

XL FOODS CLASS ACTION GLOBAL SETTLEMENT AGREEMENT

Made as of April 23, 2015

Between

MATTHEW HARRISON

(the "Plaintiff")

- and -

XL FOODS INC.

(the "Settling Defendant")

TABLE OF CONTENTS

	<u>Page</u>
PREAMBLE	4
RECITALS	5
SECTION 1 - DEFINITIONS	6
SECTION 2 - BEST EFFORTS	12
SECTION 3 - CONDITIONS PRECEDENT	12
SECTION 4 - CONDITIONS PRECEDENT PRIOR TO SEEKING JUDICIAL APPROVAL.....	13
4.1 CONSENT OF THE CFIA AND OTHER PLAINTIFFS.....	13
4.2 APPROVAL AND RESOLUTION OF HEALTH CARE CLAIMS.....	13
4.3 CONFIDENTIALITY	13
SECTION 5 – CONDITION PRECEDENT - COURT APPROVAL AND DISMISSAL OF CLAIMS.....	14
5.1 APPLICATION FOR COURT APPROVAL	14
5.2 DISMISSAL OF CLAIMS	15
SECTION 6 - IF CONDITIONS PRECEDENT ARE NOT MET.....	15
6.1 CONDITIONS PRECEDENT PRIOR TO COURT APPROVAL.....	15
6.2 OPT-OUTS EXCEEDED OR IF COURT APPROVAL IS NOT GIVEN.....	16
SECTION 7 - PAYMENT	17
7.1 PAYMENTS OF SETTLEMENT AMOUNT	17
7.2 TAXES AND INTEREST.....	18
SECTION 8 - RELEASES	18
8.1 RELEASE OF RELEASEES.....	18
SECTION 9 – OPTING-OUT.....	19
SECTION 10 - DISTRIBUTION OF THE SETTLEMENT AMOUNT AND ACCRUED INTEREST	20

10.1	DISTRIBUTION PROTOCOL	20
10.2	COMMERCIAL CLAIMS.....	20
10.3	UNDOCUMENTED CLAIMS.....	21
SECTION 11 - LEGAL FEES AND DISBURSEMENTS		21
SECTION 12 - IMPLEMENTATION.....		21
12.1	MECHANICS OF ADMINISTRATION	21
12.2	NOTICES REQUIRED.....	21
SECTION 13 - NO ADMISSION OF LIABILITY		22
SECTION 14 - MISCELLANEOUS.....		22
14.1	APPLICATIONS FOR DIRECTIONS	22
14.2	COMPUTATION OF TIME.....	23
14.3	HEADINGS, ETC.....	23
14.4	ONGOING JURISDICTION.....	23
14.5	GOVERNING LAW	23
14.6	ENTIRE AGREEMENT.....	24
14.7	BINDING EFFECT.....	24
14.8	SURVIVAL.....	24
14.9	COUNTERPARTS	24
14.10	NEGOTIATED AGREEMENT.....	24
14.11	LANGUAGE	25
14.12	DATES.....	25
14.13	TRANSACTION	25
14.14	RECITALS	25
14.15	SCHEDULE	25
14.16	ACKNOWLEDGEMENTS.....	26

14.17 AUTHORIZED SIGNATORIES	26
14.18 NOTICE	26
14.19 DATE OF EXECUTION	27
CONFIDENTIAL SCHEDULE "A"	29

PREAMBLE

The Plaintiff brought the *Harrison* Action pursuant to the *Class Proceedings Act*, RSA 2000, C C-16.5, against XL Foods Inc. and Nilsson Bros. Inc. on behalf of himself and other natural persons in Canada and / or the United States who suffered illness, physical injury, and/or economic loss from the purchase and / or consumption of *E. coli* contaminated beef products produced at XL Foods Inc.'s processing plant located in Brooks, Alberta in late August and early September 2012.

The *Harrison* Action alleges that the *E. coli* contamination was the result of XL Foods Inc.'s and Nilsson Bros. Inc.'s negligence in their "quality control, monitoring, processing, storage, distribution, and sale" and subsequent recall of Recalled XL Beef and the Plaintiff claims in strict liability, negligence, breach of consumer protection legislation, and the *Sale of Goods Act*. The Plaintiff seeks as remedies general damages, special damages, a series of declarations, disgorgement of revenues, punitive damages, interest, Health Care Costs, claims under the *Family Law Act* and taxable costs and disbursements.

Five class actions, including the *Harrison* Action, were commenced in the Provinces of Alberta, Ontario, Saskatchewan, British Columbia, and Quebec against XL Foods Inc. and (with respect to the Ontario, British Columbia, and Alberta proceedings only) Nilsson Bros. Inc. for and on behalf of Class Members who claim to have suffered physical illness and/or injury or economic losses arising from this *E. coli* contamination under the following styles of cause:

- a. *Matthew Harrison, as Representative Plaintiff v. XL Foods Inc. and Nilsson Bros., Inc.*, Court of Queen's Bench, Edmonton, (Court File No. 1203-14727);
- b. *Thumula Lansakara v. XL Foods and Nilsson Bros Inc.*, Ontario Superior Court of Justice, Toronto, (Court File No. CV-12-465054-00CP);
- c. *Patrick Cashman v. XL Foods Inc.*, Saskatchewan Queen's Bench, Saskatoon, (Court File No 1489);
- d. *Erin Thornton v. XL Foods Inc. and Nilsson Bros. Inc.*, British Columbia Supreme Court, Vancouver Registry, (Action No. S-127163); and
- e. *Mme. Mary Courneyea v. XL Food Inc.*, Quebec Superior Court, Quebec District, (Court File No. 200-06-000155-120).

