Foam*, No. CV 96-10069 (D. Mass.); *In re: James Hardie Roofing*, No. CV 00-2-17945-65SEA (King County Super. Ct., Wash.); *Claybrook v. Sunbeam Corporation*, No. CV-98-C-1546-W (UWC) (N.D. Ala.); *In re: American Cyanamid*, No. CV-97-0581-BH-M (S.D. Ala.); *Bristow v. Fleetwood Enterprises*, No. Civ 00-0082-S-BLJ (D. Idaho); *Spencer v. Shell Oil Co.*, No. CV 94-074 (Harris County Dist. Ct., Tex.); and *In re: StarLink Corn Products*, No. 01 C 1181 (N.D. Ill.),

7. A number of courts in the United States and Canada have commented favorably on my expertise and the notice programs I designed or implemented. For example:

- *DeHoyos v. Allstate Insurance Company*, Civil Action No SA-01-CA-1010-FB (W.D. Tex. 2006) (“[t]he undisputed evidence shows the notice program in this case was developed and implemented by a nationally recognized expert in class action notice programs” and stating “[t]he notice program “was massive, generating over 640 million opportunities to see this message” and did an excellent job at reaching the target group.”);
- *In Re Nortel I & II Securities Litigation*, Civil Action No. 01-CV-1855 (RMB), Master File No. 05 MD 1659 (LAP) (S.D.N.Y. 2006) (“The form and method of notifying the U.S. Global Class of the pendency of the action as a class action and of the terms and conditions of the proposed Settlement . . . constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.”) This action was brought in courts in the United States and Canada;
- *Lucas v. KMART Corporation*, Civil Action No 99-CV-01923 (JLK) (D. Colo. 2006) (“[t]he Court finds this extensive notice program to be more than

adequate and approves it as the "best notice practicable under the circumstances" and consistent with the requirements of F.R.C.P. 23 and due process");

- *Varacallo, et al. v. Massachusetts Mutual Life Insurance Company, et al.*, Civil Action No. 04-2702 (JLL) (D.N.J. 2004) (finding that "all of the notices are written in simple terminology, are readily understandable by Class Members, and comply with the Federal Judicial Center's illustrative class action notices");
- *Wilson v. Massachusetts Mutual Life Insurance Company*, Case No. D-101-CV 98-02814 (First Judicial District Court County of Santa Fe State of New Mexico 2002) (holding "[t]he Notice Plan was the best practicable and reasonably calculated, under the circumstances of the action . . . [and] that the notice meets or exceeds all applicable requirements of law, including Rule 1-023(C)(2) and (3) and 1-023(B), NMRA 2001, and the requirements of federal and/or state constitutional due process and any other applicable law.");
- *Thomas A. Foster and Linda E. Foster v. ABTco Sliding*, Case No. 95-151-M (Circuit Court of Choctaw County, Alabama 2000) (holding that the notice program "constitutes the best notice practicable under the circumstances of this Action. This finding is based on the overwhelming evidence of the adequacy of the notice program.");
- *Sparks v. AT&T Corporation*, Case No. 96-LM-983 (Third Judicial Circuit Madison County, Illinois 2001). In granting final approval to the settlement, the Court commented: "The Court further finds that the notice of the proposed settlement was sufficient and furnished Class Members with the information they needed to evaluate whether to participate in or opt out of the proposed settlement. The Court therefore concludes that the notice of the proposed settlement met all requirements required by law, including all Constitutional requirements"; and
- *In re: Louisiana-Pacific Inner-Seal Sliding*, Civil Action Nos. 879-JE, and 1453-JE (D. Or. 1995, 1999) ("[t]he notice given to the members of the Class fully and accurately informed the Class members of all material elements of the settlement...[through] a broad and extensive multi-media notice campaign. . . ."),

8. I have also published extensively on various aspects of legal noticing, including the following publications and articles:

- Co-Author, "Approaches to Notice in State Court Class Actions," For The Defense, Vol. 45, No. 11, November, 2003;
- Author, "The Web Offers Near, Real-Time Cost Efficient Notice," American Bankruptcy Institute Journal, Vol. XXII, No. 5, 2003;
- Author, "Determining Adequate Notice in Rule 23 Actions," For The Defense, Vol. 44, No. 9, September, 2002;

- Co-Author, "*The Electronic Nature of Legal Noticing*," American Bankruptcy Institute Journal, Vol. XXI, No. 3, April, 2002;
- Author, "*Three Important Mantras for CEO's and Risk Managers in 2002*," International Risk Management Institute, [irmi.com/](http://irmi.com/), January, 2002;
- Co-Author, "*Used the Bat Signal Lately*," The National Law Journal, Special Litigation Section, February 19, 2001;
- Author, "*How Much is Enough Notice*," Dispute Resolution Alert, Vol. 1, No. 6, March, 2001;
- Author, "*Monitoring the Internet Buzz*," The Risk Report, Vol. XXIII, No. 5, January, 2001;
- Author, "*High-Profile Product Recalls Need More Than the Bat Signal*," International Risk Management Institute, [irmi.com/](http://irmi.com/), July 2001;
- Author, "*The Great Debate - How Much is Enough Legal Notice?*" American Bar Association -- Class Actions and Derivatives Suits Newsletter, Winter 1999; and
- Author, "*What are the best practicable methods to give notice?*" Georgetown University Law Center Mass Tort Litigation Institute, CLE White Paper: Dispelling the communications myth -- A notice disseminated is a notice communicated, November 1, 2001.

9. Additionally, I have lectured or presented extensively on various aspects of legal noticing. A sample list includes the following:

- Faculty Panelist, Practising Law Institute (PLI) CLE Presentation, 11th Annual Consumer Financial Services Litigation. Presentation: Class Action Settlement Structures -- "Evolving Notice Standards in the Internet Age." *New York/Boston* (simulcast) March, 2006; *Chicago*, April, 2006; and *San Francisco*, May, 2006.
- Expert Panelist, U.S. Consumer Product Safety Commission. I was the only legal notice expert invited to participate as an expert to the Consumer Product Safety Commission to discuss ways in which the CPSC could enhance and measure the recall process. As an expert panelist, I discussed how the CPSC could better motivate consumers to take action on recalls and how companies could scientifically measure and defend their outreach efforts. Bethesda, MD, September, 2003.
- Expert Speaker, American Bar Association. Presentation: "How to Bullet-Proof Notice Programs and What Communication Barriers Present Due

Process' Concerns in Legal Notice," ABA Litigation Section Committee on Class Actions & Derivative Suits, Chicago, August 6, 2001.

10. I am accredited ("APR") in Public Relations by the Universal Accreditation Board, a program administered by the Public Relations Society of America.

11. A more comprehensive list of my class action and bankruptcy noticing experience as well as other judicial comments is attached to this affidavit as Exhibit A.

#### OVERVIEW AND OBJECTIVES OF NOTICE PROGRAM

12. Adhering to the highest communication and outreach standards, this proposed Notice Program is based on a scientific methodology that is used throughout the advertising industry and which has been embraced by courts in the United States and Canada. This Notice Program, through a combination of direct mail and publication, is expected to include more than 120 countries worldwide. The proposed Notice Program was specifically designed to properly reach the intended target, the Settlement Classes defined in the U.S. Settlement and the Canadian Settlement. Given that the Settlement Classes are global in scope in the U.S. Settlement and the Canadian Settlement and that the Class members in the actions overlap, as well as the fact that the proposed Notice Program targets the direct and indirect purchasers of air cargo shipping services worldwide, I have concluded that a combined Notice Program will be both practical and effective. The Settlement Class in the U.S. Settlement is defined as:

All persons and entities that purchased airfreight cargo shipping services for shipments within, to or from the United States (hereinafter "Airfreight Shipping Services"), including those persons and entities that purchased Airfreight Shipping Services through freight forwarders, from any air cargo carrier (including, without limitation, those defendants named in the Actions, and specifically including Lufthansa<sup>2</sup>) and/or any named or

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<sup>2</sup> Lufthansa is defined in Paragraph 16 of the Settlement Agreement as Deutsche Lufthansa AG, Lufthansa Cargo AG, and Swiss International Air Lines Ltd., individually and collectively, and their respective subsidiaries,

unnamed co-conspirators (collectively "Defendants") during the period from January 1, 2000 to the Execution Date of this Settlement Agreement.<sup>3</sup> Excluded from the Settlement Class are Defendants, their respective parents, employees, subsidiaries, and affiliates, and all governmental entities.

The Canadian Settlement Class – which encompasses the same time period for purchases of Airfreight Shipping Services as the U.S. Settlement Class – is made up of the British Columbia Settlement Class, the Ontario Settlement Class, and the Québec Settlement Class, which are respectively defined in the Canadian Settlement as follows:

British Columbia Settlement Class means all Persons resident in the province of British Columbia who purchased Airfreight Shipping Services during the Purchase 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 Lufthansa.

Ontario Settlement Class means all Persons, other than members of the Québec Settlement Class or the British Columbia Settlement Class, who purchased Airfreight Shipping Services during the Purchase 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 Lufthansa.

Québec Settlement Class means all individuals resident in the province of Québec and all legal persons 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 contract of employment, who purchased Airfreight Shipping Services during the Purchase 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 Lufthansa.

For each of the Canadian Settlement Classes, the term "Airfreight Shipping Services" is defined as "shipments within, to or from Canada, but specifically excluding airfreight cargo shipping services for shipments to or from the United States." Excluded from each of the

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predecessors, successors, and affiliates. Where used in this affidavit, "Lufthansa" refers to Deutsche Lufthansa AG, Lufthansa Cargo AG, and Swiss International Air Lines Ltd.

<sup>3</sup> The Execution Date of the Settlement Agreement is September 11, 2006.

Canadian Settlement Classes are the Defendants and their respective parents, employees, subsidiaries, affiliates, officers and directors.

#### ELEMENTS OF THE NOTICE PROGRAM

13. The elements in this multifaceted and comprehensive proposed Notice Program include: (1) notice by direct mail; (2) notice by publication; (3) notice by Internet advertising; (4) notice by media outreach; (5) third-party outreach to trade organizations; (6) a Settlement website and; (7) toll free information telephone numbers, as well as additional telephone support.

#### MAILED NOTICE

14. In the proposed Notice Program, GCG will mail individual notice to direct customers whose information is available from Deutsche Lufthansa AG, Lufthansa Cargo AG, and Swiss International Air Lines Ltd. (collectively referred to herein as "Lufthansa"). I am advised by Lufthansa that it maintains comprehensive records of sales of air cargo shipping services made during the purchase periods at issue in the U.S. and Canadian Settlements: January 1, 2000 to September 11, 2006. Due to the nature of the air cargo shipping business, I am informed that many of Lufthansa's direct customers are regular and repeat purchasers of these services. Lufthansa also has available records of indirect purchasers of its air cargo shipping services, who will also receive individual mailed notice. These purchase records provide insight into the scope and geographic distribution of the direct and indirect purchaser group more generally, at least for those geographic regions where the services of Lufthansa and other air cargo airlines overlap.

15. Lufthansa has provided GCG with the electronic records from which GCG will conduct the direct mailing to these Settlement Class Members. Lufthansa has advised me that it carefully collected such records to ensure that the most comprehensive data was available for use. I also have been advised by Lufthansa that, with the exception of a very

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small number of its direct customers, who account for a small volume of the overall commerce, who arrange air cargo shipping by walking directly to the counter in the airport terminal, the records maintained by Lufthansa of its direct purchasers are reliable and comprehensive. Accordingly, the overwhelming majority of direct purchasers of Lufthansa's air cargo shipping services will receive actual notice as a result of the direct mail component of the Notice Program, and the small number of direct purchasers for whom Lufthansa does not have contact information will be accommodated in the publication component of the Notice Program as well as its other outreach elements. Additionally, over 60,000 indirect purchasers have been identified from Lufthansa company records and also will receive actual notice through the direct notice mailing, and the broader indirect purchaser group will be reached through the worldwide publication component of the Notice Program as well as other elements of the proposed Notice Program described below.

16. As a result of the foregoing, Notice packets, including the full Notice of Proposed Settlement, will be mailed to more than 19,000 direct customers and more than 60,000 indirect customers, mostly businesses, in more than 120 countries.<sup>4</sup> The mailings will include the Notice of Proposed Settlement in English, with additional information in the recipient's native language informing them how they can access or obtain copies of the materials in their native language. We understand from discussions with Lufthansa that transactions worldwide involving air cargo shipping within, to, or from the United States and Canada — the classes at issue here — are overwhelmingly conducted in English. Accordingly, the primary language of the full Notice will be English, as the primary language of international business of this nature. Nonetheless, native language materials will be readily accessible as well through various avenues discussed below in paragraphs 38 and 39.

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<sup>4</sup> GCG will perform the mailings in compliance with the requirements of The Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury.



### NOTICE BY PUBLICATION

17. In order to create a best practicable notice, which is reasonably calculated under the circumstances to reach the targeted class, the proposed Notice Program will utilize a tiered approach, which has been approved by courts in other international notice programs including: *In re Mexico Money Transfer Litig.*, 164 F. Supp.2d 1002 (N.D. Ill. 2000), *In re Western Union Money Transfer Litig.*, No. 01-335, 2004 WL 3709932 (E.D.N.Y. Oct. 19, 2004) and *In Re Royal Ahold N.Y. Sec. & ERISA Litig.*, 437 F. Supp.2d 467 (D. Md. June 16, 2006). The proposed Summary Notice for publication has been written in a plain language style appropriate for the target audience. Plain language is simply a more conversational form of communication, which is used, for example, when reporting the news. The concept, now integrated into Legal Notice practice, is one that has received note from various national and international authorities and organizations including the Federal Judicial Center in the United States, the Plain Language Association International, the CBA Plain Language Committee of the Canadian Bar Association and Plain English Campaign in the United Kingdom, among others. The proposed publication Summary Notice, as well as the Notice of Proposed Settlement of U.S. and Canadian Class Actions, are clear, concise, and understandable. The proposed Summary Notice comports with the plain language standards for legal noticing. A copy of the proposed Summary Notice is attached to this affidavit as Exhibit B.

18. The paid media component of the proposed Notice Program will be segregated into four tiers, with the greatest media emphasis placed on: 1) the United States and Canada, which are the sites of the filed actions, and the countries within, to or from which air cargo was shipped pursuant to the class definitions; 2) countries where the largest population of Lufthansa air cargo shipping customers (direct and indirect) are likely to be found; and 3) countries where the largest population of air cargo shippers are located internationally with

an air cargo shipping nexus to the United States or Canada. Assumptions regarding these factors are based on internal proprietary and confidential data provided by Lufthansa as well as extensive primary research from respected worldwide industry resources including:

- USA Trade Online (USA-T) – The official source of U.S. export & import statistics, a collaborative effort between the U.S. Census Bureau's Foreign Trade Division and STAT-USA®, which provides current and cumulative U.S. export and import data.
- Transport Canada – A governmental department in charge of overseeing transportation strategies, goals and programs established by the Government of Canada. Air import and export data by trading partners is reported on their website.
- Airports Council International ("ACI") – A worldwide association created to represent the mutual interests of airport operators. ACI provided the statistical data utilized in the top 50 Airport list according to tonnage, loaded and unloaded freight, and mail in metric tons.

19. The proposed Notice Program was developed with particular attention to the fact that the definition of Settlement Class Members encompasses not only those direct and indirect purchasers who used the services of Lufthansa for Airfreight Shipping Services within, to or from either the United States or Canada during the defined class period, but also those purchasers who used the services of any air cargo shipper to ship within, to or from either the United States or Canada. An individual air cargo airline such as Lufthansa will not fully mirror the air cargo shipping business as a whole, because the industry is predominantly hub based, among other reasons. We understand from discussions from Lufthansa that air cargo shipping is a fungible, commodity service, and that purchasers of air cargo services will overlap between different airlines, at least to the extent that service is available in comparable geographic areas. In other words, Lufthansa's business reflects the fact that it is based in Germany (and Switzerland, for Swiss International Air Lines Ltd.). A direct or indirect purchaser of air cargo shipping who used a different air cargo airline might not be reached in a notice plan that was based only on Lufthansa's business. The proposed Notice Program accordingly incorporates the broader air cargo shipping business globally. This

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refers to the estimated percentage of the unduplicated audience exposed to the campaign. Frequency, in turn, refers to how many times, on average, a target audience had the opportunity to see the message. The quantification is provided through industry-accepted research for audience measurement across multimedia. The calculations are used by advertising and communications firms worldwide and have been adopted by courts to measure the percentage of a target class that was likely reached by a legal notice program.

26. Applying the analysis model to the proposed Notice Program yields the following Reach and Frequency in Tier I of the Notice Program.

