

SETTLEMENT AGREEMENT

Made as of September 25, 2025

Between

TONY MENGUAL

(the “Plaintiff”)

and

**BEHR PROCESS CORPORATION, BEHR PROCESS
CANADA LTD., BEHR PAINT CORP., MASCO
CORPORATION, THE HOME DEPOT, INC., and HOME
DEPOT OF CANADA INC.**

(the “Defendants”)

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SETTLEMENT AGREEMENT**

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**DECKOVER CLASS ACTIONS
NATIONAL SETTLEMENT AGREEMENT**

RECITALS

- A. WHEREAS the Plaintiff commenced a proposed class action in the Ontario Superior Court of Justice on April 27, 2018, bearing Court File No. 18-596787-00CP as against the Defendants;
- B. WHEREAS the Class Action makes certain allegations in respect of the Defendants' manufacture, marketing and sale of certain DeckOver products in Canada;
- C. WHEREAS the Defendants deny the allegations asserted by the Plaintiff in the Class Action, and maintain that they have good and reasonable defences to the Plaintiff's claims, but have agreed to enter into this Settlement Agreement in order to achieve an early full and final resolution of the claims made, or which could have been made, against them in the Class Action, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;
- D. WHEREAS counsel for the Defendants and Class Counsel have engaged in extensive arm's length settlement discussions and negotiations in respect of this Settlement Agreement;
- E. WHEREAS as a result of these settlement discussions and negotiations, the Defendants and the Plaintiff have entered into this Settlement Agreement, which embodies all of the terms and conditions of the settlement between the Parties, both individually and on behalf of the Class, subject to approval of the Ontario Superior Court of Justice;
- F. WHEREAS the Plaintiff has agreed to accept this settlement in part because of the Settlement Amount to be provided by the Defendants under this Settlement Agreement, as well as the attendant risks of litigation in light of the defences that may be asserted by the Defendants;
- G. WHEREAS Class Counsel are experienced in this type of class litigation, and therefore recognize the costs and risks of prosecution of this Class Action and believe that it is in the interest of all Class Members to resolve this Class Action, and any and all claims against the Defendants arising from the conduct alleged in the Class Action;

H. WHEREAS the Defendants are entering into this Settlement Agreement, without admission of liability, in order to achieve a final and nation-wide resolution of all claims which have been asserted against them by the Plaintiff in respect of DeckOver, and to avoid further expense, inconvenience, risks, uncertainty, and the distraction of burdensome and protracted litigation;

I. WHEREAS Class Counsel represent and warrant that they are fully authorized to enter into this Settlement Agreement on behalf of the Plaintiff, and that Class Counsel have consulted with and confirmed that the Plaintiff supports and has no objection to this Settlement Agreement;

J. WHEREAS the Plaintiff asserts he is an adequate class representative for this Settlement Agreement;

K. WHEREAS for the purposes of settlement only and contingent on orders by the Court as provided for in this Settlement Agreement, the Plaintiff has consented to a with prejudice dismissal of the Class Action against the Defendants;

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, it is agreed by the Parties that the Class Action shall be settled and dismissed with prejudice and without costs, subject to approval of the Court, on the following terms and conditions:

Section 1 - Definitions

For the purposes of this Settlement Agreement only, including the recitals and schedules hereto:

(1) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes, and any other amounts incurred or payable by the Plaintiff, Class Counsel, or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices, the costs of translation of the notices, and the fees and expenses of the Claims Administrator, but excluding Class Counsel Fees.

(2) **Claims Administrator** means Epiq Class Action Services, Inc., the entity appointed by the Court to administer the settlement and disseminate the notices in accordance with the terms of this Settlement Agreement.

(3) **Class Action** means the action issued in the Ontario Superior Court of Justice: *Tony Mengual v Behr Process Corporation, Behr Process Canada Ltd., Behr Paint Corp., Masco Corporation, The Home Depot, Inc., and Home Depot of Canada Inc.*, with Court File No. CV-18-596787-00CP.

(4) **Class Counsel Fees** include the fees, disbursements, costs, HST, and other applicable taxes or charges of Class Counsel in respect of the prosecution of the Class Action.

(5) **Class Counsel** means the law firms of Camp Fiorante Matthews Mogerman LLP, McKenzie Lake Lawyers LLP, and Howie Sacks and Henry LLP.

(6) **Class** or **Class Members** mean(s)

all persons, corporations and other entities resident in Canada that purchased DeckOver in Canada (or caused it to be purchased) and applied it (or caused it to be applied) to any property or wooden, composite, or concrete surface within Canada during the Class Period, and all persons who have legal or beneficial interest in a property or wooden, composite, or concrete surface within Canada to which DeckOver was applied during the Class Period,

excluding the Defendants, their subsidiaries, affiliates, and other related entities or persons.

(7) **Class Period** means March 1, 2013 to the date of certification of this Class Action;

(8) **Common Issues** means:

- i. Did the Defendants engage in false, misleading or deceptive representations in relation to DeckOver?
- ii. Did the Defendants fail to warn class members regarding alleged defects in DeckOver or the consequent alleged damages DeckOver could cause to property?

- iii. Were the Defendants negligent in the design, manufacture and/or testing of DeckOver?

(9) **Court** means the Ontario Superior Court of Justice.

(10) **Defence Counsel** means the law firms of McCarthy Tetrault LLP and Lax O’Sullivan Lisus Gottlieb LLP.

(11) **Defendants** mean all of Behr Process Corporation, Behr Process Canada Ltd., Behr Paint Corp., Masco Corporation (those four entities collectively the “**Behr Defendants**”), The Home Depot, Inc., and Home Depot of Canada Inc. (those two entities together the “**Home Depot Defendants**”).

(12) **DeckOver** means Behr Premium DeckOver, Behr Premium DeckOver Textured, Behr Premium DeckOver Extra Textured, Behr Premium DeckOver Advanced Smooth, and Behr Premium DeckOver Advanced Textured or Extra Textured.

(13) **Distribution Protocol** means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as established by Class Counsel and approved by the Court.

(14) **Effective Date** means the date on which the Final Order takes effect.

(15) **Final Order** means the final order entered by the Court in respect of the approval of this Settlement Agreement, once the time to appeal such order has expired without any appeal being taken, if a right of appeal exists, or, if an appeal from a final order is taken, once there has been affirmation of the approval of this Settlement Agreement upon a final disposition of all appeals.

(16) **First Notice** means the long-form notice described in sections 9.1, 9.2, and 9.3 providing notice to the Class of the certification of the Class Action and the details of the Settlement Approval Hearing and the means by which Class Members may opt out of the Class Action, object to the Settlement Agreement or otherwise participate in the Settlement Approval Hearing, which shall be substantially in the form attached to this Settlement Agreement as Schedule “A,” respective, or as fixed by the Court.

