

## U.S./CANADA SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is made and entered into as of the 9th day of November, 2007, by and among (1) Plaintiffs, for themselves and on behalf of the Settlement Classes, and (2) Carrier Corporation (“Carrier”), subject to Court approval as required by Rule 23 of the Federal Rules of Civil Procedure, Section 29 of the Ontario Class Proceedings Act, 1992 and Article 1025 of the Civil Code of Quebec. As provided herein, Carrier, Class Counsel and Plaintiffs (hereinafter “the Parties”) hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon the entry by the Courts of a Final Order and Judgment, all claims of the Settlement Classes against Carrier and other defendants in the Actions shall be settled and compromised upon the terms and conditions contained herein.

### I. Recitals

This Agreement is made for the following purpose and with reference to the following facts:

#### A. The Washington Action

1. On or about June 29, 2005, Grays Harbor Adventist Christian School, Greg Bogdanovich and Mary LaForest (the “Washington Plaintiffs”) on behalf of themselves and all similarly situated individuals and entities in the state of Washington who own or owned residential high-efficiency condensing furnaces manufactured by Carrier filed a class action complaint against Carrier in the United States District Court for the Western District of Washington, thereby commencing that civil action entitled *Grays Harbor Adventist Christian School, et al. v. Carrier Corp.*, Cause No. 05-05437 (U.S.D.C. W.D. Wash.) (the “Washington Action”). The Washington Action alleged, among other things, that from January 1, 1989,

Carrier manufactured and sold 90% residential high-efficiency condensing furnaces that contained defective polypropylene laminated condensing heat exchangers and failed prematurely.

2. On or about September 8, 2005, Carrier filed an Answer generally denying the allegations of the Washington Action, and asserting various affirmative defenses.

3. On or about July 27, 2007, the Washington Plaintiffs amended their Complaint to add Bruce Kelly as a plaintiff in the Washington Action (“Washington Amended Complaint”).

4. On or about August 10, 2007, Carrier filed an Answer generally denying the allegations in the Washington Amended Complaint, and asserting various affirmative defenses.

5. On or about May 1, 2007, the United States District Court in the Western District of Washington (“Washington Court”) entered an order granting Washington Plaintiffs’ motion for class certification in the Washington Action.

6. On or about June 11, 2007, Carrier filed a Motion for Decertification of the Class. The Court issued an Order Denying Decertification on August 10, 2007.

7. On or about October 18, 2007, Carrier filed a motion for summary judgment. That motion was pending when this Agreement was executed.

B. The Wisconsin Action

1. On or about August 31, 2006, Mark Neuser on behalf of himself and all similarly situated individuals and entities in the state of Wisconsin who own or owned residential high-efficiency condensing furnaces manufactured by Carrier filed a class action complaint

against Carrier in the Circuit Court for Dane County, Wisconsin, which was assigned case number 06-CV-2945.

2. On or about November 8, 2006, Carrier filed a Notice of Removal of case number 06-CV-2945 from the Circuit Court for Dane County, Wisconsin to the United District Court for the Western District of Wisconsin, thereby commencing that civil action entitled *Neuser et al. v. Carrier Corp.*, No. 06-C-0645 S (U.S.D.C. W.D. Wis.) (the “Wisconsin Action”). This action alleged substantially similar facts and causes of action as against Carrier in the Washington Action.

3. On or about November 15, 2006, Carrier filed an Answer generally denying the allegations of the Wisconsin Action, and asserting various affirmative defenses.

4. On or about December 8, 2006, a second amended complaint was filed naming Mark Neuser and Arlan and Marcia Hinkelmann as plaintiffs (collectively, the “Wisconsin Plaintiffs”).

5. On March 29, 2007, the Wisconsin Plaintiffs filed a third amended complaint withdrawing most of their previous claims against Carrier and alleging a single contract claim for fraudulent inducement (“Wisconsin Third Amended Complaint”).

6. On or about April 11, 2007, Carrier filed an Answer generally denying the allegations of the Wisconsin Third Amended Complaint, and asserting various affirmative defenses.

7. On or about May 15, 2007, the United States District Court in the Western District of Wisconsin (“Wisconsin Court”) entered a Memorandum and Order denying class certification in the Wisconsin Action and granting summary judgment in favor of Carrier. The

following day, based upon this Memorandum and Order, the Wisconsin Court entered Judgment for Carrier.

8. On or about May 31, 2007, Wisconsin Plaintiffs filed a Notice of Appeal from the Judgment by the Wisconsin Court to the United States Court of Appeals for the Seventh Circuit. Plaintiffs' appeal was pending when this Agreement was executed.

C. The Michigan Action

1. On or about December 20, 2006, Jeff Dougherty, Frank Zinn and Harvey Opaleski (the "Michigan Plaintiffs"), on behalf of themselves and all similarly situated individuals and entities in the state of Michigan who own or owned residential high-efficiency condensing furnaces manufactured by Carrier, filed a class action complaint against Carrier in the United States District Court for the Eastern District of Michigan, thereby commencing that civil action entitled *Dougherty et al. v. Carrier Corp.*, No. 06-15659 (U.S.D.C. E.D. Mich.) (the "Michigan Action"). This action alleged substantially similar facts and causes of action as against Carrier in the Washington Action and in the Wisconsin Action.

2. On or about January 24, 2007, Carrier filed an Answer generally denying the allegations of the Michigan Action, and asserting various affirmative defenses.

3. The Michigan Plaintiffs filed their motion for class certification on or about May 1, 2007. Carrier filed its opposition on or about May 22, 2007. The Michigan Plaintiffs filed their reply on or about May 31, 2007, and argument was heard on or about August 8, 2007. The motion was taken under submission, and an order had not yet issued when this Agreement was executed.

D. The Minnesota Action

1. On or about May 10, 2007, James Nogosek (the “Minnesota Plaintiff”), on behalf of himself and all similarly situated individuals and entities in the state of Minnesota who own or owned residential high-efficiency condensing furnaces manufactured by Carrier, filed a class action complaint against Carrier in the United States District Court for the District of Minnesota, thereby commencing that civil action entitled *Nogosek et al. v. Carrier Corp.*, No. 07-CV-2262 (U.S.D.C. D. Minn.) (the “Minnesota Action”). This action alleged substantially similar facts and causes of action as against Carrier in the Washington Action, the Wisconsin Action and the Michigan Action.

2. On or about June 15, 2007, Carrier filed an Answer generally denying the allegations of the Minnesota Action, and asserting various affirmative defenses.

3. On or about October 19, 2007, the Minnesota Plaintiffs filed their motion for class certification. Carrier had not yet filed its opposition when this Agreement was executed.

E. The Canadian Actions

1. On or about October 10, 2006, Shawn Donnelly, Suzanne Goodfellow and Robert Andress (the “Ontario Plaintiffs”), on behalf of themselves and all similarly situated individuals and entities in the province of Ontario who own or owned residential high-efficiency condensing furnaces manufactured by Carrier, filed a national class action complaint against Carrier, UTC Canada Corporation and United Technologies Corporation in the Ontario Superior Court of Justice, thereby commencing the civil action entitled *Donnelly v. United Technologies Corp. et al.*, Court File No. 06-CV-320045 CP (the “Ontario National Action”). This action

alleged substantially similar facts and causes of action as against Carrier in the Washington Action, the Wisconsin Action and the Michigan Action.

2. On or about December 22, 2006, Carrier and UTC Canada Corporation filed a Notice of Intent to Defend against the allegations of the Ontario National Action, and as of the date hereof has not been required to file a Statement of Defence asserting Carrier's various affirmative defenses. Certification materials were delivered on July 25, 2007.

3. On or about September 25, 2007, the Ontario Plaintiffs and defendants consented to an order discontinuing the action as against defendant United Technologies Corporation without prejudice.

4. On or about March 2, 2007, Erik Schult (the "British Columbia Plaintiff"), on behalf of himself and all similarly situated individuals and entities in the province of British Columbia who own or owned residential high-efficiency condensing furnaces manufactured by Carrier filed a class action Writ of Summons against Carrier in the Supreme Court of British Columbia, thereby commencing the civil action entitled *Schult, et al., v. United Technologies Corp. et al.*, Court File No. SO 71515 (the "British Columbia Action").

5. On or about April 5, 2007, UTC Canada Corporation filed an Appearance in the British Columbia Action, and as of the date hereof Carrier has neither filed an Appearance nor been required to file a Statement of Defence asserting Carrier's various affirmative defenses.

6. A proposed class action is soon to be commenced in Quebec (the "Quebec Action"), alleging claims similar to those alleged in the Ontario National Action and the British Columbia Action.

F. Settlement Negotiations and Preliminary Settlement Agreement

1. Over a period in excess of two years, Carrier produced substantial data and information to Plaintiffs in various actions as part of discovery.

2. The Parties participated in a series of arms-length negotiations, which culminated in a two-day mediation before professional mediator Eric D. Green. The mediation sessions were held on October 17, 2007 and October 22, 2007 in New York. The Parties reached tentative agreement, subject to client approval, on the substantive terms of a settlement on October 17, 2007, without discussion of class representative stipends or attorneys' fees and costs. The Parties reached tentative agreement, subject to client approval, on class representative stipends and attorneys' fees and costs on October 22, 2007.

3. On October 31, 2007, the Parties executed a Memorandum of Understanding setting forth the terms of a tentative settlement agreement between and among the Parties.

4. On October 31, 2007, the Parties filed proposed orders to stay proceedings in the Washington Action, the Minnesota Action and the Michigan Action.

5. By agreement of the Parties, on November 9, 2007, the Washington Plaintiffs will file a motion for leave to amend and file a Second Amended Complaint in the Washington Action to plead a nationwide U.S. Settlement Class as defined below. Carrier will not oppose the filing of such an amendment, though it disputes many of the substantive allegations contained in that Second Amended Complaint.

6. The Parties desire to settle the Actions in their entirety with respect to all claims that were or could have been alleged in the Actions and to release all claims that were or could have been brought by the Settlement Classes, but specifically excluding claims for

personal injury, wrongful death, or emotional distress. The Parties intend this Agreement to bind Carrier, Plaintiffs and all members of the Settlement Classes who do not request exclusion from the Settlement Classes.

7. Nothing in this Agreement shall constitute an admission of liability or be used as evidence of liability in any of the Actions.

**NOW, THEREFORE**, in light of the foregoing, for good and valuable consideration, the Parties agree, subject to approval by the Court, as follows.

## **II. Defined Terms**

In addition to the terms defined at various point within this Settlement Agreement, the following Defined Terms apply throughout this Agreement:

A. “U.S. Actions.” Collectively, the Washington Action, Wisconsin Action, Michigan Action and Minnesota Action shall be defined throughout this Agreement as the “U.S. Actions.”

B. “Canadian Actions.” Collectively, the Ontario National Action, the British Columbia Action and the Quebec Action shall be defined throughout this Agreement as the “Canadian Actions.”

C. “Actions.” Collectively, the U.S. Actions and Canadian Actions are defined throughout this Agreement as the “Actions.”

D. “U.S. Plaintiffs.” The Washington Plaintiffs, Wisconsin Plaintiffs, Michigan Plaintiffs and Minnesota Plaintiff shall be collectively defined throughout this Agreement as “U.S. Plaintiffs.”

E. “Canadian Plaintiffs.” The Ontario Plaintiffs and the British Columbia Plaintiff shall be collectively defined throughout this Agreement as “Canadian Plaintiffs.”



F. “Quebec Plaintiff.” Any named plaintiff in the Quebec Action shall be defined throughout this Agreement as “Quebec Plaintiff.”

