

SUPREME COURT OF NOVA SCOTIA

Hfx. No. 460984

SETTLEMENT AGREEMENT

Between:

DAWN RAE DOWNTON

(hereinafter “Plaintiff”)

-and-

ORGANIGRAM HOLDINGS INC. and ORGANIGRAM INC.

(hereinafter “Organigram”)

WHEREAS Organigram Inc. is a federally-licensed cannabis producer based in Moncton, New Brunswick that, in late 2016, discovered that some of its medical marijuana product contained bifentazate, an insecticide, and myclobutanil, a pesticide, which are not authorized for use on cannabis plants;

AND WHEREAS Organigram notified Health Canada about this, and a first recall of five lots of the affected product followed on December 5, 2016, with a second recall of 69 lots of the affected product occurring on January 9, 2017, after further testing (collectively, the “Affected Product”);

AND WHEREAS after the recalls Organigram offered affected clients a refund of the purchase price of the Affected Product if the cannabis could be returned, and otherwise affected clients were offered a 20% discount on their next order;

AND WHEREAS a proposed class action was commenced on March 3, 2017, in the Supreme Court of Nova Scotia by the Plaintiff, *Dawn Rae Downton v. Organigram Holdings Inc. and Organigram Inc.*, Hfx. No 460984, advancing two types of claims: a consumer claim, alleging that the Class did not get the product they had bargained for (i.e. pesticide free cannabis), and an adverse health consequences claim, alleging the Class had suffered adverse health consequences from the Affected Product, for which

they are entitled to a remedy;

AND WHEREAS Organigram offered some affected clients a credit equal to the amount spent on the Affected Product, less any previous credits or discounts accepted by the client;

AND WHEREAS an Amended Notice of Action and Statement of Claim were filed on November 16, 2017, to, *inter alia*, make it clear that the Plaintiff was seeking general damages for any adverse health consequences caused by the Affected Product;

AND WHEREAS the Parties proceeded to a certification hearing on June 19 and 20, 2018, following the filing of evidence and cross-examinations by both parties, resulting in a decision, *Downton v. Organigram*, 2019 NSSC 4, dated January 18, 2019, in which the Honourable Justice Ann E. Smith (the “Motions Judge”) certified the action, including common issues relating to both types of claims advanced by the Plaintiff;

AND WHEREAS a Second Amended Notice of Action and Statement of Claim were filed on February 12, 2019;

AND WHEREAS Organigram filed an Application for Leave to Appeal and Notice of Appeal with the Nova Scotia Court of Appeal on March 1, 2019, seeking to appeal, in part, the Motion Judge’s decision to certify the action, namely the adverse health consequences claim, but Organigram did not appeal the consumer claim, which advanced common issues about whether there was a breach of contract, breach of the *Consumer Protection Act*, breach of the *Sale of Goods Act*, and remedies for statutory breach and restitution;

AND WHEREAS the Nova Scotia Court of Appeal released its decision and Order for Judgment on April 30, 2020, allowing Organigram’s appeal in part, thereby overturning certification of the proposed common issues relating to the alleged adverse health consequences;

AND WHEREAS the Plaintiff sought leave to appeal the Nova Scotia Court of Appeal’s decision to the Supreme Court of Canada and thereby filed an Application for Leave to Appeal on June 29, 2020, but the leave application was dismissed by way of a Judgment on November 5, 2020;

AND WHEREAS to conform to the decision of the Nova Scotia Court of Appeal, the Plaintiff filed a

Third Amended Notice of Action and Statement of Claim on January 19, 2021;

AND WHEREAS in preparation for a common issues trial, the Parties have exchanged, in part, Affidavits Disclosing Documents;

AND WHEREAS the Parties have engaged in a series of negotiations and discussions that eventually resulted in the Parties agreeing, subject to the approval of the Court, to settle the Action, with Organigram paying the sum of \$2,310,000.00 (CDN), in addition to the third-party costs of administering notice and the settlement, to provide to Class Members a refund of the amounts paid to purchase the Affected Product, on the terms and conditions outlined herein;

AND WHEREAS the Plaintiff and Class Counsel have concluded that this Settlement Agreement provides substantial benefits to Class Members and is fair, reasonable and in the best interests of Class Members based on the analysis of the facts and applicable law, taking into account, among other things, the risks and uncertainties associated with protracted litigation proceedings, as well as the fair, cost-effective and assured method provided in this Settlement Agreement of efficiently compensating Class Members;

AND WHEREAS Organigram has similarly concluded that this Settlement Agreement is desirable in order to avoid the time, expense and risk of defending the Action and to resolve finally and completely the claims of the Class Members;

AND WHEREAS the Parties understand and acknowledge that this Settlement Agreement, including the Schedules hereto, must be approved by the Nova Scotia Supreme Court and incorporated into a final Order approving the Settlement Agreement in a form to be agreed upon by the Parties, acting reasonably;

NOW THEREFORE in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

DEFINITIONS

1. The following terms used in this Settlement Agreement have the meanings specified below. Terms used in the singular shall be deemed to include the plural, and *vice versa*, where appropriate:
 - a. “Action” means the within action, *Dawn Rae Downton v. Organigram Holdings and Organigram Inc.*, Supreme Court of Nova Scotia - Hfx. No. 460984, as contained in the Third Amended Statement of Claim filed on January 19, 2021;
 - b. “Administration Expenses” means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Parties for the implementation and operation of this Settlement Agreement, including the costs of the Settlement Administrator and notices, but for certainty, excluding Class Counsel Fees and Class Counsel Disbursements. All Administration Expenses must be approved in advance by Organigram, and such approval shall not be unreasonably withheld;
 - c. “Case Management Judge” means the Honourable Justice Ann E. Smith or such other judge of the Court as may be appointed to case manage the Action;
 - d. “Certification Order” means the Amended Certification Order issued on January 12, 2021;
 - e. “Class” and/or “Class Members” means all persons and entities, excluding Veterans Affairs Canada and Aurora Cannabis Inc., who purchased the Affected Product from Organigram;
 - f. “Class Counsel” means Wagners and Roy O’Connor LLP;
 - g. “Class Counsel Disbursements” means all disbursements and applicable taxes incurred by Class Counsel in the advancement of the Action;
 - h. “Class Counsel Fees” means the legal fees of Class Counsel and any applicable taxes;
 - i. “Court” means the Supreme Court of Nova Scotia;
 - j. “Effective Date” means the date upon which the Final Order is granted;