(17) **Opt Out Deadline** means the date that is thirty (30) days after the first publication of the First Notice.

(18) **Opt Out Form** means a document for the purpose of opting out of the Class Action.

(19) **Opt Out Threshold** means the confidential number agreed to by the Parties and submitted to the court, of properly completed Opt Out Forms received by the Claims Administrator pursuant to section 5.1 of this Settlement Agreement.

(20) **Parties** means the Defendants and the Plaintiff, and, where necessary, the Settlement Class Members.

(21) **Plaintiff** means Tony Mengual.

(22) **Released Claims** means any and all manner of claims, demands, actions, suits, and causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, penalties, and lawyers' fees that the Releasors, or any one of them, ever had, now has, or hereafter can, shall, could, or may have against any of the Releasees, whether existing now or arising in the future, whether known or unknown, arising from, relating to or based on any allegations, facts, matters, occurrences, representations, or omissions, that were or could have been made or were made based on the facts alleged or complained of in the Class Action, including but not limited to any claims for damages, losses, costs, expenses, Administration Expenses, Class Counsel Fees, and prejudgment and post-judgment interest.

(23) **Releasees** means, jointly and severally, the Defendants and each of their respective present and former parents, subsidiaries, affiliates, officers, directors, employees, insurers, co-insurers, reinsurers, agents, vendors, contractors, attorneys, servants, representatives, and the successors, heirs, executors, administrators, trustees, and assigns of each of the foregoing.

(24) **Releasors** means, jointly and severally, individually and collectively, the Plaintiff and the Settlement Class Members, and their respective successors, heirs, executors, administrators, trustees, and assigns, insurers and subsidiaries, and all others who may claim by, through, or under them.

(25) **Settlement Agreement** or **Settlement** means this agreement, including the recitals and schedules.

(26) **Settlement Amount** means CAD \$1,400,000.

(27) **Settlement Approval Hearing** means a hearing by the Court to determine whether this Settlement is fair and reasonable.

(28) **Settlement Approval Notice** means the notice to the Settlement Class of the Settlement Approval Order, the means by which Settlement Class Members may make a claim for compensation under the Settlement Agreement and the Distribution Protocol, which shall be substantially in the form attached to this Settlement Agreement as Schedule “B,” or as fixed by the Court.

(29) **Settlement Approval Order** means the order made by the Court approving the settlement provided for in this Settlement Agreement, approving the Settlement Approval Notice, granting the release described in section 7.1, and dismissing the Class Action with prejudice.

(30) **Settlement Class** or **Settlement Class Members** mean members of the Class who have not validly opted out of the Class Action.

(31) **Trust Account** means an interest bearing trust account at a Canadian Schedule 1 bank under the control of Class Counsel or the Claims Administrator for the benefit of the Settlement Class Members.

Section 2 - Settlement Approval

2.1 Best Efforts

(1) The Parties shall use their best efforts to effectuate this Settlement Agreement.

2.2 Motions Approving First Notice and Seeking Certification

(1) The Plaintiff shall bring a motion before the Court for an order, substantially in the form attached hereto as Schedule “C,” approving the First Notice and certifying the Class Action for settlement purposes on consent.

2.3 Motions Seeking Approval of the Settlement

- (1) After the order referred to in section 2.2 has been granted, the First Notice has been published, and the deadline for opting out and objecting to the Settlement Agreement has expired, the Plaintiff shall bring a motion before the Court for an order approving this Settlement Agreement and the Settlement Approval Notice.
- (2) The order approving this Settlement Agreement shall be substantially in the form attached hereto as Schedule “D.”
- (3) This Settlement Agreement shall only become final on the Effective Date.

2.4 Pre-Motion Confidentiality

- (1) Until the motion described in section 2.2 is filed, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior written consent of Defence Counsel and Class Counsel, except as required for the purposes of financial reporting or the preparation of financial records (including tax returns and financial statements), or as otherwise required by law.

Section 3 - Settlement Benefits

3.1 Payment of Settlement Amount

- (1) Within 30 days of the date on which the Final Order is issued and entered, the Behr Defendants will, on behalf of all Defendants, pay the Settlement Amount to the Claims Administrator in trust, for the benefit of the Settlement Class, in full satisfaction of all of the Released Claims against the Releasees.
- (2) The Settlement Amount shall be paid in full and final satisfaction of the Released Claims against the Releasees. The Releasees shall not have any obligation to pay any other amount (i.e., other than the Settlement Amount) to the Plaintiff, the Settlement Class Members, the Administrator, Class Counsel or any other person or entity with respect to this Settlement Agreement or the Class Action for any reason whatsoever, including any amount for damages, interest, legal fees (including Class Counsel Fees), disbursements, taxes of any kind, costs and

expenses relating to any way to the Class Action, the Released Claims, the Settlement and the Administration Expenses.

(3) The Claims Administrator shall hold the Settlement Amount in the Trust Account, which shall be maintained by the Claims Administrator.

(4) All interest earned on the monies in the Trust Account shall accrue to the benefit of the Settlement Class and shall become and remain part of the Trust Account.

(5) The Claims Administrator shall not pay out all or any part of the monies in the Trust Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Court.

3.2 Taxes

(1) All taxes payable on any interest which accrues on the monies in the Trust Account or otherwise in relation to the Settlement Amount shall be paid from the Trust Account.

(2) The Claims Administrator, as appropriate, shall be solely responsible to fulfill all tax reporting and payment requirements arising from the monies in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the monies in the Trust Account shall be paid from the Trust Account.

(3) The Defendants shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned by the monies in the Trust Account.

(4) Notwithstanding sections 3.2(2) and (3), if this Settlement Agreement is terminated, the interest earned on the Settlement Amount shall be paid to the Behr Defendants in accordance with section 6.4(1) which, in such case, shall be responsible for the payment of all taxes on such interest.

Section 4 - Distribution of the Settlement Amount and Accrued Interest

4.1 Distribution Protocol

- (1) At a time wholly within the discretion of Class Counsel, Class Counsel shall bring a motion seeking an order from the Court approving the Distribution Protocol.
- (2) The Distribution Protocol shall require Settlement Class Members seeking compensation to give credit for any compensation received through other proceedings or in private out-of-class settlements, unless by such proceedings or private out-of-class settlements the Settlement Class Member's claim was released in its entirety, in which case the Settlement Class Member shall be deemed ineligible for any further compensation.

