CANADIAN DRAM CLASS ACTIONS
NATIONAL SETTLEMENT AGREEMENT

Made as of July 24, 2012

Between

PRO-SYS CONSULTANTS LTD., KHALID EIDOO, CYGNUS ELECTRONICS CORPORATION and OPTION CONSOMMATEURS

(the "Plaintiffs")

and

Nanya Technology Corporation and Nanya Technology Corporation USA
(the "Nanya Defendants")

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RECITALS

A. WHEREAS the Ontario Plaintiffs have commenced the Ontario Proceedings which allege that the Defendants including the Nanya Defendants participated in an unlawful conspiracy to raise, fix, maintain or stabilize the price of DRAM Products in Canada and/or to allocate markets and customers for the sale of DRAM Products in Canada, contrary to Part VI of the *Competition Act* and common law;

B. AND WHEREAS a related B.C. Proceeding was certified as a class proceeding under the B.C. *Class Proceedings Act* pursuant to the B.C. Certification Order issued by the British Columbia Court of Appeal and entered on April 12, 2010, the Nanya Defendants were not parties in the B.C. Proceeding;

C. AND WHEREAS a related Quebec Proceeding was authorized as a class proceeding pursuant to the Quebec Authorization Judgment issued by the Quebec Court of Appeal on November 16, 2011. The Nanya Defendants were not parties in the Quebec Proceeding;

D. AND WHEREAS a settlement was reached with Elpida Memory, Inc. and Elpida Memory (USA) Inc. in the Proceedings and was certified as a class proceeding for settlement purposes against Elpida Memory, Inc. and Elpida Memory (USA) Inc. under the B.C. *Class Proceedings Act* on January 26, 2012, the Ontario *Class Proceedings Act* on March 27, 2012, and the Quebec *Code of Civil Procedure* on March 27, 2012;

E. AND WHEREAS the opting out procedure for the Initial Ontario Proceeding, The B.C. Proceeding and the Quebec Proceeding was set out in the Orders issued by the B.C. Court on January 26, 2012, the Ontario Court on March 27, 2012, and the Quebec Court on March 27, 2012;

F. AND WHEREAS the Opt Out Deadline for the Initial Ontario Proceeding, the B.C. Proceeding and the Quebec Proceeding expired on June 2, 2012;

G. AND WHEREAS the Ontario Proceedings have not yet proceeded to contested certification hearings, and whereas the Nanya Defendants have not appeared in respect of the Proceeding in which they are a named Defendant;

H. AND WHEREAS the Nanya Defendants expressly deny and do not admit, through the execution of this Settlement Agreement, the allegations of wrongful conduct in the Proceedings;

I. AND WHEREAS the Nanya Defendants expressly deny and do not admit, through the execution of this Settlement Agreement, any liability to the Plaintiffs or to the classes that they represent or seek to represent in the Proceedings;

J. AND WHEREAS the Nanya Defendants assert that they do not conduct business in Canada and whereas they have specifically reserved their rights to contest the jurisdiction of the Courts in Ontario, British Columbia, Quebec or any other courts in Canada in respect of the claims and allegations in the Proceedings;

K. AND WHEREAS the Nanya Defendants assert that they would actively pursue and vindicate their defence in respect of certification/authorization, jurisdiction and the merits during the course of certification or authorization of a class proceeding, during the course of discovery and at trial if the Plaintiffs continued the Proceedings against them in the respective Courts;

L. AND WHEREAS, despite their belief that they are not liable in respect of the claims as alleged in the Proceedings and have a good and reasonable defence in respect of certification/authorization, jurisdiction and the merits, the Nanya Defendants have negotiated and entered into this Settlement Agreement to avoid the further expense, inconvenience, and burden of this litigation and any other present or future litigation arising out of the facts that gave rise to this litigation and to achieve final resolutions of all claims asserted or which could have been asserted against them by the Plaintiffs on their own behalf and on behalf of the classes they seek to represent, and to avoid the risks inherent in uncertain, complex and protracted litigation, and thereby to put to rest this controversy involving the Nanya Defendants;

M. AND WHEREAS counsel for the Nanya Defendants and counsel for the Plaintiffs have engaged in arm's-length settlement discussions and negotiations, resulting in this Settlement Agreement relating to Canada;

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

O. AND WHEREAS the Plaintiffs and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, and having regard to the Settlement Amount, the value of cooperation to be provided by the Nanya Defendants, the burdens and expense in prosecuting the Proceedings, including the risks and uncertainties associated with trials and appeals, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiffs and the classes they represent or seek to represent in the Proceedings;

P. AND WHEREAS the Plaintiffs have agreed to accept this settlement, in part, because of the value of the Settlement Amount to be paid by the Nanya Defendants under this Settlement Agreement and the value of the cooperation of the Nanya Defendants have made and agree to render or make available to the Plaintiffs and/or Class Counsel as an early settling defendant at an early stage of the Proceedings pursuant to this Settlement Agreement, as well as the attendant risks of litigation in light of the potential defences that may be asserted by the Nanya Defendants;

Q. AND WHEREAS the Nanya Defendants are entering into this Settlement Agreement in order to achieve a final and nation-wide resolution of all claims asserted or which could have been asserted against them by the Plaintiffs and the classes that they represent or seek to represent in the Proceedings, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;

R. AND WHEREAS the Parties therefore wish to, and hereby do, finally resolve on a national basis, without any admission of liability, the Proceedings as against the Nanya Defendants;

S. AND WHEREAS the Parties seek to certify and authorize the Proceedings as class proceedings for the purposes of implementing this Settlement Agreement in a coordinated and consistent manner across Canada;

T. AND WHEREAS the Parties consent to certification or authorization of the Proceedings as class proceedings and now consent to the Settlement Classes and a Common Issue in respect of each of the Proceedings solely for the purposes of implementing this Settlement Agreement in a coordinated and consistent manner across Canada and contingent on approvals by the Courts as provided for in this Settlement Agreement, on the express understanding that such certification or authorization shall not derogate from the rights of the Plaintiffs as against the Non-Settling Defendants or from the respective rights of the Parties in the event that this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason;

U. AND WHEREAS for the purposes of settlement only and contingent on approvals by the Courts as provided for in this Settlement Agreement, the Nanya Defendants are prepared to submit to the jurisdiction of the Ontario Court, the B.C. Court and the Quebec Court for the sole purpose of approving, implementing, administering and enforcing this Settlement Agreement, and the Parties acknowledge and confirm that the Nanya Defendants are not attorning to the Ontario Court, the B.C. Court, the Quebec Court or any other court in Canada for any other purpose or proceeding and that the Nanya Defendants otherwise reserve all of their other existing jurisdictional rights;

V. AND WHEREAS for the purposes of settlement only and contingent on approvals by the Courts as provided for in this Settlement Agreement, the Plaintiffs have consented to a dismissal of the Proceedings as against the Nanya Defendants in the Ontario Court and a settlement of the Proceedings as against the Nanya Defendants in the B.C. Court and the Quebec Court;

W. AND WHEREAS the Plaintiffs assert that they are adequate class representatives for the Settlement Classes and have been appointed or will seek to be appointed representative plaintiffs in the respective Proceedings;

X. AND WHEREAS the Plaintiffs, Class Counsel and the Nanya Defendants agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Nanya Defendants or

evidence of the truth of any of the Plaintiffs' allegations against the Nanya Defendants, which the Nanya Defendants expressly deny;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Proceedings be settled and dismissed on the merits with prejudice as to the Nanya Defendants, without costs as to the Plaintiffs, the classes they represent or seek to represent or the Nanya Defendants, subject to the approval of the Courts, on the following terms and conditions:

SECTION 1 – DEFINITIONS

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

(1) ***Administration Expenses*** mean all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiffs, Class Counsel or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of Notices, the Trust Account and claims administration but excluding Class Counsel Fees.

