

**IN THE MATTER OF THE SECURITIES ACT
R.S.O. 1990, c. S.5, AS AMENDED**

- and -

IN THE MATTER OF YORKTON SECURITIES INC.

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Hearing dated December 17, 2001 (the "Notice of Hearing"), the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing to consider whether, pursuant to sections 127(1) and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), it is in the public interest for the Commission:
 - (a) to make an order approving the proposed settlement entered into between Staff of the Commission ("Staff") and the respondent, Yorkton Securities Inc. ("Yorkton") of this proceeding, pursuant to sections 127 and 127.1 of the Act, which approval will be sought jointly by Staff and Yorkton;

- (b) to make an order that the registration of other respondents be suspended or restricted for such time as the Commission may direct, or be terminated, or be subject to such terms and conditions as the Commission may order;
- (c) to make an order that trading in securities by other respondents cease permanently or for such other period as specified by the Commission;
- (d) to make an order that other respondents be prohibited from becoming or acting as a director or officer of any issuer;
- (e) to make an order that Yorkton institute such changes as may be ordered by the Commission and submit to a review of its practices and procedures;
- (f) to make an order that the respondents be reprimanded; and
- (g) to make an order that the respondents pay costs to the Commission.

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff agree to recommend settlement of the proceeding initiated in respect of the respondent Yorkton by the Notice of Hearing in accordance with the terms and conditions set out below. Yorkton consents to the making of an order against it in the form attached as Schedule "A" on the basis of the facts set out below.

III. STATEMENT OF FACTS

ACKNOWLEDGEMENT

3. Solely for the purposes of this proceeding, and of any other proceeding commenced by a securities regulatory agency, Yorkton agrees with the facts as set out in this Part III.

FACTS

YORKTON SECURITIES INC.

4. The conduct of Yorkton Securities Inc. (“Yorkton”) that is the subject matter of this settlement agreement occurred prior to February 2001 (the “Material Time”). Since February, 2001, Yorkton has taken a number of steps to adopt best practices in the area of regulatory compliance.
5. Yorkton is registered as, among other things, a broker and investment dealer under the Act and is a member of, among other things, The Toronto Stock Exchange (the “TSE”) and the Investment Dealers Association of Canada (the "IDA"). Yorkton is an employee-owned firm with over 600 employees. Yorkton is a wholly-owned subsidiary of Yorkton Financial Inc. (“Yorkton Financial”).
6. G. Scott Paterson (“Paterson”) was registered as a trading officer and the Chairman and Chief Executive Officer of Yorkton since October 1998, and President of Yorkton from May 20, 1997 to October 1, 1998. During the Material Time, Paterson owned approximately 15% of Yorkton Financial. Paterson was registered as a trading officer with the title of Executive Vice-President and Director from May 16, 1995 to May 20, 1997.
7. Piergiorgio Donnini ("Donnini") was during the Material Time Yorkton's Head Institutional and Liability Trader. Donnini's employment with Yorkton was terminated in April 2001. From November 14, 1995 to April 5, 2001, Donnini was registered as a sales representative with Yorkton, with the exception from September, 1998 to April, 1999 when Donnini was not employed with Yorkton.
8. Roger Arnold Dent (“Dent”) has been registered since September 1998 as a trading officer and director with the titles of Vice-Chairman, Executive Vice-President and Director of Research of Yorkton. Dent was registered as a trading officer with the title of

Vice-President and Director from March 19, 1997 to March 9, 1998, and as Executive Vice-President from March 9, 1998 to September 8, 1998.

9. Nelson Charles Smith (“Smith”) is, and has been registered since March 26, 2001, as a trading officer with the titles of Vice-President and Managing Director, Head of Investment Banking. Smith was registered as a trading officer with the title of Vice-President from November 9, 1995 to January 30, 1997, and from January 30, 1997 to March 26, 2001 as Vice-President and Director of Investment Banking for the Media, Entertainment & Leisure Group.
10. Alkarim Jivraj (“Jivraj”) has been employed with Yorkton as an investment banker since 1996. Jivraj was registered as an approved, non-trading officer with the title of Vice-President and Director from May 24, 2000 to March 12, 2001. Since March 12, 2001 Jivraj has been registered as an approved, non-trading officer with the title of Vice-President and Managing Director, Technology Investment.

GTR GROUP INC.

11. GTR Group Inc. (“GTR”) was the continuing company formed through the reverse takeover (the “RTO”) by Games Trader Inc. (“GTI”) of the listed “shell” then known as Xencet Investments Inc. (“Xencet”) in October 1998 and the concurrent exchange of securities with shareholders of 1308129 Ontario Inc. (“1308129”). Effective September 5, 2001, GTR changed its name to Mad Catz Interactive Inc. During the Material Time GTR was a reporting issuer in British Columbia, Alberta and Ontario and its common shares were listed and posted for trading on the TSE under the symbol GTR.
12. During the Material Time GTR carried on business through two operating subsidiaries. Through the first of those subsidiaries (which carried on business under the name “Games Trader”), GTR was a supplier of video games to mass merchant and specialty retailers in the United States and Canada, with its principal business activity being the

sourcing, refurbishing, repackaging and distribution of previously played video game software. Through the second of those subsidiaries, GTR designed, developed, manufactured (through third parties) and marketed interactive video game control devices and accessories.

13. GTI was, until it was taken public through the RTO, a closely-held company that carried on the business later operated under the “Games Trader” name.

1. Investments by Yorkton Group in GTI

14. In March 1997, Capital Canada Limited (“CCL”) made a presentation to representatives of Yorkton concerning an opportunity to participate in the acquisition and financing of GTI. In this presentation, CCL expressed the view that individuals at Yorkton should acquire shares in GTI as a sign of their good faith.
15. In response to this presentation, ultimately Yorkton acquired 250,000 common shares, representing approximately 6% of the outstanding common shares of GTI. Yorkton then transferred those shares to the various persons and entities including Smith, Dent and Patstar Inc., a corporation owned by Paterson (collectively, the "Yorkton Group").

2. Yorkton/Paterson Relationship with Xencet

16. Xencet was incorporated in 1993 as a “junior capital pool” under the name Patch Ventures Inc. ("Patch") at the initiative of, among others, Paterson. In 1994, Patch acquired all of the issued and outstanding shares of Legacy Manufacturing Corporation pursuant to a reverse take-over, following which the name of the company was changed to Legacy Storage Systems International Inc. (“Legacy”). In 1995, Paterson joined the board of directors of Legacy and its shares were listed and posted for trading on the TSE. Paterson has since 1995 also been a shareholder of Legacy and its successor companies.