Section 5 - Opt Outs and Objections

5.1 Opt Out Report

- (1) Any member of the Class who wishes to be excluded from this Class Action must submit a properly completed Opt Out Form via email, fax, mail, or courier to the Claims Administrator at:

Epiq Class Action Services Canada, Inc.
Attention: DeckOver Settlement
44 Victoria Street, Suite 900
Toronto, Ontario
M5C 1Y2
Fax: 1-866-262-0816
Tel: 416-603-3003

- (2) To exercise the right to opt out, the Opt Out Form, which shall be substantially in the form attached to this Settlement Agreement as Schedule "E," must:
 - (a) Contain the Class Member's full name and current address;
 - (b) Declare that the Class Member purchased DeckOver;
 - (c) Declare that the Class Member wishes to be excluded from the Class Action; and
 - (d) Be signed by the Class Member.

(3) An Opt Out Form will not be effective unless it contains the foregoing requirements, is addressed to the Claims Administrator and post-marked on or before the Opt Out Deadline.

(4) Any Class Member who does not submit a properly completed Opt Out Form to the Claims Administrator before the Opt Out Deadline shall be deemed to be a Settlement Class Member upon the expiry of the Opt Out Deadline.

5.2 Objections

(1) Any Settlement Class Member who wishes to object to the fairness, reasonableness, or adequacy of this Settlement Agreement, Class Counsel Fees, the honorarium (if any), or the Distribution Protocol, must serve on Class Counsel, no later than 30 days after the first publication of notice of the Settlement Agreement, Class Counsel Fees, the honorarium (if any), or the Distribution Plan, as the case may be, a statement of the objection. The statement of objection must:

- (a) Contain a written statement of the grounds for the objection;
- (b) Indicate whether the Settlement Class Member intends to appear at the Settlement Approval Hearing, or the hearing to approve Class Counsel Fees, the honorarium (if any), or the Distribution Plan;
- (c) Contain the Settlement Class Member's full name and current address;
- (d) Declare that the objector is a Settlement Class Member; and
- (e) Be signed by the Settlement Class Member.

(2) Class Counsel shall deliver copies of all such statements of objection to the Court for consideration at the Settlement Approval Hearing.

5.3 Notification of Number of Opt Outs

(1) After the Opt Out Deadline and prior to the Settlement Approval Hearing, Class Counsel shall report to the Court and the Defendants the number of Opt Out Forms received and shall provide to Defence Counsel copies of all Opt Out Forms received.

Section 6 - Termination of Settlement Agreement

6.1 Automatic Termination

(1) In the event that:

- (a) The Court declines to grant the order sought at section 2.2 certifying the Class Action for settlement purposes;
- (b) The Court declines to grant the order approving this Settlement Agreement; or
- (c) The order approving the Settlement Agreement does not become a Final Order

this Settlement Agreement shall be automatically terminated and shall become null and void, and no obligation on the part of any of the Parties will accrue.

(2) For greater certainty, any order, ruling, or determination made (or rejected) by the Court with respect to:

- (a) Class Counsel Fees;
- (b) The honorarium (if any); or
- (c) The Distribution Protocol

shall not provide a basis for the termination of this Settlement Agreement.

6.2 Effect of Exceeding the Opt Out Threshold and Right to Terminate

(1) Notwithstanding any other provision in this Settlement Agreement, any of the Defendants may, in their sole and unfettered discretion, elect to terminate this Settlement Agreement if the Opt Out Threshold is exceeded, provided that notice of the election to terminate is provided by Defence Counsel to Class Counsel within fifteen (15) days of Class Counsel notifying Defence Counsel of the number of Opt Out Forms received pursuant to section 5.3(1), after which date the right to terminate the Settlement Agreement pursuant to this section will have expired.

(2) If the Opt Out Threshold is not exceeded, the Defendants' right to terminate this Settlement Agreement pursuant to the provisions of section 6.2(1) is inoperative and of no force and effect.

6.3 If Settlement Agreement is Terminated

- (1) If this Settlement Agreement is terminated:
 - (a) No person or party shall be deemed to have waived any rights, claims or defences whatsoever by virtue of this Settlement Agreement;
 - (b) The Parties will cooperate in seeking to have any issued order certifying the Class Action as a class proceeding on the basis of this Settlement Agreement, or approving this Settlement Agreement, set aside and declared null and void; and
 - (c) Any prior certification of the Class Action as class proceedings shall be without prejudice to any position that any person or any of the Parties may later take on any issue in the Class Action or any other litigation.

6.4 Allocation of Monies in the Trust Account Following Termination

- (1) If the Settlement Agreement is terminated, the Claims Administrator shall return to the Defendants, as directed in writing by Defence Counsel, all monies in the Trust Account, but less any Administration Expenses.

6.5 Survival of Provisions after Termination

- (1) If this Settlement Agreement is terminated or otherwise fails to take effect for any reason, the provisions of sections 6.2, 6.4, 6.5, 8.1, 8.2, 12.6 and 12.17, 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 sections 6.2, 6.4, 6.5, 8.1, 8.2, 12.6 and 12.17, within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

Section 7 - Releases and Dismissals

7.1 Release of Releasees

(1) Upon the Effective Date, in consideration of payment of the Settlement Amount and for other valuable consideration set forth in this Settlement Agreement, the Releasors shall forever and absolutely release, waive and discharge the Releasees from the Released Claims.

7.2 No Further Claims

(1) Upon the Effective Date, the Releasors shall not now, nor hereinafter institute, continue, maintain, or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or against any other persons who may claim contribution or indemnity, or other claims over relief, from any Releasees in respect of any Released Claim.

7.3 Dismissal of the Proceedings

(1) The Class Action shall be dismissed on a with prejudice and without costs basis on the Effective Date. Upon the Effective Date, each Class Member shall be deemed to irrevocably consent to the dismissal, with prejudice and without costs, of the Class Action.

7.4 Claims against Other Entities Reserved

(1) Except as provided herein, this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by Settlement Class Members against any person other than the Releasees.

Section 8 - Effect of Settlement

8.1 No Admission of Liability or Concessions

(1) The Parties agree that, whether or not this Settlement Agreement is approved or terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission or concession of any violation of any statute of law, or of any wrongdoing or liability by the Defendants, or of the truth of any of the claims or allegations made in the Class

Action or any other allegation made by the Plaintiff or the Class in any forum or context. The Defendants deny any liability and deny the truth of the allegations made against them.

8.2 Agreement Not Evidence

(1) The Parties agree that, whether or not this Settlement Agreement is approved or terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence, or received in evidence in any pending or future civil, criminal, or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, or as otherwise required by law.

Section 9 - Notice to Class

9.1 Notice of Certification and Opt Out

(1) The Class shall be given notice of the certification of the Class Action for settlement purposes and the right to Opt Out of the Class Action.

9.2 Notice of Settlement Approval Hearing

(1) The Settlement Class shall be given notice of the hearing at which the Court will be asked to approve the Settlement Agreement, and, if they are brought at the same time, the hearings to approve Class Counsel Fees, the honorarium (if any), and the Distribution Protocol.