(2) ***Approval Hearings*** mean the hearings to approve the motions brought by Class Counsel for the Courts' approval of the settlement provided for in this Settlement Agreement.

(3) ***B.C. Class Proceedings Act*** means the *Class Proceedings Act*, R.S.B.C. 1996, c. 50.

(4) ***B.C. Certification Order*** means the order issued by the British Columbia Court of Appeal and entered on April 12, 2010 in respect of the certification of the B.C. Proceedings under the B.C. *Class Proceedings Act*.

(5) ***B.C. Class Counsel*** means Camp Fiorante Matthews Mogerman.

(6) ***B.C. Court*** means the British Columbia Supreme Court.

(7) ***B.C. Plaintiff*** means Pro-Sys Consultants Ltd.

(8) ***B.C. Proceeding*** means the proceeding commenced by Pro-Sys Consultants Ltd. in the form of a Consolidated Statement of Claim filed in the B.C. Court (Vancouver Registry), Court File No. L043141 on December 19, 2004.

(9) ***B.C. Settlement Class*** and ***B.C. Settlement Class Members*** mean: all Persons resident in British Columbia at the time of purchase and/or at the time of notice who purchased DRAM Products during the Settlement Class Period, except Excluded Persons.

(10) ***Canadian DRAM Class Actions National Settlement*** means the settlement contemplated by this Settlement Agreement.

(11) ***Claims Administrator*** means the Person proposed by Class Counsel and appointed by the Courts to administer the Settlement Agreement, including the claims process, in accordance with the provisions of this Settlement Agreement and the Distribution Protocol, and any employees of such Person.

(12) ***Class Counsel*** means Ontario Class Counsel, B.C. Class Counsel and Quebec Class Counsel who act as class counsel in the Proceedings.

(13) ***Class Counsel Fees*** include the fees, disbursements, costs, interest, HST and/or GST, and other applicable taxes or charges of Class Counsel.

(14) ***Common Issue*** in each Proceeding means: Did the Nanya Defendants, or either of them, conspire to harm the Settlement Class Members during the Settlement Class Period? If so, what damages, if any, are payable by the Nanya Defendants, or either of them to the Settlement Class Members?

(15) ***Confidentiality Order*** means any order with respect to confidentiality or the sealing of information that is issued by the B.C. Court, the Ontario Court and/or the Quebec Court, and any amendments thereto, and any other confidentiality order and undertaking relating to the Proceedings.

(16) ***Courts*** mean the Ontario Court, the Quebec Court and the B.C. Court.

(17) ***Defendants*** mean the individuals and entities named as defendants in the Proceedings as set out in Schedule "A", as well as any named or unnamed co-conspirator who may be added as a defendant in the Proceedings in the future.

(18) ***Distribution Protocol*** means the plan developed by Class Counsel for holding or distributing the Settlement Amount and accrued interest, in whole or part, for or to Settlement Class Members, as approved by the Courts which may, if directed by the Courts, require the Settlement Amount, in whole or in part, to be held in trust until the resolution of the Proceedings.

(19) ***Documents*** means "document" or "documents" under the Ontario Rules of Civil Procedure.

(20) ***DRAM*** means dynamic random access memory devices and components, including without limitation, all types of EDO DRAM, fast-page mode (FPM) DRAM, synchronous dynamic random access memory ("SDRAM"), Rambus dynamic random access memory ("RDRAM"), asynchronous dynamic random access memory ("ASYNC"), double data rate dynamic random access memory ("DDR"), including modules containing DRAM, EDO DRAM, FPM DRAM, RDRAM, SDRAM, ASYNC and/or DDR. For greater certainty, DRAM does not include SRAM.

(21) ***DRAM Products*** means DRAM and products that contain DRAM. For greater certainty, DRAM Products does not include products that contain SRAM and that do not contain any DRAM.

(22) ***Effective Date*** means the date when the Final Orders have been received from all the Courts approving this Settlement Agreement and any rights to terminate this Settlement Agreement under section 12.1 have expired.

(23) ***Escrow Agent*** means any Person who may be appointed by Class Counsel to hold and administer the Trust Account.

(24) ***Excluded Person*** means each Defendant, the directors and officers of each Defendant, the subsidiaries or affiliates of each Defendant, the entities in which each Defendant or any of that Defendants' subsidiaries or affiliates have a controlling interest and the legal

representatives, heirs, successors and assigns of each of the foregoing, any judge of a Court who has heard or will hear any motion or application in respect of the Proceedings and his or her immediate family, and any Person who has fully and finally settled or extinguished their actual or potential claims as against the Defendants in respect of DRAM Products as part of the U.S. Settlement or otherwise in respect of the U.S. Proceedings.

(25) ***Final Order*** means a final order, judgment or equivalent decree entered by a Court in respect of the certification or authorization of a Proceeding as a class proceeding for the purposes of this settlement and/or the approval of this Settlement Agreement and implementing it in accordance with its terms, once the time to appeal such order has expired without any appeal being taken, if an appeal lies, or once there has been affirmation of the order, judgment or equivalent decree upon a final disposition of all appeals.

(26) ***Initial Ontario Proceeding*** means the proceeding commenced by one of the Ontario Plaintiffs by statement of claim filed in the Ontario Court, Court File No. 05-CV-4340 (Windsor) on February 3, 2005.

(27) ***Nanya Defendants*** means Nanya Technology Corporation and Nanya Technology Corporation USA;

(28) ***Non-Settling Defendant*** means any Defendant in the Proceedings that is not a Releasee or a Settled Defendant, and includes any Defendant that terminates its own settlement agreement or whose settlement agreement otherwise fails to take effect for any reason, whether or not such settlement agreement is in existence at the date of execution of this Settlement Agreement.

(29) ***Notice of Certification and Approval Hearings*** means the form or forms of notice, agreed to by the Plaintiffs and the Nanya Defendants, or such other form or forms as may be approved by the Courts, which informs the Settlement Classes of: (i) the certification or authorization of the Proceedings; (ii) the dates and locations of the Approval Hearings; and (iii) the principal elements of this Settlement Agreement.

(30) ***Notice of Settlement Approval*** means the form or forms of notice, agreed to by the Plaintiffs and the Nanya Defendants, or such other form or forms as may be approved by the Courts, which informs the Settlement Classes of: (i) the approval of this Settlement Agreement; and, if applicable, (ii) the process by which Settlement Class Members may apply to obtain compensation from the Settlement Amount.

(31) ***Notices*** mean the Notice of Certification and Approval Hearings, the Notice of Settlement Approval and notice of termination.

(32) ***Ontario Class Counsel*** means Harrison Pensa LLP and Sutts, Strosberg LLP.

(33) ***Ontario Class Proceedings Act*** means the *Class Proceedings Act, 1992,* S.O. 1996, c. 6.

(34) ***Ontario Court*** means the Ontario Superior Court of Justice.

(35) ***Ontario Plaintiffs*** means Khalid Eidoo and Cygnus Electronics Corporation.

(36) ***Ontario Proceedings*** mean the Initial Ontario Proceeding and the Subsequent Ontario Proceeding.

(37) ***Ontario Settlement Class*** and ***Ontario Settlement Class Members*** mean: (i) all Persons resident in Canada at the time of purchase and/or at the time of notice who purchased DRAM Products during the Settlement Class Period, except Excluded Persons and Persons who are included in the B.C. Settlement Class and the Quebec Settlement Class; and (ii) all Persons resident in the United States at the time of purchase and/or at the time of notice who purchased DRAM Products in Canada during the Settlement Class Period to the extent that such Persons have actual or potential claims as against the Defendants in respect of DRAM Products that have not been wholly or completely settled or extinguished in the U.S. Settlement or otherwise in respect of the U.S. Proceedings.

(38) ***Opt Out*** means a member of a Settlement Class who has submitted a valid written election to opt out of the Proceedings in accordance with orders of the Courts in the Proceedings.