Country	Target	Reach	Average Frequency
Canada	Business/Cargo	80%	3.90
	Adults	71%	3.80
China <sup>6</sup>	Business/Cargo	71%	2.44
	Adults	56%	2.27
France	Business/Cargo	70%	3.20
	Adults	69%	3.08
Germany	Business/Cargo	78%	2.90
	Adults	71%	1.80
India	Mumbai Adults	85%	3.08
	Delhi Adults	73%	2.92
Italy	Business/Cargo	98%	3.41
	Adults	68%	1.80
Japan	Business/Cargo	94%	1.60
	Adults	65%	1.10
Malaysia	Adults in Kuala Lumpur	75%	1.50
South Korea	Adults in Seoul	69%	2.90
Switzerland	Business/Cargo	84%	2.30
	Adults	70%	1.80
Taiwan	Adults in Taipei	70%	2.80
United Kingdom	Business/Cargo	71%	3.20
	Adults	68%	2.80
United States	Business/Cargo	81%	2.13
	Adults	74%	1.98

TIER II

<sup>6</sup> In China, India, Malaysia, South Korea and Taiwan, Reach and Frequency are regionalized to follow manufacturing/trade centers and business populations.

27. Tier II of the proposed Notice Program will encompass 20 countries: Austria, Belgium, Brazil, Chile, Colombia, Egypt, Hong Kong<sup>7</sup>, Ireland, Israel, Mexico, Netherlands, Peru, Portugal, Russia, Singapore, South Africa, Spain, Sweden, Thailand and Turkey. In Tier II, the Notice Program uses, on average, three to five leading newspapers per country. In Tier II countries, as well as in Tier III and IV countries, the Notice Program relies upon available readership studies in order to select the most appropriate publications along with circulation and readership analysis.

28. When combined, the 33 countries in Tiers I and II account for approximately 94 percent of Canadian imports according to Transport Canada records, and approximately 85 percent of all U.S. air cargo imports by weight according to USA-T data. Additionally, Tier I and II also account for over 85 percent of all Lufthansa's cargo business according to proprietary Lufthansa data, and approximately 86 percent of worldwide air cargo by tonnage, based on ACI data.

### TIER III

29. Tier III of the proposed Notice Program will include another 30 countries, which were selected and prioritized based on the identified criteria for the tier system. The 30 countries comprising Tier III of the Notice Program are: Argentina, Australia, Cambodia, Czech Republic, Denmark, Ecuador, Ethiopia, Finland, Greece, Guatemala, Hungary, Indonesia, Kenya, Luxembourg, Mauritius, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Philippines, Poland, Romania, Saudi Arabia, Sri Lanka, Uganda, United Arab Emirates, Venezuela, and Vietnam.

### TIER IV

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<sup>7</sup> Although Hong Kong is not a separate country, for purposes of the tier analysis, it is broken out separately in light of the manner in which trade and other data is reported.

30. Tier IV countries will be reached through international publications, international trade press, a globally distributed press release, and the Internet. There are more than 120 countries reached by global Tier IV of the proposed Notice Program, including the 63 countries reached in Tiers I, II and III. The remaining countries reached by Tier IV each individually account for less than .8 percent of Lufthansa business and/or a very small percentage of all cargo tonnage worldwide.

31. Attached to this affidavit as Exhibit C is a list of the publications in which the Summary Notice will be published in all Tiers.<sup>8</sup>

32. All Tiers of the Notice Program will incorporate trade press, a comprehensive media outreach effort, international newspapers and magazines, and the Internet.

#### INTERNET ADVERTISING

33. In addition to print media, the proposed Notice Program is enhanced by the use of Internet advertising on trade websites such as Quick Caller Online (an online reference for regional air cargo directories for North America) and The International Air Cargo Association as well as broad-reaching sites such as AOL and Weather.com.

#### GLOBAL PUBLICATIONS

34. The proposed Notice Program is further strengthened by the use of global media, which includes publication of notice in well respected and broadly distributed international editions of publications such as *The Wall Street Journal*, *The Financial Times*, *Time*

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<sup>8</sup> It is not unusual in the course of implementing a Notice Program of this scope and complexity for the need to arise to make modifications, including, for example, to substitute suitable replacement publications, or to make adjustments in content, with agreement of the parties, to accommodate legal requirements of governments or publications regarding advertising content. This type of modification will not affect the overall integrity of the Notice Program, and substitutions will be consistent with the objectives of the proposed Notice Program. GCG will submit a final affidavit for the Final Fairness Hearing which will detail the implementation of the approved Notice Program, and which will identify any alterations that were required.

*Magazine, Newsweek Magazine, The New York Times, The International Herald Tribune and USA Today.*

#### TRADE PUBLICATIONS

35. Additionally, the proposed Notice Program includes publication of the Summary Notice in 30 trade publications targeting the air cargo shipping professional, including *Air Cargo World, Air Cargo Week, Air Cargo News, Inbound Logistics, Global Logistics, Cargo News Asia-Pacific* and *Logistics Management*, among others. Where available, the international edition of these publications will be used.

#### GLOBAL MEDIA OUTREACH

36. In addition to print and Internet advertising, the proposed Notice Program is further enhanced by the use of global media relations, which includes an extraordinary and robust public relations effort, issuing a Premiere Global press release through PR Newswire to nearly 10,000 news points in almost 90 countries. It is our intention to monitor resulting articles, and we will integrate the performance of the media outreach in our final report. Without a doubt, the media relations component of the Notice Program will add to the opportunity for potential Class Members to see this Notice.

#### ADDITIONAL OUTREACH EFFORTS

37. **Third-Party Outreach.** Additional outreach efforts will include third-party mailings and/or faxes of the Summary Notice to numerous key trade associations and freight forwarders such as Air Forwarders Association, Airports Council International, and the Canadian International Freight Forwarders Association. GCG proposes to request that these groups post the Summary Notice on their websites, and the opportunity for further contact such as e-newsletter sponsorships and e-mails to members/readers of air cargo publications will be explored.

38. **Website.** A website, [www.aircargosettlement.com](http://www.aircargosettlement.com), will be developed and maintained by GCG as a worldwide information hub, where potential claimants and interested parties can obtain detailed information about the Settlement. The website's homepage will include 38 language options in which visitors may obtain information about the settlement, including native language translations of the long-form notice, and when available, the claim form. Additional language translations for these materials will be made available upon request by Settlement Class Members. The website will include an email address that Settlement Class Members can use to communicate such requests. Relevant court documents and the Settlement Agreements will also be posted on the website. The web address ([www.aircargosettlement.com](http://www.aircargosettlement.com)) will be set forth in the publication and mailed notice.

39. **Toll Free Telephone.** GCG will establish and maintain a telephone interactive voice response ("IVR") system dedicated to this case to accommodate telephone inquiries from Class Members. The system will be accessible toll free from countries where notice is published in an in-country publication wherever toll free service is available. For global publications, an international number will be provided. In addition, all toll free numbers will be available on the website. Callers will be able to select from a number of language options.

#### CONCLUSION

40. Based on our analysis as described above and my experience, in my opinion, this proposed Notice Program is reasonably calculated, using tools and methodologies accepted within the advertising industry, to provide the best notice practicable under the circumstances in this case. The multifaceted Notice Program will be particularly effective, and will reach the Class Members in these Settlements through the combination of a variety of communications vehicles, including direct mail, a robust and wide-reaching print notice campaign, a comprehensive global media relations program, Internet banner advertising, a Settlement website, and information available from a toll free telephone number. In my

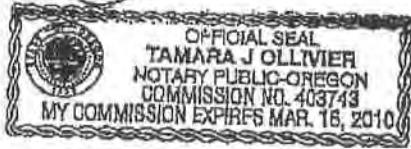
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opinion, this international Notice Program readily meets the standard for providing legal notice to Class Members and will more than adequately satisfy due process considerations.

SWORN OR AFFIRMED before )  
me at the City of La Grange the State )  
of OR, this 5<sup>th</sup> day of July, 2007. )

Tamara J Ollivier  
A Notary Public

Jeanne C Finegan  
Jeanne C. Finegan, APR



NC

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MAR 16 2010



This is Exhibit "A" mentioned  
and referred to in the affidavit of  
Jeanne C. Finegan, sworn  
before me at the City of *Lake Oswego*  
In the State of *OR* this *5<sup>th</sup>* day  
of July, 2007.

*Tamara J. Ollivier*  
\_\_\_\_\_  
A Notary Public



# JEANNE C. FINEGAN, APR

## BIOGRAPHY

Jeanne Finegan is Senior Vice President of The Garden City Group, Inc. ("GCG") and GCG Communications, a division of GCG. She has more than 20 years of communications and advertising experience and is a nationally recognized expert in class action, bankruptcy and mass tort notification campaigns. Finegan is accredited (APR) in Public Relations by the Universal Accreditation Board, a program administered by the Public Relations Society of America.

She has provided testimony before Congress on issues of notice. Additionally, she has provided expert testimony in both state and federal courts regarding notification campaigns and conducted media audits of proposed notice programs for their adequacy under Fed R. Civ. P. 23(c)(2) and similar state class action statutes. Most recently, she has been recognized by Canadian courts as a legal notice expert.

She has lectured, published and has been cited extensively on various aspects of legal noticing, product recall and crisis communications and has served the Consumer Product Safety Commission (CPSC) as an expert to determine ways in which the Commission can increase the effectiveness of its product recall campaigns.

Finegan has developed and implemented many of the nation's largest and most high profile legal notice communication and advertising programs. In the course of her class action experience, courts have recognized the merits of, and admitted expert testimony based on, her scientific evaluation of the effectiveness of notice plans. She has designed legal notices for a wide range of class actions and consumer matters that include product liability, construction defect, anti-trust, medical/pharmaceutical, human rights, civil rights, telecommunication, media, environment, securities, banking, insurance, mass tort, restructuring and product recall.

Her work includes:

DeHoyos, et al. v. Allstate Insurance Company, Civil Action No SA-01-CA-1010-FB, United States District Court Western District of Texas San Antonio Division (2006).

*In the Final Order Approving the Settlement the Court stated: "...the undisputed evidence shows the notice program in this case was developed and implemented by a nationally recognized expert in class action notice programs."*

Lucas, et al. v. Kmart Corporation, Case No. 99-ov-01923-JLK, Class Action, United States District Court for the District of Colorado (2006).

*In the Final Order Approving the Settlement, the Honorable Judge John L. Kane said: The parties submitted a declaration from Jeanne C. Finegan, an expert in the design of notice programs such as the one approved by this Court. The notice program implemented by the parties to this settlement [was extensive and] goes above and beyond that required by law. For the reasons set forth in the Preliminary Approval Order, id. at 695-97, the Court holds that the notice program implemented by the parties was the best notice practicable under the circumstances and satisfied the requirements of due process and F.R.C.P. 23.*

In re: Nortel Network Corp., Securities Litigation Civil Action No. 01-CV-1855 (RMB) Master File No. 05 MD 1659 (LAP) (2006). \*Approved in both the United States and Canada. Ms. Finegan designed and implemented the extensive Canadian Notice program, published in

both French and English, which targeted virtually all investors of Stock in Canada,  
[www.nortelsecuritieslitigation.com](http://www.nortelsecuritieslitigation.com).

Levine, et al. v. Dr. Philip C. McGraw, et al., Case No. BC 312830 (Los Angeles County Super. Ct., Cal. 2004).

*In the Final Order Approving the Settlement, the Honorable Victoria Chaney found that the [Notice] was best practicable under the circumstances and constituted due and sufficient notice to the members of the Settlement Class.... And satisfies the requirements of California law and federal due process of law.*

In re: Epson Cartridge Cases, Judicial Council Coordination Proceeding No. 4347, Superior Court of the State of California for the County of Los Angeles (2006).

UAW v. General Motors Corporation, Case No: 05-73991 Class Action, United States District Court for the Eastern District of Michigan, Southern Division (2006).

Wicon, Inc. v. Cordservice International, Inc., BC 320215 Class Action, Superior Court of the State of California for the County of Los Angeles (2004).

Varacallo, et al. v. Massachusetts Mutual Life Insurance Company, et al., Civil Action No. 04-2702 (JLL), United States District Court for the District of New Jersey (2004).

*The Court found that "all of the notices are written in simple terminology, are readily understandable by Class Members, and comply with the Federal Judicial Center's illustrative class action notices.*

*... By working with a nationally syndicated media research firm, [Finagan's firm] was able to define a target audience for the MassMutual Class Members, which provided a valid basis for determining the magazine and newspaper preferences of the Class Members. (Preliminary Approval Order at p. 9). . . . The Court agrees with Class Counsel that this was more than adequate. (Id. at § 5.2).*

In re: John's Manville (Statutory Direct Action Settlement, Common Law Direct Action and Hawaii Settlement) Index No 82-11656 (BRL), United States Bankruptcy Court for the Southern District of New York (2004).

The nearly half-billion dollar settlement constituted three separate notification programs, which targeted all persons, who had asbestos claims whether asserted or unasserted, against the Travelers Indemnity Company.

In the Findings of Fact and Conclusions of a Clarifying Order Approving the Settlements, the Honorable Chief Judge Burton R. Lifland said:

*"As demonstrated by Findings of Fact, the Statutory Direct Action Settlement notice program was reasonably calculated under all circumstances to apprise the affected individuals of the proceedings and actions taken involving their interests, Mullane v. Cent. Hanover Bank & Trust Co.; 339 U.S. 306, 314 (1950), such program did apprise the overwhelming majority of potentially affected claimants and far exceeded the minimum notice required. The Court concludes that mailing direct notice via U.S. Mail to law firms and directly to potentially affected claimants, as well as undertaking an extensive print media and Internet campaign met and exceeded the requirements of due process. The*

*Court's conclusion in this regard is buttressed by the results over 26,000 phone calls, 20,000 requests for information, 8,000 website visits and 4,000 users registered to download documents. The results simply speak for themselves."*

Wilson v. Massachusetts Mutual Life Insurance Company, Case No. D-101-CV 98-02814, First Judicial District Court, County of Santa Fe, New Mexico (2002).

This was a nationwide notification program that included all persons in the United States who owned, or had owned, a life or disability insurance policy with Massachusetts Mutual Life Insurance Company and had paid additional charges when paying their premium on an installment basis. The class was estimated to exceed 1.6 million individuals. ([www.insuranceclassclaims.com](http://www.insuranceclassclaims.com)).

In granting preliminary approval to the settlement agreement, the Honorable Art Encinas commented:

*"The Notice Plan was the best practicable and reasonably calculated, under the circumstances of the action. ...[and] that the notice meets or exceeds all applicable requirements of law, including Rule 1-023(C)(2) and (3) and 1-025(E), NMRA 2001, and the requirements of federal and/or state constitutional due process and any other applicable law."*

Deke, et al. v. Cardservice International, Case No. BC 271679, Superior Court of the State of California, County of Los Angeles (2004).

In the Final Order dated March 1, 2004, The Honorable Charles W. McCoy commented:

*"The Class Notice satisfied the requirements of California Rules of Court 1836 and 1839 and due process and constituted the best notice practicable under the circumstances."*

Sager v. Inamed Corp. and Meghan Medical Breast Implant Litigation, Case No. 01043771, Superior Court of the State of California, County of Santa Barbara (2004).

In the Final Judgment and Order, dated March 30, 2004, the Honorable Thomas P. Anderle stated:

*"Notice provided was the best practicable under the circumstances."*

In re: Florida Microsoft Antitrust Litigation Settlement, Index number 99-27340 CA 11, 11<sup>th</sup> Judicial District Court of Miami – Dade County, Florida (2003).

In the Final Order Approving the Fairness of the Settlement, The Honorable Henry H. Harnage said:

*"The Class Notice ... was the best notice practicable under the circumstances and fully satisfies the requirements of due process, the Florida Rules of Civil Procedure, and any other applicable rules of the Court."*

In re: Montana Microsoft Antitrust Litigation Settlement, No. DCV 2000 219, Montana First Judicial District Court, Lewis & Clark Co. (2003).

In re: South Dakota Microsoft Antitrust Litigation Settlement, Civ. No. 00-235, State of South Dakota, County of Hughes in the Circuit Court Sixth Judicial Circuit.

In re: Kansas Microsoft Antitrust Litigation Settlement, Case No. 99C17089 Division No. 15 Consolidated Cases, District Court of Johnson County, Kansas Civil Court Department.

