

ACTION NO. S1914497  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN

JAMES DOUGLAS RUCKMAN

PLAINTIFF

AND

BIOTRADE CANADA LTD., LONDON DRUGS LIMITED,  
REXALL PHARMACY GROUP LTD., REXALL/PHARMA PLUS  
PHARMACIES LTD., PHARMASAVE DRUGS LTD., WHOLE FOODS  
MARKET, WHOLE FOODS MARKET CANADA INC., AND  
PNP PHARMACEUTICALS INC.

DEFENDANTS

AND

BIOTRADE CANADA LTD.,  
HEALTHY LIFE AND FOODS COMPANY LTD., HERBAMEDICA S.A. de  
C.V., and BAOJI EARAY BIO-TECH CO. LTD.

THIRD PARTIES

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

**SETTLEMENT AGREEMENT**

**January 31, 2024**

**RECITALS**

(a) WHEREAS all capitalized terms written in bold font herein shall have the meanings ascribed to them in the definitions found in Section 1 of this **Settlement Agreement**.

(b) WHEREAS James Douglas Ruckman, in his capacity as the **Plaintiff**, and the **Defendants** hereby enter into this **Settlement Agreement** providing for settlement of the **Action** pursuant to the terms and conditions set forth below, subject to approval of the **Court**;

(c) AND WHEREAS the **Plaintiff** commenced the **Action** against the **Defendants** and others pursuant to the *Class Proceedings Act*, R.S.B.C. 1996, c. 50, in

which it is alleged, among other things, that a certain alleged natural health product sleep aid sold under the trade name **U-Dream**, manufactured by Biotrade Canada Ltd. and PNP Pharmaceuticals Inc. and distributed and sold in Canada by London Drugs Limited, Rexall Pharmacy Group ULC, Rexall Pharmacies Ltd., Whole Foods Market Canada Inc., and other non-Party entities, contained an undisclosed ingredient similar to the prescription drug Zopiclone, which may be known as Zopiclone Impurity 22, which allegedly resulted in damage or loss to Class Members;

(d) AND WHEREAS PNP Pharmaceuticals Inc. filed the **Third Party Claims** in the Action, and Biotrade Canada Ltd. was granted leave to file a third party claim against PNP Pharmaceuticals Inc. which was not filed;

(e) AND WHEREAS London Drugs Limited and Whole Foods Market Canada Inc. have commenced the **Distributor Actions** seeking, *inter alia*, contribution or indemnity in relation to the **Action**;

(f) AND WHEREAS the **Defendants** do not admit, through the execution of this **Settlement Agreement** or otherwise, any of the allegations made in the **Action**, and specifically deny all liability and assert that they have complete defences in respect of the merits of the **Action**;

(g) AND WHEREAS the **Plaintiff, Class Counsel** and each of the **Defendants** agree that neither this **Settlement Agreement** nor any statement made in negotiation thereof shall be deemed or construed to be an admission by or evidence against any of the **Defendants** or evidence of the truth of any of the **Plaintiff's** allegations against any of the **Defendants**, which allegations are expressly denied by each of the **Defendants**;

(h) AND WHEREAS each of the **Defendants** are entering into this **Settlement Agreement** in order to achieve a full and final nation-wide resolution of all claims asserted or which could have been asserted against the **Defendants** by the **Plaintiff** and the **Class** he seeks to represent in the **Action**, and of any other present or future litigation arising out of the same or similar facts, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;

(i) AND WHEREAS each **Counsel for the Defendants** and **Class Counsel** have engaged in arm's length settlement discussions and negotiations, resulting in this **Settlement Agreement**;

(j) AND WHEREAS as a result of these settlement discussions and negotiations, each of the **Defendants** and the **Plaintiff** have entered into this **Settlement Agreement**, which embodies all of the terms and conditions of the settlement between each of the **Defendants** and the **Plaintiff**, both individually and on behalf of the **Class** the **Plaintiff** seeks to represent, subject to approval of the **Court**;

(k) AND WHEREAS **Class Counsel**, on their own behalf and on behalf of the **Plaintiff**, the proposed **Class**, and the **Public Health Insurers**, have reviewed and fully understand the terms of this **Settlement Agreement**, and based on their analysis of the

facts and law applicable to the **Plaintiff's** claims, having regard to the burdens and expenses associated with prosecuting the **Action**, including the risks and uncertainties associated with applications, trials and appeals, and having regard to the value of the **Settlement Agreement**, have concluded that this **Settlement Agreement** is fair, reasonable and in the best interests of the **Plaintiff** and the proposed **Class**;

(l) AND WHEREAS the **Parties** therefore wish to resolve on a national basis, without admission of liability, the **Action** as against each of the **Defendants** and **Third Parties**;

(m) AND WHEREAS the **Parties** consent to certification of the **Action** as a class proceeding, and to the **Class**, and to the **Common Issues for Settlement Purposes** and the **Class Period** in respect of the **Action** solely for the purposes of implementing this **Settlement Agreement** in a coordinated and consistent manner across Canada and contingent on approval by the **Court** as provided for in this **Settlement Agreement**, on the express understanding that such certification shall not derogate from the respective rights and positions of the **Parties** in the event this **Settlement Agreement** is not approved, is terminated or otherwise fails to take effect for any reason;

(n) AND WHEREAS the **Plaintiff** asserts that he is an adequate class representative for the **Class** he seeks to represent and will seek to be appointed as representative plaintiff for the **Class**;

(o) AND WHEREAS the **Parties** intend to pursue the approval of this **Settlement Agreement** through the **Court**;

**NOW THEREFORE**, in consideration of the covenants, agreements and releases set forth herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the **Parties** that the **Action** and all **Third Party Claims** be settled and dismissed with prejudice, all without costs to any **Party**, subject to the approval of the **Court**, on the following terms and conditions:

## **SECTION 1 – DEFINITIONS**

1. The terms herein have the following definitions, including in the Recitals and Schedules hereto:

(a) **Action** means the proceeding commenced by the **Plaintiff** in the Supreme Court of British Columbia, File Number No. S1914497 against the Defendants and others pursuant to the *Class Proceedings Act*, R.S.B.C. 1996, c. 50.

(b) **Advance Partial Payment** means the sum of Eighty Thousand Dollars (\$80,000.00), to be paid pursuant to this **Settlement Agreement** as an advance partial payment of **Settlement Funds**.

- (c) **Certification and Notice Approval Hearing** means the hearing on the application of the **Plaintiff** before the **Court** for the certification of the **Action** as a class action for settlement purposes and the approval of the form, content, and manner of dissemination of the **Notice**.
- (d) **Claim** means the claim of a **Class Member** for a **Compensatory Payment**.
- (e) **Claim Period** means the period commencing on the **Effective Date**, and expiring at 12:01am, PST, on the one hundred and twentieth (120) day after the **Effective Date**.
- (f) **Claimant** means any **Class Member** who follows the **Claim Administration Procedure** to request a **Compensatory Payment**.
- (g) **Claims Administration Procedure** means the procedure approved by the **Court** to be implemented by the **Claims Administrator** to administer the settlement as contemplated by this **Settlement Agreement**, including to determine the eligibility of **Class Members** for payment from the **Settlement Fund**, and to administer the making of payments as described in the **Distribution Protocol**.
- (h) **Claims Administrator** means the firm proposed by **Class Counsel**, Ricepoint Administration Inc., and appointed by the **Court** to administer the **Claims Administration Procedure** in accordance with the provisions of this **Settlement Agreement**.
- (i) **Claims Administration Costs** means the costs incurred by the **Claims Administrator**, inclusive of all fees, disbursements, expenses, taxes, and interest, to carry out its function in accordance with this **Settlement Agreement**, including for the purpose of giving **Notice**, administering the **Claims Administration Procedure**, and making payments from the **Settlement Funds** pursuant to the **Distribution Protocol** and/or as may be ordered by the **Court**, but excluding the **Honorarium**, **Class Counsel Fees**, **Class Counsel Disbursements**, **Public Health Insurers Payments**, and **Compensatory Payments**.
- (j) **Class** means all **Persons** in Canada who purchased and/or ingested **U-Dream** during the **Class Period**, and where such **Persons** are deceased, all living parents, spouses or children entitled to maintain a claim against the **Defendants** pursuant to the *Family Compensation Act*, R.S.B.C. 1996, s. 126, and **Persons** entitled to bring similar claims in other provinces and territories, other than **Persons** who validly opt-out before the **Opt-Out Deadline**.
- (k) **Class Counsel** means Rice Harbut Elliott LLP.

- (l) **Class Counsel Disbursements** include the disbursements and applicable taxes incurred by **Class Counsel** in the prosecution of the **Action**.
- (m) **Class Counsel Fees** means the fees of **Class Counsel**, and any applicable taxes or charges thereon authorized by the **Court** to be paid to **Class Counsel** for the prosecution of the **Action**.
- (n) **Class Members** means members of the **Class**.
- (o) **Class Period** means the period of time between August 18, 2014 and the **Effective Date**.
- (p) **Common Issues for Settlement Purposes** means the common issues listed in **Schedule A**.
- (q) **Compensatory Payment** means a payment made to a **Claimant** pursuant to the **Distribution Protocol**.
- (r) **Counsel for the Defendants** means:
  - (i) with respect to the Defendant and Third Party, Biotrade Canada Ltd., Whitelaw Twining;
  - (ii) with respect to the Defendant, London Drugs Limited, Norton Rose Fulbright Canada LLP;
  - (iii) with respect to the Defendants, Rexall Pharmacy Group ULC and Rexall Pharmacies Ltd., McEwan Cooper Kirkpatrick LLP;
  - (iv) with respect to the Defendants, Whole Foods Market Canada Inc. doing business as Whole Foods Market, Clark Wilson LLP;
  - (v) with respect to the Defendant, PNP Pharmaceuticals Inc., Dolden Wallace Folick LLP.
- (s) **Court** means the Supreme Court of British Columbia.
- (t) **Date of Execution** means the date on which the **Parties** have executed this **Settlement Agreement**.
- (u) **Defendants** means Biotrade Canada Ltd., London Drugs Limited, Rexall Pharmacy Group ULC (formerly known as Rexall Pharmacy Group Ltd.), Rexall Pharmacies Ltd. (formerly known as Rexall/Pharma Plus Pharmacies Ltd.), Whole Foods Market, Whole Foods Market Canada Inc. and PNP Pharmaceuticals Inc.

- (v) ***Distribution Protocol*** means a plan for the distribution of the **Settlement Funds** for payment of the **Honorarium, Class Counsel Fees, Class Counsel Disbursements, Claims Administration Costs, Public Health Insurers Payments, Compensatory Payments**, and for any other payments of any kind to be made from the **Settlement Funds**.
- (w) ***Distributor Actions*** means London Drugs Limited's Action S-229232 against Horizon Distributors Ltd., and Christmas Natural Products Ltd.; and Whole Foods Market Canada Inc.'s Action S-231771 against Horizon Distributors Ltd., Ontario Natural Food Company Inc., Christmas Natural Products Ltd., and Intact Insurance Company and in French, Intact Compagnie D'Assurance.
- (x) ***Effective Date*** means the date when the **Final Settlement Approval Order** becomes a **Final Order**.
- (y) ***Final Order*** means a final order, judgment, or equivalent decree by the court, once the time to appeal such order has expired without any appeal being taken, if an appeal lies, or if the order is appealed, once there has been affirmation of the order upon a final disposition of all appeals.
- (z) ***Final Report*** means a report, prepared by the **Claims Administrator**, setting out, *inter alia*:
- (i) the number and most recent addresses of the **Claimants**;
  - (ii) the number of **Claims** approved;
  - (iii) the number of **Claims** rejected by the **Claims Administrator**;
  - (iv) the **Compensatory Payment** paid to each **Class Member**, by category;
  - (v) the **Public Health Insurers Report**;
  - (vi) the **Public Health Insurance Payment** made to each **Public Health Insurer**; and
  - (vii) all other payments made out of the **Settlement Funds**.
- (aa) ***Final Settlement Approval Order*** means an order of the **Court** approving the **Settlement Agreement** pursuant to section 35 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50, and barring all claims against the **Defendants**, which shall be in the form attached hereto as **Schedule H** or as may be amended by the **Court** with the consent of the **Parties**.

- (bb) **Honorarium** means a payment authorized by the **Court**, to be paid to the **Plaintiff** for his contributions to the **Action**.
- (cc) **Notice** means the notice in the form attached hereto as **Schedule B**, and approved by the **Court**, to be distributed to the **Class Members**, in advance of the **Settlement Approval Hearing**, in respect of (1) the certification of the **Action** as a class proceeding as against the **Defendants** for settlement purposes; (2) the right to opt out of the **Action** or file an **Objection and Notice of Intention to Appear** at the **Settlement Approval Hearing**; and (3) the date and time of the **Settlement Approval Hearing**. If this **Settlement Agreement** is approved, **Class Members** will receive further notice in the form attached as **Schedule C**, and approved by the **Court**, to be distributed to the **Class Members**, after the **Settlement Approval Hearing**, in respect of: (1) the approval of this **Settlement Agreement**; (2) the process by which **Class Members** may apply to obtain a **Compensatory Payment**; and (3) the **Distribution Protocol**.
- (dd) **Objection and Notice of Intention to Appear** means an objection to the **Settlement Agreement** by a **Class Member**, and a statement of whether they intend to appear and make submissions at the **Settlement Approval Hearing** as set out in Section 5.2.
- (ee) **Objection Deadline** means the date which is sixty (60) days after the date on which the **Notice** in the form of **Schedule C** is first published, which is the deadline for filing an **Objection and Notice of Intention to Appear** at the **Settlement Approval Hearing**.
- (ff) **Opt-Out Deadline** means the date which is sixty (60) days after the date on which the **Notice** in the form of **Schedule C** is first published.
- (gg) **Opt-Out Form** means a written confirmation of a **Class Member** to opt-out of this **Action** as set out in the form attached as **Schedule G**.
- (hh) **Opt-Outs** means any **Person** who has validly opted out of the **Action** in accordance with the terms of this **Settlement Agreement**.
- (ii) **Party and Parties** means the **Defendants**, the **Plaintiff**, and, where necessary, the **Class Members**.
- (jj) **Person** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.