G. “Plaintiffs.” The U.S. Plaintiffs, Canadian Plaintiffs and Quebec Plaintiffs shall be collectively defined throughout this Agreement as “Plaintiffs.”

H. “U.S. Settlement Class.” By agreement of the Parties, the “U.S. Settlement Class” consists of, and is hereinafter defined as: All individuals and entities in the United States who currently own CHEFs, as defined in this Section, and former owners of such furnaces in the United States whose furnaces experienced a CHX Failure, as defined in this Section. Excluded from the U.S. Settlement Class are (1) Carrier, including employees and immediate family members; (2) any entity in which Carrier has a controlling interest or which has a controlling interest of Carrier, and Carrier’s legal representatives, assigns and successors; (3) any judge or justice to whom each of the U.S. Actions is assigned and his or her immediate family; (4) governmental entities; and (5) persons who timely and validly opt to exclude themselves from the U.S. Settlement Class. Also excluded from the U.S. Settlement Class are any claims for personal injury, wrongful death, or emotional distress.

I. “Canadian Settlement Class.” By agreement of the Parties, the “Canadian Settlement Class” consists of, and is hereinafter defined as: All individuals and entities in all Canadian provinces and territories other than those individuals and entities forming part of the Quebec Settlement Class, who currently own CHEFs, as defined in this Section, and former owners of such furnaces in Canada whose furnaces experienced a CHX Failure, as defined in this Section. Excluded from the Canadian Settlement Class are (1) Carrier, including employees and immediate family members; (2) any entity in which Carrier has a controlling interest or which has a controlling interest of Carrier, and Carrier’s legal representatives, assigns and

successors; (3) any judge or justice to whom the Ontario National Action and the British Columbia Action is assigned and his or her immediate family; (4) governmental entities; and (5) persons who timely and validly opt to exclude themselves from the Canadian Settlement Class. Also excluded from the Canadian Settlement Class are any claims for personal injury, wrongful death, or emotional distress.

J. “Quebec Settlement Class.” By agreement of the Parties, the “Quebec Settlement Class” consists of, and is hereinafter defined as: All individuals in Quebec, and all entities in Quebec as permitted by the Civil Code, who currently own CHEFs, as defined in this Section, and former owners of such furnaces in Quebec whose furnaces experienced a CHX Failure, as defined in this Section. Excluded from the Canadian Settlement Class are (1) Carrier, including employees and immediate family members; (2) any entity in which Carrier has a controlling interest or which has a controlling interest of Carrier, and Carrier’s legal representatives, assigns and successors; (3) any judge or justice to whom the Quebec Action is assigned and his or her immediate family; (4) persons who timely and validly opt to exclude themselves from the Quebec Settlement Class; and (5) governmental entities. Also excluded from the Quebec Settlement Class are any claims for personal injury, wrongful death, or emotional distress.

K. “Settlement Classes.” Collectively, the U.S. Settlement Class, the Canadian Settlement Class and the Quebec Settlement Class shall be defined throughout this Agreement as the “Settlement Classes.”

L. “U.S. Class Member” and “U.S. Settlement Class Member.” “U.S. Class Member” shall mean each member of the U.S. Settlement Class, plus persons who timely and validly opt to exclude themselves from the U.S. Settlement Class. “U.S. Settlement Class

Member” shall mean and include every U.S. Class Member who does not validly and timely request exclusion from the Settlement Class.

M. “Canadian Class Member” and “Canadian Settlement Class Member.”

“Canadian Class Member” shall mean each member of the Canadian Settlement Class, plus persons who timely and validly opt to exclude themselves from the Canadian Settlement Class.

“Canadian Settlement Class Member” shall mean and include every Canadian Class Member who does not validly and timely request exclusion from the Canadian Settlement Class.

N. “Quebec Class Member” and “Quebec Settlement Class Member.” “Quebec Class Member” shall mean each member of the Quebec Settlement Class, plus persons who timely and validly opt to exclude themselves from the Quebec Settlement Class. “Quebec Settlement Class Member” shall mean and include every Quebec Class Member who does not validly and timely request exclusion from the Quebec Settlement Class.

O. “Class Members” and “Settlement Class Members.” Collectively, U.S. Class Members, Canadian Class Members and Quebec Class Members shall be defined throughout this Agreement as “Class Members” and U.S. Settlement Class Members, Canadian Settlement Class Members and Quebec Settlement Class Members shall be collectively defined throughout this Agreement as “Settlement Class Members.”

P. “Carrier furnace” refers to a furnace manufactured by Carrier Corporation, which has several brand names including Carrier, Bryant, Payne and Day and Night.

Q. “CHEF” refers to a Carrier residential high efficiency (90%+) gas furnace that operates on natural gas or propane that was manufactured at any time from January 1989 to the date of final approval by the Court and contains a Secondary, or Condensing, Heat Exchanger (“CHX”) made of polypropylene laminated galvanized steel (“PPL”), including without

limitation Carrier models 58SX\*, 58SXA, 58SXC, 58DX\*, 58DXA, 58DXC, 58MSA, 58MCA, 58MXA, 58MCB, 58MXB, 58UVB, 58SXB\*, 58VUA, 58VCA, 58MVP, 58MVB, 58MTA, 58MTB, and 58MVC, and Bryant/Payne/Day & Night models 398AAW\*, 398AAZ, 398AAV, 399AAW\*, 399AAZ, 399AAV, 345MAV, 340MAV, 350MAV, 340AAV, 350AAV, 351DAS, 355BAV, 398BAW\*, 398BAZ, 320AAZ, 321AAZ, 355MAV, 355AAV, 352MAV, 352AAV, 490AAV, PG9MAA, and PG9MAB and 355CAV. The asterisk next to a model number indicates that for those models, only those with serial numbers with the last two digits of 89 or higher were manufactured using PPL CHXs, and are thus included in this Agreement.

R. A “CHX Failure” for purposes of recovery as set forth in this Settlement Agreement is defined as (1) a condition where the CHX in a CHEF was or is no longer functioning properly, requiring the replacement of the CHX; or (2) a condition where the failure of the CHX in a CHEF to function properly is imminent, requiring the replacement of the CHX. The initial determination of whether the CHX required or requires replacement will be made by the Carrier-authorized dealer, but that recommendation is subject to review or audit by Carrier for purposes of determining if the dealer’s determination was unreasonable. A CHX meeting either of these conditions shall be defined as a “Failed CHX” in this Agreement.

S. “Court” refers to the U.S. District Court for the Western District of Washington, the Ontario Superior Court of Justice, and the Superior Court of the Province of Quebec, unless otherwise specifically described in this Agreement.

T. “U.S. Class Counsel” shall mean:

Lieff, Cabraser, Heimann & Bernstein, LLP  
Jonathan D. Selbin  
Paulina do Amaral  
Kristen E. Law  
275 Battery Street, 30<sup>th</sup> Floor  
San Francisco, CA 94111

Tousley Brain Stephens PLLC  
Kim Stephens  
Nancy Pacharzina  
1700 Seventh Avenue, Suite 2200  
Seattle, Washington 98101-4416

Cullen Weston Pines & Bach, LLP  
Lester Pines  
Tamara Packard  
122 West Washington Avenue, 9th Floor  
Madison, WI 53703-2718

Heins Mills & Olson, P.L.C.  
Vincent J. Esades  
David Woodward  
Troy Hutchinson  
3550 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402

U. “Canadian Class Counsel” shall mean:

Rochon Genova LLP  
Joel P. Rochon  
121 Richmond Street West  
Suite 900  
Toronto, ON M5H 2K1

Poyner Baxter LLP  
Kenneth Baxter  
#408 - 145 Chadwick Court  
North Vancouver, B.C.  
V7M 3K1

V. “Quebec Class Counsel” shall mean:

Sylvestre, Fafard, Painchard  
740 Avenue Atwater  
Montreal, Quebec  
H4C 2G9

W. “Class Counsel.” U.S. Class Counsel, Canadian Class Counsel and Quebec Class Counsel shall be collectively defined throughout this Agreement as “Class Counsel.”

### III. COMPENSATION FOR PAST CHX FAILURES

#### A. Compensation for Past CHX Failures in the United States

Upon final disposition of any appeals arising from Judgment in the Washington Court after final approval of this Agreement and the settlement set forth herein, U.S. Settlement Class Members with proof sufficient to establish that a CHX Failure in their CHEF took place prior to the date of final approval by the Washington Court may be eligible for compensation as set forth in this section.

U.S. Settlement Class Members with proof sufficient to establish that such a CHX Failure occurred within the first 13 years after sale of the CHEF will receive US \$270 for each affected CHX. For any U.S. Settlement Class Member who experienced such a CHX Failure during years 14 through 20 after sale of a CHEF, Carrier shall pay a percentage of US \$270 for each affected CHX based on the following schedule:

<b>Year</b>	<b>% Reduction</b>	<b>Amount (in US Dollars)</b>
14	10	\$243
15	10	\$216
16	10	\$189
17	10	\$162
18	10	\$135
19	5	\$121.5
20	5	\$108

Any U.S. Settlement Class Member who has already received payment from Carrier or one of its distributors or dealers for the cost of labor incurred in connection with replacement of a CHX and associated parts due to a CHX Failure greater than the compensation to which the claimant would otherwise be entitled under this Agreement will not be eligible for the compensation contained in this section. This includes without limitation payments pursuant to an extended warranty purchased or owned by the U.S. Settlement Class Member and payments pursuant to a WTY program, such as WTY 03-0002 and WTY 05-0007. Any U.S. Settlement

Class Member who received partial reimbursement or payment for the cost of labor associated with replacement of a CHX incurred by the U.S. Settlement Class Member will be eligible to participate in this section, but the amount already received will be subtracted from the total that the U.S. Settlement Class Member is eligible to receive pursuant to this Agreement.

Similarly, any U.S. Settlement Class Member who received a trade-in allowance or credit from Carrier in connection with the purchase of a new Carrier furnace due to a CHX Failure greater than the compensation to which the claimant would otherwise be entitled under this Agreement will not be eligible for the compensation contained in this section. If a U.S. Settlement Class Member received a Trade-In Allowance or credit from Carrier in connection with the purchase of a new Carrier furnace due to a CHX Failure that was less than the compensation to which the claimant would otherwise be entitled under this Agreement, then the U.S. Settlement Class Member will be eligible to participate in this section, but the amount of the Trade-In Allowance or credit will be reduced from the total that the U.S. Settlement Class Member is eligible to receive pursuant to this Agreement.

B. Compensation for Past CHX Failures in Canada

Upon the final disposition of any appeals arising from Judgment by the Ontario Superior Court of Justice dismissing the claims of the Canadian Settlement Class Members with prejudice, Canadian Settlement Class Members with proof sufficient to establish that a CHX Failure in their CHEF took place prior to the date of final approval by the Ontario Superior Court of Justice may be eligible for compensation as set forth in this section.

Any Canadian Settlement Class Members who can establish such a CHX Failure occurred within the first 13 years after sale of the CHEF will receive the Canadian dollar equivalent of \$270 for each affected CHX (calculated from US dollars as of the date of final

approval in the Ontario National Action). For any Canadian Settlement Class Member who experienced such a CHX Failure during years 14 through 20 after sale of a CHEF, Carrier shall pay a percentage of the Canadian dollar equivalent of \$270 for each affected CHX (calculated from US dollars as of the date of final approval in the Ontario National Action) based on the following schedule:

<b>Year</b>	<b>% Reduction</b>	<b>Amount (in US Dollars)</b>
14	10	\$243
15	10	\$216
16	10	\$189
17	10	\$162
18	10	\$135
19	5	\$121.5
20	5	\$108

Any Canadian Settlement Class Member who has already received payment from Carrier or one of its distributors or dealers for the cost of labor incurred in connection with replacement of a CHX and associated parts due to a CHX Failure greater than the compensation to which the claimant would otherwise be entitled under this Agreement will not be eligible for the compensation contained in this section. This includes without limitation payments pursuant to an extended warranty purchased or owned by the Canadian Settlement Class Member and payments pursuant to a WTY program, such as WTY 03-0002 and WTY 05-0007. Any Canadian Settlement Class Member who received partial payment or reimbursement for the cost of labor associated with replacement of a CHX incurred by the Canadian Settlement Class Member will be eligible to participate in this section, but the amount already received will be subtracted from the total that the Canadian Settlement Class Member is eligible to receive pursuant to this Agreement.