In the Final Order and Final Judgment, the Honorable Allen Slater stated:

*"The Class Notice provided was the best notice practicable under the circumstances and fully complied in all respects with the requirements of due process and of the Kansas State. Annot. §60-22.3."*

In re: North Carolina Microsoft Antitrust Litigation Settlement, No. 00-CvS-4073 (Wake) 00-CvS-1246 (Lincoln), State of North Carolina, Wake and Lincoln Counties in the General Court of Justice Superior Court Division North Carolina Business Court.

In the multiple state cases, Plaintiffs generally alleged that Microsoft unlawfully used anticompetitive means to maintain a monopoly in markets for certain software, and that as a result, it overcharged consumers who licensed its MS-DOS, Windows, Word, Excel and Office software. The multiple legal notice programs targeted both individual users and business users of this software. The scientifically designed notice programs took into consideration both media usage habits and demographic characteristics of the targeted class members.

In re: MCI Non-Subscriber RatePayers Litigation, MDL Docket No. 1275, District Court for Southern District of Illinois (2001).

The advertising and media notice program was designed with the understanding that the litigation affects all persons or entities who were customers of record for telephone lines presubscribed to MCI/World Com, and were charged the higher non-subscriber rates and surcharges for direct-dialed long distance calls placed on those lines. ([www.rateclaims.com](http://www.rateclaims.com)). After a hearing to consider objections to the terms of the settlement, The Honorable David R. Herndon stated:

*"As further authorized by the Court, [Finegan's company] ... published the Court-approved summary form of notice in eight general-interest magazines distributed nationally; approximately 900 newspapers throughout the United States and a Puerto Rico newspaper. In addition, [Finegan's company] caused the distribution of the Court-approved press release to over 2,500 news outlets throughout the United States... The manner in which notice was distributed was more than adequate..."*

Sparks v. AT&T Corporation, Case No. 96-LM-983, Third Judicial Circuit, Madison County, Illinois.

The litigation concerned all persons in the United States who leased certain AT&T telephones during the 1980's. Finegan designed and implemented a nationwide media program designed to target all persons who may have leased telephones during this time period, a class that included a large percentage of the entire population of the United States. In granting final approval to the settlement, the Court commented:

*"The Court further finds that the notice of the proposed settlement was sufficient and furnished Class Members with the information they needed to*

*evaluate whether to participate in or opt out of the proposed settlement. The Court therefore concludes that the notice of the proposed settlement met all requirements required by law, including all Constitutional requirements."*

*Pigford v. Glckman and U.S. Department of Agriculture*, Case No. CA No. 97-19788 (PLF), District Court for the District of Columbia (1999).

This was the largest civil rights case to settle in the United States in over 40 years. The highly publicized, nationwide paid media program was designed to alert all present and past African-American farmers of the opportunity to recover monetary damages against the U.S. Department of Agriculture for alleged loan discrimination. In his Opinion, the Honorable Paul L. Friedman commented on the notice program by saying:

*"The parties also exerted extraordinary efforts to reach class members through a massive advertising campaign in general and African American targeted publications and television stations."*

Judge Friedman continued:

*"The Court concludes that class members have received more than adequate notice and have had sufficient opportunity to be heard on the fairness of the proposed Consent Decree."*

*In re: SmithKline Beecham Clinical Billing Litigation*, Case No. CV. No. 97-L-1230, Illinois Third Judicial District, Madison County, (2001).

Finegan designed and developed a national media and Internet site notification program in connection with the settlement of a nationwide class action concerning billings for clinical laboratory testing services.

*MacGregor v. Schering-Plough Corp.*, Case No. EC248041, Superior Court of the State of California, County of Los Angeles (2001).

This nationwide notification was designed to reach all persons who had purchased or used an aerosol inhaler manufactured by Schering-Plough. Because no mailing list was available, notice was accomplished entirely through the media program.

*In re: Swiss Banks Holocaust Victim Asset Litigation* Case No. CV-96-4849, United States District Court for the Eastern District of New York (1999).

Finegan managed the design and implementation of the Internet site on this historic case. The site was developed in 21 native languages. It is a highly secure data gathering tool and information hub, central to the global outreach program of Holocaust survivors. ([www.swissbankclaims.com/](http://www.swissbankclaims.com/)).

*In re: Louisiana-Pacific Inner-Seal Siding Litigation*, Civil Action Nos. 879-JE, and 1453-JE, United States District Court, District of Oregon (1995) and (1999).

Under the terms of the Settlement, three separate Notice programs were to be implemented at three-year intervals over a period of six years. In the first Notice campaign, Finegan implemented the print advertising and Internet components of the Notice program.

In approving the legal notice communication plan, the Honorable Robert E. Jones stated:

*"The notice given to the members of the Class fully and accurately informed the Class members of all material elements of the settlement...[through] a broad and extensive multi-media notice campaign."*

In reference to the third-year Notice program for Louisiana-Pacific, Special Master Hon. Judge Richard Unis, commented:

*"In approving the third year notification plan for the Louisiana-Pacific Inner-Sea™ Siding litigation, the court referred to the notice as "...well formulated to conform to the definition set by the court as adequate and reasonable notice."*

*Indeed, I believe the record should also reflect the Court's appreciation to Ms. Finegan for all the work she's done, ensuring that noticing was done correctly and professionally, while paying careful attention to overall costs." Her understanding of various notice requirements under Fed. R. Civ. P. 23, helped to insure that the notice given in this case was consistent with the highest standards of compliance with Rule 23(d)(2).*

Thomas A. Foster and Linda E. Foster v. ABTco Siding Litigation, Case No. 95-151-M, Circuit Court of Choctaw County, Alabama (2000).

This litigation focused on past and present owners of structures sided with Abitibi-Price siding. The notice program that Finegan designed and implemented was national in scope.

In the Order and Judgment Finally approving settlement, Judge J. Lee McPheerson said:

*"The Court finds that the Notice Program conducted by the Parties provided individual notice to all known Class Members and all Class Members who could be identified through reasonable efforts and constitutes the best notice practicable under the circumstances of this Action. This finding is based on the overwhelming evidence of the adequacy of the notice program ...The media campaign involved broad national notice through television and print media, regional and local newspapers, and the Internet (see *id.* ¶¶9-11) The result: over 90 percent of Abitibi and ABTco owners are estimated to have been reached by the direct media and direct mail campaign."*

In re: Exxon Valdez Oil Spill Litigation, Case No. A89-095-CV (HRH) (Consolidated), United States District Court for the District of Alaska (1997, 2002).

Finegan designed and implemented two media campaigns to notify native Alaskan residents, trade workers, fisherman, and others impacted by the oil spill of the litigation and their rights under the settlement terms.

In re: Georgia-Pacific Toxic Explosion Litigation Case No. 98 CVC05-3535, Court of Common Pleas Franklin County, Ohio (2001).

Finegan designed and implemented a regional notice program that included network affiliate television, radio and newspaper. The notice was designed to alert adults living near a Georgia-Pacific plant that they had been exposed to an air-borne toxic plume and their rights under the terms of the class action settlement. In the Order and Judgment finally approving the settlement the Honorable Jennifer L. Bunner said:

*"...Notice of the settlement to the Class was the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The Court finds that such effort exceeded even reasonable effort and that the Notice complies with the requirements of Civ. R. 23(C).*

In re: Johns Manville Phenolic Foam Litigation Case No. CV 96-10069, United States District Court for the District of Massachusetts (1999).

The nationwide multi-media legal notice program was designed to reach all Persons who own any structure, including an industrial building, commercial building, school, condominium, apartment house, home, garage or other type of structure located in the United States or its territories, in which Johns Manville PFRI was installed, in whole or in part, on top of a metal roof deck.

In re: James Hardie Roofing Litigation Case No. CV. No. 00-2-17945-658EA, Superior Court of Washington, King County (2002).

The nationwide legal notice program included advertising on television, in print and on the Internet. The program was designed to reach all persons who own any structure with JHBP roofing products. In the Final Order and Judgment the Honorable Steven Scott stated:

*"The notice program required by the Preliminary Order has been fully carried out... [and was] extensive. The notice provided fully and accurately informed the Class Members of all material elements of the proposed Settlement and their opportunity to participate in or be excluded from it; was the best notice practicable under the circumstances; was valid, due and sufficient notice to all Class Members; and complied fully with Civ. R. 23, the United States Constitution, due process, and other applicable law."*

In re: First Alert Smoke Alarm Litigation, Case No. CV-98-C-1546-W (UWC), United States District Court for the Northern District of Alabama, Western Division (2000).

Finegan designed and implemented a nationwide legal notice and public information program. The public information program ran over a two-year period to inform those with smoke alarms of the performance characteristics between photoelectric and ionization detection. The media program included network and cable television, magazine and specialty trade publications. In the Findings and Order Preliminarily Certifying the Class, The Honorable C.W. Clemon wrote that the notice plan:

*"...Constitutes due, adequate and sufficient notice to all Class Members; and meets or exceeds all applicable requirements of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Alabama State Constitution, the Rules of the Court, and any other applicable law."*

In re: American Cyanamid, Civil Action CV-97-0581-BH-M, United States District Court for the Southern District of Alabama (2001).

The media program targeted those Farmers who had purchased crop protection chemicals manufactured by American Cyanamid. In the Final Order and Judgment, the Honorable Charles R. Butler Jr. wrote:



*"The Court finds that the form and method of notice used to notify the Temporary Settlement Class of the Settlement satisfied the requirements of Fed. R. Civ. P. 23 and due process, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all potential members of the Temporary Class Settlement."*

*Bristow v Fleetwood Enterprises Litigation* Case No Civ 00-0082-S-EJL, United States District Court for the District of Idaho (2001).

Finegan designed and implemented a legal notice campaign targeting present and former employees of Fleetwood Enterprises, Inc., or its subsidiaries who worked as hourly production workers at Fleetwood's housing, travel trailer, or motor home manufacturing plants. The comprehensive notice campaign included print, radio and television advertising.

*In re: New Orleans Tank Car Leakage Fire Litigation*, Case No 87-16374, Civil District Court for the Parish of Orleans, State of Louisiana (2000).

This case resulted in one of the largest settlements in U.S. history. This campaign consisted of a media relations and paid advertising program to notify individuals of their rights under the terms of the settlement.

*Garrin Spencer v. Shell Oil Company*, Case No. CV 94-074, District Court, Harris County Texas (1995).

The nationwide notification program was designed to reach individuals who owned real property or structures in the United States which contained polybutylene plumbing with acetyl insert or metal insert fittings.

*Rene Rosales v. Fortune Insurance Company*, Case No 99-04588 CA (41) Circuit Court of the 11<sup>th</sup> Judicial Circuit, Miami-Dade County, Florida (2000).

Finegan provided expert testimony in this matter. She conducted an audit on behalf of intervening attorneys for the proposed notification to individuals insured with personal injury insurance. Based upon the audit, Finegan testified that the proposed notice program was inadequate. The Court agreed and signed an Order Granting Intervenors' Objections to Class Action Settlement. The Honorable Jose M. Rodriguez said:

*"The Court finds that Ms. Finegan is qualified as an expert on class notice and effective media campaigns. The Court finds that her testimony is credible and reliable."*

Based in part on Finegan's testimony, the Court ruled in favor of the intervening parties and disapproved the parties' original settlement agreement, vacating the order of preliminary approval.

*In re: Hurd Millwork Heat Mirror™ Litigation* Case No. CV-772488, Superior Court of the State of California, County of Santa Clara (2000).

This nationwide multi-media notice program was designed to reach class members with failed heat mirror seals on windows and doors, and alert them as to the actions that they needed to take to receive enhanced warranties or window and door replacement.

Laborers District Council of Alabama Health and Welfare Fund v Clinical Laboratory Services, Inc., Case No. CV-97-C-629-W, United States District Court for the Northern District of Alabama (2000).

Finegan designed and developed a national media and Internet site notification program in connection with the settlement of a nationwide class action concerning alleged billing discrepancies for clinical laboratory testing services.

In re: StarLink Corn Products Liability Litigation, Case No. 01-C-1181, United States District Court for the Northern District of Illinois, Eastern Division (2002).

Finegan designed and implemented a nationwide notification program designed to alert potential class members of the terms of the settlement.

In re: Albertson's Back Pay Litigation, Case No. 97-0159-S-BLW, United States District Court for the District of Idaho (1997).

Finegan designed and developed a secure Internet site, where claimants could seek case information confidentially.

In re: Georgia Pacific Hardboard Siding Recovering Program, Case No. CV-95-3330-RG, Circuit Court for the County of Mobile, State of Alabama (1997).

Finegan designed and implemented a multi-media legal notice program, which was designed to reach class members with failed G-P siding and alert them of the pending matter. Notice was provided through advertisements which aired on national cable networks, magazines of nationwide distribution, local newspaper, press releases and trade magazines.

In re Diet Drugs (Phentermine, Fenfluramine, Dexfenfluramine) Prods. Liab. Litig., MDL No. 1203, Civil Action No. 99-20593, (E.D. Pa. Aug. 28, 2000).

Finegan has worked as a consultant to the National Diet Drug Settlement Committee on notification issues.

In re: ABS II Pipes Litigation, Case No. 3126, Contra Costa Superior Court, State of California (1998 and 2001).

The Court approved regional notification program designed to alert those individuals who owned structures with the pipe that they were eligible to recover the cost of replacing the pipe. ([www.abspipes.com/](http://www.abspipes.com/)).

In re: Avenue A Inc. Internet Privacy Litigation, Case No: C00-1964C, United States District Court for the Western District of Washington.

In re: Lorazepam and Clonazepam Antitrust Litigation, MDL No. 1290 (TFH), United States District Court for the District of Columbia.

In re: Provident Financial Corporation ERISA Litigation, Case No C-01-5027, United States District Court for the Northern District of California.

In re: H & R Block, et al Tax Refund Litigation, Case No. 97195023/CC4111, Maryland Circuit Court for Baltimore City.

In re: American Premier Underwriters, Inc. U.S. Railroad Vest Corp., Cause No: 06C01-9912, Circuit Court, Boone County, Indiana.

In re: Sprint Corporation Optical Fiber Litigation, Case No: 9907 CV 284, District Court, Leavenworth County, Kansas.

In re: Shelter Mutual Insurance Company Litigation, Case No. CJ-2002-263, District Court, Canadian County, Oklahoma.

In re: Conseco, Inc. Securities Litigation, Case No: IP-00-0585-C Y/S CA, Southern District of Indiana, Indianapolis Division.

In re: National Treasury Employees Union, et al. Case No: 02-128C, United States Court of Federal Claims.

In re: City of Miami Parking Litigation, Case Nos: 99-21456 CA-10, 99-23765 - CA-10, Circuit Court, 11<sup>th</sup> Judicial Circuit, Miami-Dade County, Florida.

In re: Prime Co. Incorporated D/B/A/ Prime Co. Personal Communications, Civil Action No. L 1:01CV658, United States District Court for the Eastern District of Texas, Beaumont Division.

Alea Vaneer v. State of Oregon A.A., Case No. 88C-11289-88C-11300.

#### *A Sample of Finegan's Bankruptcy Experience*

Finegan has designed and implemented literally hundreds of domestic and international bankruptcy notice programs. A sample case list includes the following:

In re: United Airlines, Case No. 02-B-48191, (Bankr. N.D Illinois, Eastern Division).

Finegan worked with United and its restructuring attorneys to design and implement global legal notice programs. The notice was published in 11 countries and translated into 6 languages. Finegan worked closely with legal counsel and UAL's advertising team to select the appropriate media and to negotiate the most favorable advertising rates. ([www.pd-ual.com/](http://www.pd-ual.com/)).

In re: Enron, Case No. 01-16034 (Bankr. S.D.N.Y.)

Finegan worked with Enron and its restructuring attorneys to publish various legal notices.

In re: Dow Corning, Case No. 95-20512 (Bankr. E.D. Mich.)

Finegan originally designed the information website. This Internet site is a major information hub that has various forms in 15 languages.

In re: Harnischfeger Industries, Case No. 99-2171 (RJW) Jointly Administered, (Bankr., District of Delaware).

Finegan designed and implemented 6 domestic and international notice programs for this case. The notice was translated into 14 different languages and published in 16 countries.

In re: Keens Corporation, Case No. 93B 46090 (SMB), (Bankr. E.D. of Missouri, Eastern Division).

Finegan designed and implemented multiple domestic bankruptcy notice programs including notice on the plan of reorganization directed to all creditors and all Class 4 asbestos-related claimants and counsel.

In re: Lamonts, Case No. 00-00045 (Bankr. W.D. of Washington).

Finegan designed and implemented multiple bankruptcy notice programs.

In re: Monet Group Holdings, Case Nos. 00-1936 (MFW) (Bankr. D. of Delaware).

Finegan designed and implemented a bar date notice.