- (kk) **Public Health Insurers** means any statutory Canadian, provincial, or territorial health or medical care body, plan, commission, or other entity (for example, the Minister of Health of British Columbia), which is specifically empowered by its respective enabling legislation to make subrogated claims to recover the costs of providing healthcare or other valid medical services to **Class Members** respecting **Public Health Insurers' Released Claims**.
- (ll) **Public Health Insurers Payments** means a payment made to the **Public Health Insurers** pursuant to the **Distribution Protocol**.
- (mm) **Public Health Insurers Report** means a report prepared by the **Claims Administrator**, setting out any subrogated claims made by the **Public Health Insurers** with respect to **Claimants**, setting out the total number of claims received by category, and the total amounts payable by category to each of the **Public Health Insurers**, to be broken out by province and/or territory.
- (nn) **Plaintiff** means the named plaintiff in the **Action**, James Douglas Ruckman.
- (oo) **Plaintiff and Class Members' Released Claims** means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, brought or which could have been brought against the **Defendants** in the **Action**, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, in law, under or pursuant to any statute, regulation, common law or in equity, that the **Plaintiff** or **Class Members** ever had, now have or hereafter can, shall, or may ever have, relating in any way to any conduct related to, arising from, or described in Recital "C" to this **Settlement Agreement**, the facts and matters that are the subject of the **Action** or which could have been pled in the **Action**, inclusive of all claims for damages, aggravated damages, punitive damages, loss, disgorgement of profit, restitution, interest, taxes, costs, disbursements, legal fees, the **Honorarium**, **Class Counsel Fees**, **Class Counsel Disbursements**, **Claims Administration Costs**, expenses, and all subrogated claims including those of **Public Health Insurers**.
- (pp) **Plaintiff and Class Member Releasors** means, jointly and severally, individually, and collectively, the **Plaintiff** and the **Class Members** and all of their respective heirs, executors, trustees, administrators, assigns, attorneys, representatives, partners, and insurers, and their predecessors, successors, heirs, executors, trustees, administrators, and assignees.



- (qq) **Public Health Insurers' Released Claims** means any and all manner of claims which the **Public Health Insurers** ever had, now has or hereafter can, shall or may ever have, relating in any way to any conduct related to, arising from, or described in Recital "C" to this **Settlement Agreement**, the facts and matters which are the subject of the **Action** and including, without limitation all subrogated and/or direct claims that were or could have been brought by the **Provincial Health Insurers**, pursuant to provincial or territorial legislation that permits the recovery of healthcare costs or medical expenses from third parties, for the cost of medical care or treatment provided to **Class Members** as well as medical screening or monitoring arising from the facts alleged in the **Action**, against the **Releasees**. For greater clarity, an order will be sought at the **Settlement Approval Hearing** releasing the claims of the **Public Health Insurers** in substantially the same form enclosed as **Schedule H**.
- (rr) **Public Health Insurer Releasors** means, jointly and severally, individually, and collectively, each of the **Public Health Insurers** and all of their respective heirs, executors, trustees, administrators, assigns, attorneys, representatives, partners, and insurers, and their predecessors, successors, heirs, executors, trustees, administrators, and assignees.
- (ss) **Released Claims** means collectively the **Plaintiff and Class Members' Released Claims** and **Public Health Insurers' Released Claims**.
- (tt) **Releasees** means, jointly and severally, individually and collectively, the **Defendants** and each of their respective past and present parents, subsidiaries, affiliates, partners, insurers, and all other **Persons**, partnerships or corporations with whom any of the foregoing have been, or are now, affiliated, and each of their respective past and present officers, directors, employees, agents, stockholders, attorneys, independent contractors, servants, representatives, and insurers, and the predecessors, successors, heirs, executors, administrators and assigns of any of the foregoing;
- (i) any and all suppliers of components, materials, services, ingredients and technology used in the manufacture of **U-Dream** including the labelling and packaging thereof, and their respective affiliates, divisions, parents, predecessors, subsidiaries, successors, and trustees, and each of their respective agents, directors, employees, insurers, lawyers, officers, and current and former shareholders;
  - (ii) all distributors of **U-Dream** including wholesale distributors, private label distributors, retail distributors, hospitals and clinics;
  - (iii) any other person against whom the **Class Members** could attempt to assert any claim, liability, or right to payment arising out of or

related in any way to the manufacture, labelling, packaging, marketing, distribution or sale of **U-Dream**, whether as a joint tortfeasor or otherwise, under any theory of law or equity; and

- (iv) any past, present or future officer, director, shareholder, subsidiary, employee, agent, servant, attorney, predecessor, trustee, successor or assignee of any of the above.
- (uu) **Releasors** means collectively the **Plaintiff and Class Member Releasors** and **Public Health Insurer Releasors**.
- (vv) **Representative Plaintiff** means James Douglas Ruckman upon certification of the **Action**.
- (ww) **Settlement Agreement** means this agreement, including the recitals, and schedules attached to and forming a part of the **Settlement Agreement**.
- (xx) **Settlement Approval Hearing** means the hearing at which the **Parties** seek the **Final Settlement Approval Order**.
- (yy) **Settlement Funds** means an all-inclusive amount of \$2,734,485 to be paid in several amounts as further set out in the confidential settlement contribution agreement January 31, 2024 (the "**Confidential Settlement Contribution Agreement**"), in full and final settlement of the **Action**, which amount is inclusive of all **Claims Administration Costs**, any **Honorarium**, **Class Counsel Fees**, **Class Counsel Disbursements**, **Advance Partial Payment**, **Public Health Insurers Payments**, **Compensatory Payments**, taxes, interest, and all other expenses or charges of any kind.
- (zz) **Third Parties** means Biotrade Canada Ltd., Healthy Life and Foods Company Ltd., Herbamedica S.A. de C.V., and Baoji Earay Bio-Tech Co. Ltd.
- (aaa) **Third Party Claims** means the third-party claim filed by PNP Pharmaceuticals Inc. against the **Third Parties** in the **Action**, and the unfiled third-party claim that Biotrade Canada Inc. was granted leave to file against PNP Pharmaceuticals Inc. in the **Action**.
- (bbb) **Trust Account** means a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, S.C. 1991, c. 46) held at a Canadian financial institution under the control of the **Claims Administrator** for the benefit of the **Class Members** or the **Defendants**, as provided for in this **Settlement Agreement**.

- (ccc) **U-Dream** means the allegedly natural sleep aid products manufactured and/or sold by the **Defendants** in Canada bearing the Natural Product Numbers identified in the Health Canada recall dated December 23, 2019 and the Natural Product Numbers identified in the Health Canada Public Advisory of December 23, 2019, which are U-Dream Full-Night Formula, NPN 80053231; U-Dream Half-Night Formula NPN 80053230; U-Dream Full Night NPN 80070691, 80072690; U-Dream Full 350 mg NPN 80088081, 80093798; U-Dream Full Night 450 mg NPN 80088078; U-Dream Lite NPN 80070208, 80070773, 80072688, U-Dream Lite 350 mg NPN 80088077, 80093797; U-Dream Lite 450 mg NPN 80088075; U-Dream Lite, Half Night NPN 80068852; U-Dreams NPN 80040083; U-Dreams Full NPN 80068849, 80070204, 80070345; and U-Dreams Lite NPN 80070506.

## SECTION 2 – SETTLEMENT APPROVAL

### 2.1 Best Efforts

2. Upon the execution of the **Settlement Agreement**, **Class Counsel** shall use their best efforts to implement its terms and to secure the prompt, complete and final dismissal, with prejudice, of the **Action** against each of the **Defendants**, together with a comprehensive claims bar order in favour of each of the **Defendants**, without costs to any **Party** other than as addressed in this **Settlement Agreement** and approved by the **Court**.

### 2.2 Application Seeking Certification and Approval of Notice

3. As soon as practicable after the **Date of Execution**, the **Plaintiff** shall bring an application before the **Court**, for orders certifying the **Action** for settlement purposes only and approving the **Notice**.

4. The order certifying the **Action** for settlement purposes and approving the **Notice** shall be substantially in the form attached as **Schedule D**.

### 2.3 Application Seeking Approval of the Settlement Agreement

5. The **Plaintiff** shall make best efforts to bring an application before the **Court** for an order substantially in the form of the **Final Settlement Approval Order**, enclosed as **Schedule H** within two weeks after the expiration of the **Opt-Out Deadline** and **Objection Deadline** or as soon as practicable thereafter.

### 2.4 Pre-Application Confidentiality

6. Until the date on which the **Action** is certified for the purpose of settlement in accordance with this **Settlement Agreement** and **Notice** is approved, the **Parties** shall keep all of the terms of the **Settlement Agreement** confidential and shall not disclose them without the prior consent of each of **Counsel for the Defendants** and **Class**

**Counsel**, as the case may be, except as required for the purposes of financial reporting, the preparation of financial records (including tax returns and financial statements), as necessary to give effect to its terms, for the purpose of any **Defendants'** advancement of the **Distributor Actions** or other negotiations with parties to the **Distributor Actions**, or as otherwise required by law.

## **2.5 Settlement Agreement Effective**

7. This **Settlement Agreement** shall only become final and binding on the **Effective Date**.

## **SECTION 3 – CLAIMS ADMINISTRATOR AND CLAIMS ADMINISTRATION PROCEDURE**

### **3.1 Appointment and Role of the Claims Administrator**

8. The **Court** shall approve the appointment of the **Claims Administrator**.

9. The **Claims Administrator** shall be responsible for administering the settlement in accordance with a **Claims Administration Procedure** and distributing the **Settlement Funds** in accordance with a **Distribution Protocol**. The **Claims Administration Procedure** and **Distribution Protocol** shall be approved by the **Court**. The content of the **Claims Administration Procedure** and **Distribution Protocol** do not form part of the **Settlement Agreement** and the **Court's** approval of the **Settlement Agreement** shall not be contingent upon the **Court's** approval of a **Claims Administration Procedure** or **Distribution Protocol**.

10. The **Claims Administrator** and any persons appointed by them to assist in the administration of the **Settlement Agreement** shall execute a confidentiality agreement, in a form satisfactory to the **Parties**, pursuant to which they shall agree to keep confidential any information whatsoever concerning a **Claim**, except information that is required to be disclosed to the **Public Health Insurers**, as specified herein.

11. If, for any reason, the **Claims Administrator** becomes unable or unwilling to continue to act in this role, the **Parties** may choose an alternate claims administrator, subject to the approval of the **Court**.

## **SECTION 4 – SETTLEMENT BENEFITS**

### **4.1 Applicable Currency**

12. All dollar amounts set forth in the **Settlement Agreement** are expressed in Canadian currency.

#### 4.2 Timing and Payment of the Settlement Funds

13. Within thirty (30) days of receipt of a **Court** order approving the **Notice** and certifying the **Action** as a class proceeding for settlement purposes, the defendants Biotrade Canada Ltd, and PNP Pharmaceuticals Inc. shall collectively pay the **Advance Partial Payment** to the **Claims Administrator**, as an advance on their respective contribution to the **Settlement Funds**. The **Claims Administrator** shall deposit and hold the **Advance Partial Payment** in a separate bank account. **Claims Administration Costs** approved by **Class Counsel** and incurred prior to the **Effective Date** may be paid out of the **Advance Partial Payment**. Any portion of the **Advance Partial Payment**, inclusive of interest if any, remaining on the **Effective Date** shall be transferred by the **Claims Administrator** to the **Trust Account**.

14. Within thirty (30) days after the **Effective Date**, the **Defendants** shall pay to the **Trust Account** their portions, or remaining portions of the **Settlement Funds**, to the maximum amount set out in the **Confidential Settlement Contribution Agreement** with the respective obligations of the Defendants being several and not joint.

15. Payment of the amounts referenced in paragraph 14 and in the **Confidential Settlement Contribution Agreement** shall be made by wire transfer to the **Trust Account**, or in the case of the defendant, Whole Foods Market Inc. dba as Whole Foods Market Canada, by cheque mailed to the **Claims Administrator**. **Class Counsel** will provide, in writing, the following information necessary to complete the wire transfer to the **Trust Account**: name of bank, address of bank, ABA number, SWIFT number, name of beneficiary, beneficiary's bank account number, beneficiary's address, and bank contact details for the **Trust Account**.

16. Payments to be made from the **Trust Account** shall be determined pursuant to the **Claims Administration Procedure** and paid pursuant to the **Distribution Protocol** and/or as may be directed by the **Court**.

17. The **Parties** agree that the **Defendants** shall not be liable for, or be a proper party to, any dispute related to any alleged harm or injury suffered by any **Class Member** by reason of the use or alleged misuse of funds administered under the **Settlement Agreement**, or of any erroneous disbursement(s) or other action taken, or failure to act, with respect to such funds.

18. The **Claims Administrator** will deliver a **Final Report** to **Class Counsel**, each of **Counsel for the Defendants**, and the **Court** within ninety (90) days of the end of the **Claim Period** and the disbursement of all **Settlement Funds** pursuant to the **Distribution Protocol**.

