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## Schedule A Settlement Agreement

**Douglas Laurence Mason**

*Securities Act, RSBC 1996, c. 418*

- ¶ 1 The following settlement of issues has been reached between Douglas Laurence Mason and the Executive Director.

### **Agreed Statement of Facts**

#### **Background**

- ¶ 2 Mason acknowledges the following facts as correct only for the purposes of these regulatory proceedings, and as the basis for the undertakings and orders referred to in this settlement:

1. Mason was an insider of each of the following reporting issuers in British Columbia (collectively, the Issuers) by virtue of being an officer and director of each of them:
  - (a) Clearly Canadian Beverage Corp. (Clearly Canadian) from December, 1987 to the present;
  - (b) Consolidated Venturex Holdings Ltd. (Consolidated Venturex) from June, 1990 to the present;
  - (c) SWI Steelworks Inc. (SWI), formerly called ESC Envirotech Systems Corp. (ESC Envirotech), from January, 1991 to the present;
  - (d) Waterfront Capital Corp. (Waterfront Capital) from August, 1996 to the present; and
  - (e) Columbia Yukon Explorations Inc. (Columbia Yukon) from January, 1997 to the present.
2. At all material times, securities of the Issuers were listed for trading on the Vancouver Stock Exchange, now the TSX Venture Exchange (the Exchange).
3. On March 12, 1999, a trust named The Piper Trust was settled under the laws of Jersey, United Kingdom, with Mason's knowledge and consent. The trustee was the Ryco Trust Executor & Trustee Company Limited (the Trustee).

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4. In consenting to the creation of The Piper Trust, Mason relied upon the advice of his legal counsel, Michael Seifert, who advised Mason that Canadians could legitimately use Jersey trusts for asset protection and tax and estate planning purposes.
5. According to the terms of The Piper Trust, Mason was permitted to make his wishes regarding The Piper Trust's investment decisions known to the Trustee but, by written contract, the Trustee was not obliged to follow Mason's suggestions.
6. Forthdale Investments Limited (Forthdale) was a company incorporated under the laws of the Republic of Ireland.
7. Forthdale held securities of the Issuers in trading accounts at Pacific International Securities Inc. (the PI Account) and Haywood Securities Inc. (the Haywood Account).
8. In connection with the creation of The Piper Trust, the Trustee acquired all of the issued and outstanding shares of Forthdale and, thereby, trading authority over the PI Account and the Haywood Account.
9. After the Trustee acquired Forthdale, Mason made his wishes regarding The Piper Trust's securities trading known to the Trustee. Mason did this by providing written suggestions to the Trustee. The Trustee, as a matter of practice, invariably followed these suggestions. The result was that, notwithstanding the creation of The Piper Trust, Mason at all times had direction over any securities of the Issuers held or traded by Forthdale.
10. Currently, Mason:
  - (a) is President, Chief Executive Officer and a director of Clearly Canadian;
  - (b) is a director and officer of CC Beverage (U.S.) Corporation, Clearly Canadian Beverage (International) Corporation, 546274 Alberta Limited, and Blue Mountain Springs Ltd., all of which are affiliates of Clearly Canadian (the Clearly Canadian Affiliates);
  - (c) is President and a director of Columbia Yukon;
  - (d) is President, director and sole shareholder of Criterion Capital Corp. (Criterion);

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- (e) is a director and officer of Waterfront Capital;
  - (f) is President, Chairman and a director of Consolidated Venturex;
  - (g) is President, Chief Executive Officer and a director of BHR Buffalo Head Resources Ltd.;
  - (h) provides financing and business advice to P2P Health Systems Inc.; and
  - (i) is a director of and provides financing and business advice to SWI.
11. Clearly Canadian conducts its business operations through the Clearly Canadian Affiliates.

### **Trading in Clearly Canadian**

12. Between November 1, 1994 and December 29, 1994 Forthdale privately purchased 150,000 shares of Clearly Canadian from Mason for \$309,000.00, which it then sold through the Exchange for net proceeds of \$296,550.81.
13. Between January 14, 1997 and 2000 Forthdale privately purchased 200,000 shares of Clearly Canadian from the Centrum Bank of Liechtenstein for \$460,000, and then sold 89,353 shares through the Exchange for net proceeds of \$172,229.20.

### **Trading in Consolidated Venturex**

14. Between February 29, 1996 and 2000 Forthdale purchased 530,000 shares of Consolidated Venturex from Mason through the Exchange and 20,000 shares from others for \$230,530.50, and then sold 33,000 shares for net proceeds of \$14,964.00.

### **Trading in ESC Envirotech**

15. Between January 17, 1995 and 2000 Forthdale privately purchased 180,000 shares of ESC Envirotech from Mason for \$147,000.00, received 120,000 shares into the account from a business associate of Mason's, and then sold 24,000 shares through the Exchange for net proceeds of \$11,980.00.
16. Between November 10, 1995 and 2000 Forthdale purchased 1,550,000 shares of ESC Envirotech from Mason through the Exchange for \$397,078.50, received 5,000 into the account, and then sold 55,000 shares through the Exchange for net proceeds of \$17,658.15.