In re: Inco Steel Company, Case No 98-53121-399 (Bankr. E.D. of MO, Eastern Division).

Finegan designed and implemented multiple bankruptcy notice programs.

In re: Columbia Gas Transmission Corporation, Case No. 91-804 (Bankr. S.D.N.Y.)

Finegan developed multiple nationwide legal notice notification programs for this case.

In re: U.S.H. Corporation of New York, et al. (Bankr. S.D.N.Y)

Finegan designed and implemented a bar date advertising notification campaign.

In re: Best Products Co., Inc., Case No. 96-35267-T, (Bankr. E.D. of Virginia)

Finegan implemented a national legal notice program that included multiple advertising campaigns for notice of sale, bar date, disclosure and plan confirmation.

In re: Lodgian, Inc., et al., Case No. 16345 (BRL) Factory Card Outlet -- 99-685 (JCA), 99-686 (JCA), (Bankr. S.D.N.Y).

In re: International Total Services, Inc., et al., Case No: 01-21812, 01-21818, 01-21820, 01-21882, 01-21824, 01-21826, 01-21827 (CD) Under Case No: 01-21812 (Bankr. E.D.N.Y)

In re: Decora Industries, Inc and Decora, Incorporated, Case No: 00-4459 and 00-4460 (JJF) (Bankr. D.of Delaware)

In re: Genesis Health Ventures, Inc., et al, Case No. 002692 (PJW) (Bankr. D. of Delaware)

In re: Telephone Warehouse, Inc., et al, Case No. 00-2105 through 00-2110 (MFW) (Bankr. D.of Delaware).

In re: United Companies Financial Corporation, et al, Case No. 99-450 (MFW) through 99-461 (MFW) (Bankr. D.of Delaware).

In re: Caldor, Inc. New York, The Caldor Corporation, Caldor, Inc. CT, et al, Case No: 95-B44080 (JLG) (Bankr. S.D.N.Y).

In re: Physicians Health Corporation, et al, Case No: 00-4482 (MFW) (Bankr. D.of Delaware).

In re: GC Companies, et al, Case Nos:00-3897 through 00-3927 (MFW) (Bankr. D.of Delaware).

In re: Hellig-Meyers Company, et al, Case Nos: 00-34533 through 00-34538 (Bankr. E.D.of Virginia, Richmond Division).

#### *Product Recall and Crisis Communication*

Reser's Fine Foods - Reser's is a nationally distributed brand and manufacturer of food products through giants such as Albertsons, Costco, Food Lion, WinnDixie, Ingles, Safeway and Walmart. Finegan designed an enterprise-wide crisis communication plan that included communications objectives, crisis team roles and responsibilities, crisis response procedures, regulatory protocols, definitions of incidents that require various levels of notice, target audiences, and threat assessment protocols. Finegan worked with the company through two nationwide, high profile recalls, conducting extensive media relations efforts.

#### *Background*

Prior to joining The Garden City Group, Inc., Finegan co-founded Huntington Advertising, a nationally recognized leader in legal notice communications. After Fleet Bank purchased her firm in 1997, she grew the company into one of the nation's leading legal notice communication agencies.

Prior to that, Finegan spearheaded Huntington Communications, (an Internet development company) and The Huntington Group, Inc., (a public relations firm). As a partner and consultant, she has worked on a wide variety of client marketing, research, advertising, public relations and Internet programs. During her tenure at the Huntington Group, client projects included advertising (media planning and buying), shareholder meetings, direct mail, public relations (planning, financial communications) and community outreach programs. Her past client list includes large public and privately held companies: Code-A-Phone Corp., Thrifty-Payless Drug Stores, Hyster-Yale, The Portland Winter Hawks Hockey Team, U.S. National Bank, U.S. Trust Company, Morley Capital Management, and Durametal Corporation.

Prior to Huntington Advertising, Finegan worked as a consultant and public relations specialist for a West Coast-based Management and Public Relations Consulting firm.

Additionally, Finegan has experience in news and public affairs. Her professional background includes being a reporter, anchor and public affairs director for KWJJ/KJIB radio in Portland, Oregon, as well as reporter covering state government for KBZY radio in Salem, Oregon. Finegan worked as an assistant television program/promotion manager for KPDX directing \$50 million in programming. Additionally she was the program/promotion manager at and KECH-22 television.

Finegan's multi-level communication background gives her a thorough, hands-on understanding of media, the communication process, and how it relates to creating effective and efficient legal notice campaigns.

#### *Articles*

Quoted Article, "Warranty Conference: Globalization of Warranty and Legal Aspects of Extended Warranty," - Warranty Week, - [warrantyweek.com/archive/ww20070228.html/](http://warrantyweek.com/archive/ww20070228.html/) February 28, 2007

Co-Author, "Approaches to Notice in State Court Class Actions," - For The Defense, Vol. 45, No. 11 - November, 2003.

Citation - "Recall Effectiveness Research: A Review and Summary of the Literature on Consumer Motivation and Behavior" U.S. Consumer Product Safety Commission, CPSC-F-02-1391, p.10, Heiden Associates - July 2003.

Author, "The Web Offers Near, Real-Time Cost Efficient Notice," - American Bankruptcy Institute - ABI Journal, Vol. XXII, No. 5. -- 2003.

Author, "Determining Adequate Notice in Rule 23 Actions," - For The Defense, Vol. 44, No. 9 -- September, 2002,

Author, "Legal Notice, What You Need To Know and Why," - Monograph, July 2002.

Co-Author, "The Electronic Nature of Legal Notice," - The American Bankruptcy Institute Journal -Vol. XXI, No. 3, April 2002.

Author, "Three Important Mantras for CEO's and Risk Managers in 2002" - International Risk Management Institute - [irmi.com/](http://irmi.com/) January 2002.

Co-Author, "Used the Bat Signal Lately" - The National Law Journal, Special Litigation Section - February 19, 2001.

Author, "How Much is Enough Notice" - Dispute Resolution Alert, Vol. 1, No. 6, March 2001.

Author, "Monitoring the Internet Buzz" - The Risk Report, Vol. XXIII, No. 5, Jan. 2001.

Author, "High-Profile Product Recalls Need More Than the Bat Signal" - International Risk Management Institute - [irmi.com/](http://irmi.com/) July 2001.

Co-Author, "Do you know what 100 million people are buzzing about today?" Risk and Insurance Management - March 2001,

Quoted Article: "Keep Up with Class Action" Kentucky Courier Journal - March 13, 2000.

Author, "The Great Debate - How Much is Enough Legal Notice?" American Bar Association - Class Actions and Derivatives Suits Newsletter, Winter edition 1999.

*Speaker/Expert Panelist/Presenter*

- Warranty Chain Management     *Faculty Panelist - Presentation Product Recall Simulation. Tampa, Florida - March 2007.*
- Practicing Law Institute     *Faculty Panelist - CLE Presentation -11<sup>th</sup> Annual Consumer Financial Services Litigation. Presentation: Class Action Settlement Structures - Evolving Notice Standards in the Internet Age. New York/Boston (simulcast), NY March 2006; Chicago, IL April 2006 and San Francisco, CA May 2006.*
- U.S. Consumer Product Safety Commission     *Ms. Finegan participated as an Expert to the Consumer Product Safety Commission to discuss ways in which the CPSC could enhance and measure the recall process. As an expert panelist, Ms Finegan discussed how the CPSC could better motivate consumers to take action on recalls and how companies could scientifically measure and defend their outreach efforts. Bethesda MD, September 2003.*
- Weil, Gotshal & Manges     *CLE presentation "A Scientific Approach to Legal Notice Communication" New York, June 2003.*
- Sidley & Austin     *CLE presentation "A Scientific Approach to Legal Notice Communication" Los Angeles, May 2003.*
- Kirkland & Ellis     *Speaker to restructuring group addressing "The Best Practicable Methods to Give Notice in a Tort Bankruptcy." Chicago, April 2002.*
- Georgetown University Law Center Mass Tort Litigation Institute     *CLE White Paper: What are the best practicable methods to give notice? Dispelling the communications myth -- A notice disseminated is a notice communicated. Faculty - Mass Tort Litigation Institute -Washington D.C., November 1, 2001.*
- American Bar Association     *How to Bullet-Proof Notice Programs and what communication barriers present due process concerns in legal notice. Presentation to the ABA Litigation Section Committee on Class Actions & Derivative Suits - Chicago, IL, August 6, 2001.*
- McCutchin, Doyle, Brown & Emerson     *Speaker to litigation group in San Francisco and simulcast to four other McCutchin locations, addressing the definition of effective notice and barriers to communication that affect due process in legal notice. San Francisco, CA - June 2001.*
- Marylhurst University     *Guest lecturer on public relations research methods, Portland, OR - February 2001.*

This is Exhibit "B" mentioned  
and referred to in the affidavit of  
Jeanne C. Finegan, sworn  
before me at the City of *Lake Oswego*  
in the State of *OR* this *5<sup>th</sup>* day  
of July, 2007.

*Pamela J. Oliveri*  
A Notary Public





Legal Notice

**If you purchased Air Cargo Shipping Services within,  
to or from either the United States or Canada from  
January 1, 2000 to September 11, 2006, your rights  
could be affected by a Settlement**

**What are the Settlements about?**

Plaintiffs claim that Deutsche Lufthansa AG, Lufthansa Cargo AG and Swiss International Air Lines Ltd., along with numerous other air cargo carriers, conspired to fix the prices of air cargo shipping services in violation of U.S. antitrust laws and Canadian competition law. The Settlements provide an \$85 million U.S. Fund to pay valid class member claims, and \$5,338 million USD Canadian Fund that Canadian Class Counsel will request to have held in trust for future benefit of the Canadian classes.

**Who is a Class Member?**

You are a class member if you purchased air cargo shipping services, from ANY cargo carrier, for shipments within, to or from either the United States or Canada. This also includes services purchased through freight forwarders. All you need to know is in the Notice of Proposed Settlement, including information on who is or is not a class member.

**How do I get Payment in the U.S. Settlement?**

You must register to receive a claim form. Claim forms will be mailed out later. Call the number below or visit [www.aircargosettlement.com](http://www.aircargosettlement.com) to register and for information on deadlines.

**What are my rights?**

If you do NOT want to take part in the U.S. Settlement or the Canadian class actions, you have the right to "opt out."

To "opt out" of the U.S. or Canadian Settlements, you must do so by \_\_\_\_, 200\_\_. Class members have the right to object to the U.S. or Canadian Settlements. If you object, you must do so by \_\_\_\_, 200\_\_. You may speak to your own attorney at your own expense for help. For more information on how to "opt out" or object, visit [www.aircargosettlement.com](http://www.aircargosettlement.com) or call the number below.

Final Approval Hearings to consider approval of the U.S. and Canadian Settlements and requests by the lawyers for attorneys' fees and costs will be held at the United States District Court for the Eastern District of New York on [Date], 200\_\_; the Ontario Superior Court of Justice on [Date], 200\_\_; the Québec Superior Court on [Date], 200\_\_; and at the Supreme Court of British Columbia on [Date], 200\_\_. For more information on the locations and times of the Hearings, visit [www.aircargosettlement.com](http://www.aircargosettlement.com), or call the number below.

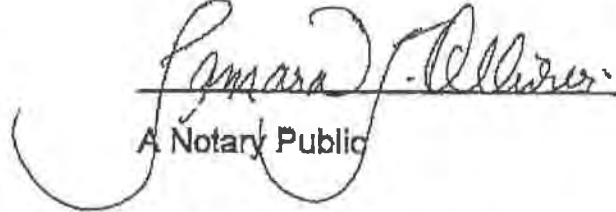
**This is a Summary, where can I get more information?**

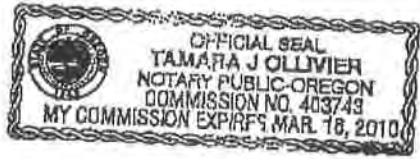
You can get complete Settlement information, including a copy of the full Notice and claim form by registering at [www.aircargosettlement.com](http://www.aircargosettlement.com), calling the number below, or writing to Air Cargo Settlement, c/o The Garden City Group, Inc., P.O. Box 9162, Dublin OH, 43017-4162, USA.

800-000-8800

[www.aircargosettlement.com](http://www.aircargosettlement.com)

This is Exhibit "C" mentioned and referred to in the affidavit of Jeanne C. Finegan, sworn before me at the City of ~~Katlamung~~ in the State of ~~OR~~ this 5<sup>th</sup> day of July, 2007.

  
A Notary Public



The Garden City Group, Inc.

Lufthansa

Country	Publications	Insertions	Circulation	Language	Unit Size
Canada	Canadian Business	1	82,000	English	1/2 Page
Canada	Maclean's	2	411,000	English	1/2 Page
Canada	L'Actualite	2	191,000	French Canadian	1/2 Page
Canada	Report on Business Magazine (Globe & Mail)	1	288,000	English	1/2 Page
Canada	Financial Post Business Magazine	1	221,000	English	1/2 Page
Canada	Time Canada	2	289,000	English	1/2 Page
Canada	Sports Illustrated	2	83,000	English	Full Page
Canada	Reader's Digest (English Edition)	1	995,000	English	Full Page
Canada	Reader's Digest (French Edition)	1	250,000	French Canadian	Full Page
Canada	Canadian Living	2	538,000	English	1/2 Page
Canada	Coup de Pouce	1	230,000	French Canadian	1/2 Page
Canada	Canadian Geographic	1	230,000	English	1/2 Page
Canada	Chatelaine (English Edition)	1	897,000	English	1/2 Page
Canada	Chatelaine (French Edition)	1	209,000	French Canadian	1/2 Page
Canada	People Canada	3	183,000	English	Full Page
Canada	Canadian House and Home	1	260,000	English	1/2 Page
Canada	Today's Parent	1	210,000	English	1/2 Page
Canada	The National Post (M-F)	1	248,000	English	1/8 Page
Canada	The National Post (Sat)	1	268,000	English	1/8 Page
Canada	The Globe and Mail (M-F)	1	322,000	English	1/8 Page
Canada	The Globe and Mail (Sat)	1	402,000	English	1/8 Page
Canada	Toronto Sun (M-F)	1	194,000	English	1/4 Page Tab
Canada	Le Journal de Montreal (Mon - Fri)	1	288,000	French Canadian	1/4 Page Tab
Canada	Montreal Gazette	1	139,159	English	1/8 Page
Canada	La Presse	1	202,888	French Canadian	1/8 Page
International	Financial Times**	1	2,809	English	1/8 Page
International	International Herald Tribune**	1	300	English	1/8 Page
<b>Total</b>		<b>34</b>	<b>7,273,725</b>		

\*Circulation figures provided by PWB 2008 Topline Report.

\*\*These publications distribute the listed circulation in Canada.

Target: Business/Cargo

National Canadian Reach: 80%

Average Frequency: 3.9

Source: PWB 2007 Two-Year Readership Database

Secondary Target: Adults

National Canadian Reach: 71%

Average Frequency: 3.5

Source: PWB 2007 Two-Year Readership Database

THE GARDEN CITY GROUP, INC.