19. The **Defendants** shall have no obligation to pay any amount in addition to the amounts above-mentioned, for any reason, pursuant to or in furtherance of this **Settlement Agreement**.

20. The **Claims Administrator** shall maintain the **Trust Account** as provided for in this **Settlement Agreement**.

21. Other than pursuant to paragraph 13 hereof, **Class Counsel** and the **Claims Administrator** shall not pay out all or any part of the **Settlement Funds**, except in accordance with the **Distribution Protocol** approved by the **Court** after notice to the **Parties**.

#### **4.3 Taxes and Interest**

22. All interest earned in the **Trust Account** shall accrue to the benefit of the **Class** and become and remain part of the **Trust Account**.

23. The Plaintiff and **Class Counsel** shall bear all risks related to investment of the funds in the **Trust Account** and the **Advance Partial Payment**.

24. All taxes payable on any interest which accrues on funds in the **Trust Account** shall be paid from the **Trust Account**. **Class Counsel** shall be solely responsible for fulfilling all tax reporting and payment requirements arising from the amounts in the **Trust Account**, including any obligation to **report** taxable income and make tax payments. All taxes (including interest and penalties) due, with respect to the income earned in the **Trust Account**, shall be paid from the **Trust Account**.

25. The Defendants shall have no responsibility to make any filings related to the **Trust Account** and will have no responsibility to pay any taxes on any income earned or pay any taxes on the monies in the **Trust Account**.

### **SECTION 5 – OPTING-OUT AND OBJECTIONS**

#### **5.1 Opt-Out Procedure**

26. **Class Counsel** will seek approval from the **Court** of the following opt-out process as part of the order certifying the **Action** as a class proceeding for settlement purposes:

- (a) **Persons** seeking to opt-out of the **Action** must do so by sending an **Opt-Out Form** signed by the **Person** or the **Person's** designee, in the form attached as **Schedule G** by pre-paid mail, courier, fax or email to the **Claims Administrator** at an address to be identified in the **Notice**.
- (b) An **Opt-Out Form** sent by mail or courier will only be valid if it is postmarked on or before the **Opt-Out Deadline** to the designated address in the **Notice**. Where the postmark is not visible or legible, the **Opt-Out Form** shall be deemed to have been postmarked four (4) business days prior to the date that it is received by the **Claims Administrator**. Where the **Opt-Out Form** is sent by email or facsimile, it must be received on or before the **Opt-Out Deadline**.

- (c) The **Opt-Out Form** must be signed by any **Person** wishing to opt-out of the **Class**, and must contain the following information in order to be valid:
  - (i) the **Person's** full name, current address, and telephone number;
  - (ii) a statement to the effect that the **Person** wishes to be excluded from the **Action**; and
  - (iii) whether the **Person** sustained an injury as a result of ingesting **U-Dream**, the nature of the injury, and the reason for opting out of the **Action**.
- (d) Any **Person** who validly opts out of the **Action** shall be excluded from the **Action** and **Class** and shall no longer participate or have the opportunity to participate in the **Action** or to share in the distribution of any funds received as a result of the settlement of the **Action**.
- (e) Any **Class Member** who does not validly opt out of the **Action** in the manner and time prescribed above, shall be deemed to have elected to participate in the **Action** and no further right to opt out of the **Action** will be provided in the future.

27. Within seven (7) days of the **Opt-Out Deadline**, the **Claims Administrator** will provide to each of the **Counsel for the Defendants** and **Class Counsel** a report containing the names of all **Opt-Outs**, being those **Persons** who have validly and timely opted-out of the **Action**, the reason for the opt-out, and a summary of the information delivered.

28. If any potential **Opt-Outs** state in their opt-out election that they intend to commence litigation against any of the **Defendants**, the **Claims Administrator** shall forward their opt-out election to each of the **Defendants**.

29. With respect to any **Opt-Out**, each of the **Defendants** reserve all of their legal rights and defences.

30. **Class Counsel** shall not act for any **Opt-Outs** against any of the **Defendants** in any proceeding that relates to the same or similar subject matter as the **Action**. **Class Counsel** shall maintain confidentiality over all work product, documents, and information gathered by **Class Counsel** in its capacity as counsel for the **Plaintiff** in the **Action** and will not provide such information to any **Opt-Outs** or their counsel.

31. The **Plaintiff** through **Class Counsel** expressly waives all rights to opt out of the **Action**.

## 5.2 Objection Procedure

32. A **Class Member** may object to the approval of the **Settlement Agreement** by sending an **Objection and Notice of Intention to Appear** by pre-paid mail, courier, fax, or email to the **Claims Administrator**. The **Claims Administrator** is required to forward all objections to each of the **Counsel for the Defendants** and **Class Counsel** within 48 hours after receiving an objection.

33. All **Objections and Notices of Intention to Appear** must be received before 5:00pm PST on or before the **Objection Deadline**.

34. A **Class Member** who wishes to object to the approval of the **Settlement Agreement** shall state in their **Objection and Notice of Intention to Appear**:

- (a) The full name, current mailing address, fax number, telephone number, and email address of the person who is objecting;
- (b) A brief statement of the nature and reasons for the objection;
- (c) A declaration that the person believes they are a member of the **Class** and the reason for that belief; and
- (d) Whether the person intends to appear at the **Settlement Approval Hearing** or intends to appear by counsel, and if by counsel, the name, address, telephone number, fax number, and email address of counsel.

35. Within seven (7) days of the **Objection Deadline**, the **Claims Administrator** will report to the **Court**, with a copy to each **Counsel for the Defendants** and **Class Counsel**, the names of persons who objected and copies of any **Objections and Notice of Intention to Appear**.

36. **Opt-Outs** shall not be entitled to submit an **Objection and Notice of Intention to Appear** or be heard at the **Settlement Approval Hearing**.

## SECTION 6 – TERMINATION OF SETTLEMENT AGREEMENT

### 6.1 Right of Termination

37. Each of the **Defendants** shall have the right, in their sole discretion, to terminate this **Settlement Agreement** if:

- (a) The **Court** declines to certify the **Action** for the purposes of settlement in accordance with the **Settlement Agreement**;
- (b) Any order dismissing the **Action** does not become a **Final Order**;



- (c) The **Court** declines to approve this **Settlement Agreement** or any term or part thereof deemed material by that **Defendant**;
- (d) The **Court** approves this **Settlement Agreement** in a modified form that has not been consented to by that **Defendant**;
- (e) The **Court** issues an **Order** as the **Final Settlement Approval Order** that is different from the form attached to this **Settlement Agreement** as **Schedule H**, if such changes have not been consented to by that **Defendant**;
- (f) Any order approving this **Settlement Agreement** made by the **Court** does not become a **Final Order**;
- (g) There are 10 or more **Opt-Outs** during the court approved **Opt-Out Period**;
- (h) Any **Public Health Insurers** fail to approve this **Settlement Agreement** prior to the **Certification and Notice Approval Hearing**.

38. To exercise a right of termination, a **Defendant** shall deliver a written notice of termination to **Class Counsel** and to each **Counsel for the Defendants**. Upon delivery of such a written notice, the **Settlement Agreement** is terminated, this **Settlement Agreement** shall be null and void and have no further force or effect, and shall not be binding on the **Parties**, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason. Any termination of the **Settlement Agreement** pursuant to Section 6 is without prejudice to any **Party's** right to assert that its settlement of the **Action** is separate and independent of the settlement entered into with any other **Party**, and to take steps to enforce that settlement notwithstanding the termination of the **Settlement Agreement** by operation of Section 6.

39. Any order, ruling or determination made or rejected by the **Court** with respect to the **Honorarium, Class Counsel Fees, Class Counsel Disbursements, the Claims Administration Procedure, or the Distribution Protocol** shall not be deemed to be a material modification of all, or a part, of this **Settlement Agreement** and shall not provide any basis for the termination of this **Settlement Agreement**.

## **6.2 If Settlement Agreement is Terminated**

40. If this **Settlement Agreement** is terminated in accordance with its terms:
- (a) no application to certify this **Action** as a class proceeding on the basis of this **Settlement Agreement**, or to approve this **Settlement Agreement**, which has not been decided, shall proceed;
  - (b) the **Parties** will cooperate in seeking to have any issued order certifying the **Action** as a class proceeding on the basis of this **Settlement Agreement**

set aside and declared null and void and of no force or effect, and any **Party** shall be estopped from asserting otherwise;

- (c) any prior certification of the **Action** as a class proceeding on the basis of this **Settlement Agreement**, including the definitions of the **Class** and the **Common Issues for Settlement Purposes** pursuant to **this Settlement Agreement**, shall be without prejudice to any position that any of the **Parties** may later take on any issue in the **Action**, or any subsequent proceedings; and
- (d) within ten (10) days of such termination having occurred, **Class Counsel** shall make reasonable efforts to destroy all documents or other materials provided by the **Defendants** and/or **Counsel for the Defendants** under this **Settlement Agreement** or containing or reflecting information derived from such documents or other materials received from the **Defendants** and/or **Counsel for the Defendants**. **Class Counsel** shall provide **Counsel for the Defendants** with a written certification by **Class Counsel** of such destruction.

### **6.3 Return of the Advance Partial Payment Following Termination**

41. If the **Settlement Agreement** is terminated, **Class Counsel** shall, within thirty (30) days of the written notice advising that the **Settlement Agreement** has been terminated in accordance with its terms, return to the defendants Biotrade Canada Ltd. and PNP Pharmaceuticals Inc. the full amount of the **Advance Partial Payment**, plus all accrued interest thereon if any.

### **6.4 Survival of the Provisions After Termination**

42. If this Settlement Agreement is terminated, the provisions of paragraphs 21, 23, 25, 38, 40, 41, 42, 59, 60, 61, 62, 69, 78 and 79, and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of the interpretation of paragraphs within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

## **SECTION 7 – RELEASES, DISCONTINUANCE AND DISMISSAL**

### **7.1 Released Claims**

43. Upon the **Effective Date**, and in consideration of the promise to pay the **Settlement Funds** as set out herein and for other valuable consideration set forth in this **Settlement Agreement**, the **Plaintiff and Class Member Releasors** and **Public Health Insurer Releasors** shall forever and absolutely release and forever discharge the **Releasees** from the **Plaintiff and Class Member Released Claims** and the **Public Health Insurers' Released Claims**, respectively, that any of them, whether directly,

indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have. And for the consideration provided herein, the **Plaintiff and Class Member Releasors** and the **Public Health Insurer Releasors**, agree not to make any claim or take or continue any proceedings arising out of or relating to the subject matter of the **Plaintiff and Class Member Released Claims** and the **Public Health Insurers' Released Claims**, respectively, against any other person, corporation or entity (including, without limitation, any distributors, health care professionals, health care providers, or health care facilities) which might claim damages and/or contribution and indemnity and/or other relief under the provisions of the *Negligence Act*, the *Business Practices and Consumer Protection Act*, or other comparable provincial legislation and any amendments thereto, the common law, Québec civil law, or any other statute, for any relief whatsoever, including relief of a monetary, declaratory or injunctive nature, from one or more of the **Releasees**.

44. The **Plaintiff, Class Members** and each of the **Provincial Health Insurers** acknowledge that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true regarding the subject matter of the **Settlement Agreement**, and it is their intention to release fully, finally and forever all **Plaintiff and Class Members' Released Claims** and **Public Health Insurers' Released Claims** and, in furtherance of such intention, their respective releases shall be and remain in effect notwithstanding the discovery or existence of additional or different facts.

45. An order will be sought at the **Settlement Approval Hearing** which shall include a term releasing the claims of the **Provincial Health Insurers** in substantially the form enclosed as **Schedule H**.

46. Without limiting any other provisions herein, each **Class Member** and each of the **Provincial Health Insurers**, whether or not he, she or it submits a claim or otherwise receives any payment of any kind from the **Settlement Funds**, will be deemed by this **Settlement Agreement** completely and unconditionally to have released and forever discharged the **Releasees** from any and all **Plaintiff and Class Members' Released Claims** and **Public Health Insurers' Released Claims**, respectively.

47. The **Plaintiff**, each **Class Member** and each of the **Provincial Health Insurers**, whether or not they submit a **Claim** or otherwise receive any payment of any kind from the **Settlement Funds**, will be forever prohibited, barred and enjoined from continuing, commencing, instituting or prosecuting any action, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum or any other forum, directly, representatively or derivatively, asserting against any of the **Defendants** or **Releasees** or any other **Person**, any claims that relate to or constitute any **Plaintiff and Class Members' Released Claims** and **Public Health Insurers' Released Claims**, respectively.

## 7.2 Release by London Drugs of Biotrade and PNP

48. London Drugs Limited agrees to release Biotrade Canada Ltd. and PNP Pharmaceuticals Inc. in relation to all claims arising from the manufacture, packaging, labelling, marketing, distribution and sale of **U-Dream** which arise from the **Plaintiff and Class Members' Released Claims** and **Public Health Insurers' Released Claims** released pursuant to section 7.1 as provided in the form of Release from July 2023 executed between London Drugs Limited, Biotrade Canada Ltd., PNP Pharmaceuticals Inc., Horizon Distributors Ltd. and Christmas Natural Products Ltd.