17. Since 1995, Yorkton has regularly acted as underwriter and financial advisor for Xencet and its predecessor companies and was also a security holder. In particular, Yorkton was the underwriter in respect of two special warrant offerings of Legacy completed in May 1995 and December 1995, and the underwriter in respect of the unit offering of Legacy completed in March 1996. Yorkton also acted as financial advisor to Legacy in connection with the acquisition by Legacy of shares and assets of Rexon Inc., completed in March 1996. Legacy subsequently changed its name to Tecmar Technologies International Inc. in December 1996. In January 1998, its name again was changed to Xencet Investments Inc. (“Xencet”) in connection with the proposed sale of the last of its operating businesses. Paterson remained on the board of Xencet (and its predecessor companies as of August 1995) until his resignation from the board on September 30, 1998.
18. Upon completion of the sale of the last of Xencet’s operating businesses, in mid-February 1998, Xencet had no significant operations. It held cash and cash equivalents in excess of \$7.5 million. Its only other asset was a listing on the TSE. To preserve this listing, the TSE required that Xencet enter into a legally binding agreement by August 18, 1998 to acquire an operating business that, if completed, would result in Xencet meeting the original listing requirements of the TSE. Failing that, the shares of Xencet would be de-listed. The board of directors of Xencet asked Paterson and other firms and individuals and firms to search out business opportunities.
19. In late March 1998, notwithstanding that Xencet had no apparent need or use for additional cash, Paterson proposed to the two other directors of Xencet a transaction pursuant to which Paterson and certain other investors identified by him would acquire for \$0.65 per unit approximately 1,150,000 units. Each unit was to consist of one common share in the capital of Xencet and one common share purchase warrant exercisable for \$0.70 per share for a period of two years from the date of issue. On March 31, 1998, the closing price of the common shares of Xencet on the TSE was \$0.70 per share.

20. The proposed private placement was announced by Xencet on April 30, 1998 (the “Xencet Private Placement”). The Xencet Private Placement closed in late May 1998 at which time 460,000 units were issued to Yorkton in trust for Paterson, and 690,000 units were issued to two Yorkton institutional clients.
21. Xencet’s press release of April 30, 1998 did not disclose the identity of the subscribers to the Xencet Private Placement, and certain Yorkton personnel assisting with the RTO were not made aware that Paterson had participated in the Xencet Private Placement until such disclosure was made in the Xencet Information Circular dated August 26, 1998 in connection with the RTO. Paterson signed his subscription agreement in relation to the Xencet Private Placement on May 21, 1998 and filed his insider report on September 16, 1998, reporting his acquisition of 460,000 units of Xencet effective May 22, 1998.

3. The RTO – Role of Yorkton’s Officers and Investment Bankers

22. In March 1998, Paterson committed to the board of Xencet resources of Yorkton. In particular, Paterson committed employees of Yorkton to review possible merger or RTO candidates and to report the results of the review to the Xencet Board. As a director of Xencet, Paterson was informed of all business opportunities presented to the Xencet board, and the development of any proposed transaction. Although Paterson committed Yorkton resources to help search out proposed business opportunities, Paterson did not cause Yorkton to enter into an engagement agreement with Xencet. Xencet was not placed on the grey list (also referred to as a watch list) in March 1998. Yorkton did not place Xencet on its grey list until August 13, 1998.
23. During the Material Time, other Yorkton senior officers and investment bankers acted as financial advisors to GTI, including Smith, the Director of Investment Banking for the Media, Entertainment & Leisure Group.

24. Through 1997 and into 1998, representatives of GTI met with Smith, and others at Yorkton, on various occasions to discuss the timing of an initial public offering of GTI and the company's financing requirements.
25. On or about April 16, 1998, Smith, Dent and other employees on behalf of Yorkton, met with the President of GTI for a general business update on GTI. Smith arranged for the GTI President to give a presentation to Paterson on or about April 24, 1998.
26. After that presentation, Paterson advised representatives of GTI that it was Yorkton's view that, given GTI's recent operating results and financial condition, an initial public offering was not likely to be successfully completed until 1999 or later. Paterson indicated that he was aware, however, of a TSE-listed company that was looking for merger or acquisition candidates and that he would take the information provided by GTI and consider whether there could be a deal between GTI and that listed company. Shortly after this meeting, discussions ensued concerning a possible transaction, and the identity of Xencet was disclosed to GTI.
27. During April and May 1998, GTI was in discussions with Movies & Games 4 Sale, L.P. ("M4S"), a Dallas-based private limited partnership engaged in the same type of business as GTI, with respect to the possible combination of the businesses of GTI and M4S.
28. Paterson introduced GTI to the Board of Directors of Xencet on or about May 5, 1998.
29. In early May, 1998, Paterson, on behalf of Xencet, and a representative of GTI, negotiated the share exchange ratio in respect of the three businesses, such that Xencet, GTI and M4S were agreed to be valued as one-third interests of the proposed business combination. The share exchange ratio agreed to by the parties was not publicly available. In or about early May, 1998, Smith was informed of the share exchange ratio agreed to by Xencet and GTI in relation to the interests of Xencet, GTI and M4S. This information was made available to Dent in or about early May, 1998 by virtue of his role.

30. On or about June 12, 1998, it was determined by the interested parties that the proposed merger/RTO would no longer include M4S as a party to the transaction.
31. On or about June 16, 1998, Paterson, on behalf of Xencet, and representatives of GTI reached an agreement in respect of the share exchange ratio for the proposed RTO of GTI and Xencet. The parties agreed to a 50/50 share exchange ratio. The share exchange ratio agreed to by the parties was not publicly announced at this time. The information concerning the share exchange ratio agreed to by Xencet and GTI was available to each of Dent and Smith in or about mid-June, 1998, by virtue of their roles. On Friday, June 19, 1998, Xencet and GTI also entered into a confidentiality agreement, and began to exchange information under that agreement on Monday, June 22, 1998.
32. In order to proceed with the proposed RTO, GTI also approached the shareholders of GTI and requested that the original shareholders (which included Patstar Inc., Smith and Dent) purchase shares from the founder of GTI.
33. On June 30, 1998, Paterson, Smith and Dent, purchased common shares of GTI. Paterson, through Patstar Inc., purchased 55,627 shares of GTI. Dent and certain of his relatives purchased 30,990 shares of GTI. Smith purchased 2,660 shares of GTI.
34. On July 31, 1998, Xencet and GTI entered into an acquisition agreement (the "Acquisition Agreement"), as amended and restated on August 20, 1998, providing for the acquisition of all the issued and outstanding common shares of GTI, pursuant to securities exchange agreements to be entered into with the holders of GTI common shares in exchange for units of Xencet comprised of common shares and a fractional number of common share purchase warrants.
35. The share ratio agreed to by Xencet and GTI, as reflected in the Acquisition Agreement, was as follows:

“On the terms and subject to the conditions set out herein and in the Securities Exchange Agreement, the transactions contemplated by this Agreement shall be effected by the implementation of the following steps on the Closing Date:

- (a) Xencet shall acquire all of the GTI Securities from the GTI Securityholders in exchange for an aggregate of:
 - (i) 10,300,000 Xencet Common Shares; and
 - (ii) 1,000,000 Xencet Series A Warrants;
- (b) Peter Kozicz shall receive options to purchase 514,884 common shares of Xencet exercisable until April 7, 2000 for the Kozicz Options held by him, it being the intent that the options to be granted to Peter Kozicz will be granted at the market price of the common shares of Xencet, as agreed to with the TSE, and that the accrued gain in the Kozicz Options, being the excess of the exercise price per share of the options to be granted by Xencet to Peter Kozicz over \$0.4017 (the “Excess Amount”) will be treated as a pre-payment of a portion of the exercise price per share payable under such options equal to the Excess Amount per share of the options to be granted to Peter Kozicz, so that Peter Kozicz is in the same economic position as if he continued to hold the Kozicz Options, and the TSE shall have approved the issuance of such options on the foregoing terms on or before August 12, 1998.”

