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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF SAN FRANCISCO  
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17 **THE PEOPLE OF THE STATE OF**  
**CALIFORNIA, et al.,**

18 Plaintiffs,

19 v.  
20

21 **SAMSUNG SDI, CO., LTD., et al,**

22 Defendants.  
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Case No. CGC-11-515784

**EXHIBIT E (HITACHI SETTLEMENT  
AGREEMENT)  
TO VARANINI DECLARATION IN  
SUPPORT OF MOTION FOR  
PRELIMINARY APPROVAL OF  
SETTLEMENTS WITH HITACHI, LG,  
PANASONIC, TOSHIBA AND SAMSUNG**

Date: March 3, 2016  
Time: 8:30 a.m.  
Dept: 304  
Judge: Curtis E.A. Karnow  
Action Filed: November 8, 2011

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into by and between the Hitachi defendants (“Hitachi”)<sup>1</sup>, including Hitachi, Ltd.; Hitachi Displays, Ltd. (now part of Japan Display Inc.), Japan Display Inc (“JDI”), Hitachi Electronic Devices (USA), Inc., Hitachi America, Ltd.; and Hitachi Asia, Ltd., on the one hand, and the Attorney General of California (“Attorney General”), on behalf of the State of California and its state agencies, its political subdivisions and public agencies (including the Class of Government Entities as defined below), and in her capacity as *parens patriae* on behalf of all natural persons resident in California at any time during the Relevant Period as defined below (collectively, the “State”), on the other hand.

WHEREAS, the Attorney General alleges that Hitachi participated in an unlawful conspiracy to raise, fix, maintain, or stabilize the price of Cathode Ray Tubes (“CRTs”) at artificially high levels, and to restrict output of CRTs in violation of the California Cartwright Act, the California Unfair Competition Law, and/or the doctrine of unjust enrichment; and

WHEREAS, the Attorney General has filed a case, No. CGC-11-515784, filed November 8, 2011, in the Superior Court of California, County of San Francisco, captioned *The State of California et al. v. Samsung SDI, Co. Ltd, et al.* (“the Action”), in which she has alleged that Hitachi and other companies participated in an unlawful price fixing conspiracy of CRTs and believes her claims against Hitachi are valid, but nevertheless believes that resolving her claims against Hitachi according to the terms set forth below at this point in time in her case are in the best interest of the State in materially advancing that case and prosecuting claims against other companies participating in this conspiracy; and

WHEREAS, Hitachi denies that validity of the Attorney General’s claims against Hitachi and denies liability, injury, and/or damages to the Attorney General, but, despite its belief that it is not liable for any claim arising from allegations that it participated in an unlawful price fixing conspiracy of CRTs, Hitachi has nevertheless agreed to enter into this Agreement to avoid

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<sup>1</sup> The term “Hitachi” as used herein does not refer to Shenzhen SEG Hitachi Color Display Devices, Ltd.

further expense, inconvenience, and the distraction of burdensome and protracted litigation, and to obtain the releases, orders, and judgment contemplated by this Agreement, and to put to rest with finality all claims that have been or could have been asserted against Hitachi Releasees, as defined below, based on the allegations in the complaint against Hitachi and its alleged other co-conspirators in the Action.

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is agreed by and among the undersigned that the relevant claims be settled, compromised, and dismissed on the merits with prejudice as to Hitachi Releasees and, except as hereinafter provided, without costs as to the Attorney General, Hitachi, and Hitachi Releasees, subject to the approval of the Court, on the following terms and conditions, and incorporating the preceding clauses:

A. Definitions

1. "Hitachi Releasees" refers to Hitachi Ltd.; Hitachi Displays, Ltd. (JDI); JDI; Hitachi Electronic Devices (USA), Inc.; Hitachi America, Ltd.; and Hitachi Asia, Ltd. and to all of their past and present, direct and indirect, parents, subsidiaries, and/or affiliates; the predecessors, successors, and assigns of any of the above; and each and all of their present and former principals, partners, officers, directors, supervisors, employees, agents, representatives, insurers, attorneys, heirs, executors, administrators, and assigns. The term Hitachi Releasees does not refer to Toshiba Corporation, nor (aside from JDI) to any Toshiba-affiliated entity that has been sued by the Attorney General in Case No. CGC-11-515784. The release in this Agreement does not extend to Toshiba Corporation regardless of the incorporation of any aspect of Toshiba Corporation's, or any Toshiba-affiliated entity's, business manufacturing displays or display screens into JDI.
2. "Government Entities" refers to all political subdivisions and public agencies in California (*i.e.*, counties, cities, K-12 school districts, and utilities), plus the University of California and the State Bar of California, that have purchased CRTs

- and/or CRT products during the Relevant Period. Excluded from this definition are all state agencies that either constitute an arm of the State of California under the Eleventh Amendment of the U.S. Constitution or are not otherwise treated under California law as being autonomous from the State of California itself.
3. “Settlement Class of Government Entities” refers to all political subdivisions and public agencies in California (*i.e.*, counties, cities, K-12 school districts, and utilities), plus the University of California and the State Bar of California, that have purchased CRTs and/or CRT products during the Relevant Period. Excluded from this definition are all state agencies that either constitute an arm of the State of California under the Eleventh Amendment of the U.S. Constitution or are not otherwise treated under California law as being autonomous from the State of California itself.
  4. The “MDL” refers to the Multidistrict Litigation entitled *In re Cathode Ray Tube (CRT) Antitrust Litigation*, Master File No. 3:07-cv-5944 SC, MDL No. 1917, which includes direct and indirect purchaser class actions, and related actions, currently pending in the United States District Court for the Northern District of California.
  5. “Releasor” refers to (1) the State of California in its own behalf and on behalf of all state agencies that constitute an arm of the State of California; (2) the Attorney General acting as *parens patriae* on behalf of all natural persons resident in California at any time during the Relevant Period; and (3) the Settlement Class of Government Entities.
  6. “Relevant Period” refers to the period beginning March 1, 1995, and continuing through November 25, 2007.
  7. The “Settlement Fund” refers to the \$600,000.00 (U.S.) payment, plus \$25,000 (U.S.) in payment for notice costs, to be made by JDI within thirty (30) business days of the Effective Date.

8. "Effective Date" is the date upon which the Attorney General and Hitachi, through the undersigned counsel, have signed this Agreement.

B. Approval of this Agreement and Dismissal of Claims Against Hitachi

9. The Attorney General and Hitachi (the "Settling Parties"), and the Settling Parties' counsel, shall use their best efforts to effectuate this Agreement and its purpose, including cooperating in seeking any necessary court approvals, either amending the current complaint against Hitachi and any of its alleged co-conspirators in the Superior Court of California, San Francisco Division, or amending the settlement complaint filed against Philips in case No. CGC -11-515786, filed May 11, 2012, in the Superior Court of California, County of San Francisco, captioned *The State of California et al. v. Chunghwa Picture Tubes, Ltd. et. al.* (the "Philips Action") to add Hitachi solely for the purpose of effectuating this Agreement, and staying any litigation filed after the execution of this agreement, and shall jointly secure the prompt, complete, and final dismissal with prejudice of any settlement complaint filed as to the Hitachi Releasees, but not as to any party that is not a Hitachi Releasee. The Settling Parties agree to take whatever further steps, if any, may be reasonably necessary to effectuate the dismissal with prejudice of any complaint against Hitachi.
10. The Settling Parties shall jointly seek any orders and final judgment necessary to effectuate this Agreement, the text of which orders and final judgment the Settling Parties shall agree upon. The terms of such orders and final judgment will include, at a minimum, the substance of the following provisions:
  - a. any complaint filed shall be dismissed with prejudice as to Hitachi and the Hitachi Releasees, and, except as provided for in this Agreement, without recovery of costs to any party to that complaint;

b. reserving exclusive jurisdiction over this settlement and this Agreement, including the administration and consummation of this settlement, to whichever court in which the Attorney General files a complaint against Hitachi;

c. JDI shall pay to the Attorney General, for the benefit of the State, a Settlement Fund amount of \$600,000 (U.S.), plus \$25,000 (U.S.) in payment for notice costs, within thirty (30) business days of the Effective Date. The payment includes all fees, litigation expenses, and cost of notice and of settlement administration. The payment may be used for any of the following purposes, subject to applicable legal limitations:

1) Reimbursement of the State's attorneys' fees and litigation expenses;

2) Compensation for damages suffered by the State for, *inter alia*, harm to the general California economy caused by the Relevant Conduct otherwise known as deadweight loss, and damages/restitution for proprietary claims, including claims relating to purchases of CRTs and CRT products by California government entities;

3) Damages/restitution for *parens patriae* claims involving overcharges to natural persons;

4) The Settling Parties understand and agree that this payment includes monies for alleged damages/restitution for proprietary claims (including claims relating to purchases of CRTs and CRT products by California government entities), and for alleged damages/restitution for *parens patriae* claims, including deadweight loss. While the Attorney General agrees to release

Hitachi from any claim for civil penalties as part of this Agreement, the Attorney General finds for purposes of any allocation of these settlement funds that it would not be appropriate to assess civil penalties against Hitachi given the alleged facts regarding Hitachi's alleged involvement in the conspiracy;

5) Deposit into an antitrust or consumer protection account (*e.g.*, revolving account, trust account, special fund) for use in accordance with the laws governing such an account;

6) Antitrust or consumer protection enforcement by the Attorney General;

7) Insofar as the Attorney General's proprietary claims are concerned, the Attorney General may release those claims by requesting that the state court agree to the certification of the same settlement class of state and local government entities as that requested by the Attorney General regarding her settlement agreement with Koninklijke Philips Electronics N.V., a.k.a. Royal Philips Electronics N.V.; and

8) Cost of notice, and settlement administration. The Attorney General shall not allocate any sum of money to notice costs beyond the \$25,000 specifically designated for those costs. Should the Attorney General expend less than \$25,000 in notice costs, the Attorney General shall refund JDI the difference. In the event notice or settlement administration costs are expended and settlement not ultimately approved, those costs, including any notice costs expended as part of the \$25,000 specifically allocated for those costs, will not be refunded to JDI;

d. JDI shall be enjoined and restrained for a period of three years from the date of final approval of this Agreement, from engaging in price-fixing, market allocation, and/or bid rigging, relating to flat panel displays, which constitute horizontal conduct that are per se violations of sections 16700 et seq. of the Cartwright Act;

e. JDI shall be required to certify that it has an antitrust compliance program that provides relevant antitrust compliance education to its officers and employees with responsibility for pricing and sales of flat panel displays in and to the United States regarding the legal standards imposed by U.S. federal and state antitrust laws. JDI shall have ninety (90) days from final approval of this Agreement to establish this program if one has not already been established. For three (3) years, on an annual basis, JDI shall certify in writing to the Attorney General that it is fully compliant with the provisions of this paragraph by describing the nature of the program it maintains pursuant to this sub-paragraph. The Attorney General is required to provide JDI notice that the certification is due thirty (30) days prior to the deadline for its submission. Nothing in this provision shall cause, require or effect a waiver of any privileges otherwise applicable to the content or conduct of any antitrust compliance training;

f. Hitachi shall provide cooperation to the Attorney General as described in paragraph 17 of this Agreement within a reasonable time frame from the Effective Date of this Agreement; and



g. certifying solely for purposes of this Agreement the Settlement Class of Government Entities.