49. To be clear, pursuant to the Release from July 2023, London Drugs Limited expressly waives any right to recover from Biotrade Canada Ltd. or PNP Pharmaceuticals Inc. any portion of their losses or damages which arise from the **Plaintiff and Class Members' Released Claims** and **Public Health Insurers' Released Claims** released pursuant to section 7.1 which they claimed or could have claimed from Biotrade Canada Ltd. or PNP Pharmaceuticals Inc. in relation to the manufacture, labelling, packaging, marketing, distribution or sale of **U-Dream**, whether as claims for contribution and indemnity, or otherwise, and which a court may attribute to the fault of Biotrade Canada Ltd. or PNP Pharmaceuticals Inc.

## 7.3 No Further Claims

50. Upon the **Effective Date**, each of the **Releasors** and **Class Counsel** shall not then or thereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any **Releasee**, or any other person who may claim contribution or indemnity or other claims over relief from any **Releasee**, in respect of any **Released Claim**. For greater certainty and without limiting the generality of the foregoing, each of the **Releasors** shall not assert or pursue a **Released Claim** against any **Releasee** under the laws Canada or of any foreign jurisdiction and all such claims are forever barred, prohibited and enjoined

51. In the event that litigation, commenced or continued by any **Class Member** against another Person, or by another Person against a **Class Member** or any **Defendants**, arising out of or in any way relating to the **Plaintiff and Class Members' Released Claims** and **Public Health Insurers' Released Claims**, results in a claim over or judgment against any of the **Defendants**, that **Class Member** shall fully hold harmless, reimburse, and indemnify the **Defendants** for such amount.

52. Upon the **Effective Date**, the **Defendants** shall not then or thereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any of the **Defendants** or any other person who may claim contribution or indemnity or other claims over relief from any of the **Defendants**, in respect of the manufacture, packaging, labelling, marketing, distribution, or sale of **U-Dream**, and all such claims are forever barred, prohibited and enjoined, with the exception

of the Distributor Actions, which the Parties acknowledge and agree may continue to be maintained.

#### **7.4 Dismissal of the Action**

53. As a term of the Final Settlement Approval Order, the Action will be dismissed against each of the Defendants and Third Parties, with prejudice, and without costs to any Party or Third Parties.

54. Upon the issuance of the **Final Settlement Approval Order**, each **Class Member** shall be deemed to irrevocably consent to the dismissal of the **Action**, without costs to any **Party** and with prejudice against each of the **Defendants**.

#### **7.5 Material Term**

55. The releases, covenants, discontinuances, dismissals, and granting of consent contemplated in this Section 7 shall be considered a material term of the **Settlement Agreement** and the failure of any **Court** to approve the releases, covenants, discontinuances, dismissals, and granting of consent contemplated herein shall give rise to a right of termination pursuant to Section 6 of the **Settlement Agreement**.

### **SECTION 8 – BAR ORDER**

56. The **Plaintiff, Class Counsel**, and each of the **Defendants** agree that the **Final Settlement Approval Order** must include a bar order from the **Court** providing for the following:

- (a) Barring, prohibiting, and enjoining the **Plaintiff, Class Members** and **Provincial Health Insurers** from bringing claims against the **Defendants** or others as set out in paragraphs 47 and 50; and
- (b) Barring, prohibiting, and enjoining the **Defendants** from bringing claims against the **Defendants, Third Parties** or others as set out in paragraph 52, except for the **Distributor Actions** shall not be barred, prohibited or enjoined.

57. The **Parties** acknowledge that the bar orders contemplated in Section 8 shall be considered material terms of the **Settlement Agreement** and the failure of the **Court** to approve the bar orders contemplated herein shall give rise to a right of termination pursuant to Section 6 of the **Settlement Agreement**.

58. For greater certainty, nothing in this **Settlement Agreement** shall prohibit any **Opt-Outs** from commencing claims against any **Defendants** in relation to the **Released Claims**, and nothing in this **Settlement Agreement** shall in any way preclude a **Defendant** from initiating or proceeding with an action or other proceeding against its own insurer in relation to the **Released Claims** or any liabilities arising from this **Action**, the payment of the **Settlement Funds** or the **Released Claims**.

## SECTION 9 – EFFECT OF SETTLEMENT

### 9.1 No Admission of Liability

59. The **Plaintiff** and each of the **Defendants** expressly reserve all of their rights if the **Settlement Agreement** is not approved, is terminated, or otherwise fails to take effect for any reason. Further, whether or not the **Settlement Agreement** is finally approved, is terminated, or otherwise fails to take effect for any reason, this **Settlement Agreement** and anything contained herein, any and all negotiations, documents, discussions and proceedings associated with this **Settlement Agreement**, and any action taken to carry out this **Settlement Agreement** (including the certification of the **Action** as against the **Defendants** for settlement purposes), shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability whatsoever by any of the **Defendants**, or of the truth of any of the claims or allegations contained in the **Action** against any of the **Defendants** and cannot be used for any purpose whatsoever in any subsequent proceeding relating to the matters in issue.

### 9.2 Agreement not Evidence

60. The **Parties** agree that, whether or not it is finally approved, is terminated, or otherwise fails to take effect for any reason, this **Settlement Agreement** and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this **Settlement Agreement**, and any action taken to carry out this **Settlement Agreement** (including the certification of the **Action** against the **Defendants** for settlement purposes), shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except that after the **Effective Date** the **Settlement Agreement** may be referred to in a proceeding solely for the purpose of: approving and/or enforcing this **Settlement Agreement**, defending against the assertion of **Released Claims**, as necessary in any contractual or insurance-related proceeding, or except for disclosure or for use as evidence in the **Distributor Actions**, or as otherwise required by law.

### 9.3 No Further Litigation

61. No **Class Counsel**, nor anyone currently or hereafter employed by or a partner with **Class Counsel**, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any **Person** against any of the **Defendants** which relates to or arises from the **Released Claims**, except if this **Action** is not certified, the continuation of the claims asserted in this **Action** on an individual basis or otherwise. Moreover, **Class Counsel** or anyone currently or hereafter employed by or a partner with **Class Counsel** may not divulge to anyone for any purpose any information obtained in the course of the **Action** or the negotiation and preparation of this **Settlement Agreement**, except to the extent such information was, is or becomes otherwise publicly available or unless ordered to do so by a court.

62. This Section 9.3 and paragraph 30 hereof shall be inoperative to the extent that it requires any lawyer who is a member of the Law Society of British Columbia to breach their obligations under s. 3.2-10 of the Law Society of British Columbia's *Code of Professional Conduct* by restricting a lawyer's right to practice.

## **SECTION 10 – CERTIFICATION FOR SETTLEMENT ONLY**

### **10.1 Certification Solely for the Purposes of Settlement**

63. The **Parties** agree that the **Action** shall be certified as a class proceeding as against the **Defendants** solely for purposes of settlement of the **Action** and the approval of this **Settlement Agreement** by the **Court**.

64. The **Plaintiff** agrees that, in the motion for certification of the **Action** as a class proceeding for settlement purposes and for the approval of this **Settlement Agreement**, the only common issues that they will seek to define are the **Common Issues for Settlement Purposes** and the only class that they will assert is the **Class**.

## **SECTION 11 – NOTICES TO SETTLEMENT CLASS**

### **11.1 Notices Required**

65. **Class Members** shall be given a single **Notice** in the form attached as **Schedule B** of: (i) the certification of the **Action** as a class proceeding as against the **Defendants** for settlement purposes; (ii) the right to opt out of the **Action** or file an **Objection and Notice of Intention to Appear** at the **Settlement Approval Hearing** (iii) the date and time of the **Settlement Approval Hearing**; and (iv) if they are brought with the hearings to approve the **Settlement Agreement**, the hearings to approve the **Claims Administration Procedure, Distribution Protocol, Honorarium, Class Counsel Fees, and Class Counsel Disbursements**.

66. If this **Settlement Agreement** is approved, **Class Members** will receive further **Notice** in the form attached as **Schedule C** advising of the **Claims Administration Procedure** and the **Distribution Protocol**.

67. If following the distribution of the **Notice** in paragraph 65 this **Settlement Agreement** is terminated, the **Class** shall be given notice of such event.

### **11.2 Form and Distribution of Notices**

68. The **Notices** described in Section 11.1 shall be in a form attached as Schedules B and C, and approved by the **Court**.

69. The **Notices** shall be disseminated by a method agreed upon by the **Parties** and approved by the **Court**. Except as stated in paragraphs 13 and 42, the **Defendants** shall not be responsible for payment of any costs relating to or arising out of the **Notices** or dissemination thereof.

## SECTION 12 – THE HONORARIUM, CLASS COUNSEL FEES, DISBURSEMENTS AND ADMINISTRATION EXPENSES

### 12.1 Court Approval for the Honorarium, Fees and Disbursements

70. **Class Counsel** may seek the **Court's** approval of the **Claims Administration Procedure** and **Distribution Protocol** contemporaneous with seeking approval of this **Settlement Agreement**. **Class Counsel Disbursements**, an **Honorarium** and **Class Counsel Fees** shall be reimbursed and paid solely out of the **Trust Account** after the **Effective Date**. Except as provided in paragraph 13 herein, **Claims Administration Costs** may only be paid out of the **Trust Account** after the **Effective Date**.

## SECTION 13 – MISCELLANEOUS

### 13.1 Authorship

71. The **Settlement Agreement** shall be deemed to have been mutually prepared by the **Parties** and shall not be construed against any of them solely by reason of authorship.

### 13.2 Public Comments

72. The **Parties** and their respective counsel agree that when publicly commenting on the **Claims** that have been settled pursuant to the **Settlement Agreement**, they shall, amongst other things:

- (a) inform the inquirer that all **Claims** have been settled pursuant to the **Settlement Agreement** and to the satisfaction of the **Parties** and the **Claimants**;
- (b) inform the inquirer that the settlement of the **Claims**, which are subject to the **Settlement Agreement**, is fair, reasonable; and in the best interests of the **Class**;
- (c) decline to comment in a manner that would cast the conduct of any **Party** in a negative light, or reveal anything expressed, either orally or in writing, during settlement negotiations; and
- (d) inform the inquirer the **Settlement Agreement** is not to be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability whatsoever by the **Defendants**, or of the truth of any of the claims or allegations contained in the **Action** against the **Defendants**.



### 13.3 Motions for Direction

73. **Class Counsel** or any of the **Defendants** may apply to the **Court** as may be required for directions in respect of the interpretation, implementation and administration of this **Settlement Agreement**.

74. All motions contemplated by this **Settlement Agreement** shall be on notice to the **Parties**.

### 13.4 Headings, etc.

75. In this **Settlement Agreement**:

- (a) the division of the **Settlement Agreement** into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this **Settlement Agreement**; and
- (b) the terms “this **Settlement Agreement**,” “hereof,” “hereunder,” “herein,” and similar expressions refer to this **Settlement Agreement** and not to any particular section or other portion of this **Settlement Agreement**.

### 13.5 Computation of Time

76. In the computation of time in this **Settlement Agreement**, except where a contrary intention appears,

- (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a holiday as “holiday” is defined in the *Supreme Court Civil Rules*, BC Reg 168/2009, the act may be done on the next day that is not a holiday.

### 13.6 Ongoing Jurisdiction

77. The **Court** shall maintain jurisdiction with respect to implementation, administration, interpretation, and enforcement of the terms of this **Settlement Agreement**, and the **Plaintiff**, **Class Members**, and each of the **Defendants** attorn to the jurisdiction of the **Court** for such purposes. The provision shall not be used by any entity, whether or not a party to the **Action**, in an effort to establish any of the alleged facts, the jurisdiction of the Canadian courts over any foreign party, or the certification of any other proceedings in any province of Canada.

### 13.7 Governing Law

78. This **Settlement Agreement** and all disputes arising out of or in connection with it shall be governed by and construed and interpreted exclusively in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.

### 13.8 Entire Agreement

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

### 13.9 Amendments

80. This **Settlement Agreement** may not be modified or amended except in writing and on consent of all **Parties** hereto, and any such modification or amendment must be approved by the **Court**.

### 13.10 Binding Effect

81. This **Settlement Agreement** shall be binding upon, and enure to the benefit of, the **Plaintiff**, the **Class Members**, each of the **Defendants**, the **Releasors**, the **Releasees** and all of their respective successors and assigns, in all jurisdictions in Canada. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the **Plaintiff** shall be binding upon all **Releasors** and each and every covenant and agreement made herein by each of the **Defendants** shall be binding upon all of the **Releasees** in all jurisdictions of Canada.

### 13.11 Counterparts

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

### 13.12 Negotiated Agreement

83. This **Settlement Agreement** has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this **Settlement Agreement** shall have no force and effect. The **Parties** further agree that the language contained in or not contained in previous drafts of this **Settlement Agreement**, or any

agreement in principle, shall have no bearing upon the proper interpretation of this **Settlement Agreement**.

### **13.13**     **Language**

84. The **Parties** acknowledge that they have required and consented that this **Settlement Agreement** and all related documents be prepared in English.

### **13.14**     **Recitals**

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

### **13.15**     **Schedules**

86. The schedules annexed hereto form part of this **Settlement Agreement**.

### **13.16**     **Acknowledgements**

87. Each of the **Parties** hereby affirms and acknowledges that:

- (a) they, or a representative of the **Party** with the authority to bind the **Party** with respect to the matters set forth herein, has read and understood the **Settlement Agreement**;
- (b) the terms of this **Settlement Agreement** and the effects thereof have been fully explained to them by their counsel;
- (c) they, or the **Party's** representative fully understands each term of the **Settlement Agreement** and its effect; and
- (d) no **Party** has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other **Party**, beyond the terms of the **Settlement Agreement**, with respect to the first **Party's** decision to execute this **Settlement Agreement**.