- k. “Execution Date” means the date this Settlement Agreement is executed by the Parties;
- l. “Final Order” means a final order, judgment or equivalent decree entered by the Court approving this Settlement Agreement in accordance with its terms, once the time to appeal such order has expired without any appeal being taken, or, if the order is appealed, once there has been affirmation of the order upon a final disposition of all appeals;
- m. “Net Settlement Amount” means the amount of the Settlement Fund available for distribution to the Class Members following the deduction, all as may be approved by the Court, of Class Counsel Fees, Class Counsel Disbursements, and the Representative Plaintiff’s Honorarium. For certainty, the Administration Expenses are not deducted from the Settlement Fund but are paid by Organigram in addition to payment of the Settlement Fund;
- n. “Objection Deadline” means the date that is forty-five (45) days after the first date of distribution of Phase I Notice, subject to the approval of the Court;
- o. “Opt-Out” means all persons who opt out of the Class by the Opt-Out Deadline in the form approved by the Court;
- p. “Opt-Out Deadline” means the date that is sixty (60) days after the first date of distribution of Phase I Notice, subject to the approval of the Court;
- q. “Organigram’s Counsel” means McInnes Cooper;
- r. “Parties” means the Plaintiff and Organigram;
- s. “Payment Date” means, absent any agreement by Organigram to do so earlier, a day that is no later than fifteen (15) days following the Effective Date of this agreement, upon which Organigram shall pay the Settlement Fund into the designated Trust Account;
- t. “Person” means any legal or natural person and includes but is not limited to individuals, corporations, sole proprietorships, general or limited partnerships,

limited liability partnerships, limited liability companies, trusts, joint ventures, associations and estates;

- u. “Phase I Notice” means the notice, a form of which is attached as Schedule “A”, to be approved by the Court and provided to the Class in accordance with the notice plan at Schedule “B” (subject to Court approval) that summarizes this Settlement Agreement and the process by which the Parties will seek its approval. It will also include information about opting out of the Action;
- v. “Phase II Notice” means the notice, a form of which is attached as Schedule “C”, to be approved by the Court and provided to Settlement Class Members in accordance with the notice plan at Schedule “D” (subject to Court approval), that notifies them of the approval of the Settlement Agreement and will be provided together with their Individual Payment;
- w. “Plaintiff” means the representative plaintiff, Dawn Rae Downton;
- x. “Recalls” means the two recalls occurring on (i) December 5, 2016, of five lots of the Affected Product, and (ii) January 9, 2017, of 69 lots of the Affected Product, following the discovery that certain lots contained bifentazate and/or myclobutanil;
- y. “Released Parties” shall mean Organigram Holdings Inc. and Organigram Inc. and their respective predecessors, successors, parents, subsidiaries, affiliates, associated companies, entities and divisions, and each of their respective current and former shareholders, officers, directors and employees;
- z. “Representative Plaintiff’s Honorarium” means the amount, if any, approved by the Court to acknowledge the role played by the Plaintiff in this Action, to be paid from the Settlement Fund;
- aa. “Settlement Administrator” means RicePoint Administration Inc. or such other firm as may be appointed by the Court;
- bb. “Settlement Agreement” means the agreement set out herein;
- cc. “Settlement Class Member” means every Person who is a Class Member and who is not an Opt-Out;

- dd. “Settlement Fund” means the amount of \$2,310,000.00 (CDN) to be paid by Organigram;
- ee. “Subject Claims” means all claims or other proceedings at law, in equity or under a statute, rule or regulation, that a Settlement Class Member or anyone claiming through them ever had, now has, or hereafter can, shall or may have to the date hereof and into the future which arise specifically from the facts pleaded in the Action. For certainty, Subject Claims exclude claims that a Settlement Class Member or anyone claiming through them ever had, now has, or hereafter can, shall or may have to the date hereof and into the future relating to any alleged personal injury relating to the Affected Product; and
- ff. “Trust Account” means the designated interest-bearing trust account of the Settlement Administrator to be administered for the benefit of the Class.

BEST EFFORTS

- 2. The Parties shall use their best efforts to implement the terms and conditions of this Settlement Agreement.