Similarly, any Canadian Settlement Class Member who received a Trade-In Allowance or credit from Carrier in connection with the purchase of a new Carrier furnace due to a CHX Failure in a CHEF greater than the compensation to which the claimant would otherwise be entitled under this Agreement will not be eligible for the compensation contained in this section. If a Canadian Settlement Class Member received a Trade-In Allowance or credit from Carrier in connection with the purchase of a new Carrier furnace due to a CHX Failure that was less than the compensation to which the claimant would otherwise be entitled under this Agreement, then the Canadian Settlement Class Member will be eligible to participate in this section, but the amount of the Trade-In Allowance or credit will be subtracted from the total that the Canadian Settlement Class Member is eligible to receive pursuant to this Agreement.

C. Compensation for Past CHX Failures in Quebec

Upon final disposition of any appeals arising from this Agreement in the Quebec Court, Quebec Settlement Class Members with proof sufficient to establish that a CHX Failure in their CHEF took place prior to the date of final approval by the Quebec Court may be eligible for compensation as set forth in this section.

Any Quebec Settlement Class Members who can establish such a CHX Failure occurred within the first 13 years after sale of the CHEF will receive the Canadian dollar equivalent of \$270 for each affected CHX (calculated from US dollars as of the date of final approval in the Quebec Action). For any Quebec Settlement Class Member who experienced such a CHX Failure during years 14 through 20 after sale of a CHEF, Carrier shall pay a percentage of the Canadian dollar equivalent of \$270 for each affected CHX (calculated from US dollars as of the date of final approval in the Quebec Action) based on the following schedule:

<b>Year</b>	<b>% Reduction</b>	<b>Amount (in US Dollars)</b>
14	10	\$243
15	10	\$216
16	10	\$189
17	10	\$162
18	10	\$135
19	5	\$121.5
20	5	\$108

Any Quebec Settlement Class Member who has already received payment from Carrier or one of its distributors or dealers for the cost of all labor involved in connection with replacement of a CHX and associated parts due to a CHX Failure greater than the compensation to which the claimant would otherwise be entitled under this Agreement will not be eligible for the compensation contained in this section. This includes without limitation payments pursuant to an extended warranty purchased or owned by the Quebec Settlement Class Member and payments pursuant to a WTY program, such as WTY 03-0002 and WTY 05-0007. Any Class Member who received partial payment or reimbursement for the cost of labor associated with replacement of a CHX incurred by the Quebec Settlement Class Member will be eligible to participate in this section, but the amount already received will be subtracted from the total that the Quebec Settlement Class Member is eligible to receive pursuant to this Agreement.

Similarly, any Quebec Settlement Class Member who received a Trade-In Allowance or credit from Carrier in connection with the purchase of a new Carrier furnace due to a CHX Failure in a CHEF greater than the compensation to which the claimant would otherwise be entitled under this Agreement will not be eligible for the compensation contained in this section. If a Quebec Settlement Class Member received a Trade-In Allowance or credit from Carrier in connection with the purchase of a new Carrier furnace due to a CHX Failure that was less than the compensation to which the claimant would otherwise be entitled under this Agreement, then the Quebec Settlement Class Member will be eligible to participate in this section, but the

amount of the Trade-In Allowance or credit will be subtracted from the total that the Quebec Settlement Class Member is eligible to receive pursuant to this Agreement.

D. Proof of Claims

To be eligible for the above-referenced relief, each Settlement Class Member that seeks compensation must provide reasonable proof of a CHX Failure by August 1, 2008 to support the claim.

In order to be deemed a CHX Failure eligible for compensation pursuant to this section, the replacement of the Secondary Heat Exchanger or purchase of a new furnace due to the CHX Failure must have occurred prior to the date of Final Approval by the Court having jurisdiction over the Settlement Class Member seeking compensation.

Settlement Class Members are limited to one claim for each CHX that suffered a CHX Failure.

Settlement Class Members who seek relief must submit a claim form, along with a declaration under penalty of perjury (“Claim Form”).

For Settlement Class Members who suffered a CHX Failure and replaced the Failed CHX with a new CHX, the Claim Form must include (1) the serial number of the Carrier CHEF that suffered the CHX Failure; (2) an invoice, cash register receipt, cancelled check, credit card receipt, or other documentation showing that the Settlement Class Member paid money for the labor cost of replacing the Failed CHX with a new CHX; (3) the name and address of the company that replaced the Failed CHX. In the declaration under penalty of perjury, Settlement Class Members who suffered a CHX Failure and replaced the Failed CHX with a new CHX must state that they have not received reimbursement or payment from Carrier, one of its dealers or distributors for all of the labor incurred in replacing the

Failed CHX. Settlement Class Members must state in the declaration whether they have received any reimbursement or payment from Carrier, one of its dealers or distributors for any of the labor incurred in replacing the Failed CHX, and if so, the amount of such reimbursement or payment.

Carrier will cooperate in making proof of a CHX Failure available to the extent it is in Carrier's possession or control upon request from Settlement Class Members, and will request that distributors and dealers of Carrier products cooperate in making such proof available to Settlement Class Members upon request. Proof contained within Carrier's warranty database of CHX replacement will suffice to establish a CHX Failure. Carrier will provide an electronic spreadsheet from its warranty database related to CHX replacements in CHEFs to the Independent Claims Administrator. Individual Settlement Class Members may obtain this information for claims on their own CHEF from the Independent Claims Administrator.

For Settlement Class Members who suffered a CHX Failure and decided to replace the CHEF with a new furnace, the Claim Form must include (1) the serial number or proof of purchase of the Carrier CHEF that suffered the CHX Failure; (2) an invoice, cash register receipt, cancelled check, credit card receipt or other documentation showing that the Settlement Class Member paid money for a new furnace; (3) the name and address of the company that sold the new furnace. In the declaration under penalty of perjury, Settlement Class Members who suffered a CHX Failure and replaced the CHEF with a new furnace must state that they did not receive a credit or allowance from Carrier, a distributor or a dealer in connection with the replacement of the furnace, such as Carrier's Trade-In

Allowance Program or a WTY Program, or if they did, the amount of such credit or allowance.

E. Independent Claims Administrator.

Carrier has retained, with Class Counsel's approval, and the Parties shall separately recommend that the Washington Court, Ontario Superior Court of Justice and Quebec Court appoint US Bank as the professional class action Independent Claims Administrator ("ICA") in each Action in that court. The ICA shall administer the process of receiving, handling, processing and paying claims, setting up and maintaining the official website and any other duties necessary for the proper administration of claims. The ICA shall carry out its duties in strict accordance with the procedures set forth in this Agreement, and any Party may move the Court in the appropriate jurisdiction to compel such compliance. The ICA shall be jointly overseen by all Parties and shall be subject to the concurrent jurisdiction of the Courts. Carrier shall bear all reasonable fees and costs incurred by the ICA. The ICA shall submit written status reports jointly to Carrier and Class Counsel.

Carrier shall have the right, at its expense, to audit submitted Claim Forms. Carrier shall also have the right to reject invalid, incomplete or fraudulent claims, subject to the procedure specified herein. Carrier shall consult with a representative of Class Counsel prior to invalidating a claim based upon an allegation of fraud.

The ICA shall mail or e-mail the originals or copies of Claim Forms rejected as invalid or incomplete, or a written notice of additional information required for the Claim Form to be valid ("Cure Notice"), directly to the Settlement Class Member who submitted the Claim Form, and send a copy to Class Counsel. Settlement Class Members shall have a 45-day period to cure defective or incomplete claims, which shall run from the date of

mailing or e-mailing of the original or copy of the Claim Form or Cure Notice to the Settlement Class Member. The 45-day cure period may extend after the end of the Claims Period so long as the original Claim Form was timely submitted. Settlement Class Members shall have two opportunities to cure. If Class Counsel believe that additional cure opportunities are appropriate in any particular instance, counsel for the Parties shall meet and confer; if counsel are unable to agree as to the appropriateness of the additional cure right, the issue shall be resolved by the Court. Claims of Settlement Class Members who fail to cure shall be rejected.

Class Counsel shall be notified of all rejected claims that are not cured. Settlement Class Members whose claims are rejected shall have the right to challenge such rejection. A representative of Class Counsel and counsel for Carrier shall meet and confer and attempt to resolve any such disputed claims; if they are unable to do so, any such disputes shall be resolved by the Court.

Claim forms may be submitted by U.S. mail, Canadian mail or electronically. Claim Forms submitted electronically must include a PDF file of the required information described above. Claim Forms and instructions regarding electronic and mail submission of Claim Forms will be available on the ICA's web site. Claims that are not postmarked or submitted online by August 1, 2008, which is the end of the claims period, shall be invalid.

#### **IV. Enhanced Warranty and Optional Credit**

##### **A. Enhanced Warranty And Optional Credit in the United States**

No later than upon final disposition of any appeals arising from Judgment in the Washington Court after final approval of this Agreement and the settlement set forth herein, U.S. Settlement Class Members will receive an enhanced warranty that covers all parts and

labor required for a Carrier-authorized technician to replace the CHX and associated parts (which may include the coupling box kits, cold spot baffle, collector box, and cell inlet and outlet panels) due to CHX Failure for 20 years from the date of installation at no cost to the U.S. Settlement Class Members (“U.S. Enhanced Warranty”). To effect this repair, Carrier will reimburse its dealers for up to 4 hours of labor at the then-current hourly rate as registered with Carrier.

In the alternative, U.S. Settlement Class Members experiencing a CHX Failure may opt to receive a one-time, single use credit toward the purchase of any Carrier heating or cooling product that has a minimum retail price of \$1,250. The credit amount shall be the then-current value of four hours of labor, which shall be determined using the then-current street rate of the Carrier dealer as registered with Carrier from whom the new product is purchased, plus the retail value of the CHX and associated parts. The credit shall not be applicable to the purchase of a number of different Carrier heating or cooling products that together exceed \$1,250. The credit may not be used on multiple occasions, and may not be aggregated. The credit may be transferred to any member of the U.S. Settlement Class Member’s immediate family (i.e. parents, siblings, spouses, and children) living in the same household. The credit must be used within 90 days upon receipt by the U.S. Settlement Class Member.

At the conclusion of the 20-year enhanced warranty period, original purchasers shall retain all of their rights under the original warranty.

Carrier shall administer the U.S. Enhanced Warranty claims of the U.S. Settlement Class Members and shall bear all the costs associated with the U.S. Enhanced Warranty. U.S. Enhanced Warranty claims shall be processed in a reasonable, cost-effective, and

expeditious manner. The intent of this settlement is to provide the relief specified herein to all U.S. Settlement Class Members who replace their CHX due to a CHX Failure.

