

**AGREEMENT BETWEEN**

**BASTOS DU CANADA LIMITÉE/ BASTOS OF CANADA LIMITED**

**(“Bastos”)**

**- and -**

**THE COMMISSIONER OF COMPETITION**

**(“Commissioner”)**

**WHEREAS** the Commissioner is responsible for the administration and enforcement of the *Competition Act*, R.S.C. 1985, c. C-34 (the “*Act*”), and has commenced an Inquiry pursuant to s. 10 of the *Act* in regard to cigarettes and other tobacco products (“Tobacco Products”) for sale to the public, described as “light” and “mild” and variants thereof, such as, but not limited to, “extra light”, “ultra light”, “extra mild” and “ultra mild” (“L/M Descriptors”) in Canada;

**AND WHEREAS** Bastos is engaged in Canada in the manufacture and/or distribution of Tobacco Products bearing L/M Descriptors;

**THE PARTIES HEREBY AGREE AS FOLLOWS:**

**1. Application of this Agreement**

- 1.1 The provisions of this Agreement are subject to the definitions set forth in Appendix “A.”
- 1.2 Nothing in this Agreement is intended to modify Bastos’ obligations under the *Tobacco Act*.

**2. Cessation of Use of the L/M Descriptors**

- 2.1 As of December 31, 2007, Bastos will cease using L/M Descriptors on its Tobacco Products and packaging, and will not manufacture Tobacco Products bearing L/M Descriptors for any of its future clients. A list of Bastos’ Brand Names covered by this Agreement are contained in Appendix “B”.

**3. Sale of Existing Stock**

- 3.1 Any Tobacco Products bearing L/M Descriptors may be sold or distributed in Canada by Bastos, provided they were manufactured and packaged prior to December 31, 2007.

**4. Other Manufacturers and Distributors**

- 4.1 The Commissioner shall use reasonable best efforts to obtain from other manufacturers and/or distributors in Canada of Tobacco Products, comparable commitments to discontinue their use of L/M Descriptors not later than December, 2007.

## **5. General**

- 5.1 This Agreement is entered into without any admission of liability on the part of Bastos, and it does not constitute a finding of fact or law on any issue as against Bastos.
- 5.2 This Agreement is entered into by Bastos solely for the purpose of voluntarily cooperating with a request by the Commissioner to discontinue the use of L/M Descriptors and in anticipation of regulatory changes under the *Tobacco Act*.
- 5.3 This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Quebec and the laws of Canada applicable therein.
- 5.4 This Agreement may be executed in counterpart and by facsimile and each such counterpart shall constitute an original and all of which taken together shall constitute one and the same instrument, dated as of the date set forth below.

## **6. Modification or Default**

- 6.1 If Bastos believes that some modification of this Agreement is justified due to changed circumstances, Bastos and the Commissioner agree to engage in good faith efforts to resolve the matter.
- 6.2 In the event of any dispute between the Parties as to the interpretation or application of this Agreement, including a dispute as to whether there has been a default in the performance of any of the obligations in this Agreement, the Parties agree to first engage in good faith efforts to resolve such dispute, before taking any other steps to resolve the dispute. In the event that Bastos does not cease use of the L/M descriptors in accordance with clause 2.1 of this Agreement, the Commissioner may deliver a notice of default to Bastos. Bastos shall have 30 days to remedy any default. If the default has not been remedied during such 30 day period the Commissioner may, following the expiry of the 30 day period, file this Agreement with the Competition Tribunal for registration as a Consent Agreement between the Commissioner and Bastos, pursuant to s.74.12 of the *Act*. Bastos irrevocably consents to the registration of this Agreement as a Consent Agreement in such case and to the filing of the signed consent form which is attached as Appendix "C."

## **7. Term of this Agreement**

- 7.1 This Agreement shall remain in force from the date of its signing until such time as regulations pursuant to the *Tobacco Act* come into force prohibiting the use of L/M Descriptors in regard to Tobacco Products, and/or their packaging, whereupon this Agreement will terminate automatically.