SETTLEMENT FUND

- 3. In consideration of the terms and covenants herein, Organigram shall pay to the Settlement Administrator, on the Payment Date, the sum of \$2,310,000.00 (CDN) to be held in the Trust Account. Organigram shall have no reversionary interest or claim to the Settlement Fund.
- 4. The Settlement Fund shall be managed and paid out, as set out herein, by the Settlement Administrator.
- 5. The Settlement Fund shall be all-inclusive of all amounts including, without limitation, taxes, interest, costs, Class Counsel Fees, Class Counsel Disbursements and Representative Plaintiff's Honorarium (if any as may be approved by the Court), but shall not include Administration Expenses. Following the deduction of the foregoing included amounts, the Net Settlement Fund shall be distributed to the Settlement Class Members as set out in this agreement.
- 6. For clarity, the Net Settlement Fund is intended to provide compensation directly to the individuals or entities who actually paid for the Affected Product. This means that, for example,

in addition to individuals who purchased the Affected Product, any entities (i.e. insurers) that have paid, in whole or in part, by virtue of an insurance contract or other arrangement, for purchases of the Affected Product on behalf of individuals will be eligible for payment from the Net Settlement Fund, with the exception of Veterans Affairs Canada and cannabis company Aurora Cannabis Inc., described in sections 16 and 17. To illustrate, if an insurer has paid 80% of the purchase price of the Affected Product and an insured individual has paid 20% of the purchase price of the Affected Product, both the insurer and the insured will be on the Class Member List and the payment to the insurer and the insured from the Net Settlement Fund will be in proportion to the amount that was paid for the purchase of the Affected Product, net of any applicable deductions. To further illustrate, if an insurer has paid 100% of the purchase price of the Affected Product, with the insured individual paying 0% of the purchase price of the Affected Product, only the insurer will be on the Class Member List and the payment from the Net Settlement Fund will only be paid to the insurer.

7. All interest earned on the Settlement Fund or any part thereof in the Trust Account shall accrue to the benefit of the Class and become and remain part of the Settlement Fund for distribution to Settlement Class Members.
8. All taxes payable on any interest that accrues in relation to the Settlement Fund shall be the responsibility of the Class and shall be paid by Class Counsel or the Settlement Administrator, as appropriate from the Settlement Fund.
9. The Administration Expenses of the Settlement Administrator shall be paid directly by Organigram and shall not form part of the Settlement Fund.
10. The Settlement Administrator shall maintain the Settlement Fund as provided for in this Settlement Agreement. The Settlement Administrator shall not pay out all or any part of the monies in the Settlement Fund except in accordance with the Settlement Agreement, or upon an order of the Court obtained after notice to the Parties.

CLASS MEMBER LIST

11. Within seven (7) days of the Execution Date, Organigram shall provide to Class Counsel, to later be shared with the Settlement Administrator for purposes of implementing Phase I Notice and subsequently, distributing the Net Settlement Fund, a list of all Class Members (in Excel format) (the "Class Member List") listing, to the extent available:

- a. the Class Member's full name;
 - b. the Class Member's last known mailing address, phone number and e-mail address;
and
 - c. the total amount, inclusive of applicable taxes, paid for the Affected Product by the Class Member, as well as the amount of any refund provided to such Class Member.
12. The Phase I Notice, described below, will solicit updated contact information from Class Members to be provided directly to the Settlement Administrator for the purposes of ensuring that the distribution of the Net Settlement Fund will effectively reach as many Class Members as possible, and in recognition of the fact that Class Members may have changed email addresses or moved since the purchase of the Affected Product. The Settlement Administrator will be responsible for maintaining an updated Class Member List in real time, on the basis of any updated contact information it receives from Class Members and/or Class Counsel by the applicable deadline, which will be before the distribution of the Net Settlement Fund.
13. The Class Member List is intended to reflect only those individuals and entities who are eligible for payment of the Net Settlement Fund under this Settlement Agreement, as described in this agreement. For example, if an insured individual paid 0% of the purchase price of the Affected Product, that individual will not be on the Class Member List and will not receive any payment from the Net Settlement Fund.
14. Class Counsel and the Settlement Administrator shall use the Class Member List only to the extent reasonably necessary for purposes of the administration of the settlement, including provision of notice. If this Settlement Agreement is terminated, no record of the information so provided shall be retained by Class Counsel or the Settlement Administrator in any form whatsoever. Class Counsel and Organigram will jointly request that the Court issue an order as part of the approval of this Settlement, specifically the Phase I Notice approval, providing for, authorizing and approving the above disclosure and use of Class Member information, so as to satisfy all applicable privacy-related statutes, rules and regulations.
15. Organigram will reasonably respond to questions and information requests respecting the data provided on the Class Member List from Class Counsel or the Settlement Administrator. Organigram's obligation to reasonably cooperate shall not be affected by the release provisions contained in this Settlement Agreement. Unless this Settlement Agreement is not approved, is

terminated or otherwise fails to take effect for any reason, Organigram's obligation to cooperate pursuant to this section shall cease when all Settlement Funds have been distributed, subject to any further order of the Court.

VETERANS AFFAIRS CANADA, AURORA CANNABIS INC. NOT PART OF CLASS

16. Any payment to Organigram by Veterans Affairs Canada for the purchase of the Affected Product has been excluded from the calculation of the Settlement Fund and for certainty, at its request, Veterans Affairs Canada will not be receiving any refund of any payments it made for the Affected Product under this Settlement Agreement. However, and for certainty, any individuals who made purchases for the Affected Product in excess of the amount that was paid for on his/her behalf by Veterans Affairs Canada is eligible for compensation in respect of his or her own individual payment(s) to Organigram, and will accordingly be on the Class Member List.
17. Any payment to Organigram by Aurora Cannabis Inc., a cannabis company, for the purchase of the Affected Product has been excluded from the calculation of the Settlement Fund and for certainty, Aurora Cannabis Inc. is not eligible to receive any refund of any payments it made for the Affected Product under the Settlement Agreement.