The Acquisition Agreement and the terms contained therein were not made publicly available.

- 36. In or about late July 1998, Jivraj was formally assigned to the Xencet, GTI RTO transaction, although Jivraj had information regarding the RTO prior to that date. Jivraj’s primary responsibility was to close the financing transaction concurrent with the RTO. In mid 1998, Jivraj became aware that several senior Yorkton officers had recently purchased shares in GTI.
- 37. In mid 1998, Jivraj approached Paterson and proposed that Paterson sell to him common shares in GTI. Paterson agreed to sell a portion of his position in GTI.

38. On August 19, 1998 Jivraj purchased 2,217 common shares of GTI from Patstar Inc. for \$1,441.05.
39. The RTO transaction was publicly announced by Xencet on August 26, 1998, which announcement included disclosure of the share exchange ratio agreed to by Xencet and GTI as reflected in the Acquisition Agreement, as amended and restated on August 20, 1998. The RTO was completed by October 30, 1998, and the name of the company was changed to GTR as of November 11, 1998. Following the RTO, the common shares of Xencet/GTR traded on the TSE at prices substantially above the price at which the units were sold to Paterson and the two Yorkton institutional clients, pursuant to the Xencet Private Placement, and substantially above the price of the GTI shares purchased by Paterson, Smith, Dent and Jivraj in the summer of 1998.

KASTEN CHASE APPLIED RESEARCH LIMITED

40. Kasten Chase Applied Research Limited (“KCA”) is a corporation incorporated under the *Business Corporations Act* (Ontario). KCA develops and applies technology to provide secure remote access to computer networks. KCA was a privately held company up until 1994 at which time Yorkton structured the reverse take over by KCA of the reporting issuer known as Dysis Corp. KCA is a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Quebec. The common shares of KCA are listed and posted for trading on the TSE under the symbol KCA. Since 1994 Yorkton has acted as underwriter in respect of several financings and private placements for KCA.

1. First KCA Special Warrant Financing

41. In early February 2000, Yorkton and KCA engaged in discussions about a possible financing of KCA. On February 10, 2000, KCA sought "price protection" from the TSE

for an offering of special warrants based on the \$1.37 closing price of its common shares on February 9, 2000.

42. On February 11, 2000, KCA executed an engagement agreement with Yorkton under which KCA proposed to raise \$5 million by issuing 4 million special warrants priced at \$1.25 each (referred to as the “SWI”). Pursuant to subsections 619(a) and (b) and 622 of the TSE Company Manual, special warrants exchangeable into listed common shares may be issued at a discount to the closing price of the common shares on the TSE on the day before the date on which price protection is sought. Each special warrant was to entitle the holder to acquire one common share of KCA and one warrant to acquire one-half of one common share at an exercise price equal to \$1.75 per common share.
43. Pursuant to the engagement agreement, Yorkton was entitled to receive an underwriter’s commission equal to 8% of the gross proceeds of the offering (or \$400,000 in cash commission) and compensation options to acquire 400,000 units at an exercise price of \$1.37 per unit. Each unit was to be exchangeable for one common share of KCA and one warrant to acquire one-half of one common share at an exercise price equal to \$1.75 per common share. Yorkton did not own freely tradeable shares of KCA at this time.
44. The arrangements between Yorkton and KCA set out in the engagement agreement were confirmed in an underwriting agreement dated February 24, 2000. The financing closed on February 24, 2000.

2. Subscriptions For First KCA Special Warrants

45. During the pre-marketing of SWI, Yorkton’s institutional clients expressed a greater demand for the purchase of SWI units than the proposed 4 million units. These clients were prepared to purchase close to 6.5 million KCA units.

46. Accordingly, on February 11, 2000, Yorkton received sufficient orders to purchase the special warrants that resulted in the offering being oversubscribed.
47. Among others, a Yorkton institutional client (the “Yorkton Institutional Client”), subscribed for 340,000 special warrants and a Yorkton retail client (the “Yorkton Retail Client”) subscribed for 78,000 special warrants, respectively.
48. Each subscriber was required to complete a subscription agreement and a private placement questionnaire and undertaking in a form prescribed by the TSE. Pursuant to the undertaking, each subscriber undertook to the TSE that, except with the “prior consent” of the TSE, it would not “sell or otherwise dispose of any of the said securities so purchased or any securities derived therefrom for the lesser of” six months or the date that a receipt for a final prospectus in respect of those securities was issued by the Commission.

3. Purchases by Yorkton of KCA Special Warrants

49. The trading price of KCA common shares on the TSE increased substantially from \$2.05 per KCA common share at the close of business on February 11, 2000 to \$6.75 per common share by the close of business on February 28, 2000. As a result, subscribers for the special warrants enjoyed a substantial unrealized appreciation in value.
50. Commencing in mid-February 2000, certain Yorkton salespersons spoke with some of the subscribers for the special warrants to determine their interest in realizing a profit by selling some or all of their special warrants. The clients approached were pleased to have the opportunity to sell the special warrants and realize a profit on the sale.
51. On or about February 28, 2000, Yorkton agreed to purchase from the Yorkton Institutional Client, for Yorkton’s own account, 80,000 of the KCA special warrants at a price of \$5.00 per warrant.

52. On or about February 29, 2000, Yorkton agreed to purchase from the Yorkton Retail Client, for Yorkton's own account, 78,000 of the KCA special warrants at a price of \$7.65 per warrant. Yorkton charged the Yorkton Retail Client an aggregate commission of \$19,500 on this sale and Yorkton did not disclose to the Yorkton Retail Client that Yorkton was purchasing the special warrants as principal. Yorkton has agreed to credit \$19,500 to the account of this client.
53. On or about February 29, 2000, Yorkton agreed to purchase from the Yorkton Institutional Client, for Yorkton's own account, 60,000 of the KCA special warrants at a price of \$7.00 per warrant and 100,000 special warrants at a price of \$7.75 per warrant.
54. On March 2, 2000, Yorkton sought and obtained the TSE's consent to these purchases of KCA special warrants from the Yorkton Institutional Client and the Yorkton Retail Client, conditional upon, among other things, Yorkton filing a questionnaire and undertaking in the prescribed form. Yorkton failed to file the questionnaire and undertaking as required.
55. Yorkton did not maintain an itemized daily record of the purchases from the Yorkton Institutional Client and the Yorkton Retail Client. The purchases were not recorded, and the trades were not ticketed, until March 3, 2000, the day after TSE consent was received.