(39) ***Opt Out Deadline*** means June 2, 2012 or any other date that might be ordered by the court in the case of the Initial Ontario Proceeding, the B.C. Proceeding and the Quebec Proceeding and the date set by order of the court in the Subsequent Ontario Proceeding.

(40) ***Other Actions*** mean actions or proceedings, excluding the Proceedings, relating to the Released Claims commenced by a Settlement Class Member either before or after the Effective Date.

(41) ***Party and Parties*** mean the Plaintiffs, the Settlement Class Members and the Nanya Defendants.

(42) ***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.

(43) ***Plaintiff or Plaintiffs*** mean Pro-Sys Consultants Ltd., Khalid Eidoo, Cygnus Electronics Corporation and Option Consommateurs, individually and collectively.

(44) ***Proceedings*** means the Ontario Proceedings, the B.C. Proceeding and the Quebec Proceeding.

(45) ***Proportionate Liability*** means the proportion of any judgment that, had they not settled, a Court would have apportioned to the Nanya Defendants, or either of them.

(46) ***Quebec Authorization Judgment*** means the order issued by the Quebec Court of Appeal on November 16, 2011 in respect of the authorization of the Quebec Proceeding under the Quebec *Code of Civil Procedure*.

(47) ***Quebec Code of Civil Procedure*** means *Code of Civil Procedure*, R.S.Q., c. C-25.

(48) ***Quebec Class Counsel*** means Belleau Lapointe.

(49) ***Quebec Court*** means the Superior Court of Quebec.

(50) ***Quebec Plaintiff*** means Option Consommateurs.

(51) ***Quebec Proceeding*** means the proceeding commenced by Option Consommateurs in the form of a motion for authorization to institute a class proceeding (Requête pour autorisation d'exercer un recours collectif) filed in the Quebec Court, Court File No. 500-06-000251-047 on October 5, 2004.

(52) ***Quebec Settlement Class*** and ***Quebec Settlement Class Members*** mean: all Persons resident in Quebec at the time of purchase and/or at the time of notice who purchased DRAM Products during the Settlement Class Period, except Excluded Persons and any legal person established for a private interest, partnership or association which at any time between October 5, 2003 and October 5, 2004 had under its direction or control more than 50 persons bound to it by contract of employment or that is not dealing at arm's length with Option Consommateurs.

(53) ***Released Claims*** mean 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, damages of any kind including compensatory, punitive or other damages, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses (including Administration Expenses), penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity that Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, relating in any way to any conduct occurring anywhere, from the beginning of time to the date hereof, in respect of the purchase, sale, pricing, discounting, marketing, distributing of or compensation for, DRAM Products, or relating to any conduct alleged (or which could have been alleged) in the Proceedings or the Other Actions including, without limitation, any such claims which have been asserted, would have been asserted, or could have been asserted, directly or indirectly, whether in Canada or elsewhere, as a result of or in connection with an alleged conspiracy or other unlawful agreement or combination or as a result of or in connection with any other alleged unlawful horizontal or vertical anti-competitive conduct in connection with the purchase, sale, pricing, discounting, marketing or distributing of DRAM Products in Canada and including, without limitation, any claims for consequential, subsequent or follow-on harm

that arises after the date hereof in respect of any agreement or conduct that occurred prior to the date hereof. For greater certainty, nothing herein shall be construed to release any claims arising from any alleged product defect, breach of contract, breach of warranty or similar claims between the Parties relating to DRAM Products.

(54) ***Releasees*** mean, jointly and severally, individually and collectively, the Nanya Defendants and all of their respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives (subject to such particular inclusions or exclusions of individuals as may be specified in writing by the Nanya Defendants in their sole discretion prior to the Effective Date); and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing, excluding always all Non-Settling Defendants.

(55) ***Releasors*** mean, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members on behalf of themselves and any Person claiming by or through them as a parent, subsidiary, affiliate, predecessor, successor, shareholder, partner, director, owner of any kind, agent, employee, contractor, attorney, heir, executor, administrator, insurer, devisee, assignee or representative of any kind.

(56) ***Settled Defendants*** mean Elpida Memory Inc. and Elpida Memory (USA) Inc..

(57) ***Settlement Agreement*** means this agreement, including the recitals and schedules.

(58) ***Settlement Amount*** means the sum of three hundred and twenty-five thousand Canadian dollars (CDN $325,000).

(59) ***Settlement Class or Settlement Classes*** means all Persons included in the Ontario Settlement Class, the B.C. Settlement Class and the Quebec Settlement Class.

(60) ***Settlement Class Member*** means a member of the Settlement Classes who has not validly opt out of the Settlement Classes in accordance with orders of the Courts.

(61) ***Settlement Class Period*** means April 1, 1999 to June 30, 2002.

(62) ***Subsequent Ontario Proceeding*** means the proceeding commenced by the Ontario Plaintiffs by Statement of Claim filed in the Ontario Court, Court File No. 10-CV-15178 (Toronto) on August 20, 2010.

(63) ***Trust Account*** means an interest bearing trust account at a Canadian Schedule 1 bank under the control of Class Counsel or alternatively an Escrow Agent appointed by Class Counsel for the benefit of Settlement Class Members.

(64) ***U.S. Proceedings*** means the proceedings filed before the United States District Court for the Northern District of California under the caption *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation*, Master File No.: M-02-1486 PJH (JCS), MDL 1486, and including all class and individual actions transferred by the Judicial Panel for Multidistrict Litigation for coordination, all actions pending such transfer, all actions that may be transferred in the future and any other actions involving similar allegations relating to DRAM Products that are pending or that may be commenced before the federal or state courts of the United States.

(65) ***U.S. Settlement*** means the settlement of any direct purchaser actions in the U.S. Proceedings, the settlement of any indirect purchaser actions in the U.S. Proceedings and any other settlement of the U.S. Proceedings.

SECTION 2 - SETTLEMENT APPROVAL

2.1 Best Efforts

The Parties shall take all reasonable steps to effectuate this settlement and to secure the prompt, complete and final dismissal with prejudice of the Subsequent Ontario Proceeding as against the Nanya Defendants and a settlement of the Proceedings as against the Nanya Defendants in the B.C. Court and Quebec Court, including cooperating in the Plaintiffs' efforts to obtain any approval or orders required from the Courts, regarding the approval or implementation of the Settlement Agreement, including orders certifying the Settlement Classes for settlement purposes and approving the form and distribution of the Notices contemplated by section 9 of this Settlement Agreement.

2.2 **Motions Approving Notice and Seeking Certification or Authorization**

(1) At a time mutually agreed to by the Parties after the Settlement Agreement is executed, the Plaintiffs shall bring motions before the Courts for orders approving the Notice of Certification and Approval Hearings described in section 9.1 and certifying or authorizing each of the Proceedings commenced in their respective jurisdictions as a class proceeding for settlement purposes against the Nanya Defendants.

(2) The British Columbia, Quebec and Ontario orders approving the Notice of Certification and Approval Hearings and certifying or authorizing the Proceedings referred to in section 2.2(1) shall be in the form agreeable to the Plaintiffs and the Nanya Defendants.

2.3 **Motions for Approval of the Settlement**

(1) As soon as practicable after the orders referred to in section 2.2(2) are granted and after the Notice of Certification and Approval Hearings has been published, the Plaintiffs shall bring motions before the Courts for orders approving this Settlement Agreement.

(2) The Ontario order approving the Settlement Agreement referred to in section 2.3(1) shall be in the form attached hereto respectively in Schedule "B1"

(3) The British Columbia and Quebec orders approving this Settlement Agreement referred to in section 2.3(1) shall be in the form attached hereto as Schedule "B2" and "B3" ;

(4) The provisions of section 2.3(2) and 2.3(3) of this Settlement Agreement are not intended to constrain the jurisdiction and discretion of the Courts in issuing an appropriate order for approval of this Settlement Agreement. Notwithstanding the foregoing, the form and content of the orders approving this Settlement Agreement set out in section 2.3(2) and 2.3(3) shall be considered a material term of this Settlement Agreement and the failure of any Court to approve the form and content of the orders contemplated herein shall give rise to a right of termination pursuant to section 12 of this Settlement Agreement.