U.S. Class Counsel shall have the right to receive and to monitor data related to administration of the U.S. Enhanced Warranty, including without limitation all denied and diminished claims including the reasons therefore. Within 60 days after the end of each semi-annual period, Carrier shall provide notice to U.S. Class Counsel of any claims made pursuant to the U.S. Enhanced Warranty during the preceding semi-annual period for which there was a denial or diminishment. U.S. Settlement Class Members whose claims are rejected shall have the right to challenge such rejection. A representative of Class Counsel and counsel for Carrier shall meet and confer and attempt to resolve any such disputed claims; if they are unable to do so, any such disputes shall be resolved by the Court. As to all claims pursuant to the U.S. Enhanced Warranty, Carrier shall provide annual reports to U.S. Class Counsel that specify the number of claims for benefits by category as well as the benefits provided to the U.S. Settlement Class Members, and that contain other material information that the parties and the Court deem appropriate. U.S. Class Counsel shall have the right to seek Court intervention if information comes to light indicating the Agreement is not being administered in accordance with its terms.

Nothing in this Agreement prevents Carrier from providing for a different warranty in the United States for consumers who purchase new furnaces after the date of final approval by the Washington Court.

B. Enhanced Warranty and Optional Credit in Canada

No later than upon the final disposition of any appeals arising from Judgment by the Ontario Superior Court of Justice dismissing the claims of the Canadian Settlement Class



Members with prejudice, Canadian Settlement Class Members will receive an enhanced warranty that covers all parts and labor required for a Carrier-authorized technician to replace the CHX and associated parts (which may include the coupling box kits, cold spot baffle, collector box, and cell inlet and outlet panels) due to CHX Failure for 20 years from the date of installation at no cost to the Canadian Settlement Class Members (“Canadian Enhanced Warranty”). To effect this repair, Carrier will reimburse its dealers for up to 4 hours of labor at the then-current hourly rate as registered with Carrier.

In the alternative, Canadian Settlement Class Members experiencing a CHX Failure may opt to receive a one time, single use credit toward the purchase of any Carrier heating or cooling product that has a minimum retail price of \$1,250 in Canadian dollars. The credit amount shall be the then-current value of four hours of labor, which shall be determined using the then-current street rate of the Carrier dealer as registered with Carrier from whom the new product is purchased, plus the retail value of the CHX and associated parts. The credit shall not be applicable to the purchase of a number of different Carrier heating or cooling products that together exceed \$1,250 in Canadian dollars. The credit may not be used on multiple occasions and may not be aggregated. The credit may be transferred to any member of the Canadian Settlement Class Member’s immediate family (i.e. parents, siblings, spouses, and children) living in the same household. The credit must be used within 90 days upon receipt by the Canadian Settlement Class Member.

At the conclusion of the 20-year enhanced warranty period, original purchasers shall retain all of their rights under the original warranty.

Carrier shall administer the Canadian Enhanced Warranty claims of the Canadian Settlement Class Members and shall bear all the costs associated with the Canadian

Enhanced Warranty. Canadian Enhanced Warranty claims shall be processed in a reasonable, cost-effective, and expeditious manner. The intent of this settlement is to provide the relief specified herein to all Canadian Settlement Class Members who replace their CHX due to a CHX Failure.

Canadian Class Counsel shall have the right to receive and to monitor data related to administration of the Canadian Enhanced Warranty, including without limitation all denied and diminished claims including the reasons therefore. Within 60 days after the end of each semi-annual period, Carrier shall provide notice to Canadian Class Counsel of any claims made pursuant to the Canadian Enhanced Warranty during the preceding semi-annual period for which there was a denial or diminishment. Canadian Settlement Class Members whose claims are rejected shall have the right to challenge such rejection. A representative of Class Counsel and counsel for Carrier shall meet and confer and attempt to resolve any such disputed claims; if they are unable to do so, any such disputes shall be resolved by the Court. As to all claims pursuant to the Canadian Enhanced Warranty, Carrier shall provide annual reports to Canadian Class Counsel that specify the number of claims for benefits by category as well as the benefits provided to the Canadian Settlement Class Members, and that contain other material information that the parties and the Court deem appropriate. Canadian Class Counsel shall have the right to seek Court intervention if information comes to light indicating the Agreement is not being administered in accordance with its terms.

Nothing in this Agreement prevents Carrier from providing for a different warranty in Canada for consumers who purchase new furnaces after the date of final approval by the Ontario Superior Court of Justice.

C. Enhanced Warranty and Optional Credit in Quebec

No later than upon final disposition of any appeals arising from this Agreement in the Quebec Court, Quebec Settlement Class Members will receive an enhanced warranty that covers all parts and labor required for a Carrier-authorized technician to replace the CHX and associated parts (which may include the coupling box kits, cold spot baffle, collector box, and cell inlet and outlet panels) due to CHX Failure for 20 years from the date of installation at no cost to the Quebec Class Members (“Quebec Enhanced Warranty”). To effect this repair, Carrier will reimburse its dealers for up to 4 hours of labor at the then-current hourly rate as registered with Carrier.

In the alternative, Quebec Settlement Class Members experiencing a CHX Failure may opt to receive a one time, single use credit toward the purchase of any Carrier heating or cooling product that has a minimum retail price of \$1,250 in Canadian dollars. The credit amount shall be the then-current value of four hours of labor, which shall be determined using the then-current street rate of the Carrier dealer as registered with Carrier from whom the new product is purchased, plus the retail value of the CHX and associated parts. The credit shall not be applicable to the purchase of a number of different Carrier heating or cooling products that together exceed \$1,250 in Canadian dollars. The credit may not be used on multiple occasions and may not be aggregated. The credit may be transferred to any member of the Quebec Settlement Class Member’s immediate family (i.e. parents, siblings, spouses, and children) living the same household. The credit must be used within 90 days upon receipt by the Quebec Settlement Class Member.

At the conclusion of the 20-year enhanced warranty period, original purchasers shall retain all of their rights under the original warranty.

Carrier shall administer the Quebec Enhanced Warranty claims of the Quebec Settlement Class Members and shall bear all the costs associated with the Quebec Enhanced Warranty. Quebec Enhanced Warranty claims shall be processed in a reasonable, cost-effective, and expeditious manner. The intent of this settlement is to provide the relief specified herein to all Quebec Settlement Class Members who replace their CHX due to a CHX Failure.

Quebec Class Counsel shall have the right to receive and to monitor data related to administration of the Quebec Enhanced Warranty, including without limitation all denied and diminished claims including the reasons therefore. Within 60 days after the end of each semi-annual period, Carrier shall provide notice to Quebec Class Counsel of any claims made pursuant to the Quebec Enhanced Warranty during the preceding semi-annual period for which there was a denial or diminishment. Quebec Settlement Class Members whose claims are rejected shall have the right to challenge such rejection. A representative of Class Counsel and counsel for Carrier shall meet and confer and attempt to resolve any such disputed claims; if they are unable to do so, any such disputes shall be resolved by the Court. As to all claims pursuant to the Quebec Enhanced Warranty, Carrier shall provide annual reports to Quebec Class Counsel that specify the number of claims for benefits by category as well as the benefits provided to the Quebec Settlement Class Members, and that contain other material information that the parties and the Court deem appropriate. Quebec Class Counsel shall have the right to seek Court intervention if information comes to light indicating the Agreement is not being administered in accordance with its terms.

Nothing in this Agreement prevents Carrier from providing for a different warranty in Quebec for consumers who purchase new furnaces after the date of final approval by the Quebec Court.

D. Technical Bulletin

Carrier will provide technical notice to its dealers in the United States and Canada to help them identify furnaces eligible for coverage under the U.S., Canadian and Quebec Enhanced Warranties consistent with the definition of CHX Failure used in this Agreement.

In particular, Carrier will issue a Service Manager's Bulletin (SMB) that will include a CHX inspection procedure that is based on a draft under development by the Gas Appliance Manufacturers Association (GAMA) Furnace Engineering Committee; provided that this SMB will issue no later than final approval by the Washington Court. The SMB will also instruct the technician to verify the furnace is installed per the installation instructions for the model being serviced. The SMB will suggest that the technician verify that the furnace is operating at the correct firing rate, air temperature rise, and within specified return air temperature limits. Other maintenance items will include:

- Cleaning and/or replacing the air filter;
- Checking the blower motor wheel for cleanliness;
- Checking electrical connections;
- Checking controls for proper operation including thermostat anticipator setting or other room temperature controls for proper cycle rate setting;
- Checking for proper condensate drainage and inspecting the area for condensate leakage;

- Checking for blockage in the combustion air and vent system, including proper vent installation, termination and combustion air disk usage; and

- Checking the burners for cleanliness and evidence of any items that may require additional inspections.

The final aspect of the SMB will cover operating the furnace after all inspections are performed to verify proper operation. If any abnormalities are noted during the final operation of the furnace, the technician will be directed to contact their first level of product support for additional assistance.

## **V. Obtaining Approvals Of The Agreement**

### **A. Approval From The Washington Court.**

1. Upon full execution of this Agreement, the Parties shall take all necessary steps to obtain from the Washington Court an Order granting conditional certification of the U.S. Settlement Class, granting preliminary approval of this Agreement, and approving the forms and methods of notice to the U.S. Settlement Class substantially as set forth herein (“U.S. Preliminary Approval Order”).

2. If, for any reason this Agreement and the proposed settlement referenced herein are not approved by the Washington Court, either preliminarily or finally, then all of the agreements contained herein shall be considered null and void, all of Carrier’s obligations under the Settlement Agreement shall cease to be of any force and effect, and the parties shall return to the status quo in the Actions as if the parties had not entered into the Agreement. In addition, in this event, evidence relating to the Agreement and all negotiations shall not be admissible or discoverable in the Actions or otherwise.

### **B. Approval from the Ontario Superior Court of Justice.**

1. Upon full execution of this Agreement, the Parties shall take all necessary steps to obtain from the Ontario Superior Court of Justice an Order approving the form and content of the notice of the approval hearing substantially in accordance with the notice plan prepared by Todd Hilsee of Hilsoft Communications (“Ontario Notice of Approval Hearing”) and an Order approving this Agreement.

2. If, for any reason, the Ontario Notice of Approval Hearing and this Agreement are not approved by the Ontario Superior Court of Justice, then the provisions of this Agreement relating to the Canadian Settlement Class in the Ontario National Action and British Columbia Action shall be considered null and void and may not be referred to or used as evidence or for any other purpose whatsoever in the Actions or any other action or proceeding, including without limitation Sections II, III, IV(B) and VII(B).

C. Approval from the Quebec Court.

1. Upon full execution of this Agreement and after advancing a motion for authorization before the Superior Court of Quebec the Parties to the Quebec Agreement shall take all the necessary steps to obtain from the Superior Court of Quebec an Order approving the form and content of the notice of the approval hearing substantially in accordance with the notice plan prepared by Todd Hilsee of Hilsoft Communications (“Quebec Notice of Approval Hearing”) and an Order approving this Agreement

2. If, for any reason, either the Quebec Notice of Approval Hearing and this Agreement are not approved by the Quebec Court, then the provisions of this Agreement relating to the Quebec Settlement Class in the Quebec Action shall be considered null and void and may not be referred to or used as evidence or for any other purpose whatsoever in the

Actions or any other action or proceeding, including without limitation Sections II, III, IV(C), and VII(C).

## **VI. Notice**

The Parties agree to and will request approval by each of the Washington Court, Ontario Superior Court of Justice and Quebec Court of the following forms and methods of notice to the Settlement Class:

### A. Notice To U.S. Class Members.

1. A copy of the U.S. Notice of Class Action Settlement, substantially in a form to be agreed upon by the Parties and approved by the Washington Court, together with the Claim Form (collectively, the “U.S. Class Notice”), shall be provided by electronic mail to Carrier’s United States distributors and shall be made available to Carrier’s United States dealers through a posting on hvacpartners.com.