9.3 Form and Distribution of Notices

(1) The notices referred to in sections 9.1 and 9.2 shall be in a form agreed upon by the Parties and approved by the Court or, if the Parties cannot agree on the form of the notices, the notices shall be in a form ordered by the Court.

(2) The notices referred to in sections 9.1 and 9.2 shall be disseminated by a method agreed upon by the Parties and approved by the Court or, if the Parties cannot agree on a method for disseminating the notices, the notices shall be disseminated by a method ordered by the Court.

Section 10 - Administration and Implementation

10.1 Mechanics of Administration

(1) Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement and the Distribution Protocol shall be determined by the Court on a motion brought by Class Counsel, with the agreement of the Defendants.

(2) Class Counsel may bring a motion for the Court's approval of the Distribution Protocol contemporaneously with seeking approval of this Settlement Agreement, or at such other time as they may determine in their sole discretion.

Section 11 - Class Counsel Fees, Honorarium, and Administration Expenses

11.1 Class Counsel Fees, Honorarium, and Administration Expenses

(1) Class Counsel may bring motions for the Court's approval to pay Class Counsel Fees, the honorarium, and Administration Expenses contemporaneous with seeking approval of this Settlement Agreement, or at such other time as they may determine in their sole discretion. The Defendants shall not take any position with respect to such motions.

(2) The Defendants shall not be liable for any fees, disbursements, or taxes of the lawyers, experts, advisors, agents, or representatives retained by Class Counsel, the Plaintiff or the Settlement Class Members.

(3) Subject to Court approval, Class Counsel Fees, the honorarium (if any), and Administration Expenses shall be paid out of the Trust Account.

Section 12 - Miscellaneous

12.1 Motions for Directions

(1) Class Counsel, Defence Counsel, or the Claims Administrator may apply to the Court for directions in respect of the interpretation, implementation, and administration of this Settlement Agreement.

12.2 Claims Bar

(1) Except for the obligation to pay the Settlement Amount, the Defendants shall have no responsibility for and no liability whatsoever with respect to the administration or implementation of the Settlement Agreement, including, without limitation, the distribution of the Settlement Amount or any other Administration Expenses.

12.3 No Press Releases

(1) The Plaintiff and Class Counsel agree that, other than in connection with any Court-approved notices, they will not issue any press release, whether joint or individual, concerning this Settlement Agreement or anything related thereto and that they will not seek to obtain media coverage in relation to the Settlement Agreement.

12.4 Headings, etc.

(1) In this Settlement Agreement:

- (a) The schedules to this Settlement Agreement are an integral part of the settlement and are expressly incorporated and made a part of this Settlement Agreement;
- (b) 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
- (c) The terms "the Settlement Agreement", "hereof", "hereunder", "herein", "hereto", and similar expressions refer to this Settlement Agreement and not to any particular section or portion of this Settlement Agreement.

12.5 Computation of Time

(1) In the computation of time in this Settlement Agreement, except where a contrary intention appears,

- (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and

including the day on which the second event happens, including all calendar days;
and

- (b) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

12.6 Governing Law

(1) This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the country of Canada.

(2) The Parties agree that the Court shall retain continuing jurisdiction to interpret and enforce the terms, conditions and obligations under the Settlement Agreement.

12.7 Entire Agreement

(1) This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, communications, 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.

12.8 Amendments

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto.

12.9 Binding Effect

(1) Once the Settlement Agreement is approved by the Court and there is a Final Order, this Settlement Agreement shall be binding upon, and inure to the benefit of, the Plaintiff, the Settlement Class Members, the Releasors, the Defendants, and the Releasees. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiff shall be binding upon all Releasors, and each and every covenant made herein by the Defendants shall be binding upon the Releasees.

12.10 Counterparts

(1) This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile signature, Adobe PDF signature, and/or DocuSign signature shall be deemed an original signature for purposes of executing this Settlement Agreement. This Settlement Agreement may be delivered and is fully enforceable in either original, faxed or other electronic form provided that it is duly executed.

12.11 Negotiated Agreement

(1) This Settlement Agreement has been the subject of arm's length negotiations and discussions among the Parties, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties agree that there was no disparity in bargaining power among the Parties to this Settlement Agreement, and if a dispute should later arise regarding any of its terms, none of the Parties shall be deemed to be the drafter of any particular provision of this Settlement Agreement.

12.12 Language

(1) 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, Class Counsel and/or a translation firm mandated by Class Counsel may prepare a French translation of the notices or other documents, the cost of which shall be paid from the Settlement Amount as an Administration Expense. Any such translations are solely for the convenience of French-speaking Class Members.

12.13 Recitals

(1) The recitals to this Settlement Agreement form part of the Settlement Agreement.

12.14 Schedules

(1) The schedules annexed hereto form part of this Settlement Agreement.

12.15 Acknowledgements

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

12.16 Authorized Signatures

- (1) Each of the undersigned represents that they are fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of their respective client(s).

12.17 Notice

- (1) 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 by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

For the Plaintiff and for Class Counsel in the Proceedings:

Paul Miller and Victoria Yang
Howie, Sacks & Henry LLP
20 Queen Street West
Suite 3500
Toronto ON M5H 3R3

Telephone: (416) 361-7562

Facsimile: (416) 361-0083
Email: pmiller@hshlawyers.com and vyang@hshlawyers.com

David Jones and Jen Winstanley
CFM Lawyers LLP
856 Homer St.
Suite 400
Vancouver BC V6B 2W5

Telephone: (604) 689-7555
Facsimile: (604) 689-7554
Email: jwinstanley@cfmlawyers.ca and djones@cfmlawyers.ca

Emily Assini
McKenzie Lake Lawyers LLP
140 Fullarton Street
Suite 1800
London, ON N6A 5P2

Telephone: (519) 672-5666, x7359
Facsimile: (519) 672-2674
Email: emily.assini@mckenzielake.com

For the Defendants Behr Process Corporation, Behr Process Canada Ltd., Behr Paint Corp. and Masco Corporation:

Deborah Templer
McCarthy Tétrault LLP
Toronto Dominion Bank Tower
66 Wellington Street West
Suite 5300, Box 48
Toronto ON M5K 1E6

Telephone: 416-601-8421
Facsimile: 416-868-0673
Email: dtempler@mccarthy.ca

For the Defendants The Home Depot, Inc. and Home Depot of Canada Inc.:

Rahool Agarwal
Lax O'Sullivan Lisus Gottlieb LLP
145 King St. W.
Suite 2750
Toronto ON M5H 1J8

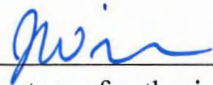
Telephone: 416-598-1744
Facsimile: 416-598-3730
Email: ragarwal@lolg.ca