4. Yorkton's Borrowing and Short Sales¹ in KCA Common Shares

56. Commencing on or about February 15, 2000, with the knowledge and approval of Paterson, Donnini began executing short sales of common shares of KCA for Yorkton's own account.

¹ A short sale is the sale of a security which the seller does not own. This is a speculative practice done in the belief that the price of a stock is going to fall and the seller will then be able to cover the sale by buying it back later at a lower price, thereby making a profit on the transactions. (Source: Canadian Securities Course Textbook Volume 3, September 1998, prepared and published by the Canadian Securities Institute).

57. On or about February 17, 2000, Donnini, on behalf of Yorkton, began to borrow KCA common shares from various registered dealers. Between February 15, 2000 and February 28, 2000, Yorkton sold short for its own account approximately 355,000 common shares of KCA. These transactions were transparent to the market as Donnini traded from Yorkton's inventory account.
58. The short sales carried out prior to February 29, 2000, were effected as part of a strategy to lock in Yorkton's profits in relation to compensation options and special warrants from SWI, which could not be freely traded.

5. Second KCA Special Warrant Financing Proposal

59. On February 29, 2000, Paterson presented a financing proposal to the Chief Financial Officer of KCA. Paterson informed Donnini on February 29, 2000 that the proposed second KCA financing was a \$10 million special warrant offering at \$6.75 per special warrant, and was to have a structure similar to the SWI financing. Given the nature of the information provided by Paterson to Donnini, which was not publicly available, Paterson should have instructed or directed Donnini to cease his short selling of KCA common shares on February 29, 2000, but failed to do so. Having regard to the status of the negotiations, Paterson should have informed Yorkton's compliance department that KCA be placed on the grey list on February 29, 2000, but failed to do so.
60. Following receipt of information from Paterson, as described above, Donnini traded in common shares of KCA for Yorkton's account through jitney² trades. By the close of business on February 29, 2000, Donnini had sold short for Yorkton's account 579,000 common shares of KCA.
61. On the morning of March 1, 2000, the CFO of KCA continued to negotiate the terms of the special warrant offering with Paterson, and by mid-day, KCA had reached an

² Jitney: The execution and clearing of orders by one member of a stock exchange for the account of another member. (Source: Canadian Securities Course Textbook Volume 3, September 1998, prepared and published by the Canadian Securities Institute).

agreement in principle with Yorkton in relation to the following terms of the second warrant financing (subject to board approval of KCA and negotiation of the engagement letter with Yorkton):

- the pricing of the special warrants II offering;
- the size of the special warrants II offering (including the common share purchase warrants and the exercise period and exercise price of the warrants);
- the Commission to be paid to Yorkton in respect of the special warrants II offering, and the number, exercise price and exercise period of the compensation warrants to be issued to Yorkton in respect of the underwriting.

62. On March 1, 2000 KCA sought price protection from the TSE for an offering of special warrants at \$6.75 per special warrant based on the \$6.90 closing price of KCA's common shares on February 29, 2000.
63. At the close of the day on March 1, 2000, the board of directors of KCA approved the second special warrant financing.
64. On March 1, 2000, Yorkton sold short for its own account a further 440,200 common shares of KCA, of which over 400,000 shares were jitneyed through another investment dealer, which had the effect of concealing Yorkton's involvement in the trade. By the close of trading on the TSE on March 1, 2000, Yorkton had sold short approximately 1,375,000 common shares of KCA. Paterson took no steps to restrict Donnini's trading in KCA common shares. All of the short sales from February 29 and March 1 were made at prices in excess of the \$6.75 price for the KCA SW2 warrants. The average price of these trades (i.e. short sales) excuted by Donnini beginning on the afternoon of February 29 at approximately 2:45 p.m., and continuing on March 1, was \$7.48.

65. Yorkton's "bought deal" committee approved Yorkton's participation in the second special warrants financing at about 8:00 a.m. on March 2, 2000. KCA and Yorkton then executed an engagement agreement pursuant to which KCA agreed to raise, and Yorkton agreed to underwrite, \$10 million by issuing 1.483 million special warrants priced at \$6.75 each. Each special warrant was to entitle the holder to acquire one common share of KCA and one warrant to acquire one-half of one common share at an exercise price equal to \$7.75 per common share.
66. Pursuant to the engagement agreement, Yorkton was entitled to receive an underwriter's commission equal to 8% of the gross proceeds of the offering and compensation options to acquire 148,399 units at an exercise price of \$6.90 per unit. Each unit was to be exchangeable for one common share of KCA and one warrant to acquire one-half of one common share at an exercise price equal to \$7.75 per common share.
67. After Yorkton's "bought deal" committee approved the financing, KCA was placed on Yorkton's "restricted list", which was distributed by e-mail shortly before markets opened on March 2, 2000.
68. The arrangements between Yorkton and KCA set out in the engagement agreement were formalized in an underwriting agreement dated March 15, 2000. The financing closed on March 15, 2000.
69. Yorkton's retail salespersons advised Yorkton's syndication department that they had received indications of interest from sophisticated retail clients in purchasing a total of 609,500 special warrants. Retail sales were allocated 431,000 of the 1.483 million special warrants that were to be distributed. Except for some hedge fund clients, Yorkton's institutional clients were not interested in purchasing KCA units in the second warrant financing. Yorkton purchased, as principal, the remaining 650,000 special warrants at a price of \$4,387,500, with the result that fewer special warrants were allocated to sophisticated retail clients.

BOOK4GOLF.COM CORPORATION

70. Book4golf.com Corporation ("Book4golf") has since September 22, 1999 been incorporated pursuant to the *Canada Business Corporations Act*. Book4golf is the developer and owner of Book4golf.com, an e-commerce Web portal that allows golfers to book tee times at various types of golf courses over the Internet. Book4golf is a reporting issuer in British Columbia and Ontario. The common shares of Book4golf are listed and posted for trading on the Canadian Venture Exchange ("CDNX") under the symbol BFG.
71. Dent, Yorkton's Director of Research, became a director of Book4golf on September 22, 1999 and resigned as a director effective January 10, 2001.