2. A copy of the U.S. Class Notice shall be mailed and/or e-mailed to every U.S. Class Member whose last known street address and e-mail address is listed on plaintiffs’ database of U.S. Class Members as of the date of the U.S. Preliminary Approval Order, and shall be mailed to all owners of CHEFs who filed warranty claims for failed CHXs as reflected in the Carrier warranty database. U.S. Class Notice shall be e-mailed to such U.S. Class Members whose street address is not known, but whose e-mail address is known. Such mailing and e-mailing shall be completed not less than sixty (60) days prior to the date by which objections and exclusions are due. If a mailed U.S. Class Notice is returned as undeliverable and a forwarding address is available, the mailed U.S. Class Notice shall be re-mailed to the forwarding address within 10 days of its return as undeliverable.

3. Special notice in a form to be agreed by the Parties will be provided to



those individuals who have opted out of the Washington class in response to the notice submitted as part of the Washington state class in the Washington Action.

4. A copy of the Summary Notice of U.S. Class Action Settlement (“U.S. Summary Notice”) substantially in a form to be agreed upon by the Parties and approved by the Washington Court, shall be published in magazines to be agreed upon by the parties and approved by the Washington Court.

5. The U.S. Summary Notice shall include a toll-free number that U.S. Settlement Class Members may call and a website that U.S. Settlement Class Members may access in order to obtain a copy of the full U.S. Class Notice, including the Claim Form. The web site address shall be [www.furnaceclaims.com](http://www.furnaceclaims.com).

6. The web site operated by the ICA will (1) enable U.S. Settlement Class Members to access and download the U.S. Class Notice; (2) enable U.S. Settlement Class Members to review, complete and submit the Claim Form online, if applicable; (3) provide a list of critical dates and deadlines in the settlement process; and (4) provide relevant updates and information with respect to the settlement and claims process.

7. Radio Public Service Announcements, in a form to be agreed upon by the parties and approved by the Washington Court, will be issued to U.S. radio stations.

8. Carrier shall be solely responsible for making all arrangements necessary to effectuate the notice program set forth above and for payment of the costs of such notice.

9. The final opt out date will be approximately 30 days after the last notice is published. It is expected that the last notice will be published approximately 90 days after preliminary approval by the Washington Court.

10. The U.S. Class Notice shall provide a procedure whereby U.S. Class

Members may exclude themselves from the U.S. Settlement Class. Any member who does not timely and validly request exclusion shall be a U.S. Settlement Class Member and shall be bound by the terms of this Agreement. The U.S. Class Notice shall also provide a procedure for U.S. Settlement Class Members to object to the settlement and/or to the attorneys' fees and costs awarded to U.S. Class Counsel, as well as a procedure for U.S. Class Members to seek to intervene in the Actions.

B. Notice To Canadian Class Members.

1. The form and method for providing notice to Canadian Class Members, subject to the approval of the Ontario Superior Court of Justice, shall be to the extent practicable the same as the form and method for providing notice to U.S. Class Members. Without limitation, the Canadian Plaintiffs shall request court approval of a single notice of conditional class certification and settlement approval.

2. A copy of the Canadian Notice of Class Action Settlement, substantially in a form to be agreed upon by the Parties and approved by the Ontario Superior Court of Justice, together with the Claim Form, both of which shall be in both English and French (collectively, the "Canadian Class Notice"), shall be provided by electronic mail to Carrier's distributors in Canadian provinces and territories other than Quebec and shall be made available to Carrier's dealers in Canadian provinces and territories through a posting on hvacpartners.com.

3. A copy of the Canadian Class Notice shall be mailed and/or e-mailed to every Canadian Class Member whose last known street address and e-mail address is listed on plaintiffs' database of Canadian Class Members as of the date of the Preliminary Approval Order, and shall be mailed to all owners of CHEFs who filed warranty claims for failed CHXs as reflected in the Carrier warranty database. Canadian Class Notice shall be e-mailed to such

Canadian Class Members whose street address is not known, but whose e-mail address is known. Such mailing and e-mailing shall be completed not less than sixty (60) days prior to the date by which objections and exclusions are due. If a mailed Canadian Class Notice is returned as undeliverable and a forwarding address is available, the mailed Canadian Class Notice shall be re-mailed to the forwarding address within 10 days of its return as undeliverable.

4. A copy of the Summary Notice of Canadian Class Action Settlement (“Canadian Summary Notice”) substantially in a form to be agreed upon by the Parties and approved by the Ontario Superior Court of Justice, shall be published in magazines and newspapers to be agreed upon by the parties and approved by the Ontario Superior Court of Justice.

5. The Canadian Summary Notice shall include a toll-free number that Canadian Settlement Class Members may call and a website that Canadian Settlement Class Members may access in order to obtain a copy of the full Canadian Class Notice, including the Claim Form.

6. The web site operated by the ICA will (1) enable Canadian Settlement Class Members to access and download the Canadian Class Notice; (2) enable Canadian Settlement Class Members to review, complete and submit the Claim Form online, if applicable; (3) provide a list of critical dates and deadlines in the settlement process; and (4) provide relevant updates and information with respect to the settlement and claims process.

7. Radio Public Service Announcements, in a form to be agreed upon by the parties and approved by the Ontario Superior Court of Justice, will be issued to Canadian radio stations in provinces and territories other than Quebec.

8. Carrier shall be solely responsible for making all arrangements necessary to

effectuate the notice program set forth above and for payment of the costs of such notice.

9. The final opt out date will be approximately 30 days after the last notice is published. It is expected that the last notice will be published approximately 75 days after preliminary approval by the Ontario Superior Court of Justice.

10. The Canadian Class Notice shall provide a procedure whereby Canadian Class Members may exclude themselves from the Canadian Settlement Class. Any member who does not timely and validly request exclusion pursuant to the Notice shall be a Canadian Settlement Class Member and shall be bound by the terms of this Agreement. The Canadian Class Notice shall also provide a procedure for Canadian Settlement Class Members to object to the settlement and/or to the attorneys' fees and costs awarded to Canadian Class Counsel, as well as a procedure for Canadian Class Members to seek to intervene in the Actions.

C. Notice To Quebec Class Members.

1. The form and method for providing notice to Quebec Class Members, subject to the approval of the Quebec Superior Court, shall be to the extent practicable the same as the form and method for providing notice to U.S. Class Members. Without limitation, the Quebec Plaintiff shall request court approval of a single notice of conditional class certification and settlement approval.

2. A copy of the Quebec Notice of Class Action Settlement, substantially in a form to be agreed upon by the Parties and approved by the Quebec Court, together with the Claim Form, both of which shall be in both English and French (collectively, the "Quebec Class Notice"), shall be made available to Carrier's Quebec dealers through a posting on [hvacpartners.com](http://hvacpartners.com).

3. A copy of the Quebec Class Notice shall be mailed and/or e-mailed to

every Quebec Class Member whose last known street address and e-mail address is listed on plaintiffs' database of Quebec Class Members as of the date of the Preliminary Approval Order, and shall be mailed to all owners of CHEFs who filed warranty claims for failed CHXs as reflected in the Carrier warranty database. Quebec Class Notice shall be e-mailed to such Quebec Class Members whose street address is not known, but whose e-mail address is known. Such mailing and e-mailing shall be completed not less than sixty (60) days prior to the date by which objections and exclusions are due. If a mailed Quebec Class Notice is returned as undeliverable and a forwarding address is available, the mailed Quebec Class Notice shall be re-mailed to the forwarding address within 10 days of its return as undeliverable.

4. A copy of the Summary Notice of Quebec Class Action Settlement ("Quebec Summary Notice") substantially in a form to be agreed upon by the Parties and approved by the Quebec Court, shall be published in magazines and newspapers to be agreed upon by the parties and approved by the Quebec Court.

5. The Quebec Summary Notice shall include a toll-free number that Quebec Settlement Class Members may call and a website that Quebec Settlement Class Members may access in order to obtain a copy of the full Quebec Class Notice, including the Claim Form.

6. The web site operated by the ICA will (1) enable Quebec Settlement Class Members to access and download the Quebec Class Notice; (2) enable Quebec Settlement Class Members to review, complete and submit the Claim Form online, if applicable; (3) provide a list of critical dates and deadlines in the settlement process; and (4) provide relevant updates and information with respect to the settlement and claims process.

7. Radio Public Service Announcements, in a form to be agreed upon by the parties and approved by the Quebec Court, will be issued to Quebec radio stations.

8. Carrier shall be solely responsible for making all arrangements necessary to effectuate the notice program set forth above and for payment of the costs of such notice, inclusive of translation costs.

9. The final opt out date will be approximately 30 days after the last notice is published. It is expected that the last notice will be published approximately 75 days after preliminary approval by the Quebec Court.

10. The Quebec Class Notice shall provide a procedure whereby Quebec Class Members may exclude themselves from the Quebec Settlement Class. Any member who does not timely and validly request exclusion shall be a Quebec Settlement Class Member and shall be bound by the terms of this Agreement. The Quebec Class Notice shall also provide a procedure for Quebec Settlement Class Members to object to the settlement and/or to the attorneys' fees and costs awarded to Quebec Class Counsel, as well as a procedure for Quebec Class Members to seek to intervene in the Action.

D. Press Releases.

The Parties shall have a mutual right of approval of any press release concerning this Agreement or the settlement set forth herein, which shall not be unreasonably withheld. Neither the Parties nor their counsel shall make any statements of any kind to the press other than pursuant to this provision, except to accurately repeat information from the settlement documents. However, nothing in this section or this Agreement prevents Carrier from making statements about its enhanced warranty to its dealers or distributors, or marketing to consumers based upon its enhanced warranty or any warranty for furnaces purchased after the final approval date.

E. Opt-Outs.

Immediately after the notice period has ended for the U.S. Class, Hilsoft Notifications will report to U.S. Class Counsel and counsel for Carrier the total number of U.S. Class Members that have opted out or elected to exclude themselves from the U.S. Settlement Class. If over 5,000 U.S. Class Members have elected to exclude themselves from or opt out of the U.S. Settlement Class, then at Carrier's option this Agreement may be declared null and void and the parties returned to the status quo ante. In this event, this Agreement may not be referred to or used as evidence or for any other purpose whatsoever in any of the Actions or any other action or proceeding. However, Carrier has the option to give written notice to U.S. Class Counsel waiving this condition and state that Carrier intends to proceed with the settlement set forth in this Agreement. Carrier shall have 10 days following notification from Hilsoft Notifications in which to inform Class Counsel of its intent to withdraw from this Agreement pursuant to this Section.

## **VII. Dismissal of Claims and Releases**

### **A. U.S. Claims**

1. Upon final approval of this Agreement and the settlement set forth herein by the Washington Court, the U.S. Plaintiffs and Carrier shall jointly request that Judgment be entered dismissing the claims of the U.S. Settlement Class Members with prejudice.

2. Upon final disposition of any appeals arising from Judgment in the Washington Court after final approval of this Agreement and the settlement set forth herein, Michigan Plaintiffs will voluntarily dismiss the Michigan Action with prejudice and Minnesota Plaintiffs will voluntarily dismiss the Minnesota Action with prejudice.

3. Upon final disposition of any appeals arising from this Agreement, Wisconsin Plaintiffs will withdraw their appeal of the Wisconsin Action that is currently pending in the United States Court of Appeals for the Seventh Circuit.

4. The Washington Court shall retain jurisdiction to resolve any future disputes arising out of the terms and conditions of this Agreement with respect to the U.S. Settlement Class.