The Parties in each of the *Harrison*, *Lansakara*, *Cashman*, *Thornton*, and *Courneyea* Actions have mutually agreed that the *Harrison* Action would proceed to be certified as a national class action.

It was further agreed by the Parties that the *Lansakara*, *Cashman*, *Thornton*, and *Courneyea* Actions would be held in abeyance pending the resolution of the *Harrison* Action.

The *Harrison* Action was certified as a class proceeding pursuant to the *Class Proceedings Act*, S.A., 2003, c. C-16.5 by order of the Honourable Associate Chief Justice Rooke on October 8, 2013.

The Plaintiff agreed to the dismissal of the Proceeding in its entirety against Nilsson Bros. Inc., by consent at the certification hearing on October 8, 2013 on a without costs and with prejudice basis, and accordingly, Nilsson Bros. Inc. is not a party to this Settlement Agreement.

On July 7, 2014, the Plaintiff and the Settling Defendant entered into the Economic Loss Settlement Agreement providing for the settlement of the Economic Loss Claims. The Economic Loss Settlement Agreement is subject to approval of the Court.

The Plaintiff and the Settling Defendant hereby enter into this Global Settlement Agreement providing for the settlement of Released Claims including the claims which are the subject of the Economic Loss Settlement Agreement and the Bodily Injury Claims.

If the Global Settlement Agreement is not approved by the Court, then the Parties will forthwith proceed to implement the Economic Loss Settlement Agreement according to its terms.

RECITALS

WHEREAS:

A. The Parties have engaged in extensive arm's-length settlement discussions in respect of all Released Claims of Class Members, and as a result of those discussions, the Parties have entered into this Global Settlement Agreement to resolve all Released Claims on behalf of Class Members, subject to the approval of the Court.

B. The Parties intend by this Global Settlement Agreement to resolve the Released Claims.

C. As part of this resolution, the Settling Defendant and its insurer have agreed to pay the Settlement Amount for the benefit of Class Members.

D. The Settling Defendant, through execution of this Global Settlement Agreement, does not admit the allegations made by the Plaintiff in the Proceeding, denies that any damages are payable, has not conceded or admitted any civil liability, and asserts defences to all of the claims in the Proceeding.

E. The Plaintiff and Class Counsel have reviewed and fully understand the terms of this Global Settlement Agreement and, based on their analysis of the facts and law applicable to the Plaintiff's and Class Members' claims, and having regard to the burden and expense in prosecuting the Proceeding, including the risks and uncertainties associated with trials and appeals, the Plaintiff and Class Counsel have concluded that this Global Settlement Agreement is fair, reasonable, and in the best interests of the Plaintiff and the Class he represents.

F. Despite its belief that it is not liable in respect of the allegations made in the Proceeding and has good defences thereto, the Settling Defendant is entering into this Global Settlement Agreement in order to achieve a final resolution of all Released Claims asserted against it by the Plaintiff, for and on behalf of Class Members, and to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation, and it is acknowledged that the Settling Defendant would have not entered into this Global Settlement Agreement were it not for the foregoing.

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 all Released Claims of Class Members shall be settled and dismissed with prejudice and that the Parties shall consent to the Court's Order finally approving this Global Settlement Agreement and dismissing the Released Claims with prejudice, without costs to the Plaintiff, the Class, or the Settling Defendant, subject to the approval of the Court, on the following terms and conditions:

SECTION 1 - DEFINITIONS

For the purposes of this Global Settlement Agreement only, including the Preamble, Recitals and Schedule hereto:

1. **Account** means an interest bearing trust account at a Canadian Schedule 1 bank under the control of Class Counsel or the Claims Administrator, once appointed,

for the benefit of the Class Members, as provided for in this Global Settlement Agreement.

2. **Administration Expenses** means all fees, disbursements, expenses, costs, taxes, and any other amounts incurred or payable by or on behalf of the Plaintiff and/or the Class for the approval, implementation, and operation of this Global Settlement Agreement, and including Class Counsel Fees, Notice Costs, and Claims Administration Costs.
3. **Bodily Injury Claims** means claims regarding or related to physical illness, injury, mental distress and/or anguish (including claims for special damages, out-of-pocket medical expenses, loss of income, and/or future care expenses) relating to the consumption of Recalled XL Beef, as alleged, or that could have been alleged, in the Proceeding, or claims advanced in the Proceeding under the *Family Law Act* and similar legislation.
4. **Cashman Action** means *Patrick Cashman v. XL Foods Inc.*, Saskatchewan Queen's Bench, Saskatoon (Court File No 1489).
5. **Certification Order** means the Order pronounced by the Honourable Associate Chief Justice Rooke on October 8, 2013 certifying the Proceeding as a class proceeding pursuant to the *Class Proceedings Act*, S.A., 2003 c. C-16.5.
6. **CFIA** means the Canadian Food Inspection Agency.
7. **Claims Administrator** means the person proposed by Class Counsel and appointed by the Court to administer the Global Settlement Amount in accordance with the provisions of this Global Settlement Agreement and the Distribution Protocol, and any employees of such person.
8. **Claims Administration Costs** means all costs associated with administering Class Member claims in accordance with the Distribution Protocol, including the fees and disbursements of the Claims Administrator, and applicable taxes.
9. **Class Counsel** means Siskinds LLP, James H. Brown and Associates, and Docken Klym.
10. **Class Counsel Fees** means the legal fees, disbursements, and applicable taxes of Class Counsel, as approved by the Court.
11. **Class or Class Members** means all natural persons in Canada or the United States who:

- a. purchased Recalled XL Beef (for private, non-commercial consumption) and suffered an economic loss;
 - b. purchased beef products (for private, non-commercial consumption) after August 24, 2012, and, on or after September 16, 2012, disposed of the beef products as a result of receiving notice of or communication regarding the alerts issued by the CFIA or the FSIS regarding the recall of beef products that were processed at the XL Foods Inc. Brooks, Alberta facility on August 24, 27, 28, 29 or September 5, 2012, and suffered an economic loss; or
 - c. consumed Recalled XL Beef and suffered a physical illness or injury.
12. **Conditions Precedent (or in the singular, Condition Precedent)** means mandatory term(s) which are essential to the validity of the Global Settlement Agreement and which all must be met. Conditions Precedent are found in Sections 4 and 5 in this Agreement.
13. **Courneyea Action** means *Mme. Mary Courneyea v. XL Food Inc.*, Quebec Superior Court, Quebec District (Court File No. 200-06-000155-120).
14. **Court** means the Court of Queen's Bench of Alberta.
15. **Distribution Protocol** means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as approved by the Court.
16. **Economic Loss Claims** means the claims for economic loss brought by Class Members in the Proceeding for the purchase price paid, without refund, by Class Members for Recalled XL Beef and/or Unidentifiable Beef. For greater certainty, Economic Loss Claims does not include any claims for special damages, out-of-pocket medical expenses, loss of income, or future care expenses arising or related to physical illness or injuries relating to the consumption of Recalled XL Beef or claims advanced in the Proceeding under the *Family Law Act* and similar legislation.
17. **Economic Loss Settlement Agreement** means the written settlement agreement between the Plaintiff and XL Foods, Inc. made July 7, 2014.
18. **Effective Date** means the date when a Final Order has been received from the Court approving this Global Settlement Agreement.
19. **Final Order** means a final judgment or order entered by the Court in respect of the approval of this Global Settlement Agreement once the time to appeal such

judgment or order has expired without any appeal being taken, if an appeal lies and there is a person with standing to appeal, or once there has been affirmation of the approval of this Global Settlement Agreement upon a final disposition of all appeals.

20. **FSIS** means the United States Department of Agriculture's Food Safety and Inspection Service.
21. **Global Settlement Agreement** means this agreement, including the preamble and recitals herein, and schedule hereto.
22. **Harrison Action or Proceeding** means *Matthew Harrison, as Representative Plaintiff v. XL Foods Inc. and Nilsson Bros., Inc.*, Court of Queen's Bench, Edmonton (Court File No. 1203-14727).
23. **Health Care Costs** means all statutory claims for recovery of health care costs relating to or arising from the Bodily Injury Claims pursuant to any Provincial or Territorial health care program, including, *inter alia*, the *Hospitals Act*, RSA 2000, c. H-12; the *Health Care Costs Recovery Act*, SBC 2008, c. 27; the *Health Services Insurance Act*, CCSM c. H-35; the *Health Insurance Act*, RSO 1990, c. H-6, or any similar or equivalent Provincial or Territorial legislation.
24. **Lansakara Action** means *Thumula Lansakara v. XL Foods and Nilsson Bros Inc.*, Ontario Superior Court of Justice, Toronto (Court File No. CV-12-465054-00CP).
25. **Notice Costs** means all reasonable costs paid to third party notice providers and consultants (including fees, disbursements, and applicable taxes) and/or print, online, or radio media for the preparation and dissemination of the Notices. Notice Costs excludes the internal costs of Class Counsel, including professional, paralegal, and staff time, and disbursements, and taxes relating to the preparation and dissemination of the Notices.
26. **Notice of Approval** means the form of notice or notices, agreed to by the Plaintiff and the Settling Defendant, or such other form as may be approved by the Court, which informs the Class of: (i) the approval of the Global Settlement Agreement and Distribution Protocol; (ii) the core elements of the Global Settlement Agreement and the Distribution Protocol; and (iii) the process for filing a claim pursuant to the Distribution Protocol.
27. **Notice of Hearing** means the form of notice or notices, agreed to by the Plaintiff and the Settling Defendant, or such other form as may be approved by the Court, which informs the Class of: (i) the certification of the Proceeding; (ii) the date and location of the application to approve the Global Settlement Agreement and

Distribution Protocol; and (iii) the core elements of the Global Settlement Agreement and the Distribution Protocol.

28. *Notice of Termination* means the form of notice or notices, agreed to by the Plaintiff and the Settling Defendant, or such other form as may be approved by the Court, which informs the Class of the termination of the Global Settlement Agreement.
29. *Notices* means the Notice of Hearing, the Notice of Approval, and the Notice of Termination.
30. *Opt-Out* means a person who would have been a member of the Class, except for his or her timely and valid request for exclusion from the Proceeding.
31. *Opt-Out Deadline* means the date which is 60 days after the date on which the Notice of Hearing is first published.
32. *Opt-Out Threshold* means the threshold agreed upon by the Parties in confidential Schedule "A" hereto, delivered to the Court under seal and kept confidential by the Parties and the Court.
33. *Parties* mean the Plaintiff and the Settling Defendant.
34. *Plaintiff* means Matthew Harrison.
35. *Recalled XL Beef* means beef products that were processed at the XL Foods Inc. Brooks, Alberta facility on August 24, 27, 28, 29 or September 5, 2012, recalled by XL Foods Inc., and identified in the alerts issued by CFIA or FSIS.
36. *Released Claims* means any and all manners of claims, actions, causes of action, suits, elections as to remedy, rights, debts, sums of money, payments, obligations, reckonings, contracts, agreements, executions, promises, damages, liens, judgments, punitive damages, aggravated damages, exemplary damages, and demands of an economic kind, type, or nature and whatsoever, both at law and in equity, whether direct or indirect, whether class, individual, or otherwise in nature, whether personal or subrogated, whether past, present, or future, mature or not yet mature, known or unknown, suspected or unsuspected, contingent or non-contingent, whether based on federal, provincial, state, territorial, or municipal law, statute, ordinance, regulation, code, contract, common law, or any other source, or any claim that the Plaintiff or Class Members ever had, now have, may have, or hereafter can, shall, or may ever have against the Releasees in any other court, tribunal, arbitration panel, commission, agency, or before any governmental and/or administrative body, or