Lufthansa

Country	City/Province	Publication	Insertions	% Circulation*	Language	Unit Size**
China	Beijing	Beijing Evening News	2	1,200,000	Simplified Chinese	1/8 Page
China	Beijing	Beijing Youth Daily	2	500,000	Simplified Chinese	1/8 Page
China	Beijing	Beijing Times	2	TBD	Simplified Chinese	1/8 Page
China	Shanghai	Shanghai Evening News	2	1,100,000	Simplified Chinese	1/8 Page
China	Shanghai	Shanghai Morning News	2	50,000	Simplified Chinese	1/8 Page
China	Guangzhou/Guangdong	Guangzhou Daily	2	1,550,000	Simplified Chinese	1/8 Page
China	Shenzhen/Guangdong	Shenzhen Special Zone News	4	450,000	Simplified Chinese	1/8 Page
China	Shenzhen/Guangdong	Shenzhen Commercial News	2	TBD	Simplified Chinese	1/8 Page
China	Shenzhen/Guangdong	Shenzhen Evening News	2	TBD	Simplified Chinese	1/8 Page
China	Shenzhen/Guangdong	Jing Bao	2	TBD	Simplified Chinese	1/8 Page
China	Shijiazhuang/Heibel	Yanzhao Metropolis Daily	3	1,000,000	Simplified Chinese	1/8 Page
China	Tianjin	Tian Jjn Daily	1	350,000	Simplified Chinese	1/8 Page
China	Tianjin	Global Times	1	1,500,000	Simplified Chinese	1/8 Page
China	Nanjing/Jiangsu	Yanba Evening News	2	2,000,000	Simplified Chinese	1/8 Page
China	Nanjing/Jiangsu	Modern Express	1	TBD	Simplified Chinese	1/8 Page
China	Shenyang/Liaoning	Liaoshen Evening News	3	525,000	Simplified Chinese	1/8 Page
China	Shenyang/Liaoning	Shenyang Evening News	1	300,000	Simplified Chinese	1/8 Page
China	Fuzhou/Fuzhou	Straits News	3	550,000	Simplified Chinese	1/8 Page
China	Hangzhou/Zhejiang	Qianjiang Evening News	2	550,000	Simplified Chinese	1/8 Page
China	Hangzhou/Zhejiang	City Express News	2	TBD	Simplified Chinese	1/8 Page
China	Qingdao/Shandong	Qilu Evening News	5	1,450,000	Simplified Chinese	1/8 Page
China	Qingdao/Shandong	Qingdao Daily	5	TBD	Simplified Chinese	1/8 Page
China	Qingdao/Shandong	Qingdao Evening News	5	TBD	Simplified Chinese	1/8 Page
China	Qingdao/Shandong	Qingdao Morning News	5	TBD	Simplified Chinese	1/8 Page
China	International	Time Asia	1	3,952	English	1/2 page
China	International	Newweek Asia	1	3,359	English	1/2 page
China	International	International Herald Tribune	1	3,851	English	1/8 Page
China	International	Wall Street Journal - Asia	1	5,133	English	1/4 page
China	International	Financial Times	1	1,133	English	1/8 Page
China	International	USA Today - Global	1	1,447	English	1/8 Page
Totals Insertions			67			

\*Circulation figures provided by media representatives.  
 \*\*Some Unit Sizes unconfirmed and subject to change.

Primary Target: Business/Cargo  
 Average Reach for above provinces: 71%  
 Average Frequency for above provinces: 2.44  
 Source: CNRS (China National Readership Survey)

Target: Adults  
 Average Reach for above provinces: 56%  
 Average Frequency for above provinces: 2.27  
 Source: CNRS

THE GARDEN CITY GROUP, INC.

Lufthansa

Country	Publication	Insertions	% Circulation	Language	Unit Size
France	Paris Match	2	684,056	European French	Full Page
France	Le Monde	2	852,845	European French	1/4 Page
France	Le Parisien + Aujourd'hui	2	342,484	European French	1/8 Page
France	Le Figaro	2	321,490	European French	1/4 Page
France	Nouvel Observateur	2	543,696	European French	Full Page
France	L'Equipe	2	365,349	European French	1/8 Page
France	L'Express (FRA)	2	494,715	European French	Full Page
France	Le Point	2	386,780	European French	Full Page
France	Courrier International	2	185,941	European French	Full Page
France	Telerama	2	644,217	European French	Full Page
France	Le Monde 2	2	289,289	European French	Full Page
France/International	Time Magazine	1	71,381	English	1/2 Page
France/International	Newsweek	1	44,374	English	1/2 Page
France/International	International Herald Tribune	1	29,721	English	1/8 Page
France/International	The Wall Street Journal - Europe	1	10,008	English	1/8 Page
France/International	Financial Times	1	19,911	English	1/8 Page
France/International	USA Today - Global	1	6,927	English	1/8 Page
<b>Total</b>		<b>26</b>	<b>4,733,084</b>		

\*Circulation figures provided by media representatives.

\*\*Some Unit Sizes unconfirmed and subject to change.

\*\*\*These publications distribute the listed circulation in France.

**Primary Target: Business/Cargo**

**Reach: 70%**

**Average Frequency: 3.2**

**Source: Ipsos FCA 2006**

**Secondary Target: Adults**

**Reach: 68%**

**Average Frequency: 3.08**

**Source: Ipsos FCA 2006**

2006  
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THE GARDEN CITY GROUP, INC.

Lufthansa

Country	Publication	Insertions	Circulation*	Language	Unit Size**
Germany	ADAC Motorwelt	1	13,502,993	German	1/2 Page
Germany	Sport Bild	1	642,188	German	1/2 Page
Germany	WELT am SONNTAG	1	TBD	German	1/8 Page
Germany	Bild am Sonntag	1	1,754,755	German	1/8 Page
Germany	Bunte	1	725,036	German	1/2 Page
Germany	Der Spiegel	1	1,026,199	German	Full Page
Germany	Frankfurter Allgemeine Zeitung (FAZ)	1	813,818	German	1/4 Page
Germany	Focus	1	734,593	German	Full Page
Germany	Stern	1	1,007,345	German	Full Page
Germany	Süddeutsche Zeitung (SZ)	1	424,730	German	1/4 Page
Germany	SUPERllu	1	523,606	German	1/2 Page
Germany	TV Spielfilm Plus	1	1,578,089	German	1/2 Page
Germany/International	Time Magazine - EMEA	1	95,697	English	1/2 Page
Germany/International	Newsweek - EMEA	1	39,840	English	1/2 Page
Germany/International	International Herald Tribune	1	23,316	English	1/8 Page
Germany/International	The Wall Street Journal - Europe	1	14,396	English	1/8 Page
Germany/International	Financial Times	1	28,483	English	1/8 Page
Germany/International	USA Today - Global	1	18,418	English	1/8 Page
Total		18	22,355,816		

\*Circulation figures provided by media representatives.

\*\*Some Unit Sizes unconfirmed and subject to change.

\*\*\*These publications distribute the listed circulation in Germany.

**Primary Target: Business/Cargo**

Reach: 78%

Average Frequency: 2.6

Source: EBR8 2008

**Secondary Target: Adults**

Reach: 71%

Average Frequency: 1.9

Source: MA 2007

**THE GARDEN CITY GROUP, INC.**  
Lufthansa

Country	Edition	Publication	Insertions	Circulation*	Language	Unit Spots**
India	National	Times of India	1	2,878,872	English	1/8 Page
India	National	Economic Times	1	618,198	English	1/8 Page
India	National	Navbharat Times	1	468,888	Hindi	1/8 Page
India	Delhi Regional Edition	Times of India	1	2,201,186	English	1/8 Page
India	Delhi Regional Edition	Economic Times	1	542,178	English	1/8 Page
India	Delhi Regional Edition	Navbharat Times	1	486,824	Hindi	1/8 Page
India	Delhi Regional Edition	Filmfare Mag	2	29,800	Hindi	Full Page
India	Delhi Regional Edition	Femina Mag	2	28,860	English	Full Page
India	Delhi Regional Edition	Hindustan Times	2	1,188,684	English	1/8 Page
India	Delhi Regional Edition	Hindustan Hindi	2	161,837	Hindi	1/8 Page
India	Delhi Regional Edition	Punjab Kesari	1	324,847	Punjabi	1/8 Page
India	Delhi Regional Edition	Dainik Jagran	2	488,808	Hindi	1/8 Page
India	Mumbai Regional Edition	Times of India	2	588,784	English	1/8 Page
India	Mumbai Regional Edition	Economic Times	1	181,748	English	1/8 Page
India	Mumbai Regional Edition	Navbharat Times	2	195,277	Hindi	1/8 Page
India	Mumbai Regional Edition	Maharashtra Times	3	270,048	Maharashtri	1/8 Page
India	Mumbai Regional Edition	Filmfare Mag	2	38,000	Hindi	Full Page
India	Mumbai Regional Edition	Femina Mag	2	82,000	English	Full Page
India	Mumbai Regional Edition	Mumbai Mirror	1	170,000	English	1/8 Page
India	Mumbai Regional Edition	Hindustan Times	8	130,271	English	1/8 Page
India	Mumbai Regional Edition	Daily News & Analysis	1	140,000	English	1/8 Page
India	Mumbai Regional Edition	Gujarat Samachar	3	205,484	Gujarati	1/8 Page
India	Mumbai Regional Edition	Lokmat	1	218,008	Marathi	1/8 Page
India	Mumbai Regional Edition	Loksatta	2	128,347	Marathi	1/8 Page
India	Mumbai Regional Edition	Midday	2	162,808	English	1/8 Page
India	Mumbai Regional Edition	Navkar	3	165,672	Marathi	1/8 Page
India	Mumbai Regional Edition	Saasna	2	700,864	Marathi	1/8 Page
India/International	EMEA	Time Magazine	1	28,025	English	1/2 Page
India/International	EMEA	Newsweek	1	18,008	English	1/2 Page
India/International	Global	International Herald Tribune	1	1,960	English	1/8 Page
India/International	Asia Edition	The Wall Street Journal	1	644	English	1/8 Page
India/International	Global	Financial Times	1	1,389	English	1/8 Page
India/International	Global	USA Today	1	141	English	1/8 Page
<b>Total</b>			<b>53</b>	<b>11,511,749</b>		

\*Circulation provided by media representatives  
\*\*Unit spots are not valid depend on Content of Notice.

Reach in Mumbai 68%  
Average Frequency: 3.08  
Source: IRS 2007

Target: Adults  
Reach in Delhi 73%  
Average Frequency: 2.82

epb  
navbharat  
times

Delhi  
Regional  
Edition

1.4.08

THE GARDEN CITY GROUP, INC.

Lufthansa

Country	Publication	Insertions	Circulation*	Language	Unit Size
Italy	Focus	1	622,000	Italian	1/2 Page
Italy	Panorama	1	623,000	Italian	1/2 Page
Italy	Donna Moderna	1	514,000	Italian	1/2 Page
Italy	Chi	1	627,000	Italian	1/2 Page
Italy	Il Giornale	1	219,000	Italian	1/4 Page
Italy	Corriere della Sera	1	680,000	Italian	1/4 Page
Italy	La Repubblica	1	629,000	Italian	1/4 Page
Italy	Gazzetta dello Sport	1	373,000	Italian	1/4 Page
Italy	Il Messaggero	1	460,000	Italian	1/4 Page
Italy	La Stampa	1	315,000	Italian	1/4 Page
Italy	Milano Finanza	1	118,873	Italian	1/4 Page
Italy	Il Gazzettino	1	94,209	Italian	1/4 Page
Italy	Il Secolo XIX	1	112,000	Italian	1/4 Page
Italy	Il Sole 24 Ore	1	345,000	Italian	1/4 Page
Italy	Oggi	1	659,279	Italian	1/2 Page
Italy	Gente	1	454,647	Italian	1/2 Page
Italy	Venerdì	1	806,000	Italian	1/2 Page
Italy	L'Espresso	1	386,360	Italian	1/2 Page
Italy/International	Time Magazine - EMEA	1	28,533	English	1/2 Page
Italy/International	Newsweek - EMEA	1	7,782	English	1/2 Page
Italy/International	International Herald Tribune	1	15,049	English	1/8 Page
Italy/International	The Wall Street Journal - Europe	1	10,512	English	1/8 Page
Italy/International	Financial Times	1	9,545	English	1/8 Page
Italy/International	USA Today - Global	1	2,357	English	1/8 Page
<b>Total</b>		<b>24</b>	<b>7,708,936</b>		

\*Circulation figures provided by media representatives.

\*\*Some Unit Sizes unconfirmed and subject to change.

Primary Target: Business/Cargo

Reach: 96%

Average Frequency: 3.41

Source: European Business Readership Survey (EBRS) 2006

Secondary Target: Adults

Minimum Reach: 65%

Average Frequency: 1.8

Source: Audipress



THE GARDEN CITY GROUP, INC.

Lufthansa

Country	Publication	Insertions	Circulation	Language	Unit Size
Japan	Nikkei - Morning Edition	1	3,048,875	Japanese	1/8 Page
Japan	Nikkei Business Daily	1	167,445	Japanese	1/8 Page
Japan	Nikkei Marketing Journal	1	248,900	Japanese	1/8 Page
Japan	Nikkei Financial Daily	1	48,300	Japanese	1/8 Page
Japan	Yomiuri Shimbun	1	10,093,216	Japanese	1/8 Page
Japan	Asahi Shimbun	1	8,226,032	Japanese	1/8 Page
Japan	Mainichi	1	3,957,410	Japanese	1/8 Page
Japan	Chunichi Shimbun - Morning Edition	1	2,745,014	Japanese	1/8 Page
Japan	Hokkaido Shimbun - Morning Edition	1	TBD	Japanese	1/8 Page
Japan	Sankei Shimbun - Morning Edition	1	2,086,391	Japanese	1/8 Page
Japan	Nishi Nippon Shimbun - Morning Edition	1	TBD	Japanese	1/8 Page
Japan	Chugoku Shimbun - Morning Edition	1	TBD	Japanese	1/8 Page
Japan/International	Time Asia	1	61,412	English	1/2 page
Japan/International	Newsweek Asia	1	18,011	English	1/2 page
Japan/International	International Herald Tribune	1	25,559	English	1/8 Page
Japan/International	Wall Street Journal - Asia	1	7,884	English	1/4 page
Japan/International	Financial Times	1	8,003	English	1/8 Page
Japan/International	USA Today - Global	1	1,524	English	1/8 Page

Target: Business/Cargo  
 Reach: 94%  
 Frequency: 1.6  
 Source: JERS

Target: Adults  
 Reach: 85.6%  
 Frequency: 1.1  
 Source: J-READ 2008

THE GARDEN CITY GROUP, INC.

Lufthansa

Country	Publication	Insertions	Circulation**	Language	Unit Size**
Malaysia	The Star	1	189,468	English	1/8 Page
Malaysia	The New Straits Times	1	810,008	English	1/8 Page
Malaysia	Berita Harian	1	2,000	Malay	1/8 Page
Malaysia	Sin Chew Jit Poh	1	885,838	Malay	1/8 Page
Malaysia/International	Time Asia	1	17,302	English	1/2 Page
Malaysia/International	Newsweek Asia	1	20,491	English	1/2 Page
Malaysia/International	International Herald Tribune	1	2,778	English	1/8 Page
Malaysia/International	Wall Street Journal - Global	1	6,067	English	1/8 Page
Malaysia/International	Financial Times	1	1,768	English	1/8 Page
Malaysia/International	USA Today - Global	1	138	English	1/8 Page

\*Circulation figures provided by media representatives.

\*\*Some Unit Sizes unconfirmed and subject to change.

Target: Adults in Kuala Lumpur  
 Reach: 76%  
 Average Frequency: 1.8  
 Source: PAX Fall 2006

THE GARDEN CITY GROUP, INC.

Lufthansa

Country	Publication	Insertions	Circulation*	Language	Unit Size
South Korea	Chosun Ilbo	2	2,668,700	Korean	1/8 Page
South Korea	Maell Business	1	750,000	Korean	1/8 Page
South Korea	DongA Ilbo	2	2,460,000	Korean	1/8 Page
South Korea	JoongAng Ilbo	2	1,850,000	Korean	1/8 Page
South Korea	Korea Economic Daily	1	1,000,000	Korean	1/8 Page
South Korea	Maekyung Economy	1	128,000	Korean	1/8 Page
South Korea	Choogun Chosun	1	130,000	Korean	1/8 Page
South Korea/International	International Herald Tribune	1	20,033	English	1/8 Page
South Korea/International	Wall Street Journal - Global	1	7,808	English	1/8 Page
South Korea/International	USA Today - Global	1	670	English	1/8 Page

\*Circulation figures provided by media representatives.

\*\*Some Unit Sizes unconfirmed and subject to change.

Target: Adults in Seoul  
 Reach: 69%  
 Average Frequency: 2.9  
 Source: PAX Fall 2006

JoongAng Ilbo  
 Maekyung Economy  
 Korea Economic Daily  
 Chosun Ilbo  
 DongA Ilbo  
 Choogun Chosun

THE GARDEN CITY GROUP, INC.

Lufthansa

Country	Publication	Insertions	Circulation*	Language	Unit Size**
Switzerland	Le Matin Dimanche	1	218,024	European French	1/4 Page
Switzerland	24 Heures (ed. Totale)	1	95,315	European French	1/4 Page
Switzerland	L'Hebdo	1	44,870	European French	1/2 Page
Switzerland	Tre Top Tolina (combo) -Confere del Tolina -La Regione Tolina -Giornale del Poada	1	88,804	Italian	Jr. Page
Switzerland	Blick	1		German	1/4 Page
Switzerland	Facts	1	73,140	German	1/2 Page
Switzerland	Metropool (combo) -Tages Anzeiger (Zurich) -Berner Zeitung (Bern) -Basler Zeitung (Basel)	1	567,182	German	Jr. Page
Switzerland	Neue Zürcher Zeitung	1	146,729	German	1/4 Page
Switzerland	Neue Luzerner Zeitung	1	TBD	German	1/4 Page
Switzerland	Sonntags NZZ	1	TBD	German	Jr. Page
Switzerland	SonntagsBlick	1	280,280	German	1/4 Page
Switzerland	SonntagsZeitung	1	201,858	German	1/4 Page
Switzerland/International	Time Magazine - EMEA	1	11,308	English	1/2 Page
Switzerland/International	Newsweek - EMEA	1	4,104	English	1/2 Page
Switzerland/International	International Herald Tribune	1	8,888	English	1/8 Page
Switzerland/International	The Wall Street Journal - Europe	1	4,367	English	1/8 Page
Switzerland/International	Financial Times	1	9,193	English	1/8 Page
Switzerland/International	USA Today - Global	1	1,459	English	1/8 Page
<b>Total</b>		<b>18</b>	<b>11,742,329</b>		

\*Circulation figures provided by media representatives.  
\*\*Some Unit Sizes approximated and subject to change.