5. Upon the final disposition of any appeals arising from the entry of Judgment by the Washington Court dismissing the claims of the U.S. Settlement Class Members with prejudice, U.S. Plaintiffs, for themselves and on behalf of each U.S. Settlement Class Member, and their respective heirs, assigns, and successors, hereby fully and irrevocably release Carrier and, whether or not specifically named herein, each of its past or present directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, affiliates, parents, subsidiaries, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, related companies, divisions, predecessors, successors, and assigns, and specifically including United Technologies Corporation (“Released Persons”) from any and all liabilities, claims, causes of action, damages, costs, attorneys’ fees, losses, or demands, whether known or unknown, existing or potential, or suspected or unsuspected, which were or could have been asserted in the filed Actions or in other state, federal or tribal actions, filings, arbitrations or proceedings against Carrier relating to CHX Failures and associated parts in CHEFs sold prior to the date of final approval by the Washington Court of this Agreement and the settlement discussed herein with respect to the United States. Notwithstanding the foregoing, no claims are released hereunder for personal injury,



wrongful death, emotional distress, or property damage. Also expressly excluded from this release are any and all claims that pertain to Carrier products other than the CHEFs defined herein.

6. The Parties recognize that some state laws or statutes purport to prohibit or limit the ability to bind parties by a “general release.” *See, e.g.*, Cal. Civ. Code § 1542. The Parties do not deem the releases described in Sections VII(A)(5), VII(B)(4) or VII(C)(3) of this Agreement (“Releases”) to be “general releases” as contemplated by California or similar state, federal, provincial, territorial or tribal laws. To the extent that any court construes the Releases as “general releases,” the Plaintiffs, on behalf of themselves and the Settlement Class Members, specifically waive any and all provisions, rights and benefits conferred by section 1542 of the California Civil Code or any comparable statutory or common law provision of any other jurisdiction with respect to the Releases. The Parties acknowledge, and the Settlement Class Members shall be deemed by operation of the entry of final approval by the Court to have acknowledged, that the foregoing waiver was separately bargained for and a key element of this Agreement.

B. Canadian Claims

1. Upon final approval of this Agreement and the settlement set forth herein in the Ontario Superior Court of Justice, the Canadian Plaintiffs and Carrier shall jointly request that Judgment be entered dismissing the claims of the Canadian Settlement Class Members with prejudice.

2. Upon final disposition of any appeals arising from Judgment in the Ontario Superior Court of Justice after final approval of this Agreement and the settlement

set forth herein, British Columbia Plaintiffs will voluntarily dismiss the British Columbia Action with prejudice.

3. The Ontario Superior Court of Justice shall retain jurisdiction to resolve any future disputes arising out of the terms and conditions of this Agreement with respect to the Canadian Settlement Class.

4. Upon the final disposition of any appeals arising from Judgment by the Ontario Superior Court of Justice dismissing the claims of the Canadian Settlement Class Members with prejudice, Canadian Plaintiffs, for themselves and on behalf of each Canadian Settlement Class Member, and their respective heirs, assigns, and successors, hereby fully and irrevocably release Carrier and, whether or not specifically named herein, each of its past or present directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, affiliates, parents, subsidiaries, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, related companies, divisions, predecessors, successors, and assigns, and specifically including United Technologies Corporation and UTC Canada Corporation (“Released Persons”) from any and all liabilities, claims, causes of action, damages, costs, attorneys’ fees, losses, or demands, whether known or unknown, existing or potential, or suspected or unsuspected, which were or could have been asserted in the filed Actions or in other state, provincial, territorial, federal or tribal actions, filings, arbitrations or proceedings against Carrier relating to CHX Failures and associated parts in CHEFs sold prior to the date of final approval by the Ontario Superior Court of Justice of this Agreement and the settlement discussed herein with respect to the provinces and territories of Canada other than Quebec. Notwithstanding the foregoing, no claims are released hereunder for

personal injury, wrongful death, emotional distress, or property damage. Also expressly excluded from this release are any and all claims that pertain to Carrier products other than the CHEFs defined herein.

C. Quebec Claims

1. The Quebec Court shall retain jurisdiction to resolve any future disputes arising out of the terms and conditions of this Agreement with respect to the Quebec Settlement Class.

2. Upon final disposition of any appeals arising from this Agreement in the Quebec Court, the Quebec Plaintiff, on behalf of each Quebec Settlement Class Member, and their respective heirs, assigns, and successors, hereby fully and irrevocably releases Carrier and, whether or not specifically named herein, each of its past or present directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, affiliates, parents, subsidiaries, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, related companies, divisions, predecessors, successors, and assigns, and specifically including United Technologies Corporation and UTC Canada Corporation (“Released Persons”) from any and all liabilities, claims, causes of action, damages, costs, attorneys’ fees, losses, or demands, whether known or unknown, existing or potential, or suspected or unsuspected, which were or could have been asserted in the filed Actions or in other state, provincial, territorial, federal or tribal actions, filings, arbitrations or proceedings against Carrier relating to CHX Failures and associated parts in CHEFs sold prior to the date of final approval by the Quebec Court of this Agreement and the settlement discussed herein with respect to Quebec. Notwithstanding the foregoing, no claims are released hereunder for personal injury, wrongful death, emotional distress, or property damage. Also expressly excluded from this

release are any and all claims that pertain to Carrier products other than the CHEFs defined herein.

### **VIII. Payment Of Plaintiffs' Attorneys' Fees And Costs And CRS**

A. U.S. Class Counsel Fees And Expenses. As part of the settlement of the U.S. Actions, U.S. Class Counsel shall petition the Washington Court for payment for attorneys' fees and costs and expenses and any applicable taxes in the total amount of US \$9,950,000. Of that total amount, it is currently estimated that costs will amount to approximately US \$1,500,000. U.S. Class Counsel agree not to seek fees or costs in excess of the total amount. Neither Carrier nor anyone on behalf of Carrier shall oppose or in any way take steps to undermine U.S. Class Counsel's fee application.

B. Canadian and Quebec Class Counsel Fees And Expenses. As part of the settlement of the Canadian Actions and the Quebec Action, Canadian Class Counsel and Quebec Class Counsel shall petition the Ontario Superior Court of Justice and Quebec Court respectively for payment for attorneys' fees and costs and any applicable taxes, including GST and other applicable taxes in relation to the fees awarded in the Ontario National Action and Quebec Action, respectively, in the total amount of the Canadian dollar equivalent of US \$300,000 (calculated from US dollars as of the date of final approval in the Ontario Superior Court of Justice and Quebec Court, respectively). Canadian Class Counsel and Quebec Class Counsel agree not to seek fees or costs in excess of this total amount for the Canadian and Quebec Actions. Neither Carrier nor anyone on behalf of Carrier shall oppose or in any way take steps to undermine Canadian Class Counsel's fee application or Quebec Class Counsel's fee application as long as the total of the two amounts does not exceed the amount set forth in this Agreement.

C. U.S. Class Representative Stipend. U.S. Class Counsel shall petition the Washington Court for, and Carrier shall not oppose, a Class Representative Stipend (“CRS”) in an amount of US \$3,500 for each household of named Class Representatives, as follows: Grays Harbor Adventist Christian School, Greg Bogdanovich, Mary LaForest, Bruce Kelly, Mark Neuser, Arlan Hinkelmann, Jeff Dougherty, Frank Zinn, Harvey Opaleski and James Nogosek. The payment by Carrier of the Fees Amount and the CRS is separate from and in addition to the other relief afforded the Settlement Class Members in this Agreement. Carrier shall pay the court approved CRS for U.S. Class Representative to U.S. Class Counsel in trust for the class representatives within 15 business days after final disposition of all appeals, if any, of the Washington Action.

D. Canadian Class Representative Stipend. Canadian Class Counsel shall petition the Ontario Superior Court of Justice for, and Carrier shall not oppose, a Class Representative Stipend (“CRS”) in an amount of the Canadian dollar equivalent of US \$3,500 for each household of named Class Representatives, as follows: Shawn Donnelly, Suzanne Goodfellow, Robert Andress and Erik Schult. Carrier shall pay the court approved CRS for Canadian Class Representative to Canadian Class Counsel in trust for the class representatives within 15 business days after final disposition of all appeals, if any of the Ontario National Action.

E. Promissory Note. Upon preliminary approval of the settlement by the Washington Court, Carrier shall issue a promissory note to Class Counsel redeemable on January 2, 2008, promising to deposit US \$10,250,000.00 plus interest accrued between the date of preliminary approval by the Washington Court and January 2, 2008 into escrow accounts at Citibank and Frontier Bank (hereinafter the “Escrow Agents”) for the benefit of Class Counsel.

The amount will be split equally between the two Escrow Agents. Interest shall be accrued at the 1-month LIBOR rate in effect on the date of the preliminary approval by the Washington Court.

F. Investment By The Escrow Agent. The money deposited to the Escrow Agents will be divided into separate accounts: US \$9,950,000 for the U.S. Class Counsel (“U.S. Escrow Fund”), and US \$300,000 for Canadian Class Counsel (in the “Canadian Escrow Fund” and “Quebec Escrow Fund”). After the money is placed in escrow on January 2, 2008, the Escrow Agents shall be solely responsible for investing the Escrow Funds and any interest thereon. The Escrow Agents shall invest the Escrow Funds in U.S. Treasury securities and shall reinvest the proceeds of these instruments as they mature in similar instruments at the then current market rates.

G. Concurrent Jurisdiction Over the Escrow Agent and Escrow Funds. The Escrow Agents, acting solely in their capacity as Escrow Agents under this Agreement, shall be subject to the concurrent jurisdiction of the Courts. The Canadian Escrow Fund shall be deemed to be in the custody of the Ontario Superior Court of Justice. The Quebec Escrow Fund shall be deemed to be in the custody of the Quebec Court.

H. Payment By The Escrow Agents Of The U.S. Escrow Fund. The Escrow Agents shall pay out the U.S. Escrow Fund and any interest thereon as follows:

Within ten (10) banking days following written certification by counsel for Carrier and U.S. Class Counsel that the Washington Court has entered final judgment approving the Agreement and proposed settlement and has allowed payment in the full requested amount to U.S. Class Counsel, the Escrow Agents, by wire transfer, shall pay out the U.S. Escrow Fund, and any interest thereon, in accordance with the written instructions of U.S. Class Counsel; or

Within ten (10) banking days following written certification to the Escrow Agents by counsel for Carrier and U.S. Class Counsel that the Washington Court has not entered final judgment approving the Agreement and proposed settlement or that the settlement of the U.S. Actions has become null and void for any of the reasons provided herein, the Escrow Agents shall pay out the U.S. Escrow Fund, and any interest thereon, to Carrier; or

Within ten (10) banking days following written certification by counsel for Carrier and U.S. Class Counsel that the Washington Court has entered final judgment approving the Agreement and proposed settlement but has allowed payment of only a portion of the requested amount to U.S. Class Counsel, the Escrow Agents, by wire transfer, shall pay out the amount awarded by the Washington Court plus all accrued interest on that amount in accordance with the written instructions of U.S. Class Counsel, and shall pay all remaining amounts in the U.S. Escrow Fund and any interest thereon, to Carrier.