any other adjudicatory body, on the basis of, connected with, arising from, or in any way whatsoever relating to the Economic Loss Claims and/or the Bodily Injury Claims, notwithstanding that Plaintiff and the Class acknowledge that they may hereafter discover facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Proceeding and/or the Released Claims. For greater certainty, Released Claims also includes claims relating to the purchase or consumption of Recalled XL Beef and/or the purchase of Unidentifiable Beef for punitive damages, aggravated damages, and/or exemplary damages, claims regarding or related to physical illness, injury, mental distress and/or anguish (including claims for special damages, out-of-pocket medical expenses, loss of income, Health Care Costs, claims under the *Family Law Act* and similar legislation), and includes the Plaintiff's taxable costs and disbursements, and Administrative Expenses.

37. **Releasees** means, jointly and severally, the Settling Defendant, Nilsson Bros. Inc., and their present and former parents, officers, directors, employees, stockholders, shareholders, agents, attorneys, suppliers, distributors, reorganized successors, spin-offs, assigns, holding companies, related companies, subsidiaries, affiliates, joint ventures, partners, members, divisions, predecessors, servants, representatives, insurers and their successors, heirs, executors, administrators, trustees, insurers, and assigns of each of the foregoing.
38. **Settlement Amount** means the all inclusive sum of CAD \$4,000,000.00. The Settlement Amount includes the sum of CAD \$1,000,000.00 paid by the Settling Defendant and held by Siskinds LLP, in trust, pursuant to the Economic Loss Settlement Agreement, and the sum of CAD \$3,000,000 to be paid by the insurers for and on behalf of the Settling Defendant to settle all other claims of the Class including the Bodily Injury Claims, Health Care Costs, Notice Costs, Class Counsel Fees, Administrative Expenses, Claims Administration Costs and taxable costs and disbursements.
39. **Settling Defendant** means XL Foods Inc.
40. **Thornton Action** means *Erin Thornton v. XL Foods Inc. and Nilsson Bros. Inc.*, British Columbia Supreme Court, Vancouver Registry (Action No. S-127163).
41. **Unidentifiable Beef** means any beef or beef product purchased (for private, non-commercial consumption) after August 24, 2012 and disposed of on or after September 16, 2012 as a result of the notice or communication regarding the alerts issued by the CFIA or FSIS regarding the recall of beef products that were processed at the XL Foods Inc. Brooks, Alberta facility on August 24, 27, 28, 29, or September 5, 2012.

SECTION 2 - BEST EFFORTS

2.1 The Parties shall use their best efforts to effectuate this Global Settlement Agreement.

SECTION 3 - CONDITIONS PRECEDENT

1. The Parties covenant and agree that:
 - a. if all the Conditions Precedent to the Global Settlement Agreement are met, then the Economic Loss Settlement Agreement will be extinguished, and the \$1,000,000 payment paid by the Settling Defendant pursuant to the Economic Loss Settlement Agreement will be subsumed within the Settlement Amount;
 - b. until the Conditions Precedent have been met:
 - i. the doctrine of merger is not triggered by the Global Settlement Agreement;
 - ii. the Global Settlement Agreement shall not supplant or replace the Economic Loss Settlement Agreement; and
 - iii. all terms and conditions of the Economic Loss Settlement Agreement survive and remain binding upon the Parties.
2. If any of the Conditions Precedent to this Global Settlement Agreement are not met, the Parties covenant and agree that:
 - a. the Global Settlement Agreement shall be null and void and shall have no force or effect, and the Parties shall not be bound by its terms, with the sole exception of the agreements and commitments contained in sections 6.1, 6.2, 9 and 13 and the definitions applicable thereto shall survive and continue in full force and effect. The definitions shall survive only for the limited purpose of the interpretation of sections 6.1, 6.2, 9 and 13, but for no other purpose; and
 - b. all negotiations, statements, and the proceeding relating to this Global Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties, and the Parties shall be deemed to be restored to their respective positions existing immediately before this Global Settlement Agreement was executed.

SECTION 4 - CONDITIONS PRECEDENT PRIOR TO SEEKING JUDICIAL APPROVAL

4.1 CONSENT OF THE CFIA AND OTHER PLAINTIFFS

1. It is a Condition Precedent, which must be met prior to the filing any application seeking the Court's approval of the Global Settlement Agreement, that the Plaintiff obtains:
 - a. the written consent of the CFIA to waive any entitlement to taxable costs and disbursements the CFIA has or may have in the Proceeding; and
 - b. the written confirmation by counsel of record that the Plaintiffs in each of the *Harrison, Lansakara, Cashman, Thornton, and Courneyea* Actions approve the settlement of their respective Released Claims pursuant to the terms of the Global Settlement Agreement.