2.4 **Pre-Motion Confidentiality**

Until the first of the motions required by section 2.2(1) is brought, the Parties shall keep all of the terms of this Settlement Agreement, and any information or Documents related thereto,

confidential and shall not disclose them without the prior written consent of counsel for the Nanya Defendants and Class Counsel, as the case may be, except as required for the purposes of financial reporting or the preparation of financial records (including tax returns and financial statements) or as otherwise required by law. Once the first of the motions required by section 2.2(1) has been brought, the Parties shall otherwise remain subject to the other provision of this Settlement Agreement governing confidentiality, including without limitation sections 3.3(2), 3.3(6) of this Settlement Agreement.

2.5 **Public Disclosure and Media Statements**

The Parties shall engage in reasonable consultation with each other regarding the timing and content of their proposed statements to public or to the media, if any, in respect of this Settlement Agreement, and the Parties shall reach reasonable agreement on the timing and content of any statements to the public or to the media, if any, in respect of this Settlement Agreement.

2.6 **Sequence of Motions**

(1) The Plaintiffs in Quebec and British Columbia shall not proceed with a motion to certify or authorize the Quebec Proceeding and the B.C. Proceeding for settlement purposes unless and until the Ontario Court approves the Notice of Certification and Approval Hearings and certifies the Subsequent Ontario Proceeding for settlement purposes. The certification or authorization motions may be filed in Quebec and British Columbia, but, if necessary, Quebec Class Counsel and B.C. Class Counsel will seek an adjournment of their hearings to permit the Ontario Court to render its decision in respect of the approval of the notices and the certification of the Subsequent Ontario Proceeding for settlement purposes. The Nanya Defendants may agree to waive this provision.

(2) The Plaintiffs in Quebec and British Columbia shall not proceed with a motion to approve this Settlement Agreement unless and until the Ontario Court approves the Settlement Agreement. The approval motions may be filed in Quebec and British Columbia, but, if necessary, Quebec Class Counsel and B.C. Class Counsel will seek an adjournment of their hearings to permit the Ontario Court to render its decision on the settlement approval motion. The Nanya Defendants may agree to waive this provision.

(3) Notwithstanding sections 2.6 (1) and 2.6 (2) of this Settlement Agreement, in the event that the Plaintiffs and Nanya Defendants reasonably agree and the Courts determine that it is appropriate to conduct coordinated or simultaneous Approval Hearings in respect of the Proceedings before each of the Courts, the motions to certify and/or authorize the Settlement Class and approve the Notice of Certification and Approval Hearings and/or the motions to approve this Settlement Agreement may be heard in a coordinated or simultaneous manner by the Courts via video link or other means.

SECTION 3 – SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

(1) Within thirty (30) days of the date of execution of this Settlement Agreement, the Nanya Defendants shall pay the Settlement Amount into the Trust Account, in full satisfaction of the Released Claims against the Releasees.

(2) The Nanya Defendants shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement.

(3) Class Counsel or any Escrow Agent appointed by Class Counsel shall maintain the Trust Account as provided for in this Settlement Agreement. Class Counsel or any Escrow Agent appointed by Class Counsel shall not pay out all or part of the monies in the Trust Account, except in accordance with the Settlement Agreement or in accordance with an order of the Courts obtained on notice to the Nanya Defendants, and in any event, after all appeals related thereto have been disposed of.

3.2 Taxes and Interest

(1) Except as hereinafter provided, all interest earned on the Settlement Amount shall accrue to the benefit of the Settlement Classes and shall become and remain part of the Trust Account.

(2) Subject to section 3.2(3), all taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be the responsibility of the Settlement Classes. Class Counsel or any Escrow Agent appointed by Class Counsel shall be solely responsible to fulfill all tax reporting and payment requirements

arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned on the Settlement Amount shall be paid from the Trust Account.

(3) The Nanya Defendants shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned by the Settlement Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement is terminated, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Nanya Defendants who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Class Counsel or any Escrow Agent appointed by Class Counsel.

3.3 **Cooperation – Scope of Cooperation**

(1) To the extent not previously provided to the Plaintiffs and subject to the limitations set forth in this Settlement Agreement, the Nanya Defendants agree to provide cooperation to Class Counsel in accordance with the requirements of this section of the Settlement Agreement.

(2) The Parties respectively acknowledge and agree that all information and Documents provided by the Nanya Defendants or their counsel to Class Counsel, the Plaintiffs and the Plaintiffs' experts under this Settlement Agreement may be used by Class Counsel, the Plaintiffs and the Plaintiffs' experts only in connection with the investigation, prosecution and settlements of the claims in the Proceedings, and shall not be used directly or indirectly for any other purpose, including the prosecution of any claim against the Releasees. The Parties further acknowledge and agree that all information and Documents provided by the Nanya Defendants or their counsel to Class Counsel, the Plaintiffs, and the Plaintiffs' experts under this Settlement Agreement shall be held and treated in strict confidence in accordance with this Settlement Agreement and any applicable Confidentiality Order, and shall not be otherwise disclosed to any person in any manner, directly or indirectly, by Class Counsel, the Plaintiffs or the Plaintiffs' experts in any way for any reason except in accordance with this Settlement Agreement and any applicable Confidentiality Order or with the express prior written consent of the Nanya Defendants or their counsel. Class Counsel, the Plaintiffs and the Plaintiffs' experts shall take all reasonable steps and precautions to ensure and maintain the confidentiality of information and Documents and any related work product of Class Counsel and the Plaintiffs' experts.

(3) The cooperation that is to be provided by the Nanya Defendants under this Settlement Agreement shall be limited to the allegations contained in the Proceedings, including an alleged unlawful conspiracy to raise, fix, maintain or stabilize the price of DRAM Products in Canada and/or to allocate markets and customers for the sale of DRAM Products in Canada, contrary to Part VI of the *Competition Act* and common law.

(4) Within thirty (30) days of the Effective Date or at a time mutually agreed upon by Class Counsel and the Nanya Defendants, and subject to the other provisions of this section, the Nanya Defendants shall:

(a) produce any Documents provided by the Nanya Defendants to the Department of Justice, the Canadian Competition Bureau and class counsel for the U.S. plaintiffs as part of the settlement of the direct purchaser class proceedings in the U.S. Proceedings, subject to any protective orders;

(b) through one meeting between counsel for the Nanya Defendants and Class Counsel, to be scheduled at a reasonable time and place and for a total duration that does not exceed ten (10) hours, the Nanya Defendants shall make available one representative to provide a verbal evidentiary proffer relating to (i) the nature of business done in Canada, (ii) factual information about the industry, and (iii) the distribute channel of DRAM Products. The Parties agree that there shall be no audio or video recording and no written transcription or record of any statements made or information provided by counsel for the Nanya Defendants at the proffer, and that Class Counsel may only make written notes of their own thoughts and impressions at the proffer for the purpose of formulating legal advice, pursuing litigation and/or for the purpose of advancing settlement discussions in the interests of the Settlement Classes. The Parties agree that any such written notes and any other communications, information and Documents relating to the proffer are privileged, shall be kept strictly confidential and will not be used by Class Counsel for any purpose other than the investigation, prosecution and settlement of the claims in the Proceedings;

(5) Subject to the rules of evidence, the other provisions of this Settlement Agreement and any Confidentiality Order, the Nanya Defendants agree to engage in reasonable efforts to make available for testimony at trial in the Proceedings in Canada, such current officers or employees

of the Nanya Defendants as Class Counsel and the Nanya Defendants, acting reasonably, agree would be reasonably necessary to support the submission into evidence of any information or Documents produced by the Nanya Defendants in accordance with this section of this Settlement Agreement that Class Counsel and the Nanya Defendants, acting reasonably, agree may be reasonably necessary for the prosecution of the Proceedings and may be presented to the Courts. The reasonable costs incurred by, and the reasonable expenses of, the current directors, officers or employees in relation to such cooperation shall be the responsibility of the Nanya Defendants and/or the current officers or employees. If any current officer or employee refuses to cooperate under this section, the Nanya Defendants shall use their reasonable efforts to make such person available to provide testimony or otherwise cooperate with the Plaintiffs. The failure or refusal of any current director, officer or employee to agree to make him or herself available, to provide testimony, to provide an affidavit or declaration, to attend at a cross-examination or to otherwise cooperate with the Plaintiffs shall not constitute a breach or violation of the obligations of the Nanya Defendants under this Settlement Agreement, and shall not provide any basis for the termination of this Settlement Agreement.