Primary Target: Business/Outgo  
Reach: 84%  
Average Frequency: 2.3  
Source: MA Leader

Secondary Target: Adults  
Reach: 70%  
Average Frequency: 1.8  
Source: MACH Brief 2007-1

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THE GARDEN CITY GROUP, INC.

Lufthansa

Country	Publication	Insertions	Circulation*	Language	Unit Size**
Taiwan	China Times	3	Traditional Chinese	1,950,000	1/8 Page
Taiwan	United Daily News	1	Traditional Chinese	TBD	1/8 Page
Taiwan	United Evening News	2	Traditional Chinese	TBD	1/8 Page
Taiwan	Commercial Times	1	Traditional Chinese	360,000	1/8 Page
Taiwan	Economic Daily News	1	Traditional Chinese	368,000	1/8 Page
Taiwan	Liberty Times	1	English	TBD	1/8 Page
Taiwan	China Post	1	English	260,000	1/8 Page
Taiwan/International	Time Asia	1	English	12,643	1/2 Page
Taiwan/International	Newsweek Asia	1	English	8,964	1/2 Page
Taiwan/International	International Herald Tribune	1	English	2,951	1/8 Page
Taiwan/International	Wall Street Journal - Global	1	English	4,271	1/8 Page
Taiwan/International	Financial Times	1	English	336	1/8 Page
Taiwan/International	USA Today - Global	1	English	413	1/8 Page

\*Circulation figures provided by media representatives.

\*\*Some Unit Sizes unconfirmed and subject to change.

Target: Adults in Taipei

Reach: 70%

Average Frequency: 2.8

Source: FAX Fall 2006

THE GARDEN CITY GROUP, INC.

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Country	Publication	Insertions	Circulation*	Language	Unit Size
United Kingdom	Daily Mail	2	2,408,001	English	1/8 Page
United Kingdom	The Daily Telegraph	2	834,341	English	1/8 Page
United Kingdom	Financial Times (UK and ROI edition)	1	138,886	English	1/8 Page
United Kingdom	The Times	2	639,547	English	1/8 Page
United Kingdom	The Sunday Times	2	1,397,154	English	1/8 Page
United Kingdom	The Economist	2	170,038	English	Full Page
United Kingdom	The Guardian	2	366,233	English	1/8 Page
United Kingdom	The Sun	2	3,397,473	English	1/8 Page
United Kingdom	Mail on Sunday	2	2,253,450	English	1/8 Page
United Kingdom	News of the World	3	3,308,111	English	1/8 Page
United Kingdom	Radio Times	2	1,070,042	English	Full Page
United Kingdom	What's on TV	2	1,589,521	English	Full Page
United Kingdom/International	Time Magazine - EMEA	1	139,105	English	1/2 Page
United Kingdom/International	Newsweek - EMEA	1	38,333	English	1/2 Page
United Kingdom/International	International Herald Tribune	1	11,042	English	1/8 Page
United Kingdom/International	The Wall Street Journal - Europe	1	16,252	English	1/8 Page
United Kingdom/International	USA Today - Global	1	6,303	English	1/8 Page
<b>Total</b>		<b>28</b>	<b>17,882,974</b>		

\*Circulation figures provided by media representatives.

\*\*Some Unit Sizes unconfirmed and subject to change.

**Primary Target: Business/Cargo**

Reach: 71%

Average Frequency: 3.3

Source: British Business Survey 2005

**Secondary Target: Adults**

Reach: 68%

Average Frequency: 2.8

Survey: NRS 2007

**THE GARDEN CITY GROUP, INC.**

**Lufthansa**

Country	Publication	Insertions	% Circulation*	Unit Size
United States	Parade	1	32,400,000	2/5 Page
United States	USA Weekend	1	23,442,692	2/5 Page
United States	American Profile	1	8,000,000	1/4 Page
United States	People	2	3,823,604	1/2 Page
United States	Newsweek	1	3,142,281	1/2 Page
United States	Readers Digest	1	10,094,288	Full Page
United States	Jet	1	936,751	Full Page
United States	Vista	1	866,948	1/2 Page
United States	USA Today	1	2,194,787	1/8 Page
United States	Wall Street Journal	1	2,043,235	1/8 Page
United States	New York Times	1	1,086,798	1/8 Page
United States/International	International Herald Tribune	1	4,125	1/8 Page
United States/International	Financial Times	1	136,040	1/8 Page
<b>Magazine Total</b>		<b>14</b>	<b>88,971,547</b>	

\* Source: SRDS March 2007 on line.

**Primary Target: Business/Cargo**

National U.S. Reach: 81%

Average Frequency: 2.13

Source: MRI Doublebase 2006/Business-to-Business

**Secondary Target: Adults**

National U.S. Reach: 74%

Average Frequency: 1.99

Source: MRI Doublebase 2006

*WSJ, NYT and USA Today are included in both reach percentages, but are part of global plan pricing  
Black Enterprise, Jet, Ebony and Essence are only measured in the Adults 18+ reach.  
People en Espanol, Vista and RD Selecciones are not measured in either reach program.*

THE GARDEN CITY GROUP, INC.

Lufthansa

Tier 2

Tier	Country	Publication	Language	Estimated Population
Tier 2	Austria	Kurier	German	167,488
Tier 2	Austria	Die Presse	German	84,108
Tier 2	Austria	Der Standard	German	98,874
Tier 2	Austria	Wirtschaftsblatt	German	38,460
Tier 2	Austria/International	Time EMEA	English	5,958
Tier 2	Austria/International	Newsweek EMEA	English	4,188
Tier 2	Austria/International	International Herald Tribune	English	6,488
Tier 2	Austria/International	Wall Street Journal/Global	English	2,688
Tier 2	Austria/International	Financial Times	English	4,408
Tier 2	Austria/International	USA Today - Global	English	858
Tier 2	Belgium	Het Nieuwsblad	Dutch	210,887
Tier 2	Belgium	L'Echo	European French	17,888
Tier 2	Belgium	Le Soir	European French	98,184
Tier 2	Belgium	De Standaard	Dutch	92,811
Tier 2	Belgium	De Tijd	Dutch	80,000
Tier 2	Belgium	Gazet Van Antwerpen	Dutch	114,118
Tier 2	Belgium/International	Time EMEA	English	13,223
Tier 2	Belgium/International	Newsweek EMEA	English	3,584
Tier 2	Belgium/International	International Herald Tribune	English	3,774
Tier 2	Belgium/International	Wall Street Journal/Global	English	4,833
Tier 2	Belgium/International	Financial Times	English	3,680
Tier 2	Belgium/International	USA Today - Global	English	728
Tier 2	Brazil	O Estado de S. Paulo	Latin American Portuguese	218,828
Tier 2	Brazil	Jornal do Brasil	Latin American Portuguese	118,000
Tier 2	Brazil	O Globo	Latin American Portuguese	982,000
Tier 2	Brazil/International	Newsweek/Latin America	English	27,778
Tier 2	Brazil/International	Financial Times	English	114
Tier 2	Chile	El Mercurio	Latin American Spanish	118,948
Tier 2	Chile	Capital	Latin American Spanish	18,820
Tier 2	Chile	Que Pasa	Latin American Spanish	82,343
Tier 2	Chile	Geotica	Latin American Spanish	28,800
Tier 2	Chile	Emilia	Latin American Spanish	38,000
Tier 2	Chile	Las Ultimas Noticias	Latin American Spanish	189,481
Tier 2	Chile/International	Newsweek/Latin America	English	284
Tier 2	Colombia	El Tiempo	Latin American Spanish	238,811
Tier 2	Colombia	Periódico	Latin American Spanish	48,000
Tier 2	Colombia	Diario	Latin American Spanish	84,800
Tier 2	Colombia	Bernama	Latin American Spanish	191,700
Tier 2	Colombia	Neogocio Inteligente	Latin American Spanish	68,000
Tier 2	Colombia/International	Newsweek/Latin America	English	1,438
Tier 2	Colombia/International	Financial Times	English	12
Tier 2	Egypt	Al Ahran	Arabic	1,881,400
Tier 2	Egypt	Akhbar Daily	Arabic	1,331,800
Tier 2	Egypt	Al Baha	Arabic	28,000
Tier 2	Egypt/International	Time EMEA	English	1,038
Tier 2	Egypt/International	International Herald Tribune	English	827
Tier 2	Egypt/International	Wall Street Journal/Global	English	83
Tier 2	Egypt/International	Financial Times	English	301
Tier 2	Egypt/International	USA Today - Global	English	88
Tier 2	Hong Kong/China	Hong Kong Oriental News	Traditional Chinese	400,000
Tier 2	Hong Kong/China	South China Morning Post	English	118,991
Tier 2	Hong Kong/China	Sing Tao Daily	Traditional Chinese	100,000
Tier 2	Hong Kong/China	Apple Daily	Traditional Chinese	340,000
Tier 2	Hong Kong/China	Yeehou Zhoukan (newswEEKly)	Traditional Chinese	78,800
Tier 2	Hong Kong/China	Ming Pao Daily	Traditional Chinese	128,000
Tier 2	Hong Kong/China/International	Time Asia	English	48,738
Tier 2	Hong Kong/China/International	Newsweek Asia	English	28,758
Tier 2	Hong Kong/China/International	International Herald Tribune	English	10,578
Tier 2	Hong Kong/China/International	Wall Street Journal/Global	English	13,228
Tier 2	Hong Kong/China/International	Financial Times	English	6,532
Tier 2	Hong Kong/China/International	USA Today - Global	English	8,888
Tier 2	Ireland	Irish Times	English	118,102
Tier 2	Ireland	Irish Times Saturday	English	118,000
Tier 2	Ireland	Irish Times Magazine	English	118,000
Tier 2	Ireland	Irish Independent	English	188,888
Tier 2	Ireland	Irish Examiner	English	80,828
Tier 2	Ireland/International	Time EMEA	English	14,957
Tier 2	Ireland/International	Wall Street Journal/Global	English	888
Tier 2	Ireland/International	Financial Times	English	4,188
Tier 2	Ireland/International	USA Today - Global	English	778
Tier 2	Israel	Yediot Achronot	Hebrew	880,000
Tier 2	Israel	Me'Ariv	Hebrew	285,800



THE GARDEN CITY GROUP, INC.

Lufthansa

Tier 2

Tier 2	Israel	Ha'Aratz/International Herald Tribune	Hebrew/English	332,000
Tier 2	Israel	The Jerusalem Post	English	78,000
Tier 2	Israel/International	Newsweek EMEA	English	6,788
Tier 2	Israel/International	International Herald Tribune	English	7,501
Tier 2	Israel/International	Wall Street Journal/Global	English	161
Tier 2	Israel/International	Financial Times	English	175
Tier 2	Israel/International	USA Today - Global	English	88
Tier 2	Mexico	Reforma	Latin American Spanish	146,704
Tier 2	Mexico	El Universal	Latin American Spanish	162,479
Tier 2	Mexico	Diario Siete	Latin American Spanish	312,000
Tier 2	Mexico	Esto	Latin American Spanish	828,000
Tier 2	Mexico/International	Financial Times	English	237
Tier 2	Netherlands	The Netherlands Group	Dutch	1,000,000
Tier 2	Netherlands	De Telegraaf	Dutch	857,204
Tier 2	Netherlands	Algemeen Dagblad	Dutch	622,660
Tier 2	Netherlands	De Volkskrant	Dutch	249,637
Tier 2	Netherlands	NRC Handelsblad	Dutch	209,088
Tier 2	Netherlands	Het Financieel Dagblad	Dutch	65,209
Tier 2	Netherlands/International	Time EMEA	English	12,651
Tier 2	Netherlands/International	Newsweek EMEA	English	3,432
Tier 2	Netherlands/International	International Herald Tribune	English	7,910
Tier 2	Netherlands/International	Wall Street Journal/Global	English	6,370
Tier 2	Netherlands/International	Financial Times	English	8,852
Tier 2	Netherlands/International	USA Today - Global	English	4,200
Tier 2	Peru	El Comercio	Latin American Spanish	80,000
Tier 2	Peru	Gestión	Latin American Spanish	22,000
Tier 2	Peru	Peru 21	Latin American Spanish	26,000
Tier 2	Peru/International	Newsweek/Latin America	English	443
Tier 2	Peru/International	Financial Times	English	3
Tier 2	Portugal	Diário de Notícias	European Portuguese	85,000
Tier 2	Portugal	Jornal de Notícias	European Portuguese	97,122
Tier 2	Portugal	Público	European Portuguese	83,210
Tier 2	Portugal	Expresso	European Portuguese	160,527
Tier 2	Portugal	Correio da Manhã	European Portuguese	101,503
Tier 2	Portugal	Diário Económico	European Portuguese	45,257
Tier 2	Portugal/International	Time EMEA	English	7,825
Tier 2	Portugal/International	Newsweek EMEA	English	1,850
Tier 2	Portugal/International	International Herald Tribune	English	669
Tier 2	Portugal/International	Wall Street Journal/Global	English	252
Tier 2	Portugal/International	Financial Times	English	2,578
Tier 2	Portugal/International	USA Today - Global	English	104
Tier 2	Russia	Argumenty i Fakty (Russian Edition)	Russian	1,860,000
Tier 2	Russia	Delovoye Pressburg	Russian	28,000
Tier 2	Russia	Kommersant Daily (national ed.)	Russian	117,340
Tier 2	Russia	Vedomosti	Russian	68,700
Tier 2	Russia/International	Newsweek EMEA	English	1,088
Tier 2	Russia/International	Wall Street Journal/Global	English	150
Tier 2	Russia/International	Financial Times	English	1,219
Tier 2	Russia/International	USA Today - Global	English	134
Tier 2	Singapore	The Straits Times	English	404,000
Tier 2	Singapore	The Business Times	English	25,833
Tier 2	Singapore	Lianhe Zaobao	Traditional Chinese	211,000
Tier 2	Singapore/International	Time Asia	English	96,528
Tier 2	Singapore/International	Newsweek Asia	English	23,040
Tier 2	Singapore/International	International Herald Tribune	English	9,344
Tier 2	Singapore/International	Wall Street Journal/Global	English	11,838
Tier 2	Singapore/International	Financial Times	English	7,223
Tier 2	Singapore/International	USA Today - Global	English	1,940
Tier 2	South Africa	Sunday Times	English	304,285
Tier 2	South Africa	The Star	English	180,000
Tier 2	South Africa	Report	Afrikaans	389,702
Tier 2	South Africa	Cape Argus	English	73,194
Tier 2	South Africa	Daily News	English	64,370
Tier 2	South Africa	Die Volksblad	Afrikaans	81,825
Tier 2	South Africa	Daily Dispatch	English	81,915
Tier 2	South Africa/International	Time EMEA	English	65,749
Tier 2	South Africa/International	Newsweek EMEA	English	4,638
Tier 2	South Africa/International	Wall Street Journal/Global	English	15
Tier 2	South Africa/International	Financial Times	English	4,094
Tier 2	South Africa/International	USA Today - Global	English	7
Tier 2	Spain	El País	European Spanish	865,013
Tier 2	Spain	El Mundo	European Spanish	800,830
Tier 2	Spain	ABC	European Spanish	242,712
Tier 2	Spain	La Vanguardia	European Spanish	194,303

THE GARDEN CITY GROUP, INC.