NOTICE, COURT APPROVAL OF SETTLEMENT AGREEMENT

18. Promptly after the execution of this Settlement Agreement, the Parties will bring a motion to approve the content and distribution of the Phase I Notice which motion may, subject to the direction of the Case Management Judge, proceed by way of case conference, in writing or by in-person motion.
19. Phase I Notice will notify the Class Members of the hearing at which the Court will be asked to approve the Settlement Agreement, and they will also formally be notified of certification of the Action and the right to opt out, all by way of the Phase I Notice attached as Schedule "A" hereto and subject to the approval of the Court. Subject to the approval of the Court, the Phase I Notice shall be provided directly by the Settlement Administrator to the Class Members in accordance with the applicable sections of the notice plan provided at Schedule "B", in addition to the other notice measures outlined therein.
20. Subject to the approval of the Court, Opt-Outs are to send their opt-out forms (in the form previously approved by the Court in the Certification Order) directly to the Settlement Administrator. For certainty, Phase I Notice will provide that Class Members are encouraged and

welcome to contact Class Counsel concerning any questions relating to exercising their right to opt out.

21. The costs of Phase I Notice shall be paid to the Settlement Administrator by Organigram, and form part of the Administration Expenses.
22. The Parties, their successors, assigns and counsel agree to take all actions and steps reasonably necessary to obtain Court approval of this Settlement Agreement. To that end, Class Counsel shall submit this Settlement Agreement to the Court pursuant to a motion for settlement approval where the Plaintiff will move for Order, in a form to be agreed to by the Parties acting reasonably, approving this Settlement Agreement and approving Phase II Notice.
23. The costs of Phase II Notice and distribution of Individual Payments, and all associated expenses, shall be paid to the Settlement Administrator by Organigram, and form part of the Administration Expenses.
24. Subject to the provisions applicable to termination of this Settlement Agreement, this Settlement Agreement shall be null and void and of no force and effect unless a Settlement Approval Order is granted and the Effective Date occurs.

DISTRIBUTION OF NET SETTLEMENT FUND

25. Subject to the approval of, or reasonable variation by, the Court, the Net Settlement Fund shall, on a date that is no longer than two (2) months after the Opt-Out Deadline, be distributed in accordance with the first distribution process set out below.

A. First Distribution Process

26. An individual proportion or percentage interest in the Net Settlement Fund will be calculated for each Settlement Class Member based on the following formula (the “Individual Settlement Class Member Entitlement”):
 - a. One hundred percent (100%) of the purchase price, inclusive of applicable sales tax, paid for the Affected Product by the Settlement Class Member; less,
 - b. 100% of any refund for the Affected Product already received by the Settlement Class Member.

The total of A less B for each Settlement Class Member will constitute each Individual

Settlement Class Member Entitlement. The total of all non-negative (i.e. greater than \$0.00) Individual Settlement Class Member Entitlements will constitute the “Total Entitlement”.

27. The Settlement Class Members' share of the Net Settlement Fund (the “Individual Payment”) will be calculated by dividing each Individual Settlement Class Member Entitlement by the Total Entitlement, and then multiplying that fraction by the Net Settlement Amount.
28. If any Individual Payment totals less than \$10.00, the Individual Payment will not be made to that Settlement Class Member, as the administration expenses associated with making that Individual Payment will exceed the Individual Payment, and that Individual Payment will instead remain in the Trust Account and form part of the residual funds (the “Residue”) to be distributed in accordance with this agreement.
29. The Settlement Administrator will prepare notification letters individualized for each Settlement Class Member, as part of Phase II Notice, describing the amount of the Individual Payment payable to that Settlement Class Member. Each Settlement Class Member will, at the same time, be provided with an email providing payment by Interac e-Transfer in the amount of his/her Individual Payment.
30. Settlement Class Members will receive the foregoing notification letters and Individual Payments via email to their last known email address, according to the Class Member List as it may be updated through the foregoing Phase I Notice process. The date such emails are distributed are considered the first date of distribution of the Phase II Notice/Individual Payments.
31. Any Phase II Notice/Individual Payment emails returned undeliverable to the Settlement Administrator will be sent by regular mail to the Class Member’s most recent mailing address, according to the Class Member List, as it may be updated through the foregoing Phase I Notice process.
32. Any Interac e-Transfer that is not deposited by the Class Member within thirty (30) days after it is sent will expire (“Interac Expiry Date”). For expired Interac e-Transfers, within fifteen (15) days of the Interac Expiry Date, the Settlement Administrator will send the Phase II Notice and Individual Payment by cheque to the Class Member’s most recent mailing address, according to the Class Member List, as it may be updated through the foregoing Phase I Notice process. If the cheque is not cashed within six (6) months (“Cheque Expiry Date”), the Individual Payment that would otherwise have been payable to that Settlement Class Member will remain in Trust and

form part of the Residue. If a Settlement Class Member contacts the Settlement Administrator within six (6) months after the first date of distribution of the Phase II Notice/Individual Payments, and the Settlement Administrator confirms that the Settlement Class Member is on the Class Member List and that his/her Individual Payment has not been deposited or cashed, the Settlement Administrator shall cancel the initial Individual Payment and reissue the Phase II Notice/Individual Payments to the Settlement Class Member via Interac e-Transfer using updated contact information.

33. Any cheques that are not returned to the Settlement Administrator and are not cashed by a Settlement Class Member within four (4) months of their issuance will be subject to a “reminder program” whereby some reasonable step may be taken by the Settlement Administrator to re-contact the Settlement Class Member in writing by email or text to remind them that a cheque was available and must be cashed within six (6) months of the cheque’s issuance. If such reminder program does not result in the payment of the Individual Payment to the Settlement Class Member in question, then such Individual Payment shall remain in Trust and form part of the Residue.
34. Following the completion of the first stage of the distribution process (as described above) and the second stage of the distribution process (as described below), the Settlement Administrator will provide a report on the results of the distribution of the Net Settlement Fund to the Parties.
35. The Settlement Administrator will provide to Organigram and to the Settlement Class Member any documents that are required under the *Excise Tax Act* arising from the first stage of the distribution process (as described above) and the second stage of the distribution process (as described below).