(6) If, in the course of the Proceedings, the Plaintiffs, the Settlement Class Members and/or Class Counsel, acting reasonably, conclude that it is reasonably necessary to disclose or provide information or Documents obtained from the Nanya Defendants which are not otherwise publicly available information or to file such information or Documents in the Proceedings, and such disclosure is not otherwise prohibited by this Settlement Agreement or a Confidentiality Order, then the Plaintiffs, the Settlement Class Members and/or Class Counsel shall provide the Nanya Defendants with an advance written description of the information within a reasonable amount of time in advance of the proposed disclosure, in order that the Nanya Defendants may take steps to protect their interests in respect of such information or Documents in accordance with this Settlement Agreement and/or any Confidentiality Order. In the event that the Nanya Defendants take such steps, neither the Plaintiffs, the Settlement Class Members and/or Class Counsel shall oppose positions taken by the Nanya Defendants. For greater certainty, the rights of the Nanya Defendants under this section are in addition to and shall not derogate from any rights that the Nanya Defendants may have under any Confidentiality Order relating to the Proceedings.

(7) The Parties further respectively acknowledge and agree that the Plaintiffs, the Settlement Class Members and Class Counsel shall not, without the express prior written consent of the

Nanya Defendants or their counsel, directly or indirectly, disclose any information or Documents obtained from the Nanya Defendants to any person or entity outside Canada (with the exception of the Plaintiffs' experts), except in the event that a Court in Canada expressly orders such information or Documents to be disclosed. Notwithstanding the foregoing, the Plaintiffs and Class Counsel may disclose information or Documents obtained from the Nanya Defendants to U.S. class counsel appointed by the courts in the U.S. Proceedings and experts engaged by such U.S. class counsel in respect of the U.S. Proceedings, on condition that the Nanya Defendants, the Plaintiffs, Class Counsel, U.S. class counsel and such experts reach reasonable agreement in advance in respect of measures to protect and preserve the confidentiality of information or Documents obtained from the Nanya Defendants.

(8) The provisions set forth in this section 3.3 of this Settlement Agreement shall constitute the exclusive means by which the Plaintiffs, Settlement Class Members and Class Counsel may obtain discovery from the Nanya Defendants, their current and former directors, officers or employees and the Releasees, and the Plaintiffs, Settlement Class Members and Class Counsel shall pursue no other means of discovery against the Nanya Defendants, their current and former directors, officers or employees and the Releasees, whether in Canada or elsewhere and whether under the rules or laws of this or any other Canadian or foreign jurisdiction.

(9) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Nanya Defendants to disclose or produce (i) any communications, discussions or agreements between the Nanya Defendants and government authorities in Canada or elsewhere in connection with any regulatory or criminal investigations relating to DRAM Products that are not otherwise lawfully in the public domain, (ii) any information or Documents created for or by government authorities in Canada or elsewhere in connection with any regulatory or criminal investigations relating to DRAM Products that are not otherwise lawfully in the public domain and (iii) any notes, transcripts, testimony or other information or Documents relating to meetings or interviews with government authorities in Canada or elsewhere in connection with any regulatory or criminal investigations relating to DRAM Products that are not otherwise lawfully in the public domain, however, for greater certainty, this section shall not detract or derogate from any obligation of the Nanya Defendants under section 3.3(4)(b) and (c) to produce pre-existing business documents that belong to the Nanya Defendants and that were created prior to and independently from any regulatory or criminal investigation relating to DRAM Products.

(10) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Nanya Defendants (or any of its former officers, directors or employees) to perform any act which would violate any provincial, federal or foreign law, to disclose or produce any information or Documents prepared by or for counsel for the Nanya Defendants, or to disclose or produce any information or Documents in breach of any order, privacy law or rule, regulatory directive, regulatory policy, regulatory agreement or law of any jurisdiction, or subject to solicitor-client privilege, litigation privilege, attorney-client privilege, work product doctrine, common interest privilege, joint defence privilege or any other privilege, or to disclose or produce any information or Documents the Nanya Defendants obtained on a privileged or co-operative basis from any party to any action or proceeding who is not a Defendant. If any information or Documents protected by any privilege and/or by any order, privacy law or rule, regulatory directive, regulatory policy, regulatory agreement or law of any jurisdiction are accidentally or inadvertently produced by the Nanya Defendants, the Plaintiffs and Class Counsel shall promptly return such information and/or Documents to the Nanya Defendants and such information and/or Documents shall not be disclosed or used, directly or indirectly, except with the express prior written consent of the Nanya Defendants, and the production of such information and/or Documents shall in no way be construed to constitute a waiver of privilege or protection by the Nanya Defendants in connection with such information and/or Documents.

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

(12) The Nanya Defendants' obligation to cooperate as particularized in this section 3.3 shall not be affected by the release provisions contained in section 5 of this Settlement Agreement. The Nanya Defendants' obligation to cooperate under this Settlement Agreement shall cease at the date of final judgment in the Proceedings against all Defendants.

SECTION 4 – OPT OUT DEADLINE HAS EXPIRED AND DISTRIBUTION OF THE SETTLEMENT AMOUNT AND ACCRUED INTEREST

4.1 Opt Out Deadline has Expired

Unless ordered otherwise by the court, the procedure for Opting Out of the Proceedings was set out in the Orders issued by the B.C. Court on January 26, 2012, the Ontario Court on March 27, 2012, and the Quebec Court on March 27, 2012. The Opt Out Deadline expired on June 2, 2012.

4.2 Distribution Protocol

After the Effective Date, at a time wholly within the discretion of Class Counsel, Class Counsel will seek orders from the Courts approving a Distribution Protocol. Subject to any amendments by the Courts, the Settlement Class Members shall be compensated pursuant to the Distribution Protocol. After the Effective Date and after the Courts have approved Counsel Fees and the Distribution Protocol, the remaining monies in the Trust Account shall be transferred to the Claims Administrator for payment in accordance with the Distribution Protocol.

4.3 No Duplicative Claims

The Distribution Protocol shall provide that to the extent that a Settlement Class Member made a purchase of DRAM Products that is covered by the U.S. Settlement and/or that was the subject of a claim that was filed, accepted and paid by the claims administrator in the U.S. Settlement, then the Settlement Class Member shall not be entitled to seek recovery or compensation in respect of such purchases under this Settlement Agreement.

4.4 No Responsibility for Administration or Fees

The Nanya Defendants shall not have any responsibility, financial obligations or liability whatsoever with respect to the investment, distribution or administration of monies in the Trust Account including, but not limited to, Administration Expenses and Class Counsel Fees.

SECTION 5- RELEASES AND DISMISSALS

5.1 Release of Releasees

Upon the Effective Date, and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Settlement Agreement, the Releasors forever and absolutely release the Releasees from the Released Claims.

5.2 Covenant Not To Sue

Notwithstanding section 5.1, for any Settlement Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasors do not release the Releasees but instead covenant not to sue and undertake not to make any claim in any way or to threaten, commence, participate in, or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

5.3 No Further Claims

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

5.4 Dismissal and/or Settlement of the Proceedings

(1) Upon the Effective Date, the Subsequent Ontario Proceeding shall be dismissed with prejudice and without costs as against the Nanya Defendants.