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

Dated at Vancouver this 25 day of September, 2025

TONY MENGUAL, by his counsel

Jen Winstanley
Name of authorized signatory


Signature of authorized signatory

BEHR PROCESS CORPORATION, BEHR PROCESS CANADA LTD., BEHR PAINT CORP.,
and MASCO CORPORATION, by their counsel

Deborah Templer

Name of authorized signatory


Signature of authorized signatory

THE HOME DEPOT, INC., and HOME DEPOT OF CANADA INC., by their counsel

Rahool Agarwal

Name of authorized signatory


Signature of authorized signatory

**DID YOU PURCHASE AND APPLY BEHR DECKOVER IN CANADA
BETWEEN MARCH 1, 2013 AND [DATE OF CERTIFICATION]?**

**IF SO, YOUR RIGHTS ARE AFFECTED BY A CLASS ACTION
THE DEADLINE TO OPT OUT OF THE CLASS ACTION IS [30 DAYS AFTER PUBLICATION].**

1. WHAT IS A CLASS ACTION?

A class action is a lawsuit filed by a person, called the "Representative Plaintiff", on behalf of a large group of people with the same or similar legal claims, called "Class Members" or the "Class". The Representative Plaintiff is authorized by the court to represent all Class Members.

A class action allows the court to resolve the common issues for everyone affected, except for those who choose to exclude themselves (opt out) from the Class. To see if this class action affects you, you must first determine whether you are in the Class.

2. WHAT IS THIS CLASS ACTION ABOUT?

A national class action lawsuit (the "Class Action") was commenced in Ontario about Behr "Deckover" Products, including Behr Premium DeckOver, Behr Premium DeckOver Textured, Behr Premium DeckOver Extra Textured, Behr Premium DeckOver Advanced Smooth, and Behr Premium DeckOver Advanced Textured or Extra Textured alleged to be sold, produced, or marketed by Behr Process Corporation, Behr Process Canada Ltd., Behr Paint Corp., Masco Corporation, The Home Depot, Inc., and Home Depot of Canada Inc. (the "Defendants").

The lawsuit alleges that the Defendants' claims that DeckOver could be applied to wooden, composite, and concrete surfaces as a durable and long-lasting alternative to paints and stains, and was capable of extending the life of those surfaces were false. The Defendants deny these claims and do not agree that they are liable.

The Class Action has been certified by the Ontario Superior Court of Justice for the purposes of this settlement only.

3. AM I A CLASS MEMBER?

You may be a member of the class if you are person, corporation or other entity in Canada that:

- purchased in Canada and applied DeckOver, or paid for DeckOver to be applied, on a wooden, composite, or concrete surface within Canada between March 1, 2013 and [date of certification] (the "Class Period"); or
- owns a wooden, composite, or concrete surface within Canada to which DeckOver was applied during the Class Period.

Questions? Visit [entire website]; email vyang@hshlawyers.com; or call [enter number]

4. WHY WAS THIS NOTICE ISSUED?

The purpose of this notice is to advise Class Members of the right to opt out, and of a court hearing to approve:

- a settlement agreement with the Defendants (the “Settlement Agreement”);
- a plan for administering and distributing money paid pursuant to the Settlement Agreement; and
- the lawyers’ fees and expenses.

5. WHAT HAPPENS IF I DO NOTHING

If you do nothing, you become a Class Member and you cannot sue the Defendants for these claims separately. You will be bound by the result in the Class Action.

You do not need to do anything now unless you want to opt out. If the Settlement Agreement is approved, you will need to take steps to make a claim.

6. WHAT IF I DO NOT WANT TO BE IN THE CLASS ACTION?

You can opt out of this Class Action.

If you want to sue any of the Defendants on your own, or if you do not want to participate in this Class Action, you must take steps to exclude yourself. This is called “opting out”.

If you opt out:

- you will not be able to claim from any money or compensation that results from the Class Action;
- you will not be bound by the results of the Class Action; and
- your claim will not be part of the Class Action and you will keep your existing rights to sue the Defendants on your own if you wish to do so.

If you do NOT opt out:

- you will be able to make a claim for money or compensation that results from the Class Action;
- you will be bound by the results of the Class Action; and
- you give up all your rights to sue any of the Defendants about the same issues.

Call [number] if you have any questions about the legal terminology or about your options.

7. HOW DO I OPT OUT?

On or before [30 days after first publication of notice], you must send a completed opt out form, which can be found at [website], to the Claims Administrator to notify them that you want to opt out. You can send the opt out form by email, fax, mail or courier to the Claims Administrator at:

Questions? Visit [website]; email vyang@hshlawyers.com; or call [number]

Epiq Class Action Services Canada, Inc.
Attention: DeckOver Settlement
44 Victoria Street, Suite 900
Toronto, Ontario
M5C 1Y2
Fax: 1-866-262-0816
Tel: 416-603-3003
Email: ♦

8. WHAT SETTLEMENT HAS BEEN ACHIEVED IN THE CLASS ACTION?

The parties have reached a settlement of the Class Action. Although the Defendants deny liability, they have agreed to pay \$1.4 million to settle the claim against them in exchange for a full release. The Representative Plaintiff, the lawyers for the Class, and the Defendants believe that this is a fair settlement, taking into account all the strengths, weaknesses, and risks of the case.

This notice contains a summary of the Settlement Agreement. The full terms of the Settlement Agreement can be found at [*website*].

The Settlement Agreement must be approved by the Ontario court. The court will review the Settlement Agreement to ensure that it is fair, reasonable, and in the best interests of the Class.

9. HOW WILL THE SETTLEMENT FUNDS BE DISTRIBUTED?

If the Settlement Agreement is approved, the money received, minus court-approved lawyers' fees, disbursements and taxes, will be available for compensation to Class Members who did not opt out.

If you opt out of the Class Action, you will not be entitled to make a claim or receive any money from the settlement.

Class Members are eligible to receive compensation for the cost of DeckOver as well as the cost of repairing damage.

DeckOver Reimbursement

If you purchased DeckOver and had it applied to a wooden, composite, or concrete surface that was damaged as a result, you are a "Refund Claimant" and will be entitled to:

- \$40 for each small container of DeckOver you purchased (3.4L to 3.8L, able to cover up to 7 m² in 2 coats); and
- \$200 for each large container of DeckOver you purchased (17L to 19L, able to cover up to 35 m² in 2 coats)

If you are not able to show proof that you purchased DeckOver, but declare that you did, will be entitled to \$40.