Lufthansa

Tier 2

Tier 2	Spain	Cinco Días	European Spanish	120,000
Tier 2	Spain/International	Time EMEA	English	13,280
Tier 2	Spain/International	Newsweek EMEA	English	6,286
Tier 2	Spain/International	International Herald Tribune	English	6,510
Tier 2	Spain/International	Wall Street Journal/Global	English	3,498
Tier 2	Spain/International	Financial Times	English	5,192
Tier 2	Spain/International	USA Today - Global	English	887
Tier 2	Sweden	Aftonbladet	Swedish	416,800
Tier 2	Sweden	Dagens Nyheter (Stockholm)	Swedish	361,800
Tier 2	Sweden	Expressen	Swedish	320,800
Tier 2	Sweden	Göteborgs Posten	Swedish	242,700
Tier 2	Sweden	Svenska Dagbladet	Swedish	164,800
Tier 2	Sweden/International	Time EMEA	English	17,433
Tier 2	Sweden/International	Newsweek EMEA	English	4,067
Tier 2	Sweden/International	International Herald Tribune	English	2,877
Tier 2	Sweden/International	Wall Street Journal/Global	English	541
Tier 2	Sweden/International	Financial Times	English	4,828
Tier 2	Sweden/International	USA Today - Global	English	229
Tier 2	Thailand	Thai Rath	Thai	1,000,000
Tier 2	Thailand	Khao-Sod	Thai	800,000
Tier 2	Thailand	Bangkok Post	English	180
Tier 2	Thailand/International	Time Asia	English	11,887
Tier 2	Thailand/International	Newsweek Asia	English	11,859
Tier 2	Thailand/International	International Herald Tribune	English	6,072
Tier 2	Thailand/International	Wall Street Journal/Global	English	7,015
Tier 2	Thailand/International	Financial Times	English	468
Tier 2	Thailand/International	USA Today - Global	English	479
Tier 2	Turkey	Hürriyet	Turkish	550,000
Tier 2	Turkey	Sabah	Turkish	100,000
Tier 2	Turkey	Dunya	Turkish	45,000
Tier 2	Turkey/International	Time EMEA	English	2,842
Tier 2	Turkey/International	Newsweek EMEA	English	3,498
Tier 2	Turkey/International	International Herald Tribune	English	891
Tier 2	Turkey/International	Wall Street Journal/Global	English	529
Tier 2	Turkey/International	Financial Times	English	626
Tier 2	Turkey/International	USA Today - Global	English	127

Tier 3

Tier 3	Argentina	La Nación**	Latin American Spanish	168,997
Tier 3	Argentina/International	Newsweek/Latin America	English	254
Tier 3	Argentina/International	Financial Times	English	63
Tier 3	Australia	Sunday Telegraph	English	684,072
Tier 3	Australia	The Sunday Herald-Sun (Melbourne)	English	613,000
Tier 3	Australia	Sunday Mail (Brisbane)	English	180
Tier 3	Australia/International	Time/South Pacific	English	79,262
Tier 3	Australia/International	International Herald Tribune	English	85
Tier 3	Australia/International	Wall Street Journal/Global	English	207
Tier 3	Australia/International	Financial Times	English	2,988
Tier 3	Australia/International	USA Today - Global	English	146
Tier 3	Cambodia	Phnom Penh Post	English	5,000
Tier 3	Czech Republic	Blazek	Czech	448,828
Tier 3	Czech Republic/International	Time EMEA	English	1,016
Tier 3	Czech Republic/International	Newsweek EMEA	English	1,451
Tier 3	Czech Republic/International	International Herald Tribune	English	2,322
Tier 3	Czech Republic/International	Wall Street Journal/Global	English	218
Tier 3	Czech Republic/International	Financial Times/Europe	English	2,269
Tier 3	Czech Republic/International	USA Today - Global	English	840
Tier 3	Denmark	Berlingske Tidende	Danish	165,178
Tier 3	Denmark/International	Time EMEA	English	6,434
Tier 3	Denmark/International	Newsweek EMEA	English	3,143
Tier 3	Denmark/International	International Herald Tribune	English	4,394
Tier 3	Denmark/International	Wall Street Journal/Global	English	800
Tier 3	Denmark/International	Financial Times	English	6,271
Tier 3	Denmark/International	USA Today - Global	English	678
Tier 3	Ecuador	El Comercio**	Latin American Spanish	93,600
Tier 3	Ecuador/International	Newsweek/Latin America	English	286
Tier 3	Ecuador/International	Financial Times	English	2
Tier 3	Ethiopia	The Ethiopian Herald	English	7,000
Tier 3	Ethiopia/International	Newsweek	English	802
Tier 3	Finland	Helsingin Sanomat	Finnish	632,367
Tier 3	Finland/International	Time EMEA	English	7,928
Tier 3	Finland/International	Newsweek EMEA	English	2,780

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Tier 2

Tier 3	Finland/International	International Herald Tribune	English	1,169
Tier 3	Finland/International	Wall Street Journal/Global	English	140
Tier 3	Finland/International	Financial Times	English	2,773
Tier 3	Finland/International	USA Today - Global	English	84
Tier 3	Greece	To Vima	Greek	227,072
Tier 3	Greece/International	Time EMEA	English	8,900
Tier 3	Greece/International	Newsweek EMEA	English	2,828
Tier 3	Greece/International	International Herald Tribune	English	4,180
Tier 3	Greece/International	Wall Street Journal/Global	English	310
Tier 3	Greece/International	Financial Times	English	1,001
Tier 3	Greece/International	USA Today - Global	English	456
Tier 3	Guatemala	Siglo Veintiuno**	Latin American Spanish	27,000
Tier 3	Guatemala/International	Newsweek Latin America	English	217
Tier 3	Hungary	Metro	Hungarian	802,000
Tier 3	Hungary/International	Time EMEA	English	1,238
Tier 3	Hungary/International	Newsweek EMEA	English	2,601
Tier 3	Hungary/International	International Herald Tribune	English	594
Tier 3	Hungary/International	Wall Street Journal/Global	English	260
Tier 3	Hungary/International	Financial Times	English	1,078
Tier 3	Hungary/International	USA Today - Global	English	247
Tier 3	Indonesia/Jakarta	Kompas	Bahasa Indonesian	800,000
Tier 3	Indonesia/Jakarta/International	Time Asia	English	6,032
Tier 3	Indonesia/Jakarta/International	Newsweek Asia	English	6,050
Tier 3	Indonesia/Jakarta/International	International Herald Tribune	English	3,817
Tier 3	Indonesia/Jakarta/International	Wall Street Journal/Global	English	5,178
Tier 3	Indonesia/Jakarta/International	Financial Times	English	121
Tier 3	Kenya	Daily Nation	English	250,000
Tier 3	Kenya/International	Time EMEA	English	2,041
Tier 3	Kenya/International	Newsweek EMEA	English	1,808
Tier 3	Kenya/International	Financial Times	English	54
Tier 3	Kenya/International	USA Today - Global	English	6
Tier 3	Luxembourg	Luxembourger Wort	German	55,113
Tier 3	Luxembourg/International	Newsweek EMEA	English	502
Tier 3	Luxembourg/International	International Herald Tribune	English	721
Tier 3	Luxembourg/International	Wall Street Journal/Global	English	307
Tier 3	Luxembourg/International	Financial Times	English	1,444
Tier 3	Luxembourg/International	USA Today - Global	English	63
Tier 3	Mauritius	Le Mauricien	French	30,000
Tier 3	Mauritius/International	Time EMEA	English	822
Tier 3	Mauritius/International	Newsweek EMEA	English	1,808
Tier 3	Mauritius/International	Financial Times	English	68
Tier 3	New Zealand	Canterbury Post	English	93,328
Tier 3	New Zealand	New Zealand Herald	English	125,361
Tier 3	New Zealand/International	Financial Times	English	71
Tier 3	New Zealand/International	Time EMEA	English	28,869
Tier 3	New Zealand/International	Wall Street Journal/Global	English	10
Tier 3	Nicaragua	La Prensa**	Latin American Spanish	36,865
Tier 3	Nicaragua/International	Newsweek Latin America	English	128
Tier 3	Nicaragua/International	Financial Times	English	1
Tier 3	Nigeria	The Guardian	English	120,080
Tier 3	Nigeria/International	Time EMEA	English	2,788
Tier 3	Nigeria/International	Newsweek EMEA	English	1,228
Tier 3	Nigeria/International	Wall Street Journal/Global	English	0
Tier 3	Norway/International	Financial Times	English	40
Tier 3	Norway	Aftenposten	Norwegian	248,503
Tier 3	Norway/International	Time EMEA	English	12,198
Tier 3	Norway/International	Newsweek EMEA	English	3,329
Tier 3	Norway/International	International Herald Tribune	English	1,128
Tier 3	Norway/International	Wall Street Journal/Global	English	848
Tier 3	Norway/International	Financial Times	English	1,477
Tier 3	Norway/International	USA Today - Global	English	49
Tier 3	Pakistan	Dawn	English	134,000
Tier 3	Pakistan	News-T-Week	Urdu	875,000
Tier 3	Pakistan/International	Time Asia	English	10,714
Tier 3	Pakistan/International	Newsweek Asia	English	7,866
Tier 3	Pakistan/International	International Herald Tribune	English	117
Tier 3	Pakistan/International	Wall Street Journal/Global	English	42
Tier 3	Pakistan/International	Financial Times	English	87
Tier 3	Panama	La Prensa**	Latin American Spanish	55,000
Tier 3	Panama	Financial Times	English	3
Tier 3	Panama/International	Newsweek Latin America	English	266
Tier 3	Philippines	Manila Bulletin	English	250,000
Tier 3	Poland/International	Time Asia	English	34,197

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Tier 2

Tier 2	Philippines/International	Newsweek Asia	English	22,178
Tier 2	Philippines/International	International Herald Tribune	English	5,468
Tier 2	Philippines/International	Wall Street Journal/Global	English	9,880
Tier 2	Philippines/International	Financial Times	English	314
Tier 2	Philippines/International	USA Today - Global	English	808
Tier 2	Poland	Gazeta Wyborcza	Polish	470,000
Tier 2	Poland/International	Time EMEA	English	2,745
Tier 2	Poland/International	Newsweek EMEA	English	4,495
Tier 2	Poland/International	International Herald Tribune	English	375
Tier 2	Poland/International	Wall Street Journal/Global	English	1,578
Tier 2	Poland/International	Financial Times	English	1,857
Tier 2	Poland/International	USA Today - Global	English	104
Tier 2	Romania	Evenimentul Zilei	Romanian	71,821
Tier 2	Romania/International	Time EMEA	English	409
Tier 2	Romania/International	Newsweek EMEA	English	455
Tier 2	Romania/International	International Herald Tribune	English	185
Tier 2	Romania/International	Wall Street Journal/Global	English	51
Tier 2	Romania/International	Financial Times	English	880
Tier 2	Romania/International	USA Today - Global	English	12
Tier 2	Saudi Arabia	Ashraq Al Ayyat	Arabic	248,482
Tier 2	Saudi Arabia/International	Time EMEA	English	1,551
Tier 2	Saudi Arabia/International	Newsweek EMEA	English	1,221
Tier 2	Saudi Arabia/International	International Herald Tribune	English	149
Tier 2	Saudi Arabia/International	Wall Street Journal/Global	English	58
Tier 2	Saudi Arabia/International	Financial Times	English	55
Tier 2	Saudi Arabia/International	USA Today - Global	English	58
Tier 2	Sri Lanka	Sunday Lankadeepa	Sinhala	825,000
Tier 2	Sri Lanka/International	Time Asia	English	4,120
Tier 2	Sri Lanka/International	Newsweek Asia	English	1,874
Tier 2	Sri Lanka/International	International Herald Tribune	English	108
Tier 2	Sri Lanka/International	Wall Street Journal/Global	English	58
Tier 2	Uganda	New Vision	English	45,000
Tier 2	Uganda/International	Newsweek EMEA	English	80
Tier 2	United Arab Emirates	Khalef Times	English	180
Tier 2	United Arab Emirates	Al Bayan	Arabic	105,000
Tier 2	United Arab Emirates/International	Time EMEA	English	2,088
Tier 2	United Arab Emirates/International	Newsweek EMEA	English	821
Tier 2	United Arab Emirates/International	Wall Street Journal/Global	English	248
Tier 2	United Arab Emirates/International	Financial Times	English	1,487
Tier 2	United Arab Emirates/International	USA Today - Global	English	108
Tier 2	Venezuela	El Nacional/CLU	Latin American Spanish	85,000
Tier 2	Venezuela/International	Newsweek Latin America	English	1,734
Tier 2	Vietnam	Hanoi Nhan-Ban	Vietnamese	80,000
Tier 2	Vietnam/International	Time Asia	English	749
Tier 2	Vietnam/International	Newsweek Asia	English	2,512
Tier 2	Vietnam/International	Wall Street Journal/Global	English	279
Tier 2	Vietnam/International	Financial Times	English	85

\*Source: SROG and media representatives

\*\*The Notice will be published via the Wall Street Journal/Almanac.

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Country	Publication	Issues	Circulation	Language	Unit Size
International	Time (EMEA Edition-Incl. Latin America)	1	525,000	English	1/2 Page
International	Time (Asia Edition)	1	280,000	English	1/2 Page
International	Time (South Pacific)	1	114,337	English	1/2 Page
International	Newsweek (EMEA, Asia and Latin America editions)	1	572,402	English	1/2 Page
U.S./International	Wall Street Journal (Global) Tu, Th & Fr	1	1,881,942	English	1/8 Page (US) 1/4 Page (Int'l)
U.S./International	Wall Street Journal Americas**	1	1,230,171	Spanish/Latin American Portuguese	1/4 Page
U.S./International	NY Times/Int'l Herald Tribune combo	1	1,328,980	English	1/8 Page
U.S./International	Financial Times (World Edition)	1	447,103	English	1/8 Page
U.S./International	USA Today (Global: US, Europe, Asia) (Mon-Thurs)	1	2,254,787	English	1/8 Page
Germany/International	Lufthansa Magazin	1	320,000	European German/English	1/2 Page
Germany/International	Lufthansa Exclusive	1	280,000	European German	1/2 Page
Total			9,234,727		

\* Source: SRDS March 2007 on line.

\*\*Notice will run in the following countries: Argentina, Brazil, Chile, Colombia, Ecuador, Guatemala, Mexico, Nicaragua, Panama, Peru, Venezuela  
NOTE: U.S. edition of Newsweek is included on the US chart.



**Did you purchase airfreight shipping services within, to, or from Canada (except to/from the United States) between January 2000 and September 2006?**



If so, you might be affected by class action settlements with British Airways PLC ("British Airways") and Air Canada. Pursuant to the settlements, British Airways agreed to pay CAD\$9,000,000 and Air Canada agreed to pay CAD\$7,000,000.

The settlement amounts will be paid in three installments over the period from 15 October 2020 to 15 October 2021. The settlements are compromises of disputed claims and are not admissions of liability or wrongdoing and British Airways or Air Canada expressly deny any liability or wrongdoing.

Both settlements require court approval in Ontario. The Air Canada settlement also requires approval in British Columbia and Quebec. The Ontario approval hearing is scheduled for February 11, 2021 at 10:00 a.m. The British Columbia approval hearing is scheduled for X at X. The Quebec approval hearing is scheduled for X at X.

At the approval hearings, the courts will also be asked to approve a protocol for distributing the settlement funds.

For more information about the settlements, your options in relation to the settlements, and deadlines for acting:

w: [www.aircargosettlement2.com](http://www.aircargosettlement2.com)

e: [aircargo@siskinds.com](mailto:aircargo@siskinds.com)

p: 1-800-461-6166 x 2455

**You are represented by Siskinds LLP, Liebman Legal,  
and Camp Fiorante Matthews Mogerman LLP**

## **SCHEDULE "D"**

# Did you purchase Airfreight Shipping Services between January 2000 and September 2006?

If so, you could be affected by proposed class action settlements.



## What is this litigation about?

Class actions were commenced in Canada alleging an unlawful conspiracy to fix prices for Airfreight Shipping Services. Airfreight Shipping Services are air cargo shipments to/from Canada (except to/from the United States) between January 2000 and September 2006 (see the long-form notice at [www.aircarqosettlement2.com](http://www.aircarqosettlement2.com) for the full definition).

## What settlements have been reached?

Settlements were reached with British Airways PLC (“British Airways”) and Air Canada. Both settlements are subject to court approval. If approved, the settlements will resolve the litigation in its entirety.

Under the terms of their settlement agreements, British Airways agreed to pay CAD\$9,000,000 and Air Canada agreed to pay CAD\$7,000,000. The settlement funds will be paid in three installments over the period from 15 October 2020 to 15 October 2021.

The settlements represent a resolution of disputed claims and are not an admission of liability or wrongdoing and British Airways or Air Canada expressly deny any liability or wrongdoing.

## What should I know about the approval hearings?

Both settlements must be approved by the Ontario court. The Air Canada settlement must also be approved by the British Columbia and Quebec courts. At the approval hearings, the courts will determine whether the settlements are fair, reasonable, and in the best interests of Settlement Class Members.

Class Counsel’s legal fees and disbursements must also be approved by the courts. Class Counsel will request that legal fees of up to 25% of the British Airways and Air Canada settlement funds, plus disbursements and applicable taxes, be approved and paid out of the settlement funds.