(2) Upon the Effective Date, the B.C. Proceeding and the Quebec Proceeding shall be settled without costs and without reservation as against the Nanya Defendants, and the Parties shall sign and file such documents as may be required for filing with the B.C. Court and the Quebec Court.

5.5 **Dismissal of the Other Actions**

(1) Upon the Effective Date, all Other Actions which were commenced in Ontario, British Columbia or any other jurisdiction in Canada except Quebec by any Settlement Class Member who has not opted out of the Proceedings shall be dismissed against the Releasees without costs and with prejudice.

(2) Upon the Effective Date, each member of the Ontario Settlement Class and the British Columbia Settlement Class who has not opted out of the Proceedings shall be deemed to irrevocably consent to the dismissal, without costs and with prejudice, of his, her or its Other Actions against the Releasees.

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

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

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

5.6 **Releases and Covenants Not to Sue**

The form and content of the releases and covenants not to sue contemplated in sections 5.1, 5.2, 5.3, 5.4 and 5.5 of this Settlement Agreement shall be considered a material term of the Settlement Agreement in favour of the Nanya Defendants and the failure of any Court to approve the releases or covenants not to sue contemplated herein shall give rise to a right of termination by the Nanya Defendants pursuant to section 12 of this Settlement Agreement. For greater certainty, and notwithstanding any other term of this Settlement Agreement, the Plaintiffs and Class Counsel shall not have any right of termination in the event that any Court fails to approve

the releases and/or covenants not to sue contemplated herein, or if any Court approves the releases and/or covenants not to sue contemplated herein in a materially modified form.

SECTION 6 - BAR ORDER, WAIVER OF SOLIDARITY ORDER AND OTHER CLAIMS

6.1 British Columbia and Ontario Bar Orders

(1) The Plaintiffs and the Nanya Defendants agree that the orders approving this Settlement Agreement must include a bar order in respect of the Ontario Proceedings and the B.C. Proceeding. The bar order shall be in a form agreed to by the Plaintiffs and the Nanya Defendants, and shall include:

(a) a provision that all claims for contribution, indemnity or other claims over, whether asserted or unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in the Proceedings, or otherwise, by any Non-Settling Defendant or any other Person or party, against a Releasee, or by a Releasee against a Non-Settling Defendant, are barred, prohibited and enjoined in accordance with the terms of this section (unless such claim is made in respect of a claim by an Opt Out);

(b) a provision governing the rights of the Plaintiffs and the Settlement Class Members to assert claims against the Non-Settling Defendants or named or unnamed co-conspirators that are not Releasees in respect of the Proceedings, and otherwise, provided that under such a provision, if a Court determines there is a right of contribution and indemnity between co-conspirators, the Plaintiffs and the Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants and/or named or unnamed co-conspirators that are not Releasees that portion of any damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs (including investigative costs claimed pursuant to s. 36 of the *Competition Act*) that corresponds to the Proportionate Liability of the Releasees proven at trial or otherwise, in respect of the Proceedings, or otherwise, and the Court shall have full authority to determine the

Proportionate Liability of the Releasees at trial or other disposition of the Proceedings, whether or not the Releasees appear at trial or other disposition and the Proportionate Liability of the Releasees shall be determined as if the Releasees are parties to the Proceedings and any determination by the Court in respect of the Proportionate Liability of the Releasees shall only apply in the Proceedings and shall not be binding on the Releasees in any other proceedings; and

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

6.2 **Quebec Waiver or Renunciation of Solidarity Order**

(1) The Plaintiffs and the Nanya Defendants agree that the Quebec order approving this Settlement Agreement must include an order that provides for a waiver or renunciation of solidarity. The waiver or renunciation of solidarity order shall be in a form agreed to by the Plaintiffs and the Nanya Defendants, and shall include:

(a) a provision that the Quebec Plaintiff and the Quebec Settlement Class Members expressly waive and renounce the benefit of solidarity against the Non-Settling Defendants with respect to the facts, deeds or other conduct of the Nanya Defendants;

(b) a provision that the Quebec Plaintiff and the Quebec Settlement Class Members shall henceforth only be able to claim and recover damages, including punitive damages, interests and costs (including investigative costs claimed pursuant to s. 36 of the *Competition Act*) attributable to the conduct of the Non-Settling Defendants, the sales by the Non-Settling Defendants, and/or other applicable measure of proportionate liability of the Non-Settling Defendants;

(c) a provision that any claims in warranty or any other claim or joinder of parties to obtain any contribution or indemnity from the Nanya Defendants or relating to the Released Claims shall be inadmissible and void in the context of the Quebec Proceeding; and

(d) a provision that the ability of Non-Settling Defendants to seek discovery from the Nanya Defendants shall be determined according to the provisions of the *Code of Civil Procedure*, and the Nanya Defendants shall retain and reserve all of their rights to oppose such discovery under the *Code of Civil Procedure*.

6.3 **Material Term**

The form and content of the bar orders and the waiver or renunciation of solidarity order contemplated in sections 6.1 and 6.2 of this Settlement Agreement shall be considered a material term of the Settlement Agreement in favour of the Nanya Defendants and the failure of any Court to approve the bar orders or the waiver of solidarity order contemplated herein shall give rise to a right of termination by the Nanya Defendants pursuant to section 12 of this Settlement Agreement. For greater certainty, and notwithstanding any other term of this Settlement Agreement, the Plaintiffs and Class Counsel shall not have any right of termination in the event that any Court fails to approve the bar order and/or waiver of solidarity order contemplated herein, or if any Court approves the bar order and/or waiver of solidarity order contemplated herein in a materially modified form.

SECTION 7 – EFFECT OF SETTLEMENT

7.1 **No Admission of Liability**

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

7.2 **Agreement Not Evidence**

The Plaintiffs, Class Counsel and the Nanya Defendants agree that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, Documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any present, pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law or as provided in this Settlement Agreement.

7.3 **No Further Litigation**

(1) No Plaintiff and no Class Counsel may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any Person which relates to or arises from the Released Claims, except in relation to the continued investigation and prosecution of the Proceedings as against any Non-Settling Defendant or any named or unnamed co-conspirators who are not Releasees. Moreover, in addition to the other protections set out in this Settlement Agreement, the Plaintiffs and Class Counsel may not divulge to anyone for any purpose any information, including, without limitation, any cooperation Documents and information provided pursuant to section 3.3, obtained in the course of the Proceedings or the negotiation and preparation of this Settlement Agreement, except to the extent such disclosure is authorized by this Settlement Agreement, such information is otherwise lawfully available in the public domain or such disclosure is otherwise ordered by a court in Canada.

(2) For greater certainty, section 7.3(1) does not apply to the involvement of any Person in the continued investigation and prosecution of the Proceedings as against any Non-Settling Defendant or any named or unnamed co-conspirators who are not Releasees.

SECTION 8– CERTIFICATION OR AUTHORIZATION FOR SETTLEMENT ONLY

8.1 Settlement Classes and Common Issue

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

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

(3) The Parties agree that the certification or authorization of the Proceedings as against the Nanya Defendants for the purpose of implementing this Settlement Agreement shall not derogate in any way from the rights of the Plaintiffs as against the Non-Settling Defendants and other parties under the B.C. Certification Order or Quebec Authorization Judgment.

8.2 Certification or Authorization Without Prejudice in the Event of Termination

In the event this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, the Parties agree that any prior certification or authorization of a Proceeding as a class proceeding pursuant to this Settlement Agreement, including the definition of the Settlement Classes and the statement of the Common Issue, shall be without prejudice to any position that any of the Parties may later take on any issue in the Proceedings or any other litigation.