B. Second Distribution Process – Distribution of Residue

i. Under-Compensated Class Members

36. There are no appeals available from the calculation of any Individual Payment as set out in a notification letter. If a Settlement Class Member, within forty-five (45) days of the date of emailing of the Phase II Notice/Individual Payment if the Individual Payment is received via Interac e-Transfer or within forty-five (45) days of the date of mailing of the Individual Payment via regular mail if the Individual Payment is received via regular mail/cheque, notifies the Settlement Administrator that the data or information set out in his/her notification letter is incorrect as it relates solely to his/her total purchases or refunds and provided that he/she can

provide documentary proof of such errors and such error resulted in the Settlement Class Member being under-compensated by greater than \$10.00, the Settlement Administrator will verify same (in cooperation with the Parties or their Counsel) and, if verified, then such Settlement Class Member (the “Under-Compensated Class Member”) will have a claim based on such under-compensation to a portion of the Residue as set out below. The Under-Compensated Class Member will then receive a letter or email advising them of same.

ii. Additional Class Members

37. If any Person would otherwise form part of the Class but is inadvertently or incorrectly omitted from the Class Member List as provided by Organigram, and thus for whom a notification letter and Individual Payment are not initially sent but who becomes aware of this settlement (the “Additional Class Members”), he/she may contact the Settlement Administrator and furnish reasonable documentary proof of their membership in the Class. If such Additional Class Members make such contact and provide such proof within six (6) months following the first date of distribution of Phase II Notice/Individual Payments and if the amount to which they are entitled exceeds \$10.00, those Class Members will have a claim to what would have been their Individual Payments (the “Additional Individual Payments”) out of the Residue. The claims for Additional Individual Payments for such Class Members will be calculated utilizing the calculations set out in sections 26 and 27 above as if the Individual Settlement Class Member Entitlement for each of them had originally been included in the Total Entitlement.

iii. The Second Stage of Distribution

38. The process to distribute the Residue will commence one (1) month following the Cheque Expiry Date.
39. Each Under-Compensated Class Member or Additional Class Member who has a claim to the Residue will be entitled to receive compensation by Interac e-Transfer, with the compensation being the lesser of: (a) the total of their outstanding Individual Entitlement; or (b) the amount calculated by taking their Individual Entitlement, dividing by all Residue claims and multiplying that fraction by the amount of the Residue, so long as the amount to which they are entitled exceeds \$10.00. Such Residue Interac e-Transfer payments must be deposited within 30 days of the date the Interac e-Transfer is sent, failing which such funds will form part of the amounts payable to charity as set out below.

40. The balance of the Residue, if any, remaining after such individual compensation is calculated for all Under-Compensated Class Members and Additional Class Members (the “Residual Fund Balance”) will be paid not later than forty-five (45) days after the deadline for Residue cheques to be cashed by *cy-prés* award in equal parts to Big Brothers Big Sisters of Greater Moncton, Big Brothers Big Sisters of Greater Halifax and Big Brothers Big Sisters of Cape Breton.

RELEASES & COVENANTS NOT TO SUE

41. Subject to the approval by the Court of this Settlement Agreement, Settlement Class Members:
- a. Shall be conclusively deemed to have, and by operation of the Settlement Approval Order shall have, fully, finally, and forever released, relinquished and discharged all Subject Claims against the Released Parties; and
 - b. Covenant and undertake not to bring any cause of action, proceeding, claim, action, suit or demand, or in any way commence, or continue any proceeding, claim, action, suit or demand, in any jurisdiction, against the Released Parties in respect of the Subject Claims.
42. The Plaintiff hereby acknowledges, and the Class Members are hereby advised, that neither Class Counsel nor the Defendants or their counsel are providing any advice about taxes and their possible implications for any compensation payable to Settlement Class Members under the Settlement.
43. It is noted that some Settlement Class Members may have obligations to notify and reimburse or repay (from any compensation payable to any Settlement Class Member) insurers or other third parties who may have reimbursed the Settlement Class Member for all or part of the purchase price of the Recalled Products. The Plaintiff hereby acknowledges, and the Class Members are hereby advised, that neither Class Counsel nor Organigram or their counsel are providing any advice about any rights or obligations that Settlement Class Members may have to insurers or other third parties. Class Counsel, the Plaintiff, Organigram and Organigram’s Counsel are not liable for any failure of an insured to notify and/or reimburse or repay to an insurer or other third party all or any part of the insurer or third party’s entitlement to the Settlement Class Member’s compensation, and Class Counsel and Organigram will seek an order of the Court to that effect.
44. All Class Members are hereby advised to seek their own advice in respect of the matters referred to in sections 42 and 43 above, or any other matters arising from the compensation available under

this Settlement.

DENIAL OF LIABILITY

- 45. The Defendants make no admission of any liability or wrongdoing with respect to any of the allegations made by the Plaintiff in the Action.

COURT APPROVAL OF CLASS COUNSEL FEES & DISBURSEMENTS

- 46. Class Counsel will seek the Court's approval for payment of Class Counsel Disbursements and Class Counsel Fees from the Settlement Fund, in a separate motion, to be heard contemporaneously with the motion seeking approval of this Settlement Agreement, subject to the directions of the Court. The foregoing shall be reimbursed and paid solely out of the Settlement Fund after the Effective Date. For clarity, Administration Expenses will not be paid out of the Settlement Fund.
- 47. Organigram will not take a position with respect to Class Counsel's motion to approve payment of Class Counsel Fees and Class Counsel Disbursements.