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### **Trading in Waterfront Capital**

17. Between November 21, 1996 and 2000 Forthdale purchased 229,000 shares of Waterfront Capital through the Exchange for \$58,872.75.

### **Trading in Columbia Yukon**

18. Between March 10, 1997 and 2000 Forthdale purchased 300,000 shares of Columbia Yukon from Mason through the Exchange for \$209,005.00.

### **Failure to File Insider Reports**

19. Mason had direction over the trading of the securities of the Issuers described above.
20. Between December 1994 and 2000, Mason failed to file insider reports disclosing 67 trades relating to the acquisition, disposition and control of securities of the Issuers held and traded by Forthdale through the PI Account and the Haywood Account, contrary to section 87 of the *Act*.
21. Forthdale's trading did not represent a significant portion of the overall trading in the securities of the Issuers during the period in which the trading occurred.

### **Sale of Shares on the Exchange Without Change of Direction**

22. At material times, Mason held in his own name, or was authorized to trade from, securities trading accounts (collectively, the Mason Trading Accounts) at:
- (a) Pacific International Securities Inc. (Pacific International);
  - (b) Haywood Securities Inc. (Haywood);
  - (c) Yorkton Securities Inc. (Yorkton);
  - (d) Brink, Hudson & Lefever Ltd. (BHL); and
  - (e) Global Securities Corp. (Global).
23. Mason suggested to the Trustee that it cause Forthdale to purchase certain amounts of securities of the Issuers. At or around the same time, Mason sold the same amounts of securities of the Issuers from the Mason Trading Accounts, all as indicated below:

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From Account	Date	Number of Shares	Issuer
Yorkton	November 10, 1995	500,000	ESC Envirotech
Yorkton	December 1, 1995	150,000	ESC Envirotech
Yorkton	February 29, 1996	100,000	Consolidated Venturex
Global	September 17, 1996	500,000	ESC Envirotech
Pacific International	October 9, 1996	400,000	ESC Envirotech
Yorkton	November 27, 1996	230,000	Consolidated Venturex
BHL	November 28, 1996	200,000	Consolidated Venturex
Haywood	March 10, 1997	300,000	Columbia Yukon

24. None of Forthdale's trading was undertaken in reliance upon undisclosed material facts or changes and there is no evidence of any illicit purpose for the trading. Nonetheless, the foregoing transactions were trades through the facilities of a stock exchange that did not involve any change of direction, and, therefore, resulted in a misleading appearance of securities trading activity in British Columbia, contrary to the public interest.

### **Unreported Distribution from a Control Position**

25. As at October 31, 1996, Mason directly or indirectly owned, controlled or directed 4,192,949 shares of ESC Envirotech in his own name, in the name of companies controlled by him, and in the name of Forthdale. At the time, this represented 21.95% of the issued and outstanding shares of ESC Envirotech. Accordingly, and as defined in section 1 of the Act, Mason was a control person of ESC Envirotech.

26. In the period from November 1, 1996 to November 19, 1996, Mason sold 631,500 shares of ESC Envirotech in 14 trades. Mason failed to file a notice by control person of an intent to sell with respect to these trades and a report of sales, contrary to sections 136 and 137 of the Securities Rules.

### **Mitigating Factors**

¶ 3 The Executive Director accepts that Mason is the principal shareholder or key employee of Clearly Canadian and Columbia Yukon and that his presence in those issuers is needed to protect the interests of innocent investors. The Executive Director also accepts that Criterion is Mason's personal holding company and that he provides his executive and management services to Clearly Canadian and Columbia Yukon through Criterion.

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### Undertaking

¶ 4 Mason undertakes to:

1. comply fully with the *Securities Act*, RSBC 1996, c. 418, the Securities Rules, and any applicable regulations, policies and guidelines;
2. not say anything, in writing or orally, which may contradict the terms of this settlement or call those terms into question; and
3. to pay the sum of \$250,000 to the Commission, of which \$50,000 represents a portion of the costs of the investigation.

### Order

¶ 5 Mason consents to an order by the Executive Director (the Order) that:

1. under sections 161(1)(b) and (c) of the Act, Mason cease trading, directly or indirectly, in securities for 12 months from the date of the Order, except that Mason may:
  - (a) engage in financings for Clearly Canadian and Columbia Yukon; and
  - (b) trade securities beneficially owned by him but only if
    - (i) the trading takes place through accounts held at a single registered dealer acceptable to the Executive Director;
    - (ii) Mason has disclosed the names of the accounts to the Executive Director before any trading takes place; and
    - (iii) Mason has given a copy of the Order to the dealer before any trading takes place;
2. under section 161(1)(d) of the Act, Mason resign any position he holds as a director or officer of any issuer and be prohibited from becoming or acting as a director or officer of any issuer for 12 months from the date of the Order, except that Mason may remain a director and officer of Clearly Canadian, the Clearly Canadian Affiliates, Columbia Yukon, and Criterion; and
3. under section 161(1)(d) of the Act, Mason be prohibited from engaging in investor relations activities for 12 months from the date of the Order, except that Mason may engage in investor relations on behalf of Clearly Canadian and Columbia Yukon.