11. This Agreement shall become final when (i) the Court has entered an order and final judgment that dismisses with prejudice all claims as to Hitachi and all Hitachi Releasees in the complaint against Hitachi, and the settlement complaint in the Philips Action should the Attorney General amend that complaint to add Hitachi, and (ii) the time for appeal or to seek permission to appeal has expired, or (iii) if appealed, approval of this Agreement and the order and final judgment dismissing with prejudice all claims in the complaint against Hitachi, and the settlement complaint in the Philips Action should the Attorney General amend that complaint to add Hitachi, have been affirmed in their entirety by the court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review. This Agreement shall be deemed executed as of the later date of signature by either party. As of the date of execution of this Agreement, the Settling Parties shall be bound by the terms of this Agreement and this Agreement shall not be rescinded except in accordance with paragraphs 27 or 28 of this Agreement.
12. Neither this Agreement (whether or not it should become final) nor the resulting final judgment, nor any and all negotiations, documents, and discussions associated with such negotiation, shall be deemed or construed to be an admission by, or form the basis of an estoppel argument by a third party against, Hitachi or any of the Hitachi Releasees; or evidence of any violation of any statute or law or of any liability or wrongdoing whatsoever by Hitachi or any of the Hitachi Releasees; or of the truth of any of the claims or allegations contained in any complaint or any other pleading filed by the Attorney General in any action. Evidence thereof shall not be discoverable or used directly or indirectly, in any way, in any other action or proceeding. Neither this Agreement, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any action taken to carry out this Agreement by

the Attorney General or Hitachi shall be referred to, offered into evidence, or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to enforce this Agreement and solely for the purpose of enforcing this Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law. This provision shall not apply to cooperation or materials received by the Attorney General pursuant to paragraph 17 herein.

C. Release, Discharge, and Covenant Not to Sue

13. In addition to the effect of any final judgment entered in accordance with this Agreement, upon this Agreement becoming final as set out in paragraph 11 of this Agreement, and in consideration of payment of the Settlement Fund as specified in paragraphs 7 and 18 through 26 of this Agreement, and for other valuable consideration, the Hitachi Releasees are and shall be completely released, acquitted, and forever discharged to the fullest extent permitted by law from: (i) the claims, allegations and causes of action asserted in the complaint filed in the Action or in the Philips Action; and (ii) any and all claims, demands, judgments, actions, suits, or causes of action that Releasor ever had, now has, or hereafter can, shall, or may have on account of, or in any way arising out of or relating to, any act or omission of Hitachi or the Hitachi Releasees (or any of them) or any other entity concerning the manufacture, supply, distribution, sale or pricing of CRTs and/or CRT Products up to the date of execution of this Agreement, including but not limited to any conduct alleged, and causes of action asserted or that could have been alleged or asserted, in complaints filed in the Action or the Philips Action, including those arising under any federal or state antitrust, unfair competition, unfair practices, price discrimination, unitary pricing, unjust enrichment, contract, or trade practice law (the "Released Claims"). This release shall extend to JDI. Releasor shall not, after the date of execution of this Agreement, sue or otherwise seek to establish liability against

Hitachi or any Hitachi Releasee based, in whole or in part, upon any of the Released Claims or conduct at issue in the Released Claims.

14. In addition to the provisions of paragraph 13 of this Agreement, Releasor hereby expressly waives and releases, upon this Agreement becoming final, any and all provisions, rights, and benefits conferred by § 1542 of the California Civil Code which states:

CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR;

or by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code. Each Releasor may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the claims which are the subject matter of the provisions of paragraph 13 of this Agreement. Each Releasor hereby expressly waives and fully, finally, and forever settles and releases, upon this Agreement becoming final, any known or unknown, suspected or unsuspected, contingent or non-contingent claim with respect to the subject matter of the provisions of paragraph 13 of this Agreement, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

15. The release, discharge, and covenant not to sue set forth in paragraph 13 of this Agreement does not include claims by the Releasor other than the Released Claims, including without limitation any claims as to other time periods outside of the Relevant Period and/or Released Claims, such as those solely arising out of product

liability, breach of warranty, or breach of contract claims in the ordinary course of business.