Damaged Surface Reimbursement

If you had DeckOver applied to a wooden, composite, or concrete surface that you own and that surface was damaged, you are a "Damages Claimant". Damages Claimants are entitled to a proportionate share

Questions? Visit [*website*]; email vyang@hshlawyers.com; or call [*number*]

of the remaining settlement money based on the size of their damaged surface. The amount you receive will also be based on whether you are able to show proof of damage, or if you can only declare that your surface was damaged. The weighting of damage will be:

Evidence of Damage	Weighted Percentage
Documented Proof of Damage	60%
Attestation Only	40%

For example, a Damages Claimant who is able to show proof of damage will be calculated as follows:

total surface area x 0.60 = weighted surface area eligible for compensation

You may be both a Refund Claimant and a Damages Claimant.

10. WHAT ARE THE LAWYERS' FEES AND EXPENSES?

The lawyers working on the Class Action are seeking court approval legal fees and expenses out of the Settlement Amount. The lawyers are requesting 25% of the Settlement Amount, plus expenses and applicable taxes.

11. WHAT HAPPENS NEXT

A hearing to approve the Settlement Agreement, the plan for distributing money to Class Members, and the lawyers' fees and expenses will take place at the Court House, 330 University, Toronto, Ontario, on [date].

If you do not oppose the Settlement Agreement, you do not need to do anything at this time.

If you wish to comment on or object to the Settlement Agreement, the plan for distributing money to the Class Members or the lawyers' fees, you must do so in writing in advance of the hearing by sending a letter or email to the lawyers working on the Class Action below. The letter or email must be received by the lawyers by 12:00 P.M. (noon) on [date]. Any objections will be given to the court.

12. HOW CAN I SUBMIT AN OBJECTION OR GET MORE INFORMATION?

You can get copies of the Settlement Agreement, the plan for distributing the settlement money and other information about the Class Action at [website].

The Class Members are being represented by McKenzie Lake LLP, CFM Lawyers LLP, and Howie, Sacks & Henry LLP. You can contact the lawyers at:

Mail: Howie, Sacks & Henry LLP
DeckOver Class Action
3500 – 20 Queen Street W
Toronto, BC M5V 0L6
Attn: Victoria Yang

Email: vyang@hshlawyers.com

Questions? Visit [website]; email vyang@hshlawyers.com; or call [number]

Phone: 416-361-7562

The official court reference for this lawsuit is:

Mengual v Behr Process Corporation et al, Court File No. CV-18-596787-00CP.

Please do not contact the Court. Class Counsel will answer your questions.

DID YOU PURCHASE AND APPLY BEHR DECKOVER IN CANADA BETWEEN MARCH 1, 2013 AND [DATE OF CERTIFICATION]?

If so, you may be eligible to receive money from a class action settlement

WHAT IS A CLASS ACTION?

A class action is a lawsuit filed by a person on behalf of a large group of people with the same or similar legal claims.

WHAT IS THIS CLASS ACTION ABOUT?

This class action lawsuit is about “DeckOver” products (Behr Premium DeckOver, Behr Premium DeckOver Textured, Behr Premium DeckOver Extra Textured, Behr Premium DeckOver Advanced Smooth, and Behr Premium DeckOver Advanced Textured or Extra Textured) alleged to be sold, produced or marketed by Behr Process Corporation, Behr Process Canada Ltd., Behr Paint Corp., Masco Corporation, The Home Depot, Inc., and Home Depot of Canada Inc. (the “Defendants”) This lawsuit alleges that the Defendants’ claims that DeckOver could be applied to wooden, composite, and concrete surfaces as a durable and long-lasting alternative to paints and stains, and was capable of extending the life of the surfaces were false. The Defendants deny these claims.

The parties reached a settlement in the class action for \$1.4 million .

On ♦, the Ontario Court approved the settlement, as well as legal fees, expenses and taxes to be paid out of the settlement money.

The settlement resolves the class action against all of the Defendants.

AM I ELIGIBLE TO RECEIVE MONEY?

You may be eligible to receive money if you purchased DeckOver or had DeckOver applied to a surface that you own between March 1, 2013 and ♦.

HOW MUCH MONEY WILL I RECEIVE?

The court has approved a plan to distribute the settlement money. Eligible claimants may receive compensation for the cost of DeckOver as well as the cost of repairing damage to surfaces that DeckOver was applied to.

DeckOver Reimbursement

If you purchased DeckOver and had it applied to a surface that was damaged as a result you are entitled to:

- \$40 for each small container of DeckOver you purchased (3.4L to 3.8L, able to cover up to 7 m² in 2 coats); and
- \$200 for each large container of DeckOver you purchased (17L to 19L, able to cover up to 35 m² in 2 coats)

If you are not able to show proof that you purchased DeckOver, but declare that you did, will be entitled to \$40.

Damaged Surface Reimbursement

If you had DeckOver applied to a surface that you own and that surface was damaged as a result, you are entitled to a proportionate share of the remaining settlement money based on the size of your damaged surface.

How much money you receive will depend on whether you can show proof of damage, or if you can only declare that your surface was damaged. The weighting of damage will be:

- Proof of damage – 60% weight
- No proof of damage – 40% weight

For example, if you can show proof of damage, your claim will be calculated as follows:

total surface area x 0.60 = weighted surface area
eligible for compensation

DO I NEED TO SUBMIT A CLAIM?

Settlement class members will need to submit a claim form, which can be found at [*website*].

WHAT IS THE DEADLINE FOR SUBMITTING A CLAIM?

The completed claim form must be submitted on or before *[date]*.

WHO ARE THE CLASS ACTION LAWYERS AND WHERE CAN I GET MORE INFORMATION?

You are represented by:

- McKenzie Lake LLP;
- CFM Lawyers LLP; and
- Howie, Sacks & Henry LLP.

You can contact the lawyers at:

Email: vyang@hshlawyers.com
Phone: 416-361-7562

For more information or to get help with filing a claim:

- Visit *[website]*;
- Email *[email]*; or
- Call *[number]*.

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE) THE
)
JUSTICE GLUSTEIN) DAY OF, 2025

B E T W E E N:

TONY MENGUAL

Plaintiff

- and -

**BEHR PROCESS CORPORATION, BEHR PROCESS CANADA LTD., BEHR PAINT
CORP., MASCO CORPORATION, THE HOME DEPOT, INC., and HOME DEPOT OF
CANADA INC.**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER
(Notice Approval and Certification for Settlement Purposes)

THIS MOTION, made by the Plaintiff for an order certifying this action for settlement purposes and approving the form and content of the notices of the procedure for opting out and the settlement and fee approval hearing was heard in writing, on *[date]* at the Court House, 330 University, Toronto, Ontario.