DISMISSAL OF THE PROCEEDINGS

- 48. In the event that this Settlement Agreement is approved, and subject to the approval of the Court, the Action shall be dismissed with prejudice and without costs as against Organigram, to be addressed in the order approving the Settlement Agreement. For certainty, only the Subject Claims are dismissed, and neither the dismissal nor anything else in the Settlement Agreement negatively affects, limits or precludes any claims any Settlement Class Member or anyone claiming through them ever had, now has, or hereafter can, shall or may have to the date hereof and into the future relating to any alleged personal injury relating to the Affected Product or damages relating thereto.

TERMINATION OF SETTLEMENT AGREEMENT

- 49. In the event that:
 - a. the Court declines to approve this Settlement Agreement; or
 - b. any Order approving this Settlement Agreement made by the Court does not become a Final Order,

the Plaintiff and Organigram shall each have the right to terminate this Settlement Agreement

by delivering a written notice within thirty (30) days following an event described above.

50. In addition, if the Settlement Fund is not paid in accordance with the terms of this agreement, the Plaintiff shall have the right to terminate this Settlement Agreement, at her sole discretion, by delivering a written notice to Organigram's Counsel.
51. If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason:
 - a. no motion to approve this Settlement Agreement, which has not been decided, shall proceed;
 - b. the Parties will cooperate in seeking to have any issued order approving 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; and
 - c. all negotiations, statements, proceedings and other matters relating to the settlement and the Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties, and the Parties shall be deemed to be restored to their respective positions existing immediately before the Settlement Agreement was executed.
52. If this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, section 45 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 section 45 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.

MOTIONS FOR DIRECTIONS AND ONGOING JURISDICTION

53. The Parties may apply to the Court as may be required for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.
54. All motions contemplated by this Settlement Agreement shall be on notice to the Parties.
55. The Court shall retain and exercise continuing and ongoing jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement. The Plaintiff, Class Members and Organigram attorn to the jurisdiction of the Court and motions styled in this Action before the Case Management Judge for such purposes.

HEADINGS, ETC.

56. 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.

COMPUTATION OF TIME

57. In the computation of time in this Settlement Agreement, except where a contrary intention appears, where there is a reference to a number of days between two events, the number of days shall be counted by calendar days and by excluding the day on which the first event happens and including the day on which the second event happens, and only in the case where the time for doing an act expires on a holiday as “holiday” is defined in the *Civil Procedure Rules*, the act may be done on the next day that is not a holiday.

GOVERNING LAW

58. This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Nova Scotia and the laws of Canada applicable therein.

ENTIRE AGREEMENT

59. 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.

AMENDMENTS

60. 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.

BINDING EFFECT

61. This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiff, the Class Members, Organigram and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiff shall be binding upon all Settlement Class Members and each and every covenant and agreement made herein by Organigram shall be binding upon it.

COUNTERPARTS

62. This Settlement Agreement may be executed in counterparts, each of which will be deemed an original and all of which, when 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.

NEGOTIATED AGREEMENT

63. 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.

LANGUAGE

64. The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais. Nevertheless, if required to by the Court, Class Counsel, a translation firm selected by Class Counsel, or some combination thereof shall prepare a French translation of the Settlement Agreement, the cost of which shall constitute an Administration Expense. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

RECITALS & SCHEDULES

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

66. The schedules to this Settlement Agreement also form part of the Settlement Agreement.

ACKNOWLEDGEMENTS

67. Each of the Parties hereby affirms and acknowledges that:
- a. he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;
 - b. the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;
 - c. he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
 - d. no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

AUTHORIZED SIGNATURES

68. Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified below their respective signatures and their law firm(s).

NOTICE

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

For the Plaintiff and Class Counsel in the Action:

c/o Raymond Wagner, Q.C. and Kate Boyle
Wagners
1869 Upper Water Street
Suite PH301, Pontac House
Historic Properties
Halifax, Nova Scotia B3L 3S9
Tel: 902.425.7330
Fax: 902.422.1233
Email: raywagner@wagners.co, kboyle@wagners.co and classaction@wagners.co

For Organigram:

Organigram Legal Department
320 Edinburgh Drive
Moncton, NB E1E 2L1

For Organigram's Counsel:

c/o Jane O'Neill, Q.C. and Daniel Wallace
McInnes Cooper
McInnes Cooper Tower - Purdy's Wharf
1969 Upper Water Street
Suite 1300
Halifax, Nova Scotia B3J 3R7
Tel: 902.425.6500
Fax: 902.425.6350
Email: jane.oneill@mcinnescooper.com and Daniel.Wallace@mcinnescooper.com

IN WITNESS WHEREOF the Parties hereto, have executed this Agreement.



**Kate Boyle for Raymond F.
Wagner, Q.C.
Counsel for the Plaintiff, Dawn Rae
Downton**

Signed March 29, 2022

DocuSigned by:



8BEDE47A0AE8412

**Derrick West
Chief Financial Officer
I have the authority to bind the
corporation**

Signed April 26, 2022

DocuSigned by:



ED9D455FA174474

**Helen Martin
Chief Legal Officer
I have the authority to bind the
corporation**

Signed April 26, 2022

SCHEDULE "A"

NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING: ORGANIGRAM CLASS ACTION

Dawn Rae Downton v. Organigram Holdings Inc. and Organigram Inc.,

Supreme Court of Nova Scotia, Hfx. No. 460984

To: All persons and entities who purchased from Organigram medical cannabis that has been the subject of a voluntary or involuntary recall on or before February 14, 2019.