16. The Attorney General agrees and covenants that she will not challenge preliminary or final approval of any settlement by any Hitachi Releasee with the indirect purchaser plaintiffs (the “IPPs”), the direct purchaser plaintiffs (the “DPPs”), or any individual action/opt-out plaintiffs (the “DAPs”) in the MDL where that settlement was entered into before the execution of this Agreement, except that the Attorney General may weigh in on any proposal or decision in the MDL pertaining to the allocation or distribution of any settlements’ funds, in an IPP, DAP, or DPP settlement with any Hitachi Releasee, to natural persons in California either directly or via *cy pres*. If requested by Hitachi, the Attorney General will submit a statement that (1) this settlement releases those *parens patriae* claims of all natural persons in California, except for those persons who have validly and timely excluded themselves pursuant to California law; and (2) this settlement has substantial value, warranting the release of these *parens patriae* claims by the Attorney General. The Attorney General will take the position that the exercise of *parens patriae* authority under California Business & Professions Code Section 16760 et seq. does not operate to release or supplant the indirect purchaser class claims in the parallel federal proceeding, MDL No. 1917, Case No. 3:07-cv-05944-SC *In re Cathode Ray Tube (CRT) Antitrust Litigation*, insofar as there is a certified class of indirect purchasers encompassing Californian natural persons in that proceeding, although an offset may be imposed. Nothing in this Agreement shall be construed to suggest that Hitachi agrees with the Attorney General’s statement or to prohibit Hitachi from taking a contrary position before any tribunal.

D. Hitachi Cooperation

17. Hitachi agrees to cooperate with the Attorney General by:

- a. Producing at trial in person, by deposition, or by affidavit, whichever is least burdensome but legally sufficient, to establish the status of Hitachi documents as business records, and/or authenticity of Hitachi documents, including documents relating to Hitachi's relevant sales;
- b. Undertaking best efforts to make appropriate deposed Hitachi employees available for trial according to a reasonable schedule and appropriate current Hitachi not-yet deposed employees available for deposition. The parties agree to meet and confer in good faith regarding making these employees available for deposition or for trial. In making these employees available, the parties agree to consider, without limitation, whether the expected testimony of such employees duplicates the testimony of other witnesses in the case and/or whether the substance of the expected testimony is sufficiently established by documentary evidence; and
- c. The Attorney General shall maintain all statements made by Hitachi pursuant to these cooperation provisions as strictly confidential; and that it shall not use directly or indirectly the information so received for any purpose other than the prosecution of the Action. The parties and their counsel further agree that any statements made by Hitachi's counsel in connection with and/or as part of this settlement shall be protected by Federal Rule of Evidence 408 and all similar provisions of state law, and shall in no event be discoverable by any person or treated as evidence of any kind;
- d. If any document protected by the attorney-client privilege, attorney work product protection, joint defense or any other protection, privilege, or immunity is accidentally or inadvertently produced under this Paragraph, the document shall promptly be destroyed and/or returned to Hitachi, and its production shall in no way be construed to have waived any privilege or protection attached to such document.

Such cooperation shall not be contingent upon the filing of actions against Hitachi and/or any of its co-conspirators. The cooperation does not include employees or documents that are currently employed by or in the possession of JDI and were not formerly employed by or in the possession of Hitachi Displays.

18. In the event that this Agreement fails to receive final approval by the Court as contemplated in paragraph 10, or in the event that it is terminated by either party under any provision herein, the parties agree that the Attorney General (or the parties that she represents) shall not be permitted to introduce into evidence, at any hearing or trial, or in support of any motion, opposition, or other pleading in the Action or the Phillips Action or in any other federal or state action alleging a violation of any antitrust or unfair competition law relating to the subject matter of the Released Claims, the unsworn, oral or written, statements provided by the Hitachi Releasees, their counsel, or any individual made available by the Hitachi Releasees pursuant to the cooperation provisions of paragraph 17, and no information, whether written or oral, sworn or unsworn, provided by Hitachi Releasees pursuant to this paragraph, shall be deemed an admission of any Hitachi Releasee. However, if this Agreement fails to receive final approval by the Court as contemplated in paragraph 11 herein or is terminated by either party under any provision herein, then the Attorney General may be permitted to offer into evidence any sworn statements, oral or written, whether made in a formal or informal setting, including deposition or trial, by any individual made available by the Hitachi Releasees pursuant to the cooperation provisions of this paragraph 17.