1. Book4golf Research Reports

72. Yorkton commenced research coverage of Book4golf effective February 1, 2000. On February 1, 2000, Yorkton issued a "Research Comment" about Book4golf authored by a Yorkton Research Analyst (the "Yorkton Research Analyst"), that contained a "strong buy" recommendation. The Research Comment disclosed that Yorkton had acted as "agent for financing of or financial advisor for" Book4golf within the preceding three years, but did not disclose that Dent was a director of Book4golf.
73. The strong buy recommendation was repeated in research documents on Book4golf authored by the Yorkton Research Analyst dated March 17, 2000; March 22, 2000; April 11, 2000; April 28, 2000; May 3, 2000; June 5, 2000; June 26, 2000; July 17, 2000 and July 31, 2000, variously titled as "Online", "The Wake-Up Call" and "Research Comment". The Yorkton Research Analyst authored two further research documents dated September 26, 2000 and October 16, 2000 in which Yorkton's recommendations changed from "strong buy" to "speculative buy". Each of the foregoing documents (collectively, referred to as the "Research Reports") disclosed that Yorkton had acted as

"agent for financing of or financial advisor for" Book4golf, but did not disclose that Dent was a director of Book4golf.

74. The research document dated January 11, 2001, titled "The Wake-Up Call" authored by the Yorkton Research Analyst disclosed that Dent had stepped down as director of Book4golf.
75. At no time did Yorkton or Dent instruct the Yorkton Research Analyst to disclose in the Research Reports that Dent was a director of Book4golf, or instruct the Yorkton Research Analyst to disclose in the Research Reports the existence of a conflict of interest arising from Dent's position as a Book4golf director and Yorkton's research coverage of Book4golf.

2. Book4golf off CDNX Trade

76. Paterson and Yorkton played a major role in the affairs of Somerville Capital Inc., a junior capital pool ("JCP") company, and they continued to play a major role after the RTO transaction that transformed the JCP into Book4golf. Yorkton acted as underwriter and financial advisor. Paterson and other Yorkton employees were shareholders and Paterson publicly supported Book4golf. Yorkton provided research coverage on Book4golf and the Director of Research reported directly to Paterson. Yorkton was the dominant trading member firm in Book4golf shares.
77. On January 24, 2000, Book4golf opened at a price of \$17.30, reached a high of \$18.05 and a low of \$14.00, and closed at \$15.85. The following day Book4golf opened at a price of \$17.00.
78. On January 24, 2000, a U.S. client of Yorkton's Chicago office wished to sell 100,000 shares of Book4golf. The Chicago office relayed the information to Donnini, the Head of Institutional Trading in Yorkton's Toronto office. Donnini, who reported directly to

Paterson, approached Paterson and together they decided to offer a bid price of \$13.75 per share, a 25¢ discount to the lowest transaction price on that date. Of the 100,000 Book4golf shares, Donnini purchased 25,000 Book4golf shares in his personal account and Paterson purchased the remaining 75,000 Book4golf shares through the account of his personal holding company.

79. Donnini failed to disclose the 100,000 sale of the Book4golf shares to CDNX and the transactions were only recorded on the books and records of Yorkton on January 25, 2000 “as of January 24, 2000”. The size and nature of this transaction would have depressed the market price of Book4golf if it had been placed through the facilities of the CDNX.
80. Paterson actively traded Book4golf shares on January 24, 2000 prior to buying the 75,000 Book4golf shares.
81. From January 26, 2000 to February 18, 2000, Paterson sold 75,000 shares of Book4golf at prices ranging from \$16.00 to \$23.25. On a “last in, first out” basis, he made a profit of over \$400,000.
82. Donnini and Yorkton were sanctioned by the CDNX for failing to report the transaction involving the 100,000 shares of Book4golf. The settlement agreement was approved on June 4, 2001 by a Disciplinary Hearing Panel of the CDNX.

3. Missing Trade Tickets

83. In the course of its investigation giving rise to this settlement agreement, on September 5, 2001, Staff requested that Yorkton provide certain trade tickets in Book4golf.
84. Yorkton was unable to provide to Staff the requested documents as required under Ontario securities law.

85. Yorkton has advised Staff that Yorkton's former external records retention service provider lost the requested documents. However, Yorkton accepts full responsibility for its failure to produce to Staff the requested records, as required under Ontario securities law.

STORAGE ONE INC.

1. Establishment of Storage One

86. Storage One Inc. ("Storage One") was incorporated under the *Business Corporations Act* (Ontario) as Storage Express Inc. on October 18, 1993 as a subsidiary of Tecmar Technologies Incorporated ("Tecmar"). Storage Express Inc. changed its name to Storage One effective November 10, 1993 and to EcomPark Inc. effective May 19, 1999.
87. Tecmar was a wholly owned subsidiary of Tecmar Technologies International Inc. As noted above in paragraph 17, Tecmar Technologies International Inc. was formerly Legacy Storage Systems International Inc. Paterson was a shareholder of Legacy Storage Systems International Inc. (and the successor companies, including Xencet) from 1995 to date, and a director of Legacy Systems International Inc. (and its successor companies) from 1995 until his resignation from the Xencet board on September 30, 1998.
88. Storage One did not carry on active business until April 14, 1997, when it acquired certain inventory, fixed assets, prepaid expenses and goodwill of the computer storage hardware business carried on by Tecmar. On the advice of Paterson to the board of Tecmar Technologies International Inc., Storage One became a separate company in April, 1997.

89. Effective August, 1997, Storage One became a reporting issuer in British Columbia, Alberta and Ontario. Effective October, 1997, the common shares of Storage One were listed and posted for trading on the Alberta Stock Exchange (as it then was) under the symbol SOJ.

2. August 18, 1997 Prospectus

90. Pursuant to a prospectus dated August 18, 1997, Storage One made an initial public offering (the "August IPO") by which it raised \$800,000 by offering 3,200,000 units consisting of a common share and common share purchase warrant. The same prospectus qualified for distribution common shares and warrants issuable upon the exercise of special warrants issued in April 1997 for proceeds of \$2,893,500. These investments were described in the prospectus as speculative and involving a high degree of risk.
91. As described in the prospectus under the heading "Management of Storage", each of the four managers of Storage One identified in the prospectus had held management positions with Tecmar or with its computer storage hardware business before that business was acquired by Storage One. Under the heading "Risk Factors", the prospectus stated that Storage One was substantially dependent on the services of a few key personnel, including three of the four managers identified in the prospectus. The prospectus disclosed no concerns about the quality or abilities of management.
92. The financing agreement dated April 14, 1997 between Storage One and Yorkton relating to the offering of the special warrants of Storage One (the "April Private Placement"), required Storage One to deposit into a segregated bank account the majority of the proceeds of that financing and the net proceeds of the sale of units later issued under the prospectus. These funds could be released only with the consent of two Yorkton nominees.