### **13.17**     **Authorized Signatures**

88. Each of the undersigned represents that they are fully authorized to enter into the terms and conditions of, and to execute, this **Settlement Agreement** on behalf of the **Parties** identified above their respective signatures and their law firms.

### **13.18**     **Notice**

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

**For the Plaintiff and for Class Counsel in the Action:**

Anthony Leoni  
**Rice Harbut Elliott LLP**  
Injury Trial Lawyers  
Suite #820 – 980 Howe Street  
Vancouver, BC V6Z 0C8  
Tel: 604-682-3771  
Fax: 604-682-0587  
Email: ALeoni@rhelaw.com

**For the Defendant and Third Party, Biotrade Canada Ltd.:**

Daniel Shugarman  
Nicole Chang  
**Whitelaw Twining**  
2400 – 200 Granville Street  
Vancouver, BC V6C 1S4  
Tel: 604-682-5466  
Fax: 604-682-5217  
Email: dshugarman@wt.ca

**For the Defendant, London Drugs Limited:**

Kaitlin Smiley  
Randy Sutton  
Erica Grant  
**Norton Rose Fulbright Canada LLP**  
1800 – 510 West Georgia Street  
Vancouver, BC V6B 0M3  
Tel: 604-687-6575  
Fax: 604-641-4949  
Email: randy.sutton@nortonrosefulbright.com  
kaitlin.smiley@nortonrosefulbright.com  
erica.grant@nortonrosefulbright.com

**For the Defendants, Rexall Pharmacy Group ULC (formerly known as Rexall Pharmacy Group Ltd.) and Rexall Pharmacies Ltd. (formerly known as Rexall/Pharma Plus Pharmacies Ltd.):**

Emily Kirkpatrick

Saheli Sodhi

**McEwan Cooper Kirkpatrick LLP**

900 – 980 Howe Street

Vancouver, BC V6Z 0C8

Tel: 604-283-7740

Fax: 778-300-9393

Email: ekirkpatrick@mcewanpartners.com

**For the Defendants, Whole Foods Market/Whole Foods Market Canada Inc.:**

Samantha Ip

Denny Chung

**Clark Wilson LLP**

900 – 885 West Georgia Street

Vancouver, BC V6C 3H1

Tel: 604-687-5700

Fax: 604-687-6314

Email: sip@cwilson.com

dchung@cwilson.com

**For the Defendant PNP Pharmaceuticals Inc.:**

Jill Shore  
Amelia Staunton  
Lindsey von Bloedau  
**Dolden Wallace Folick LLP**  
18th Floor – 609 Granville Street  
Vancouver, BC V7Y 1G5  
Tel: 604-689-3222  
Fax: 604-689-3777  
Email: jshore@dolden.com

**13.19      Date of Execution**

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

**PLAINTIFFS AND CLASS COUNSEL:**

Name of Authorized Signatory: \_\_\_\_\_

Signature of Authorized Signatory: \_\_\_\_\_

James Douglas Ruckman, on behalf of himself  
and the Class

Name of Authorized Signatory: \_\_\_\_\_

Signature of Authorized Signatory: \_\_\_\_\_

Rice Harbut Elliott LLP

**BIOTRADE CANADA LTD.**

Name of Authorized Signatory: \_\_\_\_\_

Signature of Authorized Signatory: \_\_\_\_\_

Whitelaw Twining

**LONDON DRUGS LIMITED**

Name of Authorized Signatory: \_\_\_\_\_

Signature of Authorized Signatory: \_\_\_\_\_

Norton Rose Fulbright Canada LLP

**REXALL PHARMACY GROUP ULC (formerly known as REXALL PHARMACY GROUP LTD.) and REXALL PHARMACIES LTD. (formerly known as REXALL/PHARMA PLUS PHARMACIES LTD.)**

Name of Authorized Signatory: \_\_\_\_\_

Signature of Authorized Signatory: \_\_\_\_\_  
McEwan Cooper Kirkpatrick LLP

**WHOLE FOODS MARKET/WHOLE FOODS MARKET CANADA INC.**

Name of Authorized Signatory: \_\_\_\_\_

Signature of Authorized Signatory: \_\_\_\_\_  
Clark Wilson LLP

**PNP PHARMACEUTICALS INC.**

Name of Authorized Signatory: \_\_\_\_\_

Signature of Authorized Signatory: \_\_\_\_\_  
Dolden Wallace Folick LLP

**Attached Schedules:**

- Schedule A
- Schedule B
- Schedule C
- Schedule D
- Schedule E
- Schedule F
- Schedule G
- Schedule H

### Schedule A – Common Issues For Settlement Purposes

The Plaintiff seeks certification of the following common issues for settlement purposes only:

1. Did the Defendants supply to the marketplace U-Dream intended for human consumption by the Class Members?
2. Did one or more Defendants cause the consumption of the U-Dream with either knowledge or reckless disregard to the presence of a pharmaceutical-grade substance similar to Zopiclone (a Schedule 1 substance under the **Controlled Drugs and Substances Act**, SC 1996, c. 19 (“**CDSA**”), so as to constitute a battery at law?
3. Does the U-Dream contain a pharmaceutical-grade substance similar to Zopiclone - a Schedule 1 substance under the CDSA?
4. Did the Defendant Manufacturers owe a duty of care to the Class Members with respect to the development, testing, manufacturing, packaging, distribution, marketing, and sale of the U-Dream?
5. If the answer to the above question is ‘yes’, did the Defendant Manufacturers breach the standard of care owed to the Class Members?
6. Is the standard of care for the manufacture of the U-Dream one of absolute liability for manufacturing defects?
7. Did the Defendant Merchants and Distributors owe a duty of care to the Class Members with respect to the distribution, marketing, and sale of the U-Dream?
8. If the answer to the above question is ‘yes’, did the Defendant Merchants and Distributors breach the standard of care owed to the Class Members, and if so how?
9. Was the U-Dream sold and distributed by the Defendant Merchants and Distributors not of merchantable quality and/or unfit for its intended use on the basis that it contained a pharmaceutical-grade substance similar to Zopiclone—a Schedule I substance under the CDSA—which was not part of the disclosed ingredients of the U-Dream?
10. When did the Defendants know, or when ought the Defendants to have known, that the U-Dream contained a pharmaceutical-grade substance similar to Zopiclone?



11. Did the Defendants have a duty to warn the Class Members of impurities contained in the U-Dream and/or the increased Health Risks from the U-Dream, used as indicated?
12. Does the U-Dream, used as indicated, cause or contribute to increased Health Risks?
13. Is it a reasonable and foreseeable consequence that persons who learn they ingested U-Dream containing an undisclosed pharmaceutical-grade substance similar to Zopiclone, could experience mental disturbance that was serious, prolonged, and above the ordinary annoyances, anxieties, and fears that come with living in civil society?
14. Did one or more of the Defendants engage in conduct that constituted deceptive and/or unconscionable acts or practices, contrary to ss. 4 and 8 of the ***Business Practices and Consumer Protection Act***, S.B.C. 2004, c.2 ("**BPCPA**") or equivalent legislation in other common law provinces?
15. Did one or more of the Defendants knowingly or recklessly make a representation to the public that was false or misleading in a material respect, contrary to s. 52 of the ***Competition Act***, RSC, 1985, c C-34 ("**Competition Act**")?
16. Are Class Members entitled to a claim for recovery against the Defendant Merchants and Distributors under the Sale of Goods Act, R.S.B.C. 1996, c. 410 ("**SGA**"), s. 18, or equivalent legislation in other common law provinces, namely the implied condition that the goods are of merchantable quality and the implied warranty or condition as to the quality or fitness of the product and its intended use?
17. Were one or more of the Defendants enriched by the receipt of payments from the Class Members for the purchase of the U-Dream during the Class Period?
18. If the answer to question #18 above is 'yes', did the Class Members suffer a corresponding deprivation in the amount of payments collected by the Defendants from the Class Members?
19. Is there a juristic reason why the Defendants should be entitled to retain the payments collected from the Class Members?
20. If the answer to question #19 above is 'yes' and the answer to question #20 above is 'no', what restitution, if any, is payable by one or more of the Defendants to the Class Members based on unjust enrichment?
21. Is this an appropriate case for one or more of the Defendants to disgorge profits earned during the Class Period?

22. If there is a finding of liability, can the amount of restitution be determined on an aggregate basis, and, if so, in what amount?
23. Did one or more of the Defendants breach articles 1726 and 1730 of the Civil Code of Québec, CQLR c C-1991?
24. Did one or more of the Defendants breach the *Consumer Protection Act*, RSQ c P-40.1?
25. Are one or more of the Defendants liable to the Class for damages (including punitive damages) for:
  - a. battery?
  - b. negligence?
  - c. breach of the applicable consumer protection legislation?
  - d. breach of the Competition Act?
  - e. breach of the SGA?
  - f. breach of the Civil Code of Québec, CQLR c C-1991?
26. If one or more of the Defendants are liable to the Class for damages, can the court assess damages in the aggregate, in whole or in part, for the Class? If so, what is the amount of the aggregate damages assessment?

## **Schedule B - Notice of Proposed Settlement and Settlement Approval Hearing**

### **DID YOU PURCHASE AND/OR INGEST U-DREAM IN CANADA ON OR AFTER AUGUST 18, 2014? YOUR LEGAL RIGHTS MAY BE AFFECTED**

#### **Why did I get this Notice?**

All persons in Canada who purchased or ingested **U-Dream** on or after August 18, 2014 (the “**Class**” or “**Class Members**”) have the right to know about a proposed settlement that has been reached in a lawsuit *Ruckman v. Biotrade Canada Ltd. Et al.*, S.C.B.C. No. VLC S-1914497 (the “**Class Action**”).

On March 15, 2024, the BC Supreme Court certified the Class Action for the purpose of settlement. A copy of the court’s order can be obtained here [insert link].

The proposed settlement of the Class Action must be approved by the Court to become binding. The settlement is a compromise of disputed claims and is not an admission of liability or wrongdoing or fault by any of the Defendants.

The plaintiff who filed the lawsuit on behalf of the Class Members is James Douglas Ruckman (called the “**Representative Plaintiff**”).

The lawyers for the Class are Rice Harbut Elliott LLP (“**Class Counsel**”).

#### **What is this lawsuit about?**

U-Dream is an over-the-counter sleep aid product that was manufactured and/or distributed by Biotrade Canada Ltd., London Drugs Limited, Rexall Pharmacy Group Ltd., Rexall/Pharma Plus Pharmacies Ltd., Whole Foods Market, Whole Foods Market Canada Inc. and PNP Pharmaceuticals Inc (the “**Defendants**”) in Canada.

The Plaintiff alleges that U-Dream was contaminated by an undisclosed ingredient and should never have been sold. Further, the Plaintiff alleges that it caused some Class Members to sustain injuries.

#### **Who are the Class Members affected by the settlement?**

The Class consists of:

- a) all persons in Canada who purchased or ingested U-Dream between August 18, 2014 to present; and
- b) where such persons in (a) are deceased, all living parents, spouses or children entitled to maintain a claim against the Defendants pursuant to the Family Compensation Act, R.S.B.C. 1996, c. 126, and persons entitled to bring similar claims in other Provinces and Territories.

If you are not sure whether you are included in the Class, you can ask for free help by calling the settlement administrator at <phone number> for more information. You can also visit <website> for more information or send an email to <email address>.

### **Will I receive compensation from this settlement if it is approved?**

The amount of compensation each Class Member is entitled to depends on the particular circumstances of the Class Member and will be determined by reference to a settlement distribution protocol to be approved by the Court, a draft of which can be found here: <hyperlink>.

The current projection is that Class Members with personal injuries may be entitled to payments ranging from \$1,000 to \$40,000, depending on the type of injury they sustained. In addition, Class Members with personal injuries may be entitled to payments for disability, unemployment, or other out-of-pocket losses.

Class Members claiming refunds may be entitled to payments of \$15 or more with proof of purchase.

The precise amount of claims may be reduced depending upon the number of claims that are made and the cost of settlement administration fees.

### **What are the terms of the settlement?**

The settlement provides for the payment of up to \$2,734,485 by the Defendants, in exchange for a full release of all claims against them by the Class and the public health insurers who have paid for health services for Class Members, and a bar order precluding claims from being brought or maintained against the Defendants relating to or arising out of the manufacture and distribution of U-Dream.

A further Court hearing will be held to seek approval of the Settlement Agreement by the Court (the “**Settlement Approval Hearing**”). The Settlement Approval Hearing will take place on August 2, 2024 by MS-Teams.

If the Court approves the proposed settlement, it will be binding on all Class Members who do not opt out of the proceeding.

The full settlement terms and court documents are available at the following link:

<hyperlink>.

### **How do I participate?**

**If you are a Class Member and you want to participate in the settlement, you do not need to do anything.** You are automatically included as a Class Member unless you opt out of the applicable proceeding.

After the Court approves the settlement, you will be notified in writing regarding how to apply for compensation.

You may contact Class Counsel if you would like to be notified when this information becomes available.

### **What if I do NOT want to participate in the settlement?**

If you do not want to participate in the settlement, you may exclude yourself (“**Opt Out**”).

In order to Opt Out, you must complete and sign an Opt Out form and deliver it to Class Counsel by mail, courier, or email no later than the Opt Out Deadline, which is 60 days after the date on which this Notice was first published, or **May 28, 2024**. The Opt-Out form is available at <website>.

The Opt-Out form must be emailed to <email address>, or mailed or couriered to:

RicePoint Administration, Inc.  
1480 Richmond St. #204, London, ON N6G 0J4  
Attention: Michael Mooney

### **What are the legal fee arrangements?**

Under the terms of their retainer agreement with the Representative Plaintiff, Class Counsel will seek approval of a legal fee of 30% of the settlement amount payable to the Class Members, plus disbursements, applicable taxes, administration expenses, and an honorarium of \$5,000 to the Representative Plaintiff.