E. Settlement Fund.

19. Subject to the provisions hereof, and in full, complete and final settlement of the complaint against Hitachi, and the settlement complaint in the Philips Action should the Attorney General amend that complaint to add Hitachi, JDI shall pay into a Settlement Fund the amount of \$600,000 (U.S.), plus \$25,000 (U.S.) in payment for

- notice costs, by wire transfer, within thirty (30) business days of the Effective Date of this Agreement. Hitachi shall have no responsibility for, no right in, and no authority over, the allocation of the Settlement Fund as provided herein. The Settling Parties shall agree on escrow provisions applicable to the Settlement Fund. The Attorney General will provide wire instructions to Hitachi within three (3) business days after the Effective Date of this Agreement.
20. Hitachi agrees that any costs incurred by the Attorney General in providing any notice of the proposed settlement may be paid from the \$25,000 sum designated for that purpose. In the event notice or settlement administration costs are expended and the settlement is not ultimately approved, those costs will not be refunded to JDI. After this Agreement becomes final within the meaning of paragraph 10, all court ordered disbursements, including attorneys' fees and litigation costs, shall be made from the Settlement Fund.
21. Releasor shall look solely to the Settlement Fund for settlement and satisfaction of all Released Claims against Hitachi Releasees, and shall have no other recovery against Hitachi or any other Hitachi Releasee.
22. The Attorney General shall be responsible for distribution of the Settlement Fund in accordance with California state law and related orders of the Court in which it has filed a complaint against Hitachi or in which it amends its settlement complaint against Philips to add Hitachi. In no event shall any Hitachi Releasee have any responsibility, financial obligation, tax liability, or other liability whatsoever with respect to the distribution or administration of the Settlement Fund, including but not limited to the costs and expenses of such distribution and administration.
23. The Hitachi Releasees shall not be liable for any costs, fees, or expenses of the State, or its attorneys, experts, advisers, agents, or representatives, but all such costs, fees, and expenses shall be paid out of the Settlement Fund.

24. After this Agreement becomes final within the meaning of paragraph 10, the Settlement Fund shall be distributed in accordance with plans for direct distributions, *cy pres*, or as otherwise permitted by law, all to be submitted at the appropriate time by the Attorney General and approved by the Court. Neither Hitachi nor any other Hitachi Releasee under this Agreement shall have any responsibility for, or interest in, or liability whatsoever with respect to, or shall file any opposition to, the proposed or actual plan(s) for distribution of the Settlement Fund by the Attorney General and/or any other person or entity who may assert some claim to the Settlement Fund.
25. The Attorney General may in her sole discretion allocate the monies in the Settlement Fund for each category of damages/restitution (including damages/restitution for proprietary claims, such as claims relating to purchases of CRTs and CRT products by Government Entities, and damages/restitution for *parens patriae* claims, including deadweight loss), and for expenses (including fees, litigation expenses, costs of notice, and settlement administration). While the Attorney General agrees to release Hitachi from any claims for civil penalties, the Attorney General finds for purposes of allocation of any settlement funds that it is not appropriate to assess civil penalties against Hitachi given the alleged facts regarding Hitachi's involvement in the CRT conspiracy.
26. The Settling Parties further understand and agree that the Attorney General shall avoid breaking out which portion of the total sum of \$600,000 (U.S.) in the Settlement Fund is to be allocated for which claims except as necessary to obtain Court approval of the settlement and distribution of these proceeds.
27. It is contemplated that the State's counsel may seek an attorneys' fees award and reimbursement of costs and expenses (including expert witness fees and expenses) in whole or in part from the Settlement Fund. The Attorney General reserves all rights regarding the propriety of any request for or award of attorneys' fees or reimbursement of costs. Neither Hitachi nor any Hitachi Releasee shall take any



position on any application for attorneys' fees or reimbursement of costs. Subject to the foregoing reservation of rights, and subject to Court approval, any amounts awarded or distributed by the Court to the Attorney General as a fee award and reimbursement of costs may be used for any of the following purposes, within the limits of applicable law:

- a. Reimbursement of attorneys' fees and expenses incurred in the investigation and prosecution of the action against Hitachi;
- b. Deposit into a state antitrust or consumer protection account (*e.g.*, revolving account, trust account) for use in accordance with the laws governing the account;
- c. Deposit into a fund exclusively dedicated to assisting the State of California to defray the costs of experts, economists and consultants in multistate antitrust investigations and litigations; or
- d. Antitrust or consumer protection enforcement by the Attorney General.