4.2 APPROVAL AND RESOLUTION OF HEALTH CARE CLAIMS

1. The Plaintiff shall assume sole responsibility for negotiating and concluding with the Provinces and Territories the resolution of all statutory claims for Health Care Costs.
2. It is a Condition Precedent which must be met prior to the of filing any application seeking the Court's approval of the Global Settlement Agreement that the Plaintiff obtain the requisite consents or approvals to resolve all statutory claims for Health Care Costs.

4.3 CONFIDENTIALITY

1. Except for Section 4.3.2 and until the application required by Section 5 is brought, it is a Condition Precedent to the Global Settlement Agreement that the Parties maintain confidentiality over the Global Settlement Agreement and shall not disclose the existence of the settlement to the Court or to anyone without the prior written consent of counsel for the Settling Defendant or Class Counsel, as the case may be, except as required for the purposes of financial reporting or the preparation of financial records (including tax returns and financial statements), or as otherwise required by law.
2. Notwithstanding Section 4.3.1, Class Counsel shall be permitted to communicate the terms of this Global Settlement Agreement to the plaintiffs in the *Lansakara, Cashman, Thornton, and Courneyea* Actions, the CFIA for the purposes of

obtaining the consent required pursuant to section 4.1(1)(a), the Provinces and Territories for the purposes of negotiating and concluding the resolution of all statutory claims for Health Care Costs pursuant to section 4.2.1, and as otherwise required in order to give effect to the terms of this Global Settlement Agreement.

SECTION 5 – CONDITION PRECEDENT - COURT APPROVAL AND DISMISSAL OF CLAIMS

5.1 APPLICATION FOR COURT APPROVAL

1. It is a Condition Precedent to the Global Settlement Agreement that the Court approves the Global Settlement Agreement, and the order so given has become a Final Order, and the Effective Date has occurred.
2. The Plaintiff shall make his best efforts to bring the application to approve the Notice of Hearing within 60 days after this Global Settlement Agreement is executed.
3. The Plaintiff shall make his best efforts to bring the application to approve the Global Settlement Agreement within 60 days of the first publication of the Notice of Hearing.
4. The Parties shall jointly seek entry of an order that, *inter alia*:
 - a. approves this Global Settlement Agreement and its terms as being fair, reasonable, and in the best interests of the Class Members and directs its consummation according to its terms;
 - b. dismisses the Proceeding in its entirety against the Settling Defendant, with prejudice and without costs; and
 - c. incorporates any other operative language and provisions as contemplated herein.
5. Subject to the approval of the Court, the Parties shall exercise their best efforts to agree on the form of the orders to be sought. Should the Parties fail to agree on the form of the orders, the Court will be asked to determine the form of the orders.

5.2 DISMISSAL OF CLAIMS

1. It is a Condition Precedent to the Global Settlement Agreement that Class Counsel obtain consent dismissal orders of the *Harrison, Lansakara, and Thornton* Actions against Nilsson Bros. Inc. on a without costs basis.
2. It is a further Condition Precedent to the Global Settlement Agreement that Class Counsel obtain:
 - a. requisite court orders for the dismissal of, or alternatively, a claims bar, in the each of the *Lansakara, Cashman, Thornton, and Courneyea* Actions, without costs to any party; and
 - b. the consent of the plaintiffs in the *Lansakara, Cashman, Thornton, and Courneyea* Actions to bear any costs and fees required to obtain the dismissals of their respective Actions.

SECTION 6 - IF CONDITIONS PRECEDENT ARE NOT MET

6.1 CONDITIONS PRECEDENT PRIOR TO COURT APPROVAL

1. If any of the Conditions Precedent prior to seeking court approval of the Global Settlement Agreement, as set out in Section 4, are not met, then:
 - a. the Global Settlement Agreement shall be null and void and of no force or effect;
 - b. if the Parties are unable to reach an alternative resolution of the Bodily Injury Claims within 30 days of the event of termination or such other time as agreed upon by the Parties, the Parties shall forthwith proceed to implement the Economic Loss Settlement Agreement;
 - c. the Plaintiff shall seek the Court's approval of the Economic Loss Settlement Agreement according to its terms;
 - d. Class Counsel shall forthwith, and without the requirement of a demand, return the Settlement Amount to Counsel for the Settling Defendant less the sum of \$1,000,000 paid by the Settling Defendant pursuant to the Economic Loss Settlement Agreement and any interest earned on the \$1,000,000 paid by the Settling Defendant pursuant to the Economic Loss Settlement Agreement; and
 - e. subject to section 6.1.1(d), Class Counsel shall forthwith return to Counsel for the Settling Defendant the interest earned on the Settlement Amount

(less any taxes paid on interest earned) and the Settling Defendant or its insurer shall be responsible for the payment of all taxes on such interest not previously paid by Class Counsel.