Class Counsel fees, disbursements and any payments to the Representative Plaintiff are also subject to Court approval to ensure fairness.

### **What if I want to object to the settlement or legal fee?**

All Class Members have the right to let the Court know of any objection they have to the approval of the Settlement Agreement, claims administration and distribution protocol, Class Counsel fees, disbursements, administration expenses or the payment of an honorarium to the Representative Plaintiff. To make an objection, you must deliver a letter or written objection by pre-paid mail, courier, fax or email to Class Counsel no later than 60 days after the date on which this Notice was first published, or on or before 5:00 pm PST on **May 28, 2024**.

If a Class Member wishes to object, the following information must be included in the letter or written objection delivered to Class Counsel:

- a) The objector’s full name, current mailing address, telephone number and email address;
- b) Confirmation that the objector is a member of the Class;

- c) A statement of the nature and reasons for the objection; and
- d) Whether the objector intends to attend the court hearing on their own behalf or through a lawyer, and if by a lawyer, the name, address, telephone number and email address of the lawyer.

**For more information or a copy of the Settlement Agreement**, go to the following website:

<website>

You may also contact Class Counsel at <email?> or via mail at the address above.

This notice has been authorized by an order of the Supreme Court of British Columbia.

### Schedule C - Class Action Legal Notice

#### IF YOU PURCHASED AND INGESTED U-DREAM IN CANADA ON OR AFTER AUGUST 18, 2014 YOU MAY BE ENTITLED TO RECEIVE MONEY

#### Why I Am I Receiving This Notice?

This class action lawsuit has ended with a settlement for:

- a) all persons in Canada who purchased and/or ingested an alleged natural health product sleep aid called **U-Dream** on or after **August 18, 2014**; and
- b) where such persons in (a) are deceased, all living parents, spouses or children entitled to maintain a claim against the Defendants pursuant to the *Family Compensation Act*, R.S.B.C. 1996, c. 126, and persons entitled to bring similar claims in other Provinces and Territories.

(“Class Members”)

As a possible Class Member, you may be eligible to receive a share of the Settlement Funds. **However, there is a deadline for making a claim (see next heading).**

Settlement Funds of approximately **\$2,734,485** (after legal fees, claims administration costs and disbursements are deducted) are available to pay all eligible claimants, known as Class Members, who make a claim.

#### Deadline For Making A Claim

**Important:** The deadline for making a claim is <@>, 2024.

All claims must be received by the Claims Administrator, **NO LATER THAN 120 days after the settlement of the Class Action has been approved, or <@> 2024.** If a paper Claim Form is used, the postmark on the envelope will be considered as the day the Claim Form was submitted to the Claims Administrator.

#### Who Can Make A Claim?

You must match **Option A and/or B** in order to be eligible for compensation.

OPTION	IF YOU, OR YOUR DECEASED PARENT, SPOUSE OR CHILD PURCHASED OR INGESTED U-DREAM ON OR AFTER August 18, 2014 <u>AND</u> :	THEN:
A	1. You have no proof of purchase  -OR-	You may be eligible for compensation for refunds. Please complete the Claim Form.

OPTION	IF YOU, OR YOUR DECEASED PARENT, SPOUSE OR CHILD PURCHASED OR INGESTED U-DREAM ON OR AFTER August 18, 2014 <u>AND</u> :	THEN:
<b>[REFUND]</b>	2. You have proof that you, or your deceased parent, spouse, or child purchased U-Dream	If you pursue Option A, you are not eligible for compensation under option B.
<b>B</b> <b>[INJURY OR DEATH]</b>	<p>You suffered an <b>injury, or your parent, spouse or child died</b> as a result of ingesting U-Dream, which includes the following:</p> <ol style="list-style-type: none"> <li>1. heart attack, cardiac arrest, stroke or other cardiac injury (<b>Class 1</b>);</li> <li style="text-align: center;">-OR-</li> <li>2. injuries suffered as a result of a motor vehicle accident or other incident while impaired by the use of U-Dream (<b>Class 2</b>);</li> <li style="text-align: center;">-OR-</li> <li>3. addiction, withdrawal, mental distress, anxiety, and/or psychological injury diagnosis (<b>Class 3</b>).</li> <li style="text-align: center;">-OR-</li> <li>4. death as a result of ingesting U-Dream (<b>Class 4</b>)</li> </ol>	<p>You may be eligible for compensation for your injuries, or for the death of your parent, spouse or child. Please complete the Claim Form.</p> <p>If you pursue Option B, you are not eligible for compensation under option A.</p> <p>You can only claim one of the four available classes.</p>

### How Do I Make A Claim?

You must fully complete the Court-approved Claim Form.



To get a claim form you have two (2) options:

1
<p><b>Download and print the Claim Form by going to the website:</b></p> <p>&lt;website&gt;</p>
2
<p><b>Write to request a Claim Form.</b></p> <p>RicePoint Administration, Inc.          Attention: U-Dream Class Action Administrator          1480 Richmond St. #204          London, ON N6G 0J4</p>

#### WHAT ARE MY OPTIONS?

<b>1. Submit a Claim Form</b>	If you want to receive money you <b>MUST SUBMIT</b> a Claim Form to the Claims Administrator <b>NO LATER THAN X, 2024.</b>
<b>2. Do Nothing</b>	If you do <b>not</b> make a claim, you will <b>not</b> get any money and you will give up the right to get money in the future.

**Schedule D - Consent Certification and Notice Approval Order**

ACTION NO. S1914497  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

JAMES DOUGLAS RUCKMAN

PLAINTIFF

AND:

BIOTRADE CANADA LTD., LONDON DRUGS LIMITED,  
REXALL PHARMACY GROUP LTD., REXALL/PHARMA PLUS PHARMACIES LTD.,  
PHARMASAVE DRUGS LTD., WHOLE FOODS MARKET, AND  
WHOLE FOODS MARKET CANADA INC. AND PNP PHARMACEUTICALS INC.

DEFENDANTS

BIOTRADE CANADA LTD.,  
HEALTHY LIFE AND FOODS COMPANY LTD., HERBAMEDICA S.A. DE C.V., AND  
BAOJI EARAY BIO-TECH CO. LTD.

THIRD PARTIES

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

**ORDER MADE AFTER APPLICATION**

BEFORE } THE HONOURABLE JUSTICE BRANCH } 2/April/2024

ON THE APPLICATION of the plaintiff, James Douglas Ruckman; coming on for hearing in person at the Courthouse at 800 Smithe Street Vancouver, BC on March 15, 2024 and continued on April 2, 2024 by MS Teams; and on hearing Anthony Leoni and Kendal Paul for the plaintiff; and Nicole Chang for the Defendant Biotrade Canada Ltd; Denny Chung for the Defendant Whole Foods Market and Whole Foods Market Canada Inc.; Kaitlin Smiley for the Defendant London Drugs Limited; Emily Kirkpatrick for the Defendants Rexall/Pharma Plus Pharmacies Ltd and Rexall Pharmacy Group Ltd. (the “**Rexall Defendants**”); and; Jill Shore for the Defendant PNP Pharmaceuticals Inc.

**AND ON READING** all materials filed and on hearing the submissions of counsel, and **BY CONSENT** of all parties except the Rexall Defendants;

## THIS COURT ORDERS that:

1. For the purposes of the Order, except to the extent that they are modified in this Order, the definitions set out in the settlement agreement dated January 31, 2024 (“**Settlement Agreement**”), and attached as **Schedule A** to this Order, apply to and are incorporated into this Order;
2. This Action is certified as a class proceeding as against the Defendants for settlement purposes only;
3. Notice is approved in the form set out as **Schedule B** to the Settlement Agreement;
4. The Class is defined as:
  - a. All persons in Canada who purchased and/or ingested one or more of the U-Dream sleep aid products manufactured or distributed by the Defendants and identified and listed under the NPN (Natural Product Number) listed in Schedule A from August 18, 2014 to present (the “**Class Period**”);
  - b. where such persons in (a) are deceased, all living parents, spouses or children entitled to maintain a claim against the Defendants pursuant to the *Family Compensation Act*, R.S.B.C. 1996, c. 126, and persons entitled to bring similar claims in other Provinces and Territories;
5. James Ruckman is appointed the representative plaintiff on behalf of the Class;
6. Rice Harbut Elliott LLP is appointed class counsel on behalf of the Class (“**Class Counsel**”);
7. Rice Point be appointed as Claims Administrator on behalf of the Class;
8. Within three weeks of the date of this Order, the Defendants will provide to RicePoint any email contact information they have for known Class Members as a result of purchases using a loyalty program or online purchases or confirm that they do not have email contact information for known Class Members. RicePoint will only use the information provided to create a contact list to effect to Class Members the Notice of Proposed Settlement and Settlement Approval Hearing, and should it be approved, Notice of Settlement to any Class Member. RicePoint will destroy all records received from the Defendants after the contact list has been created, and will destroy the email contact information of Opt-Outs which was received from the Defendants;
9. Notice of certification will be distributed to known members of the Class by email and to unknown members of the Class by advertisements in French and English on Google Display Network, Facebook, and Instagram, with an additional press release over PR Newswire’s Canadian Bilingual Newsline;

10. Notice distributed to known Class Members by email will state that the Court ordered that such notice be conveyed in this matter based on contact information the Court ordered the Defendants provide;
11. The procedure by which any Person can opt out of this Action as set out in paragraphs 26(a) to (e) of the Settlement Agreement is hereby approved;
12. Schedule G to the Settlement Agreement (Opt Out Form) is hereby approved;
13. Any Person who opts out of this action in accordance with Schedule G to this Settlement Agreement shall be excluded from the Class and the Action;
14. The hearing date for the approval of the Settlement Agreement ("**Settlement Approval Hearing**") is hereby set for August 2, 2024, by MS-Teams;
15. The procedure by which any Person can file an Objection and Notice of Intention to Appear at the Settlement Approval Hearing as set out in paragraphs 32 to 34 of the Settlement Agreement is hereby approved;
16. If the Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, this Order, including certification for settlement purposes only, shall be set aside and declared null and void and of no force or effect without the need for any further order of this Court;
17. The following common issues are hereby approved:
  1. Did the Defendants supply to the marketplace U-Dream intended for human consumption by the Class Members?
  2. Did one or more Defendants cause the consumption of the U-Dream with either knowledge or reckless disregard to the presence of a pharmaceutical-grade substance similar to Zopiclone (a Schedule 1 substance under the **Controlled Drugs and Substances Act**, SC 1996, c. 19), so as to constitute a battery at law?
  3. Does the U-Dream contain a pharmaceutical-grade substance similar to Zopiclone - a Schedule 1 substance under the **Controlled Drugs and Substances Act**?
  4. Did the Defendant Manufacturers owe a duty of care to the Class Members with respect to the development, testing, manufacturing, packaging, distribution, marketing, and sale of the U-Dream?
  5. If the answer to the above question is 'yes', did the Defendant Manufacturers breach the standard of care owed to the Class Members?

6. Is the standard of care for the manufacture of the U-Dream one of absolute liability for manufacturing defects?
7. Did the Defendant Merchants and Distributors owe a duty of care to the Class Members with respect to the distribution, marketing, and sale of the U-Dream?
8. If the answer to the above question is 'yes', did the Defendant Merchants and Distributors breach the standard of care owed to the Class Members, and if so, how?
9. Was the U-Dream sold and distributed by the Defendant Merchants and Distributors not of merchantable quality and/or unfit for its intended use on the basis that it contained a pharmaceutical-grade substance similar to Zopiclone—a Schedule I substance under the **Controlled Drugs and Substances Act**—which was not part of the disclosed ingredients of the U-Dream?
10. When did the Defendants know, or when ought the Defendants to have known, that the U-Dream contained a pharmaceutical-grade substance similar to Zopiclone?
11. Did the Defendants have a duty to warn the Class Members of impurities contained in the U-Dream and/or the increased Health Risks from the U-Dream, used as indicated?
12. Does the U-Dream, used as indicated, cause or contribute to increased Health Risks?
13. Is it a reasonable and foreseeable consequence that persons who learn they ingested U-Dream containing an undisclosed pharmaceutical-grade substance similar to Zopiclone, could experience mental disturbance that was serious, prolonged, and above the ordinary annoyances, anxieties, and fears that come with living in civil society?
14. Did one or more of the Defendants engage in conduct that constituted deceptive and/or unconscionable acts or practices, contrary to ss. 4 and 8 of the Business Practices and Consumer Protection Act, S.B.C. 2004, c.2 or equivalent legislation in other common law provinces?
15. Did one or more of the Defendants knowingly or recklessly make a representation to the public that was false or misleading in a material respect, contrary to s. 52 of the Competition Act, RSC, 1985, c C-34?
16. Are Class Members entitled to a claim for recovery against the Defendant Merchants and Distributors under the Sale of Goods Act, R.S.B.C. 1996, c. 410 ("SGA"), s. 18, or equivalent legislation in other common law provinces, namely the implied condition that the goods are

of merchantable quality and the implied warranty or condition as to the quality or fitness of the product and its intended use?