Notice of Certification and Proposed Settlement: A class action has been certified on behalf of all persons and entities who purchased from Organigram Inc., a federally-licensed medical cannabis producer of cannabis for medical purposes, cannabis for medical purposes that has been recalled as of February 14, 2019. There were two recalls of the products, on December 28, 2016, and January 9, 2017, due to the detection of bifenazate, an insecticide, and myclobutanil, a pesticide, which are not authorized for use on cannabis plants. The recalled products include dried marijuana and cannabis oil that were produced between February 1, 2016 and December 16, 2016.

A class action was filed by Wagners (Halifax, NS) and Roy O'Connor LLP (Toronto, ON) on behalf of the Representative Plaintiff, Dawn Rae Downton, and the class on March 3, 2017, against Organigram Inc. and Organigram Holdings Inc. On February 14, 2019, the Supreme Court of Nova Scotia issued an order certifying the class action. The certified action alleges that Class Members did not receive the product they had bargained for, and the Defendants' conduct fell below the standard of care, and Class Members should therefore be provided with a return of the purchase price.

The parties have reached a settlement of the class action. The Court must approve the settlement before it can be implemented. The Court must be satisfied that the settlement is fair, reasonable and in the best interest of the Class. The hearing of the motion to approve the Settlement Agreement will be held on *, 2022 at **The Law Courts Building, 1815 Upper Water St in Halifax, Nova Scotia.**

The Terms of Proposed Settlement

If approved, the proposed settlement will provide compensation to all Class Members who purchased the recalled product from Organigram. Further terms and conditions of eligibility are outlined in the Settlement Agreement.

The Defendants have agreed to pay a total of \$2,310,000.00 CDN (the "Settlement Fund"), in addition to the third-party costs of administering notice and the settlement, to provide to Class Members a refund of the amounts paid to purchase the recalled product, less any refunds they have already received. Legal fees and expenses of class counsel will also be paid from the Settlement Fund.

At the hearing on ***, class counsel will be seeking the Court's approval of legal fees in the amount of 30% of the Settlement Fund plus applicable taxes, for their work in relation to this class action and settlement, in addition to reimbursement of expenses class counsel has paid. Wagners will also seek approval of payment of an honorarium to the Representative Plaintiff in the amount of \$*.

Participation in Settlement

If the Settlement Agreement is approved, the notification process and distribution process will be administered by a third party claims administrator, *. If the Settlement Agreement is approved, eligible Class Members will automatically receive from * the Phase II Notice, an individualized notification letter via email describing the amount of the individual payment ("Individual Payment") along with an Interac e-Transfer in the amount of the Individual Payment. Eligible class members do not need to contact * or take any steps in order to receive their Individual Payments, as the Defendants are providing to * the list of eligible class members based on records of the purchases of the recalled product.

Update Your Contact Information If Details Have Changed Since Purchase

*However, if your email address or regular mail address have changed since you purchased the recalled product in 2016 or 2017, please be sure to contact * right away to ensure that they have your up-to-date contact information. This allows * to send you notices and your Individual Payment. If you do not contact * in time, you may not receive your Individual Payment.*

Who is Included, and What If I Don't Want to Participate in the Settlement?

If approved, the proposed settlement will include all Class Members except for those who opt-out of the class action. A settlement will bind all Class Members who do not opt-out.

If you do not want to participate in the settlement and be bound by the terms of the Settlement Agreement, you must opt-out by sending an opt-out form to [settlement administrator] to be received on or before [Opt-Out Deadline]. If you opt-out you will not be entitled to participate in the settlement and will not receive any compensation from the settlement. If you have any questions about the legal consequences of exercising your right to opt-out, please do not hesitate to contact Wagners at the contact information below for free advice.

Settlement Approval Hearing and Your Right to Participate

If you wish to object to the proposed settlement or the payment of legal fees to class counsel, you may submit a written objection, referencing this class action, to Wagners. It must be sent no later than [Objection Deadline]. Objections received by the deadline will be provided to the Court. You may also attend the settlement approval hearing on *** and, subject to the directions of the Court, you may be able to make a submission to the Court.

A Class Member who wishes to object to the settlement or legal fees shall provide in his or her objection:

- (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 he or she is a member of the Class and the reason for that belief;
- (d) Whether the person intends to appear at the approval hearing or intends to appear by counsel, and if by counsel, the name, address, telephone number, fax number, and email address of counsel, and
- (e) A declaration under the penalty of perjury that the foregoing information is true and correct.

Class Members who do not object to the settlement need not appear at the hearing or take any other action at this time to indicate their desire to participate in the proposed settlement.

More Information

If you would like to **update your contact information** or send in an **opt-out form**, please contact the Settlement Administrator:

RicePoint Administration Inc.
1480 Richmond Street, Suite 204
London, Ontario, Canada, N6G 0J4
Email: support@ricepoint.com
Toll Free: 1 (866) 432-5534

For a copy of the proposed Settlement Agreement or for **questions relating to the Settlement Agreement**, please visit Wagners' website at www.wagners.co or contact Wagners at the below contact information:

Wagners
1869 Upper Water Street
Suite PH 301, Pontac House
Historic Properties
Halifax NS B3J 1S9
Telephone: 1-800-465-8794/902-425-7330
Email: classaction@wagners.co

This notice has been approved by the Supreme Court of Nova Scotia.

Do not contact the Court about this notice.

Schedule “B”
Organigram Class Action Phase I Notice Plan

Capitalized terms used in this Notice Plan have the meanings assigned in the Settlement Agreement.

The Phase I Notice at Schedule “A” to the Settlement Agreement shall be distributed in the following manner:

Direct Notice

1. The Settlement Administrator will send the Phase I Notice directly to all Class Members on the basis of the information contained in the Class Member List by electronic mail and text message (where available). If the electronic mail is returned to the Settlement Administrator as undeliverable, the Settlement Administrator will send Phase I Notice to the Class Member by regular mail after running the regular mail addresses through the National Change of Address database. Where a Class Member has contacted the Settlement Administrator with updated contact information, the Settlement Administrator will update the Class Member List and deliver the Phase I Notice to the updated address/email address.
2. The Phase I Notice, and/or the Opt-Out Form will be provided by the Settlement Administrator or Class Counsel to any person who requests it from them.