6.2 OPT-OUTS EXCEEDED OR IF COURT APPROVAL IS NOT GIVEN

1. If any of the following events occur:
 - a. the number of Opt-Outs exceeds the Opt-Out Threshold;
 - b. the Court does not approve the Global Settlement Agreement as being “fair and reasonable”;
 - c. the Court issues a settlement approval order that is materially inconsistent with the terms of this Global Settlement Agreement. Any order, ruling or determination made by any Court with respect to the opt-out process, Class Counsel Fees or the Distribution Protocol shall not provide any basis for the termination of this Global Settlement Agreement; or
 - d. the order approving this Global Settlement Agreement does not become a Final Order;

then either Party shall have the option of terminating this Global Settlement Agreement within 10 days of such event having occurred or such other time as agreed upon by the Parties, and in the event of termination:

- a. the Global Settlement Agreement shall be null and void, of no force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation;
- b. if the Parties are unable to reach an alternative resolution of the Bodily Injury Claims within 30 days of the event of termination or such other time as agreed upon by the Parties, the Parties shall proceed to implement the Economic Loss Settlement Agreement;
- c. the Plaintiff shall seek the Court’s approval of the Economic Loss Settlement Agreement according to its terms;
- d. Class Counsel shall forthwith, and without the requirement of a demand, return the Settlement Amount to Counsel for the Settling Defendant less:
 - i. the sum of \$1,000,000 paid by the Settling Defendant pursuant to the Economic Loss Settlement Agreement and any interest earned

on the \$1,000,000 paid by the Settling Defendant pursuant to the Economic Loss Settlement Agreement;

- ii. all Notice Costs reasonably incurred by Class Counsel together with documentary proof of expense. If the Parties are unable to agree on the reasonableness of any of the amounts incurred by Class Counsel for Notice Costs, they may apply to Court for directions; and
 - iii. any costs of translating this Global Settlement Agreement, in the event translation is required pursuant to section 14.1; and
- e. Class Counsel shall forthwith return to Counsel for the Settling Defendant the interest earned on the Settlement Amount (less any taxes paid on interest earned) and the Settling Defendant or its Insurer shall be responsible for the payment of all taxes on such interest not previously paid by Class Counsel.

SECTION 7 - PAYMENT

7.1 PAYMENTS OF SETTLEMENT AMOUNT

1. Within 30 days of the date of execution of this Global Settlement Agreement, the Defendant shall pay the balance of the Settlement Amount of CAD \$3,000,000 to Siskinds LLP for deposit into the Account, in full satisfaction of the Released Claims against the Releasees. Apart from the payment of the Settlement Amount, the Releasees shall have no liability and no obligation to pay any amount, for any reason, pursuant to or in furtherance of this Global Settlement Agreement. Without limiting the foregoing, the Releasees shall have no responsibility or liability for Health Care Costs, Administration Expenses, Claims Administration Costs, Notice Costs, Class Counsel Fees, interest, taxes, taxable costs and disbursements.
2. The Parties agree that any costs actually paid by or to any Party on or before the Court's Approval of the Global Settlement Agreement shall not be repaid, credited, or otherwise disturbed by the Global Settlement Agreement.
3. No monies shall be paid from the Account, unless and until the Conditions Precedent are met, and except in accordance with this Global Settlement Agreement or in accordance with an order of the Court obtained on notice to, or with consent of, the Settling Defendant.

7.2 TAXES AND INTEREST

1. Subject to Section 6.1.1(e) and 6.2(1)(e), all interest earned on the Settlement Amount shall accrue to the benefit of the Class and shall become and remain part of the Account.
2. All funds held for distribution to Class Members shall remain subject to the jurisdiction of the Court until such time as such funds shall be distributed pursuant to the Global Settlement Agreement and/or further order of the Court.
3. Subject to Section 6.1.1(e) and 6.2(1)(e), all taxes payable on any interest which accrues on the Settlement Amount in the Account or otherwise in relation to the Settlement Amount, shall be the responsibility of the Class. Class Counsel shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Account, including any obligation to report taxable income and make tax payments, on behalf of the Class. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Account.
4. Subject to Section 6.1.1(e) and 6.2(1)(e), the Settling Defendant shall have no responsibility to make any tax or other filings relating to the 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 Account.
5. Except as otherwise provided in this Global Settlement Agreement, the Settling Defendant shall not have any responsibility, financial obligations or liability whatsoever with respect to the investment, distribution or administration of monies in the Account.

SECTION 8 - RELEASES

8.1 RELEASE OF RELEASEES

1. Upon the Effective Date, and for the consideration provided in this Global Settlement Agreement, each Class Member, who is not an Opt Out, will fully, finally, and forever release, relinquish, acquit, and discharge the Releasees from and for the Released Claims, and shall not now or hereafter institute, maintain, or assert on their own behalf, on behalf of the Class, or on behalf of any other person or entity, any Released Claim or Released Claims.

2. Without limiting any other provisions herein, upon the Effective Date, each Class Member who is not an Opt Out, whether or not he or she submits a claim or otherwise receives an award, will be deemed by the Global Settlement Agreement completely and unconditionally to have released and forever discharged the Releasees from any and all Released Claims.
3. The Parties agree that, upon the Effective Date, each Class Member who is not an Opt Out, whether or not he or she submits a claim or otherwise receives an award, will be forever barred and enjoined from continuing, commencing, instituting, or prosecuting any action, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum, or any other forum, directly, representatively, or derivatively, asserting against any of the Releasees any Released Claims.

SECTION 9 – OPTING-OUT

1. Any person who falls within the Class has the right to opt out of the Proceeding. Any person who elects to opt out of the Proceeding must complete and submit a written request to opt-out, postmarked on or before the Opt-Out Deadline. Where the postmark is not visible or legible, the election to opt-out shall be deemed to have been postmarked four business days prior to the date that it is received by Class Counsel. Requests to opt-out shall be sent to Class Counsel at an address to be identified in the Notice of Hearing.
2. Each request to opt-out must disclose the following information:
 - a. name, address, email address and phone number of the person seeking to opt-out of the Proceeding;
 - b. where the person seeking to opt-out of the Proceeding is a minor, the name of the parent or guardian acting on that person's behalf;
 - c. a statement: "I hereby request that I be excluded from the XL Foods class action";
 - d. a statement of whether the person seeking to opt-out of the Proceeding was hospitalized for a period exceeding seven days; and
 - e. the signature of the person seeking to opt-out of the Proceeding or if the person seeking to opt-out is a minor, the signature of the person's parent or guardian.