17. Were one or more of the Defendants enriched by the receipt of payments from the Class Members for the purchase of the U-Dream during the Class Period?
18. If the answer to question #18 above is 'yes', did the Class Members suffer a corresponding deprivation in the amount of payments collected by the Defendants from the Class Members?
19. Is there a juristic reason why the Defendants should be entitled to retain the payments collected from the Class Members?
20. If the answer to question #19 above is 'yes' and the answer to question #20 above is 'no', what restitution, if any, is payable by one or more of the Defendants to the Class Members based on unjust enrichment?
21. Is this an appropriate case for one or more of the Defendants to disgorge profits earned during the Class Period?
22. If there is a finding of liability, can the amount of restitution be determined on an aggregate basis, and, if so, in what amount?
23. Did one or more of the Defendants breach articles 1726 and 1730 of the Civil Code of Québec, CQLR c C-1991?
24. Did one or more of the Defendants breach the Consumer Protection Act, RSQ c P-40.1?
25. Are one or more of the Defendants liable to the Class for damages (including punitive damages) for:
  - a. battery?
  - b. negligence?
  - c. breach of the applicable consumer protection legislation?
  - d. breach of the Competition Act, RSC, 1985, c C-34?
  - e. breach of the Sale of Goods Act, R.S.B.C. 1996, c. 410?
  - f. breach of the Civil Code of Québec, CQLR c C-1991?
26. If one or more of the Defendants are liable to the Class for damages, can the court assess damages in the aggregate, in whole or in part, for the Class? If so, what is the amount of the aggregate damages assessment?;

18. The Rexall Defendants have leave to apply to amend this Order on or before April 9, 2024.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

---

Signature of Class Counsel

---

Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

By the Court

---

Registrar



**SCHEDULE A**  
**[Settlement Agreement]**

**SCHEDULE B**

**[Notice of Proposed Settlement and Settlement Approval Hearing]**

**Schedule E - Fee Approval Order**

ACTION NO. S1914497  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

JAMES DOUGLAS RUCKMAN

PLAINTIFF

AND:

BIOTRADE CANADA LTD., LONDON DRUGS LIMITED,  
REXALL PHARMACY GROUP LTD., REXALL/PHARMA PLUS PHARMACIES  
LTD., PHARMASAVE DRUGS LTD., WHOLE FOODS MARKET, AND  
WHOLE FOODS MARKET CANADA INC. AND PNP PHARMACEUTICALS INC.

DEFENDANTS

BIOTRADE CANADA LTD.,  
HEALTHY LIFE AND FOODS COMPANY LTD., HERBAMEDICA S.A. DE C.V.,  
AND BAOJI EARAY BIO-TECH CO. LTD.

THIRD PARTIES

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

**ORDER MADE AFTER APPLICATION**

BEFORE } THE HONOURABLE JUSTICE BRANCH } \_\_\_\_/\_\_\_\_/2024

ON THE APPLICATION of the plaintiff, James Douglas Ruckman, coming on for hearing at Vancouver, BC on \_\_\_\_\_; and on hearing Anthony Leoni and Kendal Paul for the plaintiff; and Nicole Chang and Daniel Shugarman for the Defendant Biotrade Canada Ltd; Denny Chung for the Defendant Whole Foods Market and Whole Foods Market Canada Inc.; Kaitlin Smiley for the Defendant London Drugs Limited.; Saheli Sodhi and Emily Kirkpatrick for the Defendants Rexall/Pharma Plus Pharmacies Ltd and Rexall Pharmacy Group Ltd; and; Jill Shore and Amelia Staunton for the Defendant PNP Pharmaceuticals Inc.

**AND ON READING** all materials filed and on hearing the submissions of counsel;

**AND ON BEING ADVISED** that the defendants take no position;

**THIS COURT ORDERS** that:

1. The retainer agreement entered into with the representative plaintiff James Douglas Ruckman is approved under the *Class Proceedings Act*, section 38;
2. A fee of \$@ plus applicable taxes is approved and awarded to Rice Harbut Elliott LLP as Class Counsel payable as a first charge on the settlement funds;
3. Disbursements of \$@ are approved and are payable to Rice Harbut Elliott LLP as a first charge on the settlement funds;
4. An honorarium of \$@ is approved and awarded to plaintiff James Douglas Ruckman payable as a first charge on the settlement funds;
5. The legal fees, disbursements, and applicable taxes shall be paid from the settlement funds, pursuant to the terms of the Settlement Agreement.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

---

Signature of Class Counsel

---

Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

By the Court

---

Registrar

<hyperlink to website>

**Schedule F- U-Dream Class Action Claim Form**

**YOU PURCHASED AND INGESTED U-DREAM IN CANADA ON OR AFTER AUGUST 18, 2014 YOU MAY BE ENTITLED TO RECEIVE MONEY**

A class action lawsuit has ended with a settlement for:

- a) all persons in Canada who purchased and/or ingested an alleged natural health product sleep aid called **U-Dream** on or after **August 18, 2014**; and
- b) where such persons in (a) are deceased, all living parents, spouses or children entitled to maintain a claim against the Defendants pursuant to the *Family Compensation Act*, R.S.B.C. 1996, c. 126, and persons entitled to bring similar claims in other Provinces and Territories.

**(“Class Members”)**

A settlement fund of approximately **\$2,734,485** is available to pay all eligible claimants, known as Class Members, who make a claim.

Class Members who meet **Options A and/or B** criteria below can claim money using this Claim Form.

As part of this claims settlement process, your claim for money will be received and assessed by an independent Administrator (“**Claims Administrator**”) and, in some cases, by Class Counsel. Your claim information will be reviewed, and a decision will be made about whether you are eligible for money, and if so, how much.

**WHO CAN MAKE A CLAIM?**

You must match **Option A and/or B** in order to be eligible for compensation.

OPTION	IF YOU, OR YOUR DECEASED PARENT, SPOUSE OR CHILD PURCHASED OR INGESTED U-DREAM ON OR AFTER August 18, 2014 <u>AND</u> :	THEN:
<p style="text-align: center;">A <b>[REFUND]</b></p>	<p>1. You have no proof of purchase</p> <p style="text-align: center;"><b>-OR-</b></p> <p>2. You have proof that you, or your deceased parent, spouse, or child purchased U-Dream</p>	<p>You may be eligible for compensation for refunds. Please complete the Claim Form.</p> <p>If you pursue Option A, you are not eligible for compensation under option B.</p>

OPTION	IF YOU, OR YOUR DECEASED PARENT, SPOUSE OR CHILD PURCHASED OR INGESTED U-DREAM ON OR AFTER August 18, 2014 <u>AND</u> :	THEN:
<p style="text-align: center;">B</p> <p>[INJURY OR DEATH]</p>	<p>You suffered an <b>injury, or your parent, spouse or child died</b> as a result of ingesting U-Dream, which includes the following:</p> <ol style="list-style-type: none"> <li>1. heart attack, cardiac arrest, stroke or other cardiac injury (<b>Class 1</b>);</li> </ol> <p style="text-align: center;"><b>-OR-</b></p> <ol style="list-style-type: none"> <li>2. injuries suffered as a result of a motor vehicle accident or other incident while impaired by the use of U-Dream (<b>Class 2</b>);</li> </ol> <p style="text-align: center;"><b>-OR-</b></p> <ol style="list-style-type: none"> <li>3. addiction, withdrawal, mental distress, anxiety, and/or psychological injury diagnosis (<b>Class 3</b>).</li> </ol> <p style="text-align: center;"><b>-OR-</b></p> <ol style="list-style-type: none"> <li>4. death as a result of ingesting U-Dream (<b>Class 4</b>)</li> </ol>	<p>You may be eligible for compensation for your injuries, or for the death of your parent, spouse or child. Please complete the Claim Form.</p> <p>If you pursue Option B, you are not eligible for compensation under option A.</p> <p>You can only claim one of the four available classes.</p>

### NEED HELP COMPLETING THIS CLAIM FORM?

If you are unable to complete this form and need help, you can contact the Claims Administrator.

Email: <@>

Website: <@>

If you require legal advice as you complete this Claim Form, have any further questions which cannot be answered by the Administrator, Class Counsel is also available (at no cost) to help you. You can reach Class Counsel by calling the numbers below:

(604) 682-3771

You may also decide to consult another lawyer of your choosing.

<hyperlink to website>

## CLASS ACTION CLAIM FORM

### HOW TO MAKE A CLAIM FOR MONEY?

<b>CLAIM BY MAIL</b> Mail your paper Claim Form to:	
<b>English:</b> RicePoint Administration, Inc. Attention: U-Dream Class Action Administrator 1480 Richmond St. #204, London, ON N6G 0J4	<b>Francais:</b> Les services d'actions collectives RicePoint Attention: Administrateur de l'Action collective concernant U-Dream 1480 rue Richmond #204, London, ON N6G 0J4
<b>Important:</b> The deadline for making a claim has been set by the Court. This completed Claim Form <b>must</b> be submitted to the Administrator <b>NO LATER THAN</b> <@> <b>2024</b> .	

### COMPLETE THIS CLAIM FORM TO CLAIM MONEY

#### INSTRUCTIONS

Please ensure that you complete all sections of the Claim Form that apply to you. When filling out the Claim Form, remember to:

- Read all questions and requests for information carefully before answering.
- Return the entire claim form even if you think some sections don't apply to you.
- Write clearly and legibly.
- Make sure you have read and signed the Consent to Disclosure and Release of Records and Declaration section of the Claim Form.

**Please include a photocopy or scanned copy of a government-issued piece of photo identification and your provincial health care services card with your Claims Form.**

#### CHANGES TO CLAIM FORM AFTER SUBMISSION

If you need to make changes to any information in your Claim Form after you have sent it to the Administrator, please do so as soon as possible. Examples of important changes include a change of address and corrections to any information. If your Claim Form is incomplete or does not contain all required information, you will be asked to provide more details. This may delay the processing of your claim. The information you provide in your Claim Form is a very important part of what will be considered when deciding whether to pay you money and if so, how much money.

**CLAIM FORM – START ON NEXT PAGE**





&lt;hyperlink to website&gt;

**CLASS ACTION CLAIM FORM****SECTION A: CLAIMANT INFORMATION**

(\*indicates required fields)

First Name*	Middle Name (if any)	Last Name*	
City/Town	Province	Country	Postal Code
Daytime Telephone Number	Evening Telephone Number	Email Address	
Date of Birth (MM-DD-YYYY)*		Personal Health Number (PHN)*	

**Important Note:** Correspondence from the Claims Administrator and/or Class Counsel will be sent to the address you provide above.

**SECTION B: DESCRIPTION OF CLAIM**

**Question #1:** Did you, or your deceased parent, spouse or child purchase U-Dream in Canada between August 18, 2014 and [insert date when settlement approval order became final]

YES 

(Go to question #2)

NO 

(Go to question #2)

**Question #2:** Did you, or deceased your parent, spouse or child ingest U-Dream in Canada between August 18, 2014 and [insert date when settlement approval order became final] and suffer Injury or Death (as defined under Option B on page 1 of this form)?

YES 

(Go to question #3)

NO **(See Note below.)**

**Note:** if you answered 'No' to Questions #1 and #2, you are eligible to receive compensation under **Option A (Refund)**.

- If you have proof of purchase (ie receipts), **please provide a copy of all receipts.**
- If you do not have proof of purchase, you will be refunded \$15.00.
- You have now completed Section B of Claim Form.
- **Now proceed to Section D**

**Question #3:** Did you suffer a Class 1 Injury (heart attack, cardiac arrest, stroke, or other cardiac injury) while taking U-Dream?

YES

(**See Conditions below**)

NO

(Go to question #4)

**Conditions:** If you answered yes to Question #3 you need to:

1. **provide proof that you suffered a heart attack, cardiac arrest, stroke or other cardiac injury.** Examples of proof are documents including but not limited to a doctor's report, hospital records and/or clinical records of your family doctor, specialists or health care practitioners, which document or confirm that you suffered one of these conditions. Please attach as much documentary evidence as possible to permit assessment of your claim.
2. **complete section C and F of this claims form.** By completing these sections you will: 1) authorize the Claims Administrator to receive your medical records from a primary care physician or other treating physician to permit the assessment of the injury; and 2) give the name of your public health insurer(s) ("PHI") and your public health insurance number(s), together with a written consent to permit the Claims Administrator to forward that information to your PHI(s) and to obtain health cost information from the PHI(s) pertaining to your care and treatment.
3. **Now proceed to question #7.**

**Question #4:** Did you suffer a Class 2 Injury (injury from motor vehicle accident or other incident) while impaired from the use of U-Dream?

YES

(**See Conditions below**)

NO

(Go to question #5)

**Conditions:** If you answered yes to Question #4 you need to:

1. **provide proof that the motor vehicle accident or other incident causing injury occurred.** Examples of proof are documents including but not limited to, ambulance reports, police reports, hospital records and/or clinical records of your family doctor, specialists or health care practitioners, which document or confirm that you were in a motor vehicle accident. Please attach as much documentary evidence as possible to permit assessment of your claim.
2. **complete section C and F of this claims form.** By completing these sections you will: 1) authorize the Claims Administrator to receive your medical records from a primary care physician or other treating physician to permit the assessment of the injury; and 2) give the name of your public health insurer(s) ("PHI") and your public health insurance number(s), together with a written consent to permit the Claims Administrator to forward that information to your PHI(s) and to obtain health cost information from the PHI(s) pertaining to your care and treatment.
3. **Now proceed to question #7.**

**Question #5:** Did you suffer from a Class 3 Injury (diagnosis or treatment for addiction and/or withdrawal due to ingestion of U-Dream and/or diagnosis or treatment for psychological stress, or psychological injury as a result of ingesting U-Dream or as a result of reading or becoming aware of the Health Canada Advisory issued December 23, 2019?)