Indirect Notice

3. Class Counsel will post the Phase I Notice and Opt-Out Form on their websites (www.wagners.co; <http://royoconnor.ca>).
4. Wagners will issue a press release describing the contents of the Phase I Notice and attaching a copy of the Court-approved Phase I Notice.

SCHEDULE “C”

NOTICE OF SETTLEMENT APPROVAL: ORGANIGRAM CLASS ACTION

*Dawn Rae Downton v. Organigram Holdings Inc. and Organigram Inc.,
Supreme Court of Nova Scotia, Hfx. No. 460984*

NOTICE OF SETTLEMENT APPROVAL

A settlement has been reached and approved by the Court in a class action on behalf of all persons and entities who purchased from Organigram Inc., a federally-licensed medical cannabis producer of cannabis for medical purposes, cannabis for medical purposes that has been recalled as of February 14, 2019. There were two recalls of the products, on December 28, 2016, and January 9, 2017, due to the detection of bifenazate, an insecticide, and myclobutanil, a pesticide, which are not authorized for use on cannabis plants. The products that were recalled include dried marijuana and cannabis oil that were produced between February 1, 2016 and December 16, 2016.

A class action was filed by Wagners (Halifax, NS) and Roy O’Connor LLP (Toronto, ON) on behalf of the Representative Plaintiff, Dawn Rae Downton, and the class on March 3, 2017, against Organigram Inc. and Organigram Holdings Inc. The certified class action alleged that Class Members did not receive the product they had bargained for, and the Defendants’ conduct fell below the standard of care, and Class Members should therefore be provided with a return of the purchase price.

The Settlement Agreement obtained approval by the Supreme Court of Nova Scotia following a hearing on *, 2022 at The Law Courts Building, 1815 Upper Water St in Halifax, Nova Scotia.

You are receiving this notice because you have been identified by Organigram Inc. as being eligible for compensation under the Settlement Agreement, and you did not opt out of the action.

The Settlement Order and Settlement Agreement can be reviewed at www.wagners.co.

WHO IS AFFECTED BY THE SETTLEMENT?

The Settlement applies to you and all persons and entities who purchased from Organigram cannabis for medical purposes that had been recalled as of February 14, 2019. Further details are contained in the Settlement Agreement.

WHAT ARE THE TERMS OF THE SETTLEMENT?

The Defendants will pay \$2,310,000.00 CDN (the “Settlement Fund”), in addition to the third-party costs of administering notice and the settlement, to provide to Class Members a refund of the amounts paid to purchase the recalled product. Legal fees and expenses of class counsel will also be paid from the Settlement Fund.

The Settlement Administrator, *, has reviewed your purchase(s) of the recalled product and has calculated your entitlement to Individual Payment pursuant to the terms of the Settlement Agreement. Enclosed with this notice is your individualized calculation. You will receive a separate email providing your payment via Interac e-Transfer. Please accept the Interac e-Transfer upon receipt. Further details pertaining to your Individual Payment are contained in that personalized letter.

WHO REPRESENTS ME?

Class Counsel are Wagners and Roy O'Connor LLP

Wagners

1869 Upper Water St.
Suite PH 301, Pontac House
Halifax, NS
B3J 1S9
Tel: 902-425-7330/1-800-465-8794
classaction@wagners.co

Roy O'Connor LLP

1920 Yonge St
Suite 300
Toronto, ON
M4S 3E6

WHAT ARE THE LEGAL FEES?

Class Counsel's legal fees, disbursements and applicable taxes will be paid out of the Settlement Fund. The Court has approved payment of Class Counsel legal fees and disbursements and applicable taxes in the amount of \$XX.

SETTLEMENT ADMINISTRATOR

The Court has appointed [RicePoint Administration Inc.] as the Settlement Administrator for the Settlement.

If you have questions about the Settlement Agreement or your Individual Payment, please contact the Settlement Administrator at:

RicePoint Administration Inc.
1480 Richmond Street, Suite 204
London, Ontario, Canada, N6G 0J4
Email: support@ricepoint.com
Toll Free: 1 (866) 432-5534

This notice has been approved by the Supreme Court of Nova Scotia.

Do not contact the Court about this notice.

Schedule “D”

Organigram Class Action Phase II Notice Plan

Capitalized terms used in this Notice Plan have the meanings assigned in the Settlement Agreement.

The Phase II Notice at Schedule “C” to the Settlement Agreement shall be distributed in the following manner:

Direct Notice

1. The Settlement Administrator will send the Phase II Notice directly to all Class Members on the basis of the information contained in the Class Member List by electronic mail and text message (where available). If the electronic mail is returned to the Settlement Administrator as undeliverable and/or the Interac e-Transfer is not deposited by the Interac Expiry Date, the Settlement Administrator will send Phase II Notice to such Class Members by regular mail after running the regular mail addresses through the National Change of Address database. Where a Class Member has contacted the Settlement Administrator with updated contact information, the Settlement Administrator will update the Class Member List and deliver the Phase II Notice to the updated address/email address.

2. The Phase II Notice will be provided by the Settlement Administrator or Class Counsel to any person who requests it.

Indirect Notice

3. Class Counsel will post the Phase II Notice on their websites (www.wagners.co; <http://royoconnor.ca>).

4. Wagners will issue a press release describing the contents of the Phase II Notice and attaching a copy of the Court-approved Phase II Notice.