3. Any person who validly opts out shall be excluded from the Class and the continuing Proceeding against the Defendant, including any future settlements or judgments, and shall have no rights with respect to this Global Settlement Agreement or the Economic Loss Settlement Agreement.
4. Any person who falls within the Class who does not validly opt out of the Proceeding in accordance with this Global Settlement Agreement and any orders of the Court shall be deemed to have elected to participate in this Global Settlement Agreement and in the remainder of the Proceeding, and shall be for all purposes a Class Member for the duration of the Proceeding.
5. Class Counsel shall forward to counsel for the Defendant copies of all opt-out requests received within 60 days of the expiration of the Opt-Out Deadline.

SECTION 10 - DISTRIBUTION OF THE SETTLEMENT AMOUNT AND ACCRUED INTEREST

10.1 DISTRIBUTION PROTOCOL

1. At a time wholly within the discretion of Class Counsel, but on notice to the Settling Defendant, Class Counsel will bring an application seeking an order from the Court approving the Distribution Protocol. The application can be brought before the Effective Date, but the order approving the Distribution Protocol shall be conditional on the Effective Date occurring.
2. The Plaintiff has advised that the proposed Distribution Protocol will contain a mechanism whereby, if the total of the timely, valid, and approved claims submitted by Class Members is less than the available funds, the remaining funds will be distributed *cy pres*.

10.2 COMMERCIAL CLAIMS

1. Any outstanding Released Claims with the entities that purchased XL Recalled Beef and/or Unidentifiable Beef for commercial resale are not part of this Global Settlement Agreement and, for greater certainty, shall not be paid from the Settlement Amount.

10.3 UNDOCUMENTED CLAIMS

1. The claims process shall not require that Class Members present proof of purchase unless the Claims Administrator, in its sole discretion, believes a claim might be fraudulent, provided however that, as part of the claims process, each claimant who is seeking compensation for Economic Loss Claims must state that he/she purchased the products for which he/she claims.

SECTION 11 - LEGAL FEES AND DISBURSEMENTS

1. Class Counsel shall bring an application to the Court for approval of Class Counsel Fees.
2. Class Counsel Fees shall be paid out of the Settlement Amount and any such fees may be paid out only after the Effective Date. The approval of this Global Settlement Agreement shall not be contingent upon the approval Class Counsel Fees.
3. Class Members who have retained, or in the process of making a claim do retain, lawyers to assist them in making their individual claims to this Global Settlement Agreement shall be responsible for payment of the legal fees and expenses of such lawyers.
4. Class members who are Opt-Outs and who retain separate legal counsel to advance individual claims shall bear the responsibility for payment of their legal fees and disbursements.

SECTION 12 - IMPLEMENTATION

12.1 MECHANICS OF ADMINISTRATION

1. Except to the extent provided for in this Global Settlement Agreement, the mechanics of the implementation and administration of this Global Settlement Agreement shall be determined by the Court on application brought by the Plaintiff.

12.2 NOTICES REQUIRED

1. The Class shall be given notice of: (i) certification of the Proceeding as a class action; (ii) the hearing at which the Court will be asked to approve the Global Settlement Agreement and the Distribution Protocol; (iii) if approved, the approval of the Global Settlement Agreement and the Distribution Protocol; and

(iv) if not approved, the resulting termination of the Global Settlement Agreement.

2. Subject to the approval of the Court, the Parties shall use their best efforts to agree on the form of the Notices to be sought. Should the Parties fail to agree on the form of the Notices, the Court will be asked to determine the form of the Notices.
3. Subject to the approval of the Court, the Parties shall use their best efforts to agree on the method of disseminating the Notices to the Class. Should the Parties fail to agree on the method of disseminating the Notices, the Court will be asked to determine the method of disseminating the Notices.

SECTION 13 - NO ADMISSION OF LIABILITY

1. The Parties agree that, whether or not this Global Settlement Agreement is finally approved that this Global Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and the proceeding associated with this Global Settlement Agreement, and any action taken to carry out this Global Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasees or any of them, or of the truth of any of the claims or allegations made in the Proceeding or in any other pleading filed by the Plaintiff.
2. The Parties further agree that, whether or not this Global Settlement Agreement is finally approved, neither this Settlement nor any document relating to it shall be offered in evidence in any action or proceeding in any court, agency or tribunal, except to seek court approval of this Global Settlement Agreement, to give effect to and enforce the provisions of this Global Settlement Agreement, or as otherwise required by law.

SECTION 14 - MISCELLANEOUS

14.1 APPLICATIONS FOR DIRECTIONS

1. The Plaintiff, Class Counsel, or the Claims Administrator may apply to the Court for directions in respect of the implementation and administration of this Global Settlement Agreement.
2. All applications contemplated by the Global Settlement Agreement, including applications to the Court for directions, shall be on notice to the Parties.

14.2 COMPUTATION OF TIME

1. In the computation of time in the Global 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 (as that term is not defined in the *Interpretation Act*, RSC 1985, c I-21), the act may done on the next day that is not a holiday.