I. Payment By The Escrow Agents Of The Canadian Escrow Fund. The Escrow Agents shall pay out the Canadian Escrow Fund and any interest thereon as follows:

Within ten (10) banking days following written certification by counsel for Carrier and U.S. Class Counsel that the Ontario Superior Court of Justice has entered final judgment approving the Agreement and proposed settlement and has allowed payment in the full requested amount to Canadian Class Counsel, the Escrow Agents, by wire transfer, shall pay out the Canadian Escrow Fund, and any interest thereon, in accordance with the written instructions of U.S. Class Counsel; or

Within ten (10) banking days following written certification to the Escrow Agents by counsel for Carrier and U.S. Class Counsel that the Ontario Superior Court of Justice has not entered final judgment approving the Agreement and proposed settlement or that the settlement

of the Canadian Actions has become null and void for any of the reasons provided herein, the Escrow Agents shall pay out the Canadian Escrow Fund, and any interest thereon, to Carrier; or

Within ten (10) banking days following written certification by counsel for Carrier and U.S. Class Counsel that the Ontario Superior Court of Justice has entered final judgment approving the Agreement and proposed settlement but has allowed payment of only a portion of the requested amount to Canadian Class Counsel, the Escrow Agents, by wire transfer, shall pay out the amount awarded by the Ontario Superior Court of Justice plus all accrued interest on that amount in accordance with the written instructions of U.S. Class Counsel, and shall pay all remaining amounts in the Canadian Escrow Fund and any interest thereon, to Carrier.

J. Payment By The Escrow Agents Of The Quebec Escrow Fund. The Escrow Agents shall pay out the Quebec Escrow Fund and any interest thereon as follows:

Within ten (10) banking days following written certification by counsel for Carrier and U.S. Class Counsel that the Quebec Court has entered final judgment approving the Agreement and proposed settlement and has allowed payment in the full requested amount to Quebec Class Counsel, the Escrow Agents, by wire transfer, shall pay out the Quebec Escrow Fund, and any interest thereon, in accordance with the written instructions of U.S. Class Counsel; or

Within ten (10) banking days following written certification to the Escrow Agents by counsel for Carrier and U.S. Class Counsel that the Quebec Court has not entered final judgment approving the Agreement and proposed settlement or that the settlement of the Quebec Action has become null and void for any of the reasons provided herein, the Escrow Agents shall pay out the Quebec Escrow Fund, and any interest thereon, to Carrier; or

Within ten (10) banking days following written certification by counsel for Carrier and U.S. Class Counsel that the Quebec Court has entered final judgment approving the Agreement



and proposed settlement but has allowed payment of only a portion of the requested amount to Quebec Class Counsel, the Escrow Agents, by wire transfer, shall pay out the amount awarded by the Quebec Court plus all accrued interest on that amount in accordance with the written instructions of U.S. Class Counsel, and shall pay all remaining amounts in the Quebec Escrow Fund and any interest thereon, to Carrier.

K. No Liability For Additional Fees and Costs. Carrier shall not be liable for any additional fees or expenses of Class Counsel, the Plaintiffs or any Settlement Class Member in connection with the Actions or any claim that was or could have been alleged in the Actions. Class Counsel agree that they will not seek any additional fees or expenses from Carrier in connection with the Actions and the settlement set forth herein, including, without limitation, any fees or expenses incurred in connection with obtaining final approval of the Agreement, in connection with any objection(s) or appeal(s), in connection with and throughout the claims administration process, expert fees, or other fees or expenses.

L. Reversal or Modification of Final Approval on Fees and Costs. In the event that final approval of this Agreement is reversed or modified on appeal, or in the event that any award of attorneys' fees and costs is modified or vacated on appeal, Class Counsel shall remit the attorneys' fees and costs described in Section VIII of this Agreement to Carrier as set forth in the Parties' Stipulated Undertakings Re: Attorneys' Fees and Costs, agreed upon forms of which will be filed in the Washington Court, the Ontario Superior Court of Justice, and the Quebec Court.

M. The payment by Carrier of attorneys' fees and costs and the CRS is separate from and in addition to the other relief afforded the Settlement Class Members in this Agreement. The

Parties negotiated and reached this agreement regarding the Fees Amount and CRS only after reaching agreement on all other material terms of this settlement.

**IX. No Admission Of Liability**

A. Carrier disputes the claims alleged in the Actions and does not by this Agreement admit any liability or wrongdoing of any kind. Carrier has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation in a number of U.S. states and Canadian provinces and territories, and to be completely free of any further claims that were asserted or could have been asserted in the Actions.

B. Class Counsel, the U.S. Class Representatives and Canadian Class Representatives believe that the claims asserted in the Actions possess merit and have examined and considered the benefits to be obtained under the proposed settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex and potentially time-consuming litigation, and the likelihood of success on the merits of the Actions. Class Counsel have fully investigated the facts and law relevant to the merits of the claims, have conducted extensive formal and informal discovery, and have conducted independent investigation and product testing. Class Counsel, U.S. Class Representatives and Canadian Class Representatives have concluded that the proposed settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Classes.

C. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made or an acknowledgment or admission by any party of any fault, liability or

wrongdoing of any kind whatsoever to any other party.

D. Neither the Agreement, nor any act performed or document executed pursuant to or in furtherance of the Agreement or the settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any claim made by the Class Members or Class Counsel, or of any wrongdoing or liability of the persons or entities released in Section VII hereof; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the persons or entities released in Section VII hereof, in any proceeding in any court, administrative agency or other tribunal.

E. To the extent permitted by law, the Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of this Agreement.

#### **X. Miscellaneous Provisions**

A. Extensions Of Time. Unless otherwise ordered by the Court herein, the Parties may jointly agree to reasonable extensions of time to carry out any of the provisions of this Agreement.

B. No Pending Action. Each of the Parties represents and warrants that he, she or it is not aware of any other lawsuits or administrative proceedings involving Carrier regarding the subject matter of the Actions.

C. Integration. This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any party hereto, except as provided for herein.

D. Governing Law. The Agreement shall be construed in accordance with, and be governed by, the laws of the State of Washington, without regard to the principles thereof regarding choice of law. Without limiting the foregoing, the laws of Ontario and Quebec, respectively, apply to the approval processes in the Ontario National Action and the Quebec Action.

E. Gender and Plurals. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

F. Survival of Warranties and Representations. The warranties and representations of this Agreement are deemed to survive the date of execution hereof.

G. Representative Capacity. Each person executing this Agreement in a representative capacity represents and warrants that he or she is empowered to do so.

In executing this Agreement, each Class Counsel represent and warrant that he or she is authorized to sign on behalf of each of the Class Representatives represented by such counsel. The parties recognize that each of the Class Representatives may not be able to sign this Agreement prior to submission to the Court, but all Class Representatives must sign the Agreement within 30 days or forfeit their rights.

H. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature submitted by facsimile or through email of an Adobe PDF shall be deemed an original.

I. Cooperation of Parties. The Parties to this Agreement agree to prepare and execute all documents, to seek Court approvals, defend Court approvals, and to do all things reasonably necessary to complete the settlement described in this Agreement.

J. Execution Voluntary. This Agreement is executed voluntarily by each of the Parties without any duress or undue influence on the part, or on behalf, of any of them. The Parties represent and warrant to each other that they have read and fully understand the provisions of this Agreement and have relied on the advice and representation of legal counsel of their own choosing. Each of the Parties has cooperated in the drafting and preparation of this Agreement and has been advised by counsel regarding the terms, effects, and consequences of this Agreement. Accordingly, in any construction to be made of this Agreement, this Agreement shall not be construed as having been drafted solely by any one or more of the Parties.

K. Notices

All Notices to Class Counsel provided for herein, shall be sent by email and facsimile to Jonathan D. Selbin, Esq., Lieff, Cabraser, Heimann & Bernstein, LLP, 780 Third Avenue, 48th Floor, New York, NY 10017-2024, fax: (212) 355-9592, [jselbin@lchb.com](mailto:jselbin@lchb.com); Kim Stephens, Esq., Tousley Brain Stephens PLLC, 1700 Seventh Avenue, Suite 2200, Seattle, Washington 98101-4416, fax: (206) 682-2992, [kstephens@tousley.com](mailto:kstephens@tousley.com); Joel Rochon, Rochon Genova 121 Richmond Street West, Suite 900, Toronto, ON M5H 2K1, fax: (416) 363-0263, [jrochon@rochongenova.com](mailto:jrochon@rochongenova.com); and Sylvestre, Fafard, Painchard, 740 Avenue Atwater, Montreal, Quebec, H4C 2G9:

1. with a hard copy sent by overnight mail.
2. All Notices to Carrier, provided for herein, shall be sent by email and facsimile to Patrick J. Rao, Assistant General Counsel, Carrier Corporation, Residential Light

Commercial Systems Division, P.O. Box 4800, Building TR-4, Syracuse, NY 13221, fax: (315) 432-3233, [patrick.rao@carrier.utc.com](mailto:patrick.rao@carrier.utc.com), with a hard copy sent by overnight mail, with a copy to the Vice President and General Counsel of Carrier, One Carrier Place, Farmington, CT 06032.

3. The notice recipients and addresses designated in the preceding section may be changed by written notice pursuant to this section IX(L).

4. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Class Notice.

L. Modification and Amendment. This Agreement may be amended or modified only by a written instrument signed by the Parties' counsel and approved by the Washington Court, Ontario Superior Court of Justice and Quebec Court.

Dated: \_\_\_\_\_

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

\_\_\_\_\_  
By: Jonathan Selbin  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

TOUSLEY BRAIN STEPHENS PLLC

\_\_\_\_\_  
By: Kim Stephens  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

CULLEN WESTON PINES BACH LLP

\_\_\_\_\_  
By: LESTER PINES  
Attorney for Plaintiffs

Dated: \_\_\_\_\_

HEINS MILLS & OLSON, PLC

\_\_\_\_\_  
By: Vincent Esades  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

ROCHON GENOVA LLP

\_\_\_\_\_  
By: Joel Rochon  
Counsel for Plaintiffs

Dated: \_\_\_\_\_

POYNER BAXTER

\_\_\_\_\_  
By: Kenneth Baxter  
Counsel for the Plaintiffs

Dated: \_\_\_\_\_

BARTLIT BECK HERMAN PALENCHAR & SCOTT  
LLP

\_\_\_\_\_  
By: Mark Levine  
Attorneys for Defendant Carrier Corporation

Dated: \_\_\_\_\_

TUCKER ELLIS & WEST LLP

\_\_\_\_\_  
By: Bart Kessel  
Attorneys for Defendant Carrier Corporation

Dated: \_\_\_\_\_

BORDEN LADNER GERVAIS LLP

\_\_\_\_\_  
By: Barry Glaspell  
Attorneys for Defendant Carrier Corporation

Dated: \_\_\_\_\_

CARRIER CORPORATION

\_\_\_\_\_  
By: Donald K. Cawley  
For Defendant Carrier Corporation



**AMENDMENT NO. 1 TO U.S./CANADA  
SETTLEMENT AGREEMENT AND RELEASE**

On the 13th day of November, 2007, pursuant to Section X(L) of the November 9, 2007 Settlement Agreement and Release (“Agreement”), the Parties agree to amend the Agreement as follows:

1. Section III(B) of the Agreement provides that the calculation of the conversion from U.S. dollars to Canadian dollars will take place “as of the date of final approval in the Ontario National Action.” The Parties amend this Section to provide that the conversion to Canadian dollars will occur “as of the date of preliminary approval in the Ontario National Action.”
2. Section III(C) of the Agreement provides that the calculation of the conversion from U.S. dollars to Canadian dollars will take place “as of the date of final approval in the Quebec Action.” The Parties amend this Section to provide that the conversion to Canadian dollars will occur “as of the date of preliminary approval in the Ontario National Action.”
3. Section VIII(B) of the Agreement provides that the calculation of the conversion from U.S. dollars to Canadian dollars for the payment of fees will take place on the date of final approval in the Ontario National Action and Quebec Action, respectively. The Parties amend this Section to provide that the conversion to Canadian dollars will occur “as of the date of preliminary approval in the Ontario National Action and Quebec Action, respectively.”
4. Section VIII(C) of the Agreement provides that there will be a conversion from U.S. dollars to Canadian dollars for the payment of the class representative stipend, but does not specify the timing of such a conversion. The Parties amend this Section to provide that the conversion to Canadian dollars will occur “as of the date of preliminary approval in the Ontario National Action.”