The Ontario approval motion will take place by video conference on February 11, 2021 at 10:00 a.m. The British Columbia approval motion will take place on [redacted] at [redacted]. The Quebec approval hearing will take place on [redacted] at [redacted].

## How will the settlement funds be distributed?

Previous settlements were reached with 12 groups of defendants. In 2019, those settlement funds were distributed to eligible Settlement Class Members, less fees, disbursements and a litigation reserve fund.

At the approval motion, the courts will also be asked to approve a second protocol for distributing the Net Settlement Funds to Settlement Class Members. The Net Settlement Funds include (i) the British Airways and Air Canada settlement amounts, less approved legal fees and expenses; (ii) residual settlement funds from the first distribution; and (iii) the remainder of the litigation reserve fund. A copy of the proposed distribution protocol is available at [www.aircarqosettlement2.com](http://www.aircarqosettlement2.com).

The Net Settlement Funds will be distributed in the same manner as in the first distribution (see the long-form notice at [www.aircarqosettlement2.com](http://www.aircarqosettlement2.com) for more information).

Persons who filed a claim in the first distribution (“Original Claimants”) will be able to rely on information provided in their previous claim form, but will be required to confirm their contact information and provide a statement of release. Persons who did not file a claim in the first distribution will need to file a claim to be eligible for payment.

Original Claimants who were issued a minimum payment of \$20 in the first distribution, notwithstanding that their pro rata entitlement was less than \$20 will have to account for the excess payment in this distribution. For example, if the Original Claimant’s pro rata entitlement under the First Distribution was \$15, but the Original Claimant was paid \$20, and the Original Claimant’s pro rata entitlement under the Second Distribution is \$30, the Original Claimant will only be paid an additional \$25.

All valid Claims will be assigned a minimum value of \$20. However, if the pro rata distribution would result in a payment of less than \$10 to an Original Claimant, no additional payment will be issued to that claimant.

Another notice will be provided regarding the process for applying to receive settlement funds. In the interim, you should keep copies of all relevant records.

## What are my options?

You may express your views to the courts on the proposed settlements, distribution protocol, or Class Counsel’s fee request. If you wish to do so, you must act by [redacted].

You may (but do not need to) attend the approval hearing. Please contact Class Counsel for additional details.

## What if I have questions?

Visit us at [www.aircarqosettlement2.com](http://www.aircarqosettlement2.com), email [aircarqo@siskinds.com](mailto:aircarqo@siskinds.com) or call 1-800-461-6166 x 2455.



## SCHEDULE "E"

**NOTICE OF SETTLEMENT APPROVAL HEARING  
IN THE CANADIAN AIR CARGO PRICE-FIXING CLASS ACTIONS**

**Please read this notice carefully. It may affect your legal rights.**

**A. WHO IS AFFECTED BY THIS NOTICE?**

This notice affects anyone who purchased Airfreight Shipping Services, including those persons who purchased Airfreight Shipping Services through freight forwarders or from any air cargo carrier, for shipments within, to, or from Canada during the period from January 1, 2000 to September 11, 2006, and have not already excluded themselves from the class actions (the "Settlement Class" or "Settlement Class Members").

Airfreight Shipping Services means airfreight cargo shipping services for shipments within, to, or from Canada, but excludes airfreight shipping services for shipments:

- a) with an origin point in Canada and a destination point in the United States; or
- b) with an origin point in the United States and a destination point in Canada,

but includes airfreight cargo shipping services in which the freight:

- c) travelled by truck from Canada to the United States, and then by air from the United States to a third country; or
- d) travelled by air from a third country to the United States, and then by truck from the United States to Canada.

**B. WHAT IS A CLASS ACTION?**

A class action is a lawsuit filed by one person on behalf of a large group of people.

**C. WHAT ARE THESE CLASS ACTIONS ABOUT?**

Class action lawsuits were commenced in Ontario, British Columbia and Quebec alleging that the Defendants participated in an unlawful conspiracy to fix prices of Airfreight Shipping Services from January 1, 2000 to September 11, 2006.

The Ontario action was certified as a national class proceeding in 2015. As a result, Class Counsel agreed to actively pursue the litigation in Ontario. Pending the outcome of the Ontario action, the Quebec action has been stayed and the parties have agreed not to litigate in British Columbia.

Previous settlements were reached with twelve groups of defendants and the related settlement funds have been distributed to Settlement Class Members. For information about those settlements, visit [www.aircargosettlement2.com](http://www.aircargosettlement2.com).

#### **D. WHAT NEW SETTLEMENTS HAVE BEEN REACHED IN THE CLASS ACTIONS?**

Settlements were reached with British Airways PLC (“British Airways”) and Air Canada. The settlements are subject to court approval. If approved, the settlements will resolve the litigation in its entirety.

Under the terms of their settlement agreements, British Airways agreed to pay CAD\$9,000,000 and Air Canada agreed to pay CAD\$7,000,000 in exchange for a full release of the claims against them relating to the alleged price-fixing of Airfreight Shipping Services. The settlement funds will be paid in three installments over the period from 15 October 2020 to 15 October 2021. British Airways also agreed to provide cooperation to the plaintiffs.

The settlements represent a resolution of the disputed claims. British Airways and Air Canada do not admit and expressly deny any wrongdoing or liability.

Copies of the settlement agreements are available at [www.aircargosettlement2.com](http://www.aircargosettlement2.com).

#### **E. WHAT SHOULD I KNOW ABOUT THE APPROVAL HEARINGS?**

Both settlements must be approved by the Ontario court. The Air Canada settlement must also be approved by the British Columbia and Quebec courts. At the approval hearings, the courts will determine whether the settlements are fair, reasonable, and in the best interests of Settlement Class Members.

Class Counsel’s legal fees and disbursements must also be approved by the courts. Class Counsel will collectively be requesting that legal fees of up to 25% of the British Airways and Air Canada settlement funds, plus disbursements and applicable taxes, be approved and paid out of the settlement funds.

The Ontario approval motion will take place by video conference on February 11, 2021 at 10:00 a.m. The British Columbia approval motion will take place on ● at ●. The Quebec approval hearing will take place on ● at ●.

#### **F. PROPOSED DISTRIBUTION OF THE SETTLEMENT FUNDS**

Previous settlements were reached with 12 groups of defendants. In 2019, those settlement funds were distributed to eligible Settlement Class Members, less fees, disbursements and a litigation reserve fund.

At the approval motions, the courts will also be asked to approve a second protocol for distributing the current Net Settlement Funds to Settlement Class Members. The Net Settlement Funds include (i) the British Airways and Air Canada settlement amounts, less approved legal fees and expenses; (ii) residual settlement funds from the first distribution; and (iii) the remainder of the litigation reserve fund.

The Net Settlement Funds will be distributed in the same manner as in the first distribution. The following is a summary of the proposed distribution. A copy of the proposed distribution protocol is available at [www.aircargosettlement2.com](http://www.aircargosettlement2.com).

### **Persons Eligible to Claim**

While the settlements release the claims of persons who purchased Airfreight Shipping Services within Canada, those persons are not eligible for compensation, as the alleged conspiracy related only to international shipments.

For the purposes of the distribution of settlement funds, Airfreight Shipping Services means airfreight cargo shipping services for shipments to or from Canada, but specifically excluding:

- a) airfreight cargo shipping services for shipments between Canada and the United States; and
- b) airfreight cargo shipping services provided by integrated air cargo shippers, such as FedEx, UPS, DHL, and TNT, on their own aircraft.

For certainty, Airfreight Shipping Services includes airfreight cargo shipping services in which the freight:

- a) travelled by truck from Canada to the United States, and then by air from the United States to a third country on a through airway bill;
- b) travelled by air from a third country to the United States, and then by truck from the United States to Canada on a through airway bill; or
- c) the shipping arrangement was made with an integrated air cargo shipper, but the freight was shipped on an air cargo carrier (not on the integrated shipper's own aircraft), including any of the Defendants in the litigation.

For the purposes of the distribution of settlement funds, Settlement Class Members means all persons who purchased Airfreight Shipping Services between January 1, 2000 and September 11, 2006. The following persons are excluded:

- a) the Defendants and their respective parents, employees, subsidiaries, affiliates, officers and directors;
- b) the alleged unnamed co-conspirators: Aerolineas Brasileiras S.A (d/b/a Absa Cargo Airline), Air China Cargo Company Ltd. (d/b/a Air China Cargo), Air China Ltd. (d/b/a Air China), Air Mauritius Ltd., Airways Corporation of New Zealand Ltd. (d/b/a Airways New Zealand), Alitalia Linee Aeree Italiane S.p.A., All Nippon Airways Co., Ltd., DAS Air Ltd. (d/b/a Das Air Cargo), El Al Israel Airlines, Emirates Airlines (d/b/a Emirates), Ethiopian Airlines Corp., EVA Air, Kenya Airways Ltd., Malaysia Airlines, Nippon Cargo Airlines Co., Ltd., Saudi Arabian Airlines, Ltd., South African Airways (Proprietary), Ltd., Thai Airways International Public Co., Ltd., and Viação Aérea Rio-Grandense, S.A., and their respective parents, employees, subsidiaries, affiliates, officers and directors; and
- c) persons who opted out of the proceedings.

### Distribution of Settlement Funds

Subject to further order of the Ontario court, the settlement funds will be distributed on a *pro rata* (proportional) basis, based on the value of a Settlement Class Member's Eligible Airfreight Shipping Services Purchases as against the value of all claimants' Eligible Airfreight Shipping Services Purchases.

To calculate Eligible Airfreight Shipping Services Purchases, Settlement Class Members will be categorized based on their position in the distribution chain and the following percentages will be applied their Airfreight Shipping Services Purchases. Settlement Class Members may fall into more than one category.

Purchaser Type	Description	Percentage
Direct Purchaser Shippers	Settlement Class Members who purchased Airfreight Shipping Services direct from an air cargo carrier, for shipments by that Settlement Class Member.	100%
Shippers	Settlement Class Members who purchased Airfreight Shipping Services from a Freight Forwarder.	75%
Freight Forwarders	Settlement Class Members who purchased Airfreight Shipping Services direct from an air cargo carrier, for resale to Shippers.	25%
Freight Forwarders who provided customer information in the first distribution		35%

### Sample Calculation

If a Settlement Class Member purchased \$10,000 of Airfreight Shipping Services directly from an air cargo carrier and \$20,000 of Airfreight Shipping Services from a Freight Forwarder, its Eligible Airfreight Shipping Services Purchases for the purposes of determining its *pro rata* share of the Net Settlement Funds would be calculated as follows:

- d)  $\$10,000 \times 1.00$  (representing the categorization of the purchaser as a Direct Purchaser Shipper) = \$10,000;
- e)  $\$20,000 \times .75$  (representing the categorization of the purchaser as a Shipper) = \$15,000;
- f)  $\$10,000 + \$15,000 = \$25,000$ .

Assuming all valid claims totalled \$100 million, this Settlement Class Member would be entitled to 0.025% of the Net Settlement Funds.

### **Persons Who Claimed in the First Distribution**

Persons who were issued payment in the first distribution (“Original Claimants”) will be able to rely on information provided in their previous claim form, but will be required to confirm their contact information and provide a statement of release.

Original Claimants who were issued a minimum payment of \$20 in the first distribution, notwithstanding that their *pro rata* entitlement was less than \$20, will have to account for the excess payment in this distribution. For example, if the Original Claimant’s *pro rata* entitlement under the First Distribution was \$15, but the Original Claimant was paid \$20, and the Original Claimant’s *pro rata* entitlement under the Second Distribution is \$30, the Original Claimant will only be paid an additional \$25.

### **Minimum Payments**

Subject to further order of the Ontario Court, all valid Claims will be assigned a minimum value of \$20. However, if the *pro rata* distribution would result in a payment of less than \$10 to an Original Claimant, no additional payment will be issued to that claimant.

### **Filing a Claim**

Another notice will be provided regarding the process for applying to receive settlement funds. In the interim, you should keep copies of all relevant records.

### **Residual Funds**

To the extent that the full Net Settlement Funds are not paid out due to uncashed cheques, residual interest or otherwise, subject to further Order of the court, such monies shall be paid to Pro Bono Canada if the amount is equal or less than \$10,000, less any amounts payable to the Quebec Fonds d’aide aux actions collectives. For distribution of any amount above \$10,000, further direction of the court shall be sought.

## **G. WHAT ARE MY OPTIONS?**

You do not have to do anything to stay in the class action. The time to opt-out (exclude yourself) from the class action has already expired. Settlement Class Members who have not opted-out will be bound by the settlement agreements and any court orders in the class actions.

If you want to object to the proposed settlements, fee request or distribution protocol at the approval hearings, you must send a letter to Class Counsel at the addressed listed below, postmarked no later than ●.

You may (but do not need to) attend the settlement approval hearing. If you want to attend the hearing, please contact Class Counsel for additional details.

## **H. WHO ARE LAWYERS WORKING ON THESE CLASS ACTIONS AND HOW ARE THEY PAID?**

The following law firms represent Settlement Class Members and are available to answer questions about the proposed settlement:

Settlement Class Members outside British Columbia and Quebec:

- 1-800-461-6166 ext. 2455
- [aircargo@siskinds.com](mailto:aircargo@siskinds.com)
- Siskinds LLP, 680 Waterloo Street, London, ON, N6A 3V8, Canada, Attn: Charles Wright.

British Columbia Settlement Class Members:

- (604) 689-7555
- [djones@cfmlawyers.ca](mailto:djones@cfmlawyers.ca)
- Camp Fiorante Matthews Moger LLP, #400 - 856 Homer Street, Vancouver, BC, V6B 2W5, Attn: David Jones.

Quebec Settlement Class Members:

- (514) 846-0666
- [moe@liebmanlegal.com](mailto:moe@liebmanlegal.com)
- Liebman Legal Inc., 1 Westmount Square #350, Montreal, QC, H3Z 2P9, Attn: Moe F. Liebman.

**You do not have to pay the lawyers working on these class actions any money.** The lawyers will be paid from the money collected in the class actions. The courts will be asked to decide how much the lawyers will be paid.

## **I. WHAT IF I HAVE MORE QUESTIONS?**

For more information, and relevant documents (including copies of the settlement agreements and proposed distribution protocol) please visit [www.aircargosettlement2.com](http://www.aircargosettlement2.com).

## **SCHEDULE "F"**



**AIR CARGO CLASS ACTION  
PLAN OF DISSEMINATION**

The Notices of Hearing shall be distributed in the following manner:

Publication Notice:

1. Published once in the following newspapers, in either English or French as is appropriate for each newspaper, subject to each having reasonable publication deadlines and costs:
  - (a) The Globe and Mail (National Edition);
  - (b) The Vancouver Sun;
  - (c) Le Journal de Montreal; and
  - (d) Le Soleil.

Abbreviated Notice:

2. Sent by direct mail or email to any persons included on the mailing list maintained by Epiq Class Action and Claims Solutions, Inc. (formerly known as Garden City Group LLP) for the purposes of the Canadian Air Cargo Proceedings; and
3. Sent to the following trade organizations, in English or French, as applicable, with a request that the trade organization forward the Notice to its members:
  - (a) Freight Management Association of Canada/Association Canadienne de Gestion du Fret (in French and English);
  - (b) European Shippers' Council;
  - (c) Asian Shippers' Council;
  - (d) Korean Shippers' Council;
  - (e) Philippine Shippers' Bureau;
  - (f) Hong Kong Shippers' Council;
  - (g) Global Shippers' Forum;
  - (h) Indonesia Shippers' Council;
  - (i) Malaysia National Shippers' Council;

- (j) Singapore National Shippers' Council;
- (k) Thai National Shippers' Council;
- (l) South African Shippers' Council; and
- (m) National Shippers Strategic Transportation Council (NASSTRAC).

Online Notice:

- (a) A banner advertisement shall be published for a one-month period on the Air Cargo Week website ([www.aircargoweek.com](http://www.aircargoweek.com)), subject to reasonable placement deadlines and costs; and
- (b) An advertisement shall be published in the Payload Asia eNewsletter.

Long-Form Notice:

4. Posted in English and French by Class Counsel on Class Counsel's respective websites;
5. Posted in English and French on the website established for the purposes of the litigation: [www.aircargosettlement2.com](http://www.aircargosettlement2.com); and
6. Provided by Class Counsel or the Claims Administrator to any person who requests it, in English or French, as applicable.

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

**ORDER  
Approval of Notice of Hearing  
(British Airways)**

**Siskinds LLP**  
Barristers & Solicitors  
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London, ON N6A 3V8

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