SECTION 9 – NOTICE TO SETTLEMENT CLASS

9.1 Notice Required

The proposed Settlement Classes shall be given the following Notices: (i) Notice of Certification and Approval Hearings; (ii) Notice of Settlement Approval; (iii) termination of this

Settlement Agreement if it is terminated after notice provided in accordance with (i) above; and (iv) any other notice for any purpose as otherwise ordered by the Courts.

9.2 **Form and Distribution of Notice**

(1) The form of the Notices referred to in section 9.1 and the manner of publication and distribution shall be as agreed to by the Plaintiffs and the Nanya Defendants or in such form or manner as approved by the Courts.

(2) The Plaintiffs and the Nanya Defendants shall engage in reasonable efforts to work with the parties to the U.S. Settlement to coordinate the form and distribution of the notices so that, to the extent possible, the Settlement Classes receive effective notice on a timely basis and at a reasonable cost.

9.3 **Notice of Distribution**

Except to the extent provided for in this Settlement Agreement, the form of notice in respect to the administration of this Settlement Agreement and the Distribution Protocol shall be determined by the Courts on motions brought by Class Counsel.

SECTION 10 – ADMINISTRATION AND IMPLEMENTATION

10.1 **Mechanics of Administration**

Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement and the Distribution Protocol shall be determined by the Courts on motions brought by Class Counsel.

10.2 **Information and Assistance**

(1) The Nanya Defendants will make reasonable efforts to compile a list of the names and addresses of Persons in Canada who purchased DRAM Products from the Nanya Defendants in Canada during the Settlement Class Period.

(2) The information required by section 10.2(1) shall be delivered to Class Counsel within thirty (30) business days of the date of execution of this Settlement Agreement.

(3) Class Counsel may use the information provided under section 10.2(2) to advise Persons in Canada who purchased DRAM Products from the Nanya Defendants in Canada during the Settlement Class Period of this Settlement Agreement and the date of the Approval Hearings before the Courts.

(4) If this Settlement Agreement is terminated, all information provided by the Nanya Defendants pursuant to section 10.2(2) shall be returned or destroyed forthwith in accordance with section 12.2(1)(g), no record of the information so provided shall be retained by Class Counsel in any form whatsoever, and the information so provided may not be used or disclosed, directly or indirectly, in any form or manner by Class Counsel or by any Person to whom Class Counsel has disclosed such information.

SECTION 11 – CLASS COUNSEL FEES AND ADMINISTRATION EXPENSES

(1) The costs of the notices referred to in section 9 of this Settlement Agreement shall be paid out of the Trust Account.

(2) Class Counsel may seek the Courts' approval to pay Class Counsel Fees and Administration Expenses contemporaneous with seeking approval of this Settlement Agreement, or at such other time as they shall determine in their sole discretion. The Nanya Defendants shall take no position with respect to Class Counsel's motion for payment of Class Counsel Fees.

(3) Except as provided in sections 11(1) and 11(2), Class Counsel Fees and Administration Expenses may only be paid out of the Trust Account after the Effective Date.

(4) The Nanya Defendants shall not be liable for any fees, disbursements or taxes, including but not limited to Class Counsel Fees and any fees, disbursements or taxes of Class Counsel's, the Plaintiffs' or the Settlement Class Members' respective lawyers, experts, advisors, agents, or representatives.

SECTION 12 - TERMINATION OF SETTLEMENT AGREEMENT

12.1 Right of Termination

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

(a) any Court declines to certify or authorize a Settlement Class or the Settlement Classes, and the Court's order or judgment has become a Final Order;

(b) any Court declines to approve this Settlement Agreement or any material term or part hereof, and the Court's order or judgment has become a Final Order;

(c) any Court approves this Settlement Agreement in a materially modified form, subject to the provisions of this Settlement Agreement governing materiality, and the Court's order or judgment has become a Final Order; or

(d) any orders approving this Settlement Agreement made by the Ontario Court, the B.C. Court or the Quebec Court do not become Final Orders.

(2) The Nanya Defendants shall have the right to terminate this Settlement Agreement in the event that:

(a) any Court declines to certify or authorize a Settlement Class or the Settlement Classes, and the Court's order or judgment has become a Final Order;

(b) any Court declines to approve this Settlement Agreement or any material term or part hereof, and the Court's order or judgment has become a Final Order;

(c) any Court approves this Settlement Agreement in a materially modified form, subject to the provisions of this Settlement Agreement governing materiality, and the Court's order or judgment has become a Final Order;

(d) any orders approving this Settlement Agreement made by the Ontario Court, the B.C. Court or the Quebec Court do not become Final Orders;

(e) the form and content of any of the Final Orders approved by the B.C. Court, the Ontario Court and the Quebec Court fails to comply with sections 2.3(2) and 2.3(4) of this Settlement Agreement; or

(f) the form and content of any of the Final Orders approved by the B.C. Court, the Ontario Court and the Quebec Court fails to comply with sections 5.1, 5.2, 5.3, 5.4, 5.5, 6.1 and 6.2 of this Settlement Agreement.

(3) For greater certainty, the Plaintiffs, Class Counsel and the Nanya Defendants acknowledge and agree that they shall not rely on any current or future rulings or proceedings arising from or in connection with the B.C. Court of Appeal's decisions released on April 15, 2011 in *Sun-Rype Products Ltd. v. Archer Daniels Midland Company* (Court of Appeal Docket #CA038308, CA038314 and CA038324) and *Pro-Sys Consultants Ltd. v. Microsoft Corporation* (Court of Appeal Docket #CA034325; CA037968) as a material adverse change for the purpose of terminating this Settlement Agreement pursuant to sections 12.1(1) and 12.1(2) or otherwise at law.

(4) To exercise a right of termination under section 12.1(1) or 12.1(2), a terminating party shall deliver a written notice of termination pursuant to section 13.18 of this Settlement Agreement no later than twenty-one (21) days after the occurrence of the termination event which is the basis of the notice. Upon delivery of such a written notice, this Settlement Agreement shall be terminated and, except as provided for in section 12.4, it shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in the Proceedings or any litigation.

(5) Any order, ruling or determination made by any Court that is not substantially in the form of its respective order annexed as Schedule "B1", "B2" or "B3" shall be deemed to be a material modification of this Settlement Agreement and shall provide a basis for the termination of this Settlement Agreement, provided however that the Nanya Defendants may agree to waive this provision.

(6) Any order, ruling or determination made by any Court with respect to Class Counsel Fees shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

12.2 **If Settlement Agreement is Terminated**

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

(a) no motion to certify or authorize any of the Proceedings as a class proceeding on the basis of this Settlement Agreement or to approve this Settlement Agreement, which has not been decided, shall proceed;

(b) any order certifying or authorizing a Proceeding as a class proceeding on the basis of the Settlement Agreement or approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and anyone shall be estopped from asserting otherwise;

(c) any prior certification or authorization of a Proceeding as a class proceeding that has occurred after the date of this Settlement Agreement, including the definitions of the Settlement Classes and the Common Issue, and any prior procedural or substantive ruling in respect of the ongoing Proceedings that has occurred after the date of this Settlement Agreement, shall be without prejudice to any position that the Nanya Defendants may later take on any procedural or substantive issue in the ongoing Proceedings or any other litigation;

(d) any appearance, attendance, filing or any other action or step taken by the Nanya Defendants pursuant to or relating to this Settlement Agreement shall be without prejudice to any position that the Nanya Defendants may later take in respect of the jurisdiction of the Courts or any other court including a motion by a Nanya Defendant seeking to quash service *ex juris* or to otherwise challenge the jurisdiction of the Courts or any other court over such defendant in the Proceedings or any other litigation;

(e) the Parties shall negotiate in good faith to determine a new timetable, if the Proceedings are to continue against the Nanya Defendants;

(f) within ten (10) days of such termination or failure having occurred, Class Counsel shall destroy all Documents or other information provided by the Nanya Defendants as cooperation under this Settlement Agreement, or containing or reflecting information derived from such Documents or other information, and to the extent that Class Counsel has disclosed any Documents or other information provided by the Nanya Defendants to any other person (including Plaintiffs' experts), shall

recover and destroy such Documents and other information. Class Counsel shall provide the Nanya Defendants with a written certification by Class Counsel of such destruction. Nothing contained in this subsection shall be construed to require Class Counsel to destroy any of their work product; and

(g) each Class Counsel shall forthwith deliver consents in writing to counsel for the Nanya Defendants authorizing the Nanya Defendants to bring motions before each of the Courts for orders:

(i) directing that the balance in the Trust Account shall be paid to the Nanya Defendants, in accordance with section 12.3 of this Settlement Agreement.