## **8. Notice**

8.1 Any notice required to be given pursuant to any terms of this Agreement is valid if given by facsimile transmission or registered mail to:

**a. The Commissioner:**

Sheridan Scott  
Commissioner of Competition  
Competition Bureau Canada  
Place du Portage, Phase I,  
50 Victoria Street  
Gatineau, Quebec K1A 0C9

Telephone: 819-997-5300  
Facsimile: 819-953-5013

With copies to:

Jim Marshall  
Senior Counsel  
Competition Law Division

Justice Canada  
Place du Portage, Phase I,  
50 Victoria Street  
Gatineau, Quebec K1A 0C9

Telephone: 819-997-2834  
Facsimile: 819-953-9267

**b. Bastos:**

Mr. Gilbert Cantin  
General Manager  
Bastos du Canada Ltée./  
Bastos of Canada Ltd.  
371 Saint-Marc St.  
Louiseville, Quebec  
J5V 2G2

Telephone: 450-638-2475  
Facsimile: 450-632-8866

Dated at Gatineau, Quebec, this 12<sup>m</sup> day of ~~March~~<sup>June</sup>, 2007.

Sheridan Scott  
Sheridan Scott  
Commissioner of Competition

Dated at Louiseville, Quebec, this 8<sup>th</sup> day of ~~March~~<sup>JUNE</sup>, 2007. *De*

Gilbert Cantin  
Mr. Gilbert Cantin  
General Manager  
Bastos du Canada Ltée./  
Bastos of Canada Ltd.

## Appendix "A"

### Definitions

In accordance with Clause 1.1 of this Agreement, the following definitions shall apply:

- A. "Agreement" means this Agreement as entered into by Bastos and the Commissioner;
- B. "Bastos" means Bastos du Canada Ltée./ Bastos of Canada Ltd., a company incorporated under the laws of Canada;
- C. "Brand Name" means word(s) used by Bastos to identify its products to consumers and includes, but is not limited to, trademark names of cigarettes and any words forming part of such trademark names;
- D. "Commissioner" means the Commissioner of Competition, appointed pursuant to section 7 of the *Act*, and authorized representatives of the Commissioner;
- E. "L/M Descriptors" means the words "light" and "mild", and combinations and variants thereof such as, but not limited to, "extra light," "ultra light," "extra mild" and "ultra mild" as descriptors on cigarette packages or elsewhere;
- F. "Parties" means the Commissioner and Bastos;
- G. "Tobacco Products" means cigarettes, tobacco sticks and fine cut tobacco currently distributed by Bastos;

## Appendix "B"

### **Bastos Brand Names**

In accordance with Clause 2.1 of this Agreement, the following Brand Names are covered by this Agreement:

<b><u>Cigarette Products</u></b>
Smoking Light
Gipsy Light (made for Loblaws)
Selesta Light (made for Sobey's)

## Appendix "C"

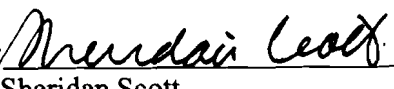
### Consent Form


To: The Competition Tribunal

1. The Commissioner of Competition and Bastos du Canada Ltée./ Bastos of Canada Ltd. ("Bastos") consent to the filing of an Agreement dated JUNE 8, 2007, with the Competition Tribunal for immediate registration as a consent agreement between the Commissioner of Competition and Bastos pursuant to s. 74.12 of the *Competition Act*.
2. The name and address of the persons in respect of whom the consent agreement is made are:

Commissioner of Competition  
50 Victoria Street  
Gatineau, Quebec  
K1A 0C9

Bastos du Canada Ltée./  
Bastos of Canada Ltd.  
371 Saint-Marc St.  
Louiseville, Quebec  
J5V 2G2

Per:   
Sheridan Scott  
Commissioner of Competition

Per:   
Mr. Gilbert Cantin  
General Manager  
Bastos du Canada Ltée./  
Bastos of Canada Ltd.