ON READING the materials filed, including: the Settlement Agreement between the parties, dated *[date]* (the “**Settlement Agreement**”), a copy of which is attached as Schedule “A”;

the affidavits of Tony Mengual and Victoria Yang; and on reviewing the written submission of counsel for the Plaintiff;

AND ON BEING ADVISED (1) that the Defendants consent to this Order; and (2) that Epiq Class Action Services Canada, Inc. (“**Epiq**”) consents to being appointed as Notice Administrator;

1. **THIS COURT ORDERS** that the capitalized terms herein have the same meaning as in the Settlement Agreement unless otherwise defined herein;

2. **THIS COURT ORDERS** that this action is certified as a class proceeding pursuant to the *Class Proceedings Act, 1992*, SO 1992, c 6, for settlement purposes only, on behalf of the following Settlement Class:

all persons, corporations and other entities resident in Canada that purchased DeckOver in Canada (or caused it to be purchased) and applied it (or caused it to be applied) to any property or wooden, composite, or concrete surface within Canada during the Class Period, and all persons who have legal or beneficial interest in a property or wooden, composite, or concrete surface within Canada to which DeckOver was applied during the Class Period, excluding the Defendants, their subsidiaries, affiliates, and other related entities or persons.

3. **THIS COURT ORDERS** that this action is certified as a class proceeding, for settlement purposes only, on behalf of the Settlement Class in respect of the following common issues:

- i. Did the Defendants engage in false, misleading or deceptive representations in relation to DeckOver?
- ii. Did the Defendants fail to warn class members regarding alleged defects in DeckOver or the consequent alleged damages DeckOver could cause to property?
- iii. Were the Defendants negligent in the design, manufacture and/or testing of DeckOver?

4. **THIS COURT ORDERS** that Tony Mengual is appointed as the Representative Plaintiff for the Class;
5. **THIS COURT ORDERS** that McKenzie Lake Lawyers LLP, Camp Fiorante Matthews Mogerman LLP, and Howie, Sacks & Henry LLP are appointed as Class Counsel;
6. **THIS COURT ORDERS** that Epiq Class Action Services Canada, Inc. (“**Epiq**”) is appointed as Notice Administrator to perform the duties and responsibilities set out in the Settlement Agreement and any other related duty or responsibilities as ordered by this Court;
7. **THIS COURT ORDERS** that the form and content of the notice of certification, as set forth in Exhibit “A” to the Settlement Agreement and attached hereto as Schedule “B” (the “**Pre-Approval Notice**”), is hereby approved;
8. **THIS COURT ORDERS** that the Pre-Approval Notice shall be published and disseminated in accordance with Section 9 of the Settlement Agreement and the Notice Plan, attached hereto as Schedule “C”;
9. **THIS COURT ORDERS** that the dissemination of the Pre-Approval Notice as provided for in the Notice Plan is the best notice practicable under the circumstances, constitutes sufficient notice to all Settlement Class Members entitled to notice and satisfies the requirements of notice pursuant to sections 17 through 22, inclusive, of the *Class Proceedings Act, 1992*, SO 1992, c 6;
10. **THIS COURT ORDERS** that the costs and fees of the Notice Administrator, including the costs associated with publishing and disseminating the Pre-Approval Notice, will be paid from the Settlement Amount, in accordance with the terms of the Settlement Agreement;

11. **THIS COURT ORDERS** that all information provided to the Notice Administrator by or about Settlement Class Members as part of the Notice Plan or administration of the Settlement Agreement shall be collected, used and retained by the Notice Administrator and its agents pursuant to the applicable privacy laws and solely for the purposes of providing notice of settlement and administering the Settlement Agreement. The information provided shall be treated as private and confidential and shall not be disclosed without the express written consent of the relevant Settlement Class Member, except in accordance with the Settlement Approval and/or orders of this Court;

12. **THIS COURT ORDERS** that the form and content of the Opt-Out Form, attached hereto as Schedule “D”, is approved;

13. **THIS COURT ORDERS** that Settlement Class Members may exclude themselves from this Action by submitting an Opt-Out Form to the Notice Administrator by mail, courier or email on or before 12:00 a.m. midnight Eastern Time (ET) on the date that is thirty (30) days after the first publication of the Pre-Approval Notice (the “**Opt-Out Deadline**”);

14. **THIS COURT ORDERS** that all Settlement Class Members who do not validly opt out of this Action by the Opt-Out Deadline shall be bound by the terms of the Settlement Agreement, if it is approved by this Court, and may not opt-out of this Action in the future;

15. **THIS COURT ORDERS** that a Settlement Class Member who wishes to file with the Court an objection or comment on the Settlement Agreement must submit to the Notice Administrator, on or before 12:00 a.m. midnight Eastern Time (ET) on the date that is thirty (30) days after the first publication of the Pre-Approval Notice (the “**Objection Deadline**”), a written statement providing the following information: (i) the Settlement Class Member’s full name and

current address; (ii) declaration that the objector is a Settlement Class Member; (iii) a written and signed statement of the grounds for the objection; and (iv) whether the Settlement Class Member intends to appear in person or through counsel at the Settlement Approval Hearing.

16. **THIS COURT ORDERS** that any Settlement Class Member who elects to opt out of this Action in accordance with the provisions of this Order may not also object to or comment on the Settlement Agreement and that any such objection or comment received therefrom shall be deemed withdrawn;

17. **THIS COURT ORDERS** that the date and time of the Settlement Approval Hearing set forth in the Pre-Approval Notice are subject to adjournment by the Court without further notice to Settlement Class Members;

18. **THIS COURT ORDERS** that if the Settlement Agreement is not approved, is terminated in accordance with its terms, or otherwise fails to take effect for any reason, this Order, including certification for settlement purposes and all Opt-Out Forms received pursuant to this Order, shall be set aside and declared null and void and of no force or effect, without the need for any further order of this Court;

19. **THIS COURT ORDERS** that any party affected by this Order may apply to the Court for further directions;

20. **THIS COURT ORDERS** that in the event of conflict between this Order and the terms of the Settlement Agreement, this Order shall prevail.

THE HONOURABLE JUSTICE GLUSTEIN

Schedule "D"

Court File No. CV-18-596787-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE) THE
JUSTICE GLUSTEIN) DAY OF, 2024

B E T W E E N:

TONY MENGUAL

Plaintiff

and

BEHR PROCESS CORPORATION, BEHR PROCESS CANADA LTD., BEHR
PAINT CORP., MASCO CORPORATION, THE HOME DEPOT, INC., and
HOME DEPOT OF CANADA INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER
(Settlement Approval)

THIS MOTION, made by the Plaintiff Tony Mengual for an order approving a settlement agreement dated as of [date] (the "Settlement Agreement") entered into between the Defendants and the Plaintiff (as defined in the Settlement Agreement), to settle the within action, was heard on [date] at the Court House, 330 University, Toronto, Ontario.