14.3 HEADINGS, ETC.

1. In this Global Settlement Agreement:
 - a. the division of the Global 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 Global Settlement Agreement; and
 - b. the terms "this Global Settlement Agreement," the "Global Settlement Agreement," "hereof," "hereunder," "herein," "hereto," and similar expressions refer to this Global Settlement Agreement and not to any particular section or portion of the Global Settlement Agreement.

14.4 ONGOING JURISDICTION

1. The Court shall retain exclusive jurisdiction over all matters relating to the implementation and enforcement of this Global Settlement Agreement as it relates to the Proceeding. The Parties agree that any claim that a Party has breached the Global Settlement Agreement may be adjudicated before the Court, with appeal rights from any decisions preserved as provided in the Alberta Rules of Court.

14.5 GOVERNING LAW

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

14.6 ENTIRE AGREEMENT

1. This Global Settlement Agreement constitutes the entire agreement among the Parties, and supersedes any and all prior and contemporaneous understandings, undertakings, negotiations, representations, communications, promises, agreements, agreements in principle, and memoranda of understanding in connection herewith, except that if this Global Settlement Agreement does not become effective, the Economic Loss Settlement Agreement shall survive and shall be binding on the Parties. The Parties agree that they have not received or relied on any agreements, representations, or promises other than as contained in the Global Settlement Agreement. None of the Parties shall be bound by any prior obligations, conditions, or representations with respect to the subject matter of this Global Settlement Agreement, unless expressly incorporated herein. This Global 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 Court.

14.7 BINDING EFFECT

1. Once the Global Settlement Agreement is approved by the Court and the approval order becomes a Final Order, this Global Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiff, Class Members, the Settling Defendant, the Releasees, Class Counsel, and the Claims Administrator.

14.8 SURVIVAL

1. The representations and warranties contained in this Global Settlement Agreement shall survive its execution and implementation.

14.9 COUNTERPARTS

1. This Global 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 or electronic signature shall be deemed an original signature for the purposes of executing this Global Settlement Agreement. This may be delivered and is fully enforceable in original, faxed, or other electronic form provided that it is duly executed.

14.10 NEGOTIATED AGREEMENT

1. This Global Settlement Agreement has been the subject of negotiations and discussions among the Parties, 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 Global Settlement Agreement shall have no force and effect. The Parties further agree that the language constrained or not contained in previous drafts of this Global Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of the Global Settlement Agreement.

14.11 LANGUAGE

1. The Parties acknowledge that they have required and consented that this Global 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 to by the Court, Class Counsel and/or a translation firm selected by Class Counsel shall prepare a French translation of the Global Settlement Agreement. If a translation is required by the Court, the costs of such translation shall be paid from the Settlement Amount, as part of the Notice Costs. In the event of any dispute as to the interpretation or application of this Global Settlement Agreement, only the English version shall govern.

14.12 DATES

1. Dates referred to in this Global Settlement Agreement may be altered with the written consent of the Parties and with the approval of the Court.

14.13 TRANSACTION

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

14.14 RECITALS

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

14.15 SCHEDULE

1. The schedule annexed hereto forms part of the Global Settlement Agreement.

14.16 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 Global Settlement Agreement;
 - b. the terms of the Global 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 Global 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 with respect to the first Party's decision to execute this Global Settlement Agreement.

14.17 AUTHORIZED SIGNATORIES

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

14.18 NOTICE

1. Where this Global Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication, or document shall be provided by email, facsimile, or letter by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

For Plaintiff and for Class Counsel:

Rick Mallett
James H. Brown and Associates
2400 Sunlife Place
10123 99 Street
Edmonton, Alberta T5J 3H1
Tel: (780) 428-0088
Fax: (780) 428-7788

Clint Docken
Docken Klym
900, 800-6th Ave, SW
Calgary, AB T2P 3G3
Tel: (403) 269-3612
Fax: (403) 269 - 8246

Linda J. Visser
Siskinds LLP
Barristers & Solicitors
680 Waterloo Street
P.O. Box 2520
London, ON N6A 3V8
Tel: (519) 660-7700
Fax: (519) 660-7701
For the Settling Defendant:

Eric A. Dolden and Diana Dorey
Dolden Wallace Folick LLP
Tenth Floor, 888 Dunsmuir Street
Vancouver, BC V6C 3K4
Tel: (604) 389-3222
Fax: (604) 689-3777

14.19 DATE OF EXECUTION

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

MATTHEW HARRISON

By:



Name: Siskinds LLP
Title: Class Counsel

By:

Name: James H. Brown and Associates
Title: Class Counsel

Linda J. Visser
Siskinds LLP
Barristers & Solicitors
680 Waterloo Street
P.O. Box 2520
London, ON N6A 3V8
Tel: (519) 660-7700
Fax: (519) 660-7701
For the Settling Defendant:

Eric A. Dolden and Diana Dorey
Dolden Wallace Folick LLP
Tenth Floor, 888 Dunsmuir Street
Vancouver, BC V6C 3K4
Tel: (604) 389-3222
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14.19 DATE OF EXECUTION

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MATTHEW HARRISON

By:

Name: Siskinds LLP
Title: Class Counsel

By:



Name: James H. Brown and Associates
Title: Class Counsel

By:



Name: Docken Klym
Title: Class Counsel

XL FOODS INC.

By:



Name: Dolden Wallace Folick LLP
Title: Counsel for the Settling Defendant

By:

Name: Docken Klym
Title: Class Counsel

XL FOODS INC.

By:



Name: Dolden Wallace Folick LLP
Title: Counsel for the Settling Defendant

CONFIDENTIAL SCHEDULE "A"

REDACTED