(ii) declaring that this Settlement Agreement to be null and void and of no force or effect (except for the provisions set out in section 12.4 of this Settlement Agreement); and

(iii) setting aside any order certifying or authorizing the Proceedings as class proceedings on the basis of this Settlement Agreement.

12.3 **Allocation of Monies in the Trust Account Following Termination**

If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, all monies in the Trust Account shall be returned to the Nanya Defendants including all accrued interest, less any applicable taxes, less the costs of any Escrow Agent that may be appointed by Class Counsel that have been incurred and less the costs of the Notices that have been incurred but not paid to date, within thirty (30) business days of such termination or event having occurred.

12.4 **Survival of Provisions After Termination**

If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, the provisions of sections 3.3(2), 3.3(6), 7, 8.2, 9, 11(1), and 12 (and any additional provisions governing confidentiality) shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive

only for the limited purpose of the interpretation of sections 3.3(2), 3.3(6), 7, 8.2, 9, 11(1), and 12 (and any additional provisions governing confidentiality) within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

SECTION 13 - MISCELLANEOUS

13.1 Releasees Have No Liability for Administration

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

13.2 Motions for Directions

(1) Class Counsel or the Nanya Defendants may apply to the Courts for directions in respect of this Settlement Agreement.

(2) Class Counsel may apply to the Courts for directions in respect of the Distribution Protocol.

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

13.3 Headings, etc.

(1) In this Settlement Agreement:

(a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and

(b) the terms "this 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.

13.4 **Computation of Time**

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

(a) 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

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

13.5 **Ongoing Jurisdiction**

(1) Each of the Courts shall retain exclusive jurisdiction over the Proceeding commenced in its jurisdiction, the parties thereto and Class Counsel Fees in that Proceeding.

(2) No Party shall ask a Court to make any order or give a 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 relevant Court(s) with which it shares jurisdiction over that matter.

(3) Notwithstanding sections 13.5(1) and 13.5(2), the Ontario Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement. Issues related to the administration of this Settlement Agreement, the Trust Account, and other matters not specifically related to the claim of a B.C. Settlement Class Member or a Quebec Settlement Class Member shall be determined by the Ontario Court.

(4) For the purposes of settlement only and contingent on the approvals by the Courts as provided for in this Settlement Agreement, the Nanya Defendants agree to submit to the jurisdiction of the Courts solely for the purpose of implementing, administering and enforcing this Settlement Agreement. The Parties acknowledge and confirm that the Nanya Defendants do

not attorn to the Courts or any other court for any other purpose or proceeding and that the Nanya Defendants otherwise reserve all of their other existing jurisdictional rights.

(5) The Plaintiffs and the Nanya Defendants may apply to the Ontario Court for direction in respect of the implementation, administration and enforcement of this Settlement Agreement.

13.6 **Governing Law**

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

13.7 **Entire Agreement**

This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

13.8 **Amendments**

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

13.9 **Binding Effect**

This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Nanya Defendants, the Settlement Class Members, the Releasors, the Releasees, and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiffs shall be binding upon all Releasors and each and every covenant and agreement made herein by the Nanya Defendants shall be binding upon all of the Releasees.

13.10 **Counterparts**

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

13.11 **Negotiated Agreement**

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. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

13.12 **Language**

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais. Nevertheless, if required by law or by the Courts, the Nanya Defendants shall prepare a French translation of the Settlement Agreement including the Schedules at their own expense. The Parties agree that such translation is for convenience only. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

(2) The cost of translating the Notices, claims forms, or other documents referenced to or flowing from this Settlement Agreement into French and/or any other language shall, in the event such translation is required by law or by the Courts, be paid by the Nanya Defendants.

13.13 **Transaction**

The present Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Civil Code of Quebec*, and the parties are hereby renouncing to any errors of fact, of law and/or of calculation.

13.14 **Recitals**

The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

13.15 **Schedules**

The Schedules annexed hereto form part of this Settlement Agreement.

13.16 ACKNOWLEDGEMENTS

(1) Each of the Parties hereby affirms and acknowledges that:

(a) 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 the Settlement Agreement;

(b) 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;

(c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and

(d) 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.

13.17 **Authorized Signatures**

Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement.

13.18 **Notice**

Any and all notices, requests, directives, or communications required by this Settlement Agreement shall be in writing and shall, unless otherwise expressly provided herein, be given

personally, by express courier, by postage prepaid mail, by facsimile transmission, or by email .pdf files, and shall be addressed as follows:

For the Plaintiffs and for Class Counsel in the Proceedings:

David Williams and Jonathan Foreman

HARRISON PENSA LLP
450 Talbot Street, P.O. Box 3237
London, ON N6A 5J6

Tel: 519-679-9660
Fax: 519-667-3362
Email: dwilliams@harrisonpensa.com
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Harvey T. Strosberg, Q.C. and
Heather Rumble Peterson

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Reidar Mogerman

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For the Nanya Defendants:

Sylvie Rodrigue

NORTON ROSE OR LLP
2500-1 Place Ville-Marie
Montréal, QC H3B 1R1
Tel: 514-847-4559
Fax: 514-286-5474
Email: sylvie.rodrigue@nortonrose.com

13.19 **Date of Execution**

The Parties have executed this Settlement Agreement as of the date on the cover page.

PRO-SYS CONSULTANTS, KHALID EIDOO, CYGNUS ELECTRONICS CORPORATION, OPTION CONSOMMATEURS, by their counsel

By: _____
Name: Sutts, Strosberg LLP
Title: Counsel in the Ontario Proceeding

By: _____
Name: Harrison Pensa
Title: Counsel in the Ontario Proceeding

By: _____
Name: Camp Fiorante Matthews Mogerman
Title: Counsel in the B.C. Proceeding

By: _____
Name: Belleau Lapointe
Title: Counsel in the Quebec Proceeding

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The Parties have executed this Settlement Agreement as of the date on the cover page.

PRO-SYS CONSULTANTS, KHALID EIDOO, CYGNUS ELECTRONICS CORPORATION, OPTION CONSOMMATEURS, by their counsel

By: _____
Name: Sutts, Strosberg LLP
Title: Counsel in the Ontario Proceeding

By: _____
Name: Harrison Pensa
Title: Counsel in the Ontario Proceeding

By: _____
Name: Camp Fiorante Matthews Mogerman
Title: Counsel in the B.C. Proceeding

By: _____
Name: Belleau Lapointe
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By: _____
Name: Sutts, Strosberg LLP
Title: Counsel in the Ontario Proceeding

By: _____
Name: Harrison Pensa
Title: Counsel in the Ontario Proceeding

By: _____
Name: Camp Fiorante Matthews Mogerman
Title: Counsel in the B.C. Proceeding

By: _____
Name: Belleau Lapointe
Title: Counsel in the Quebec Proceeding

NANYA TECHNOLOGY CORPORATION, by its counsel

By: Norton Rose LLP

Name: Norton Rose Canada LLP
Title: Canadian Counsel

NANYA TECHNOLOGY CORPORATION USA, by its counsel

By: Norton Rose LLP

Name: Norton Rose Canada LLP
Title: Canadian Counsel

SCHEDULE "A"

Proceedings

#	Court and File No.	Plaintiffs' Counsel	Style of Cause and Named Defendants	Named Defendants