ON READING the materials filed, including:

- a) the Settlement Agreement, attached to this Order as Schedule "A" ,

b) the affidavit of Tony Mengual, sworn [date], and the exhibits thereto; and

c) [*any other affidavits*]

ON HEARING the submissions of Class Counsel and Defence Counsel;

AND ON BEING ADVISED that the Parties consent to this Order;

Interpretation

1. **THIS COURT ORDERS** that the Settlement Agreement is hereby incorporated by reference into and forms part of this Order. The definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that in the event of any conflict between the Settlement Agreement and this Order, this Order shall prevail.

Settlement Approval

3. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class, and it is hereby approved pursuant to s. 27.1 of the *Class Proceedings Act, 1992*, SO 1992, c 6, and shall be implemented and enforced in accordance with its terms.

4. **THIS COURT ORDERS** that this Order and the Settlement Agreement are binding upon each Settlement Class Member, including those persons who are minors or mentally incapable,

and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, are hereby dispensed with in respect of the Class Action.

Released Claims

5. **THIS COURT ORDERS** that upon the Effective Date, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.

6. **THIS COURT ORDERS** that none of the Releasors, and no legally authorized representative of any of the Releasors, may file, commence, prosecute, intervene in, or participate as a Plaintiff, claimant, or class member in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on, relating to, or arising out of the Released Claims.

7. **THIS COURT ORDERS** that none of Releasors, and no legally authorized representative of any of the Releasors, may file, commence, or prosecute any lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any other person (including by seeking to amend a pending complaint or action to include class allegations or seeking class certification in a pending action), based on, relating to, or arising out of the Released Claims.

8. **THIS COURT ORDERS** that none of the Releasors, and no legally authorized representative of any of the Releasors, may attempt to effect an opt out of a class of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding based on, relating to or arising out of the Released Claims.

9. **THIS COURT ORDERS** that upon the Effective Date, none of the Releasors may now or hereafter institute, continue, maintain, or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any person who may claim contribution or indemnity, or other claims over relief from any Releasees in respect of any Released Claim or any matters related thereto.

10. **THIS COURT ORDERS** that upon the Effective Date, any proceeding commenced by a Settlement Class Member against any of the Releasees related to the Released Claims shall be immediately dismissed, without costs and with prejudice, and the Parties shall request any court in which such claim is or has been commenced to order the immediate dismissal of the same.

No Admission of Liability

11. **THIS COURT ORDERS** that nothing in this Order shall be deemed, construed or interpreted to be an admission of any violation of any statute or law, or an admission of any wrongdoing or liability by the Defendants, or an admission of the truth of any of the claims or allegations contained in the Class Action.

Termination

12. **THIS COURT ORDERS** that this Order shall be declared null and void on a subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

Application for Directions

13. **THIS COURT ORDERS** that for the purposes of administration and enforcement of this Order, including the Settlement Agreement, this Court will retain an ongoing supervisory role.

14. **THIS COURT ORDERS** that the Defendants or Class Counsel may apply, on notice to all parties, to the Court for directions in respect of the implementation or administration of this Order or the Settlement Agreement.

Dismissal

15. **THIS COURT ORDERS** that promptly after the Effective Date, Class Counsel shall arrange for the dismissal of the Class Action, without costs and with prejudice, as against the Defendants, and the Class Action shall thereupon be wholly dismissed with prejudice as against the Defendants. The dismissal shall be a defence to any subsequent action against any Releasee based on, relating to, or arising out of the Released Claims.

Distribution Approval

16. **THIS COURT ORDERS** that the Distribution Protocol attached hereto as **Schedule “B”** is hereby approved.

17. **THIS COURT ORDERS** that Epiq Class Action Services, Inc. is appointed as Notice Administrator and Claims Administrator.

18. **THIS COURT ORDERS** that the settlement amount paid in accordance with the Settlement Agreement shall be distributed by the Claims Administrator in accordance with the Distribution Protocol.

19. **THIS COURT ORDERS** that the notice to Settlement Class Members (the “Claims Notice”) is approved substantially in the form attached hereto as **Schedule “C”**.

20. **THIS COURT ORDERS** that the plan for distributing the Claims Notice (the “Notice Plan”) is approved in the form attached hereto as **Schedule “D”**.

21. **THIS COURT ORDERS** that the Claims Notice shall be disseminated in accordance with the Notice Plan.

22. **THIS COURT ORDERS** that the Claim Form is hereby approved substantially in the form attached hereto as **Schedule “E”**.

23. **THIS COURT ORDERS** that all information provided by claimants as part of the claims process is collected, used and retained by the Claims Administrator, Class Counsel and their agents pursuant to the applicable privacy laws for the purposes of administering the Settlement Agreement, including evaluating the claimant’s eligibility status under the Settlement Agreement. The information provided by the claimant shall be treated as private and confidential and shall not be disclosed without the express written consent of the claimant, except in accordance with the Settlement Agreement, Distribution Protocol and/or an order of the this Court.

24. **THIS COURT ORDERS** that no proceeding, cause of action, claim or demand may be brought against Class Counsel and/or the Claims Administrator concerning the implementation of the Distribution Protocol without leave from this Court.

THE HONOURABLE JUSTICE GLUSTEIN

Opt Out Form

DeckOver Product Class Action Opt Out Form

Mengual v Behr Process Corporation et al., Court File No. CV-18-596787-00CP

I, _____(print full name), wish to opt out of the Canadian DeckOver Product Class Action. I declare that I do not want to be part of the Class Action and I am choosing to be excluded from any settlement or judgment in in the Class Action.

I understand that if I complete this form:

- **I do not wish to participate in the Class Action;**
- **I will not be bound by the results of the Class Action;**
- **I will not be entitled to share in any recovery obtained in the Class Action;**
- **I will be responsible for all legal fees and costs if I choose to pursue my own individual claim.**

I declare that I purchased Behr Premium DeckOver, Behr Premium DeckOver Textured, Behr Premium DeckOver Extra Textured, Behr Premium DeckOver Advanced Smooth, and/or Behr Premium DeckOver Advanced Textured or Extra Textured ("DeckOver") between March 1, 2013 to [date].

•

I confirm that I I do not require the consent of any third party in order to opt out of this class action.

Date: _____

Signature: _____

Name: _____

Address: _____

Telephone Number: _____

Alternative Telephone Number: _____

E-mail: _____

Schedule “E”

Please make sure this form is complete and return it to the Claims Administrator by email, fax, mail or courier by [**30 days after first publication of notice**] at:

Epiq Class Action Services Canada, Inc.
Attention: DeckOver Settlement
44 Victoria Street, Suite 900
Toronto, Ontario
M5C 1Y2
Fax: 1-866-262-0816
Tel: 416-603-3003
Email: ◆

In order to be valid, your opt out form must be postmarked on or before midnight on [**30 days after first publication of notice**].