93. In connection with the April Private Placement, these restrictions were required because Paterson had concerns in relation to management's use of funds, and management's ability to manage its cash. Paterson assumed the lead role in respect of Yorkton's underwriting of the April Private Placement.
94. These restrictions remained in place at the time of the August IPO, and are disclosed in the prospectus as follows:

“Pursuant to the Underwriting Agreement, the Corporation agreed to deposit the net proceeds from the offering of Special Warrants in excess of \$1,700,000, as well as the net proceeds from this Offering and from the exercise of the Warrants, the New Warrants and the Compensation Options into a segregated bank account of the Subsidiary that requires two signing officers, both of whom are nominees of Yorkton. As long as any funds remain in this bank account of the Subsidiary, the Corporation has also agreed: (i) other than certain existing liens, not to create or permit any lien, claim, security interest or other encumbrance whatsoever against or in respect of the Subsidiary; (ii) to ensure a majority of the board of directors of the Subsidiary are nominees of Yorkton; and (iii) to ensure the Subsidiary does not conduct any active business without the consent of Yorkton. The purpose of the funds deposited to the bank account of the Subsidiary is to identify and pursue future acquisition and expansion opportunities”.

95. Paterson's knowledge, information and belief in respect of the management of Storage One, giving rise to the imposition and continuation of these restrictions, was not disclosed in the Storage One prospectus.

3. Paterson's Undisclosed Views About Management

96. In the course of an interview by staff of the CDNX held on June 6, 2000, Paterson testified that in 1997 he had serious concerns about management of Storage One and about management's use of funds when employed by Tecmar. Paterson told the CDNX

that the restrictions on the proceeds of the 1997 financings were adopted for this reason. Paterson did not share these views with the Yorkton prospectus due diligence team.

4. Storage One March 1999 Private Placement

97. On February 2, 1999, Storage One announced a proposed private placement offering up to a maximum of 2,920,000 units of Storage One at a price of \$0.10 per unit. Each unit consisted of one common share and one share purchase warrant entitling the holder to purchase one additional common share at an exercise price of \$.15 per share for a period of two years from the closing date. The private placement closed on March 5, 1999, (the “Storage One Placement”). The Storage One Placement was completed under several private placement exemptions.
98. Following the completion of the Storage One Placement, Yorkton Staff approached Paterson and expressed their disappointment that their clients did not have an opportunity to participate in the recent offering. Paterson contacted Alberta counsel to Storage One to determine if certain investors in the Storage One Placement would consider selling their units.
99. As a result of Paterson’s request, arrangements were made on or about July 7, 1999, through Storage One’s Alberta counsel, for the sale of approximately 1,062,500 shares of Storage One from an offshore corporation to 17 persons, 12 of which were clients of Yorkton. Paterson advised Yorkton personnel that the Storage One shares could only be sold to a non pro client.
100. Dent understood the requirement that Storage One shares be sold to a non pro client, but nonetheless arranged for the sale of 40,000 Storage One shares to a close relative and loaned his close relative funds to purchase the shares.

CONDUCT CONTRARY TO THE PUBLIC INTEREST

101. The conduct of Yorkton was contrary to the public interest for the reasons set out below.

GTI and Xencet RTO

102. Yorkton permitted a culture of non-compliance, and therefore failed to prevent conflicts of interest in circumstances where Paterson:

- (a) played multiple roles as a director and shareholder of Xencet, as a shareholder of GTI, and as a registrant and the then President of Yorkton;
- (b) initiated a private placement by Xencet in advance of the RTO when Xencet had no apparent need for additional cash;
- (c) caused the private placement to be made available only to Paterson and two institutional clients and not to other Yorkton clients;
- (d) purchased units of Xencet on May 22, 1998, having knowledge of undisclosed information in respect of the proposed RTO, in circumstances where Paterson should not have purchased Xencet units;
- (e) purchased common shares of GTI on June 30, 1998, having knowledge of undisclosed information in respect of the proposed RTO, in circumstances where Paterson should not have purchased the GTI shares; and
- (f) sold GTI shares to Jivraj on or about August 19, 1998 in circumstances where Paterson should not have sold GTI shares to Jivraj, and in circumstances where Paterson should have directed Jivraj not to purchase shares in GTI from Yorkton or any other person.

103. Yorkton permitted a culture of non-compliance in circumstances where:

- (a) Smith's purchase of GTI shares on June 30, 1998 placed Smith in a conflict of interest given his position as a registrant, the nature of his involvement in assisting GTI with its financing, and either Smith's knowledge of undisclosed information in respect of the proposed RTO or the availability to Smith of such undisclosed information by virtue of his role in assisting GTI on the proposed RTO;
- (b) Dent's purchase of GTI shares on June 30, 1998 placed Dent in a conflict of interest, given his position as a registrant, the nature of his involvement on the proposed RTO, and either Dent's knowledge of undisclosed information in respect of the proposed RTO or the availability to Dent of such undisclosed information by virtue of Dent's position in Yorkton; and
- (c) Jivraj's purchase of GTI shares on August 19, 1998 was contrary to the public interest, given his position as an investment banker, the nature of his involvement in assisting GTI with its financing, and either his knowledge of undisclosed information, including in relation to the share exchange ratio on the reverse takeover transaction between GTI and Xencet and other terms of the Acquisition Agreement, or availability to Jivraj of such undisclosed information.

Kasten Chase

- 104. Yorkton failed to properly supervise Paterson and Donnini and permitted a culture of non-compliance in connection with the second KCA financing in circumstances where:
 - (a) Yorkton's head trader, Donnini, traded (i.e. sold short) in excess of 500,000 KCA common shares for the benefit of Yorkton's inventory account on February 29 and March 1, 2000, while Donnini had knowledge of undisclosed information in relation to the price and size of the proposed KCA second warrant financing, and

in circumstances where Donnini should not have traded KCA common shares on February 29 and March 1, 2000;

- (b) Paterson provided to Donnini undisclosed information in relation to the price and size of the proposed KCA second financing, and failed to direct or instruct Donnini to cease trading in KCA common shares commencing on February 29, 2000. Paterson further failed to notify Yorkton's compliance department that KCA be placed on the grey list on February 29, 2000, having regard to the status of the negotiations between Yorkton and KCA in relation to the proposed KCA second financing; and
 - (c) Yorkton failed to place KCA on Yorkton's grey list on February 29, 2000.
105. Yorkton permitted a culture of non-compliance and acted in conflict with an issuer client by selling short common shares of KCA while Yorkton was negotiating the second KCA financing, failing to disclose to KCA that Yorkton was trading in KCA common shares on February 29, 2000 when KCA inquired about trading in its securities, and concealing Yorkton's trading in KCA common shares from KCA and the market by jitneying the short sales with another dealer, beginning on February 29, 2000 and continuing on March 1, 2000.
106. Yorkton permitted a culture of non-compliance and acted in conflict of interest with its retail and institutional clients in connection with:
- (a) the purchase of special warrants from the Yorkton Retail Client on February 28, 2000 in circumstances where Yorkton did not disclose that it was purchasing as principal and, in connection with those trades for its own account, charged a commission to its client; and

- (b) the allocation to its principal account of a larger portion of the second financing, resulting in certain of its sophisticated retail clients not receiving requested allocation.