Dated: 11/13/07

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

By: Jonathan Selbin  
Attorneys for Plaintiffs

Dated: 11/13/07

TOUSLEY BRAIN STEPHENS PLLC

By: Kim Stephens  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

CULLEN WESTON PINES BACH LLP

By: LESTER PINES  
Attorney for Plaintiffs

Dated: \_\_\_\_\_

HEINS MILLS & OLSON, PLC

By: Vincent Esades  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

ROCHON GENOVA LLP

By: Joel Rochon  
Counsel for Plaintiffs

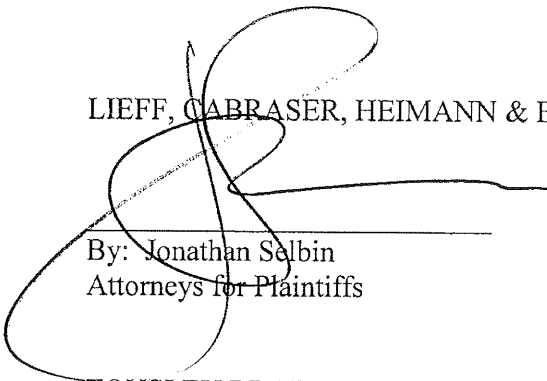
Dated: \_\_\_\_\_

POYNER BAXTER

By: Kenneth Baxter  
Counsel for the Plaintiffs

Dated: 11/13/07

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP



By: Jonathan Selbin  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

TOUSLEY BRAIN STEPHENS PLLC

By: Kim Stephens  
Attorneys for Plaintiffs

Dated: 11/13/07

CULLEN WESTON PINES BACH LLP



By: LESTER PINES  
Attorney for Plaintiffs

Dated: \_\_\_\_\_

HEINS MILLS & OLSON, PLC

By: Vincent Esades  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

ROCHON GENOVA LLP

By: Joel Rochon  
Counsel for Plaintiffs

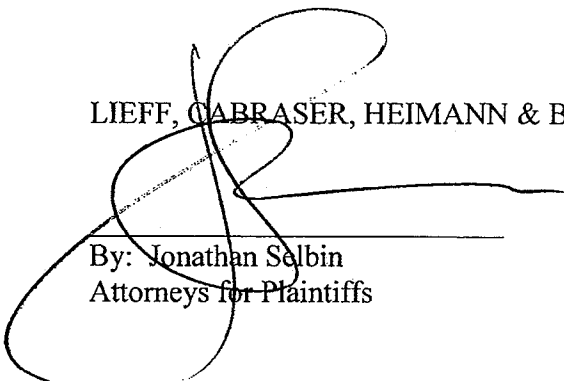
Dated: \_\_\_\_\_

POYNER BAXTER

By: Kenneth Baxter  
Counsel for the Plaintiffs

Dated: 11/13/07

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP



By: Jonathan Salbin  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

TOUSLEY BRAIN STEPHENS PLLC

By: Kim Stephens  
Attorneys for Plaintiffs

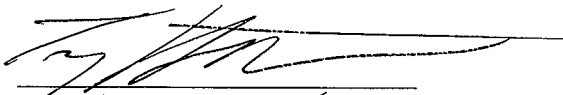
Dated: \_\_\_\_\_

CULLEN WESTON PINES BACH LLP

By: LESTER PINES  
Attorney for Plaintiffs

Dated: 11-13-2007

HEINS MILLS & OLSON, PLC



By: Vincent Esades *Troy J. Hutchinson*  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

ROCHON GENOVA LLP

By: Joel Rochon  
Counsel for Plaintiffs

Dated: \_\_\_\_\_

POYNER BAXTER

By: Kenneth Baxter  
Counsel for the Plaintiffs

Dated: \_\_\_\_\_ LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

\_\_\_\_\_  
By: Jonathan Selbin  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_ TOUSLEY BRAIN STEPHENS PLLC

\_\_\_\_\_  
By: Kim Stephens  
Attorneys for Plaintiffs

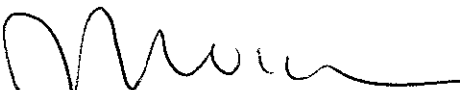
Dated: \_\_\_\_\_ CULLEN WESTON PINES BACH LLP

\_\_\_\_\_  
By: LESTER PINES  
Attorney for Plaintiffs

Dated: \_\_\_\_\_ HEINS MILLS & OLSON, PLC

\_\_\_\_\_  
By: Vincent Esades  
Attorneys for Plaintiffs

Dated: 13 Nov '07 ROCHON GENOVA LLP

  
\_\_\_\_\_  
By: Joel Rochon  
Counsel for Plaintiffs

Dated: \_\_\_\_\_ POYNER BAXTER

\_\_\_\_\_  
By: Kenneth Baxter  
Counsel for the Plaintiffs

Dated: \_\_\_\_\_ LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

\_\_\_\_\_  
By: Jonathan Selbin  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_ TOUSLEY BRAIN STEPHENS PLLC

\_\_\_\_\_  
By: Kim Stephens  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_ CULLEN WESTON PINES BACH LLP

\_\_\_\_\_  
By: LESTER PINES  
Attorney for Plaintiffs

Dated: \_\_\_\_\_ HEINS MILLS & OLSON, PLC

\_\_\_\_\_  
By: Vincent Esades  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_ ROCHON GENOVA LLP

\_\_\_\_\_  
By: Joel Rochon  
Counsel for Plaintiffs

Dated: NOV. 13/07

POYNER BAXTER

\_\_\_\_\_  
By: ~~Kenneth Baxter~~ JAMES POYNER  
Counsel for the Plaintiffs

Dated: November 13, 2007

BARTLIT BECK HERMAN PALENCHAR & SCOTT  
LLP



\_\_\_\_\_  
By: Mark Levine  
Attorneys for Defendant Carrier Corporation

Dated: \_\_\_\_\_

TUCKER ELLIS & WEST LLP

\_\_\_\_\_  
By: Bart Kessel  
Attorneys for Defendant Carrier Corporation

Dated: \_\_\_\_\_

BORDEN LADNER GERVAIS LLP

\_\_\_\_\_  
By: Barry Glaspell  
Attorneys for Defendant Carrier Corporation

Dated: \_\_\_\_\_

CARRIER CORPORATION

\_\_\_\_\_  
By: Donald K. Cawley  
For Defendant Carrier Corporation

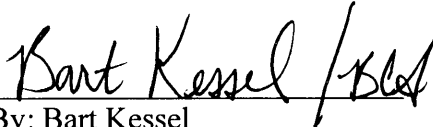
Dated: \_\_\_\_\_

BARTLIT BECK HERMAN PALENCHAR & SCOTT  
LLP

\_\_\_\_\_  
By: Mark Levine  
Attorneys for Defendant Carrier Corporation

Dated: 11/14/07

TUCKER ELLIS & WEST LLP

  
\_\_\_\_\_  
By: Bart Kessel  
Attorneys for Defendant Carrier Corporation

Dated: \_\_\_\_\_

BORDEN LADNER GERVAIS LLP

\_\_\_\_\_  
By: Barry Glaspell  
Attorneys for Defendant Carrier Corporation

Dated: \_\_\_\_\_

CARRIER CORPORATION

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By: Donald K. Cawley  
For Defendant Carrier Corporation



Dated: \_\_\_\_\_

BARTLIT BECK HERMAN PALENCHAR & SCOTT  
LLP

\_\_\_\_\_  
By: Mark Levine  
Attorneys for Defendant Carrier Corporation

Dated: \_\_\_\_\_

TUCKER ELLIS & WEST LLP

\_\_\_\_\_  
By: Bart Kessel  
Attorneys for Defendant Carrier Corporation

Dated: 12 November 2007

BORDEN LADNER GERVAIS LLP

Barry Glaspell  
By: Barry Glaspell  
Attorneys for Defendant Carrier Corporation

Dated: \_\_\_\_\_

CARRIER CORPORATION

\_\_\_\_\_  
By: Donald K. Cawley  
For Defendant Carrier Corporation

Dated: \_\_\_\_\_

BARTLIT BECK HERMAN PALENCHAR & SCOTT  
LLP

\_\_\_\_\_  
By: Mark Levine  
Attorneys for Defendant Carrier Corporation

Dated: \_\_\_\_\_

TUCKER ELLIS & WEST LLP

\_\_\_\_\_  
By: Bart Kessel  
Attorneys for Defendant Carrier Corporation


Dated: \_\_\_\_\_

BORDEN LADNER GERVAIS LLP

\_\_\_\_\_  
By: Barry Glaspell  
Attorneys for Defendant Carrier Corporation

Dated: Nov. 13, 2007

CARRIER CORPORATION

  
\_\_\_\_\_  
By: Donald K. Cawley  
For Defendant Carrier Corporation

**AMENDMENT NO. 2 TO U.S./CANADA  
SETTLEMENT AGREEMENT AND RELEASE**

On the 19th day of December, 2007, pursuant to Section X(L) of the November 9, 2007 Settlement Agreement and Release (“Agreement”), the Parties agree to amend the Agreement as follows:

1. Section III(E) of the Agreement provides that “[u]pon preliminary approval of the settlement by the Washington Court, Carrier shall issue a promissory note to Class Counsel redeemable on January 2, 2008, promising to deposit US \$10,250,000.00 plus interest accrued between the date of preliminary approval by the Washington Court and January 2, 2008 into escrow accounts at Citibank and Frontier Bank (hereinafter the “Escrow Agents”) for the benefit of Class Counsel. The amount will be split equally between the two Escrow Agents.”

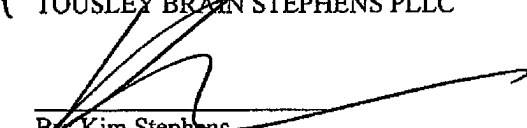
2. The Parties hereby amend Section III(E) to provide that the entire sum will be deposited into the escrow account at Citibank, so that the new provision shall read, in relevant part: “[u]pon preliminary approval of the settlement by the Washington Court, Carrier shall issue a promissory note to Class Counsel redeemable on January 2, 2008, promising to deposit US \$10,250,000.00 plus interest accrued between the date of preliminary approval by the Washington Court and January 2, 2008 into escrow accounts at Citibank (hereinafter the “Escrow Agent”) for the benefit of Class Counsel.”

Dated: 12/21/07


LIEFF C. BRASER HERMANN & BERNSTEIN, LLP

By: Jonathan Selbin  
Attorneys for Plaintiffs

Dated: 12/21/07 TOUSLEY BRAIN STEPHENS PLLC

  
By: Kim Stephens  
Attorneys for Plaintiffs

Dated: 12/20/07 BARTLIT BECK HERMAN PALENCHAR & SCOTT  
LLP

  
By: Mark Levine  
Attorneys for Defendant Carrier Corporation

Dated: \_\_\_\_\_ CARRIER CORPORATION

\_\_\_\_\_  
By: Donald K. Cawley  
For Defendant Carrier Corporation


Dated: \_\_\_\_\_

TOUSLEY BRAIN STEPHENS PLLC

\_\_\_\_\_  
By: Kim Stephens  
Attorneys for Plaintiffs

Dated: 12/20/07

BARTLIT BECK HERMAN PALENCHAR & SCOTT  
LLP

  
\_\_\_\_\_  
By: Mark Levine  
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Dated: 20 December  
2007

CARRIER CORPORATION

  
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