YES

**(See Conditions below)**

NO

(Go to question #6)

**Conditions:** If you answered yes to Question #5 you need to:

1. ***provide proof that you were diagnosed with and/or treated for addiction and/or withdrawal due to ingestion of U-Dream and/or diagnosed with and/or treated for psychological stress or psychological injury as a result of reading or becoming aware of contamination of U-Dream or the Health Canada Advisory issued December 23, 2019. Examples of proof include but are not limited to document such as doctor's reports or notes, hospital records and/or clinical records of your family doctor, specialists or health care practitioners (including counsellors), which provide confirmation of same. Please attach as much documentary evidence as possible to permit assessment of your claim.***
2. ***complete section C and F of this claims form. By completing these sections you will: 1) authorize the Claims Administrator to receive your medical records from a primary care physician or other treating physician to permit the assessment of the injury; and 2) give the name of your public health insurer(s) ("PHI") and your public health insurance number(s), together with a written consent to permit the Claims Administrator to forward that information to your PHI(s) and to obtain health cost information from the PHI(s) pertaining to your care and treatment.***
3. **Now proceed to question #7.**

**Question #6:** Did your parent, spouse or child die as a result of ingesting U-Dream?

YES

**(See Conditions below)**

NO

(Go to question #7)

**Conditions:** If you answered yes to Question #6 you need to:

1. ***produce proof that your deceased child, spouse, or parent died during the Class Period as a result of ingestion of U-Dream. Examples of proof include but are not limited to documents such as doctor's reports or notes, hospital records and/or clinical records of physician(s) which provide confirmation of same. Please attach as much documentary evidence as possible to permit assessment of your claim.***
2. ***produce proof of relationship with deceased child, spouse, or parent, in the form of an official government document including but not limited to a death certificate, birth certificate, or marriage license***
3. **Now proceed to question #7.**

**Question #7:** If you answer “yes” to either question # 3, 4, 5 or 6 above, did you, your deceased parent, spouse or child, suffer pecuniary losses due to your injury or due to the death of your parent, spouse or child?

YES

**(See Conditions below)**

NO

(Section B Complete)

**Conditions:** If you answered yes to Question #7 you need to:

1. ***Provide proof that you suffered past loss of income due to your injury. Please attach as much documentary evidence as possible to permit assessment of your claim. Examples of documents to provide include but are not limited to, tax returns, pay stubs or letter(s) from your employer to demonstrate reduction of earnings during the eligible period; and/or***
2. ***Provide proof of out-of-pocket expenses related to injury or death of parent spouse or child, such as receipts related to treatments for your injuries, or funeral expenses, in the event of a Claimant whose parent, spouse or child died; and***

**SECTION C: DOCTOR INFORMATION**  
**[Complete if you answered “Yes” to Question 3, 4 or 5]**

Name and Address of Doctor(s) (or other health care practitioners) who assessed you, or your deceased parent, spouse or child, in relation to your Injury or Death related to ingestion of U-Dream

Name and Address of Doctor(s) (or other health care practitioners) who treated you for your Injury, or treated your deceased parent, spouse or child, related to ingestion of U-Dream (if different than above)

**SECTION D: LAWYER REPRESENTATION – CLAIMANT HAS OPTIONS**  
**(All Claimants must complete)**

*Class Counsel* are the lawyers that have been representing all current and class members since 2020 and achieved settlement of this class action. Your *Class Counsel* is **Rice Harbut Elliott LLP**.

Now that it is time to submit a claim, *Class Counsel* will continue to represent you on your claim, **unless** you choose to represent yourself or you want to use a different lawyer. You **DO NOT** need to get a new lawyer to represent you.

*Class Counsel* have already been paid for their work, so you will not be responsible for lawyers' fees.

If you choose to be represented by a different lawyer, you will be responsible for paying that lawyer's fees.

Select **one (1) of the three (3) options below:**

- Option 1:** I want to continue to be represented by *Class Counsel*.
- Option 2:** I do **not** want to be represented by *Class Counsel*. I want to represent myself. I understand that *Class Counsel* **will not** continue to act for me, and I will be responsible for taking any steps necessary to make my claim.
- Option 3:** I do **not** want to be represented by *Class Counsel*. I have retained a different lawyer. I understand that *Class Counsel* **will not** continue to act for me, and my new lawyer will be responsible for taking any steps necessary to make my claim, and that I will be responsible for paying my new lawyer's fees.

If you select Option 3, please provide the contact information of your new lawyer below:

Name of your Lawyer	
Mailing Address (Street, P.O. Box if applicable)	
City/Town	Province
Country	Postal Code

Daytime Telephone Number
Email Address

If you do not check any of the boxes above, it will be assumed that you want to continue to be represented by *Class Counsel*.

**SECTION E:**  
**[Complete if you are claiming on behalf of someone who is deceased,  
incompetent, or under power of attorney]**

**Question 8:** Are you making a claim on behalf of someone as their legally authorized representative?

YES

NO

If you selected "YES", please attach any documents you may have that confirm your ability to act as the legal representative of the person. The Administrator may contact you to obtain more information.

Representative First Name	Representative Last Name
Representative Middle Name	Basis of Representation
Has the person on whose behalf you are submitting this claim died?	If the individual has died, please indicate their date of death (MM-DD-YYYY):

**SECTION F: DECLARATION AND CONSENT TO RELEASE MEDICAL AND  
PUBLIC HEALTH INSURER RECORDS**  
**[Complete if you answered "Yes" to Question 3, 4 or 5]**

I acknowledge that the Administrator is authorized to contact me to obtain further information.

By completing and submitting this Claim Form, I acknowledge that my doctor and the provincial health insurer in the Province where I reside are authorized to provide relevant information in my (or the claimant on whose behalf I am submitting this form, as may be

applicable) medical file to the Administrator, Defendants' lawyers, Class Counsel, my lawyer, the expert assigned to my claim, and/or to the Court.

Under the Penalties of Perjury, I swear or affirm that all of the information provided by me on this form is true, correct, and complete, and that the documents submitted herewith are true and correct copies of what they purport to be.

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Print Full Name of Claimant

\_\_\_\_\_  
Date

Important: **If you are a legally authorized representative, you MUST complete the following:**

\_\_\_\_\_  
Signature of Representative Completing Form

\_\_\_\_\_  
Print Full Name of Representative Completing Form

\_\_\_\_\_  
Date

In the Event of a **Representative** completing this Claim Form, is Proof of Authority to File included in your submission? YES  NO

## **Schedule G - Opt-Out Election Form**

### **Background**

A settlement fund of **\$2,734,485** is available to pay all eligible claimants, known as Class Members, who make a claim.

### **Can I Remove Myself from the Class Action?**

If you do not want to participate in the class action, you can opt-out of the Action as described below.

### **What is the Consequence of Opting-Out?**

When you opt-out, you lose your right to claim and/or receive any money through the class action.

### **Is Opting-Out Final?**

Yes, opting-out is a final decision that cannot be undone.

### **How do I Opt-Out?**

In order to properly opt-out, you must prepare and submit the below form on page 2 (called an “**Opt-Out Election Form**”) to the Claims Administrator identified below.

The Claims Administrator must receive your Opt-Out Election Letter by **no later than May 28, 2024 (“Opt-Out Deadline”)**.

Opt-Out Election Letters must be sent by pre-paid mail, courier, fax or email to:

**RicePoint Administration, Inc;**  
**Attention: U-Dream Class Action Administrator**  
**480 Richmond St. #204, London, ON N6G 0J4**

**Or**

**Email: <email address>**  
**Fax: <insert fax number>**

**NOTE: An Opt-Out Election Form that does not contain all of the required information or is received after the Opt-Out Deadline will not be valid.**

**OPT-OUT ELECTION FORM – START ON NEXT PAGE**





**OPT-OUT ELECTION FORM****SECTION A: CLAIMANT INFORMATION**

(\*indicates required fields)

First Name*		Middle Name* (if any)	Last Name*	
City/Town*	Province*		Country*	Postal Code
Daytime Telephone No.		Evening Telephone Number	Email Address	

**Question #1:** Have you carefully read page 1 of this document?YES 

(Go to question 2)

NO 

(Read page 1 and proceed to question 2)

**Question #2:** Do you want to Opt-Out of the U-Dream Class Action?YES 

(Go to question 3)

NO 

(No need to complete this form)

**Question #3:** Please indicate with an "x" in the below boxes if you have suffered from any of the below noted conditions due to ingesting U-Dream:

- heart attack, cardiac arrest, stroke, or other cardiac injury
- any form of bodily injury caused by motor vehicle or other incident while impaired by U-Dream
- addiction or withdrawal
- mental distress, anxiety, or other psychological injury
- other injury (describe) \_\_\_\_\_
- DEATH of parent, spouse, or child
- NO INJURY

**Question #4:** Do you intend to commence your own litigation for injury or other loss, or on behalf of your deceased parent, due to ingesting U-Dream: Yes No

**Question #5:** What is/are your reason(s) for electing to Opt-Out of the Class Action?  
(please provide written answer below)

---

---

---

---

---

---

---

---

---

---

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Schedule H - Settlement Approval Order**

ACTION NO. S1914497  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

JAMES DOUGLAS RUCKMAN

PLAINTIFF

AND:

BIOTRADE CANADA LTD., LONDON DRUGS LIMITED,  
REXALL PHARMACY GROUP LTD., REXALL/PHARMA PLUS PHARMACIES  
LTD., PHARMASAVE DRUGS LTD., WHOLE FOODS MARKET, AND  
WHOLE FOODS MARKET CANADA INC. AND PNP PHARMACEUTICALS INC.

DEFENDANTS

BIOTRADE CANADA LTD.,  
HEALTHY LIFE AND FOODS COMPANY LTD., HERBAMEDICA  
S.A. de C.V., and BAOJI EARAY BIO-TECH CO. LTD.

THIRD PARTIES

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

**ORDER MADE AFTER APPLICATION**

BEFORE } THE HONOURABLE JUSTICE BRANCH } \_\_\_/\_\_\_/2024

ON THE APPLICATION of the plaintiff, James Douglas Ruckman, coming on for hearing at Vancouver, BC on \_\_\_\_\_; and on hearing Anthony Leoni and Kendal Paul for the plaintiff; and Nicole Chang and Daniel Shugarman for the Defendant Biotrade Canada Ltd; Denny Chung for the Defendant Whole Foods Market and Whole Foods Market Canada Inc.; Kaitlin Smiley for the Defendant London Drugs Limited.; Saheli Sodhi and Emily Kirkpatrick for the Defendants Rexall/Pharma Plus Pharmacies Ltd and Rexall Pharmacy Group Ltd; and; Jill Shore and Amelia Staunton for the Defendant PNP Pharmaceuticals Inc.

**AND ON READING** all materials filed and on hearing the submissions of counsel;

**AND ON BEING ADVISED** that all parties consent to the Order;

1. THIS COURT ORDERS that the terms of the Settlement Agreement reached between the parties as set out in the Settlement Agreement attached as **Schedule "A"** to this Order are hereby approved and that all capitalized terms in this Order have the same meaning as defined in such Settlement Agreement;

2. THIS COURT ORDERS AND DECLARES that the Settlement Agreement is fair, reasonable and in the best interest of the Class;

3. THIS COURT ORDERS AND DECLARES that, in accordance with the Settlement Agreement, this proceeding was certified on consent as a class proceeding, subject to the terms and conditions of this Settlement Agreement, including the Defendants' express reservation of rights to contest certification or authorization of any other related or unrelated proceedings and their rights to defend on the merits any other related or unrelated proceedings;

4. THIS COURT ORDERS AND DECLARES that the Plaintiff and Class Member Releasers have fully and finally released and forever discharged the Releasees from the Plaintiff and Class Members' Released Claims, in keeping with the terms of the Settlement Agreement;

5. THIS COURT ORDERS AND DECLARES that the Public Health Insurer Releasers have fully and finally released and forever discharged the Releasees from the Public Health Insurers' Released Claims, in keeping with the terms of the Settlement Agreement;

6. THIS COURT ORDERS AND DECLARES that the Plaintiff, Class Members and Provincial Health Insurers are barred, prohibited, and enjoined from bringing claims against the Defendants or others as set out in paragraphs 47 and 50 of the Settlement Agreement;

7. THIS COURT ORDERS AND DECLARES that the Defendants are barred, prohibited and enjoined from bringing claims against the Defendants, Third Parties or others as set out in paragraph 52 of the Settlement Agreement, except the Distributor Actions shall not be barred, prohibited or enjoined;

8. THIS COURT ORDERS AND DECLARES that that this Court retains continuing exclusive jurisdiction over the Parties and the Class to administer, supervise, construe, and enforce this Settlement Agreement;

9. THIS COURT ORDERS AND DECLARES that the parties may bring such motions to this Court for directions as may be required in relation to the implementation, administration, interpretation, and enforcement of the Settlement Agreement; and

10. THIS COURT ORDERS that the Action is hereby dismissed with prejudice as against each of the Defendants and Third Parties, on a without costs basis, and each Class Member shall be deemed to irrevocably consent to such dismissal.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

\_\_\_\_\_  
Signature of Class Counsel

\_\_\_\_\_  
Signature of  
Lawyer for the Defendant

\_\_\_\_\_  
Signature of  
Lawyer for the Defendant

\_\_\_\_\_  
Signature of  
Lawyer for the Defendant

\_\_\_\_\_  
Signature of  
Lawyer for the Defendant

\_\_\_\_\_  
Signature of  
Lawyer for the Defendant

\_\_\_\_\_  
Signature of  
Lawyer for the Defendant

---

Signature of  
Lawyer for the Defendant

By the Court

---

Registrar