107. Yorkton failed to maintain appropriate books and records by:

- (a) failing to contemporaneously record and ticket the purchases from two Yorkton clients; and
- (b) failing to file with the TSE a questionnaire and undertaking in the prescribed form in connection with the purchases by Yorkton of special warrants from the two Yorkton clients.

Book4golf

108. Yorkton failed to properly supervise its research function to ensure that for so long as Dent was a director of Book4golf, Dent should not have supervised or reviewed the Research Analyst's Research Reports in relation to Book4golf. Further, Yorkton failed to disclose in the Research Reports the existence of a conflict of interest arising from the research coverage provided by Yorkton in the Research Reports contemporaneous with an officer and employee of Yorkton (in this case, Dent) serving as a director of Book4golf.

109. Yorkton permitted a culture of non-compliance in relation to the purchase of 100,000 Book4golf shares by Paterson and Donnini on January 24, 2000, in respect of the following:

- (i) Having regard to Paterson's multiple roles with Yorkton and Book4golf, and in relation to the purchase by Paterson of 75,000 shares of Book4golf on January 24, 2000, Paterson failed to employ prudent business practices in respect of real or

potential conflicts of interest regarding his personal trading, by reason of the following:

- (a) as Donnini's supervisor, Paterson failed to ensure Donnini properly reported a transaction from which Paterson personally profited;
 - (b) Paterson knew or ought to have known that the Book4golf transaction had not been reported to the CDNX in light of other trades in Book4golf that Paterson made on January 24, 2000; and
 - (c) as the then CEO of Yorkton, Paterson failed to ensure the appearance of fair and equitable trading, having regard to the involvement of Paterson and Yorkton in heavily promoting Book4golf and having regard to the profit made by Paterson from this transaction.
110. Yorkton failed to maintain appropriate books and records, and in particular, trade tickets for Book4golf, and to provide such records to Staff, as required under Ontario securities law.

Storage One

111. Yorkton failed to properly supervise Paterson, and failed to do sufficient prospectus due diligence to ensure that Paterson's knowledge, information and belief relating to the quality and ability of management of Storage One, was disclosed to the prospectus due diligence team.
112. Yorkton permitted a culture of non-compliance in relation to the sale of Storage One shares by Dent to a close relative, and the loan of funds to the close relative to purchase the shares, in conflict with the interests of Yorkton's clients.

COOPERATION OF YORKTON

113. Yorkton and its advisors have cooperated significantly since February, 2001 with Staff in its investigation.

IV. POSITION OF YORKTON

114. OSC Staff, together with staff of the CDNX and the TSE, have conducted lengthy and intensive investigations of Yorkton and individual registrants employed by Yorkton in respect of supervision and compliance, trading, personal investment and conflict of interest issues arising from Yorkton's business activities involving issuers, and institutional and retail investors. These investigations resulted in the regulatory settlements between Yorkton and the CDNX and TSE that were approved by each of the CDNX and TSE on June 4, 2001. These investigations also gave rise to this settlement agreement.
115. Since February, 2001, Yorkton has adopted an action plan to ensure that Yorkton and its individual registrants meet industry standards and act in the public interest in their ongoing business activities. Since February, 2001, Yorkton has taken a number of material steps to adopt best practices in the area of regulatory compliance and to act in the public interest in its ongoing business activities including the following:
- (a) in February, 2001, Yorkton Financial designated Alan Schwartz, Q.C. to monitor the regulatory, compliance and legal functions of Yorkton and to coordinate Yorkton's response to the ongoing regulatory investigations;
 - (b) Yorkton retained the Regulatory Compliance group of PricewaterhouseCoopers LLP ("PwC");

- (c) PwC reviewed and reported on Yorkton's compliance policies and procedures regarding trading, personal investment and conflicts of interest;
- (d) certain reports prepared for Yorkton by PwC were provided by Yorkton to the Commission and to the TSE;
- (e) Yorkton has added eight compliance officers, two responsible for monitoring activities within institutional departments, plus six responsible for monitoring retail aspects of Yorkton's business;
- (f) Yorkton is continuing to enhance its governance and compliance functions to ensure it implements, maintains and monitors best practices, policies and procedures regarding trading, personal investment and conflicts of interest;
- (g) Yorkton is continuing to implement the structural, policy and procedural changes necessary to support the execution of best practices compliance over trading, personal investment and conflicts of interest;
- (h) procedures have been implemented for the monitoring of institutional trading activities, including the development of proprietary computer programs to supervise trading activities on a timely basis and to assist supervisors;
- (i) trading blocks and other enhancements have been programmed into the Belzberg and OMS trading platforms to prohibit trades for securities on the restricted list;
- (j) Yorkton has implemented policies, procedures and practices to exceed the supervisory processes required to comply with TSE Policy 2-401;
- (k) Yorkton has developed new institutional trade desk and CDNX corporate finance manuals which have been provided to the relevant exchanges;

- (l) procedures for monitoring and regulating the dissemination of research within Yorkton have been implemented;
 - (m) Yorkton is upgrading its policies and procedures and in particular has agreed to incorporate and implement policies addressing:
 - (i) handling of confidential information;
 - (ii) outside directorships and outside business activities;
 - (iii) ethical walls, watch and restricted lists;
 - (iv) personal investing; and
 - (v) institutional trade desk;
 - (n) procedures, practices and policies have been implemented to monitor employee trading; and
 - (o) a formal continuing education program for registrants has been developed with the establishment of a training department and a training coordinator position has been created to monitor and oversee this program.
116. Since February, 2001, Yorkton has taken and agrees to continue to take material steps to adopt best practices in the area of regulatory compliance and to act in the public interest in its ongoing business activities. Most importantly, Yorkton has a serious and ongoing compliance commitment and attitude.

V. TERMS OF SETTLEMENT

118. Yorkton agrees to the following terms of settlement:

- (a) at the time of approval of this settlement agreement, Yorkton will make a voluntary payment to the Commission in the amount of \$1,250,000, such payment to be allocated to such third parties as the Commission may determine for purposes that will benefit Ontario investors;
- (b) that the Commission make an Order under subsection 127(1)(6) of the Act that Yorkton be reprimanded;
- (c) that the Commission make an order under subsection 127(1)(4) of the Act, effective the date of the Order of the Commission approving this Settlement Agreement, that Yorkton shall implement the proposed amendments to IDA Regulation 1300 in the form attached as Schedule “1” to this Settlement Agreement, and any amendments to IDA Regulation 1300 as ultimately approved by the Board of Directors of the IDA;
- (d) that the Commission make an Order pursuant to subsection 127(1) of the Act, effective the date of the Order of the Commission approving this Settlement Agreement, imposing the following terms and conditions on the registration of Yorkton:
 - (i) Yorkton will require each officer and employee of the firm to execute the undertaking attached in the form as Schedule “2” hereto, as a condition to continued employment with Yorkton;
 - (ii) Yorkton will report forthwith to Staff of the Commission in the event that Yorkton receives information that any officer or employee of Yorkton has breached or is in breach of the undertaking attached in the form as Schedule “2”.

- (e) that the Commission make an Order under subsection 127(1)(4) of the Act that, within six months of the date of the Order, Yorkton will have retained, at its sole expense, PwC to conduct a independent review of the plan adopted by Yorkton, as described in Part IV, and Schedule "1", to ensure satisfactory implementation of the plan, and to provide a report to Yorkton and Staff as to the results of the review and in particular, a report as to whether Yorkton has complied with the steps referred to in Part IV and Schedule "1". The PwC report will be completed within a reasonable time frame to be set out by PwC, in consultation with Yorkton and Staff;
- (f) that the Commission make an Order under subsection 127.1(1)(b) of the Act that Yorkton make payment to the Commission in the amount of \$200,000 in respect of the costs of the Commission's investigation in relation to Yorkton, such payment to be made at the time of approval of this settlement; and
- (g) Yorkton undertakes to cooperate with the Commission and its Staff with any additional investigation conducted by Staff in relation to matters concerning other persons and companies, including former and current employees of Yorkton.

VI. CONSENT

119. Yorkton hereby consents to an Order of the Commission incorporating the provisions of Part V above in the form of an order attached as Schedule "A" .

VII. STAFF COMMITMENT

120. If this settlement is approved by the Commission, Staff will not initiate any other proceeding under the *Securities Act*, R.S.O. 1990, c. S.5 against Yorkton respecting the facts set out in Part III of this Settlement Agreement.

VIII. APPROVAL OF SETTLEMENT

121. Approval of the settlement set out in this Settlement Agreement shall be sought at the public hearing of the Commission scheduled for December 19, 2001, or such other date as may be agreed to by Staff and Yorkton (the "Settlement Hearing").
122. Counsel for Staff or for Yorkton may refer to any part, or all, of this Settlement Agreement at the Settlement Hearing. Staff and Yorkton agree that this Settlement Agreement will constitute the entirety of the evidence to be submitted at the Settlement Hearing.
123. If this settlement is approved by the Commission, Yorkton agrees to waive its rights to a full hearing, judicial review or appeal of the matter under the Act.
124. Staff and Yorkton agree that if this settlement is approved by the Commission, they will not make any public statement inconsistent with this Settlement Agreement.
125. If, for any reason whatsoever, this settlement is not approved by the Commission, or an order in the form attached as Schedule "A" is not made by the Commission:
 - (a) this Settlement Agreement and its terms, including all discussions and negotiations between Staff and Yorkton leading up to its presentation at the Settlement Hearing, shall be without prejudice to Staff and Yorkton;
 - (b) Staff and Yorkton shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the Notice of Hearing and Statement of Allegations of Staff, unaffected by this Settlement Agreement or the settlement discussions/negotiations;

- (c) the terms of this Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person except with the written consent of Staff and Yorkton , or as may be required by law; and
- (d) Yorkton agrees that it will not, in any proceeding, refer to or rely upon this Settlement Agreement, the settlement discussions/negotiations or the process of approval of this Settlement Agreement as the basis of any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

IX. DISCLOSURE OF AGREEMENT

- 126. Except as permitted under paragraph 125 above, this Settlement Agreement and its terms will be treated as confidential by Staff and Yorkton until approved by the Commission, and forever if, for any reason whatsoever, this settlement is not approved by the Commission, except with the written consent of Staff and Yorkton, or as may be required by law.
- 127. Any obligations of confidentiality attaching to this Settlement Agreement shall terminate upon approval of this settlement by the Commission.

XI. EXECUTION OF SETTLEMENT AGREEMENT

- 128. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.
- 129. A facsimile copy of any signature shall be as effective as an original signature.

DATED this 14th day of December, 2001.

YORKTON SECURITIES INC.

(Per) _____
Authorized Signing Officer

DATED this 14th day of December, 2001.

**STAFF OF THE
ONTARIO SECURITIES COMMISSION**

(Per) _____

Michael Watson
Director, Enforcement Branch

Schedule "A"

**IN THE MATTER OF THE SECURITIES ACT
R.S.O. 1990, c. S.5, as amended**

- and -

IN THE MATTER OF YORKTON SECURITIES INC.

ORDER

WHEREAS on December 17, 2001, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127(1) and 127.1 of the *Securities Act*, R.S.O. 1990 c. S.5, as amended (the "Act") in respect of Yorkton Securities Inc. ("Yorkton");

AND WHEREAS Yorkton entered into a settlement agreement dated December 14, 2001 (the "Settlement Agreement") in which it agreed to a proposed settlement of the proceeding, subject to the approval of the Commission;

AND UPON reviewing the Settlement Agreement and the Statement of Allegations of Staff of the Commission ("Staff"), and upon hearing submissions from counsel for Yorkton and from Staff;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

IT IS HEREBY ORDERED THAT:

1. the Settlement Agreement dated December 14, 2001, attached to this Order, is hereby approved;
2. pursuant to subsection 127(1)(6) of the Act, Yorkton is hereby reprimanded;
3. pursuant to subsection 127(1)(4) of the Act, effective the date of this Order, Yorkton shall implement the proposed amendments to IDA Regulation 1300 in the form attached as Schedule "1" to this Settlement Agreement, and any amendments to IDA Regulation 1300 as ultimately approved by the Board of Directors of the IDA;
4. pursuant to 127(1)(4) of the Act, that within six months of the date of the Order Yorkton will have retained, at its sole expense, PwC to conduct a independent review of the plan adopted by Yorkton, as described in Part IV, and Schedule "1", to ensure satisfactory implementation of the plan, and to provide a report to Yorkton and Staff as to the results of the review and, in particular, a report as to whether Yorkton has complied with the steps referred to in Part IV and Schedule "1". The PwC report will be completed within a reasonable time frame to be set out by PwC, in consultation with Yorkton and Staff

5. pursuant to clause 1 of subsection 127(1) of the Act, effective the date of this Order, the following terms and conditions are imposed on the registration of Yorkton:
- i. Yorkton will require each officer and employee of the firm to execute forthwith the undertaking attached in the form as Schedule “2” hereto, as a condition to continued employment with Yorkton; and
 - ii. Yorkton will report forthwith to Staff of the Commission in the event that Yorkton receives information that any officer or employee of Yorkton has breached or is in breach of the undertaking attached in the form of Schedule “2”.
6. Pursuant to subsection 127.1(2)(b) of the Act, at the time of approval of this settlement, Yorkton is ordered to pay \$200,000 to the Commission in respect of a portion of the Commission’s costs with respect to this matter.

DATED at Toronto this 19th day of December, 2001.