F. Rescission if this Agreement is Not Approved or Final Judgment is Not Entered.

27. If the Court refuses to approve this Agreement or any material part thereof, or if such approval is materially modified or set aside on appeal, or if the Court does not enter the final judgment provided for in paragraph 10 of this Agreement, or if the Court enters the final judgment and appellate review is sought, and on such review, such final judgment is not affirmed in its entirety, then Hitachi and the Attorney General shall each, in its or her sole discretion, have the option to rescind this Agreement in its entirety. Written notice of the exercise of any such right to rescind shall be made by email and overnight courier and by filing a copy of such notice with the Court no later than the twentieth day from the day on which the Settling Parties receive notice that the Agreement has not been approved in whole or in material part or that it has been reversed or modified in whole or in material part on appeal, or that final judgment has not been entered as provided for in paragraph 10

of this Agreement, or that the final judgment has not been affirmed in its entirety on appeal. A modification or reversal on appeal of any amount of the fees for counsel for the State shall not be deemed a modification of all or a part of the terms of this Agreement or such final judgment.

28. In the event that this Agreement does not become final, then this Agreement shall be of no force or effect (except for this paragraph 28 and paragraphs 12 and 18) and any and all parts of the Settlement Fund, including all interest earned on such accounts, shall be returned forthwith to JDI less only disbursements of notice costs and/or claims administration expenses made in accordance with this Agreement. The Settling Parties expressly reserve all of their rights if this Agreement does not become final.
29. This Agreement shall be construed and interpreted to effectuate the intent of the Settling Parties, which is to provide, through this Agreement, for a complete resolution of the Released Claims with respect to each Hitachi Releasee as provided in this Agreement.
30. The Settling Parties contemplate and agree that, prior to final approval of the Agreement as provided for in paragraph 10 of this Agreement, appropriate notice of this Agreement and the complaint that is filed against Hitachi shall be given to the Settlement Class of Government Entities. The Class will further be notified that there will be a hearing at which the Court will consider the approval of this Agreement, and that members of that Class may opt out of the Class under this Agreement.

G. Miscellaneous.

31. This Agreement does not settle or compromise any claim by the Attorney General against any defendant or alleged co-conspirator other than Hitachi and Hitachi Releasees. All rights against such other defendant or alleged co-conspirator are specifically reserved by the Attorney General. Nothing in this Agreement shall be

construed to preclude the Attorney General from asserting that joint and several liability against defendants other than the Hitachi Releasees shall continue to include the volume of CRT sales of Hitachi during the Relevant Period notwithstanding this Agreement and Hitachi shall not contest such an assertion from being made. Hitachi shall not object to Hitachi's sales remaining in the case for the purpose of holding any other Defendant liable for any price-fixing activities involving CRTs. The Settling Parties further agree that the Release in this Agreement does not extend to Toshiba or any Toshiba-affiliated entity other than JDI.

32. Neither this Agreement, nor any act performed or document executed pursuant to or in furtherance of this Agreement, is, or may be deemed to be, or may be used as an admission of or evidence of (i) the validity of any claim or defense, or (ii) the appropriateness or inappropriateness of any class or other representational capacity, whether contemporaneously with this Agreement or at any time in the future.
33. Except as otherwise set forth herein, this Agreement shall not affect whatever rights Releasor may have (i) to participate in or benefit from, where appropriate, any relief or other recovery as part of a settlement or judgment in any action on behalf of any direct or indirect purchasers of CRTs against any party named as a defendant, other than Hitachi or any Hitachi Releasee, in the MDL or in civil action No. CGC-11-515784, filed November 8, 2011, in the Superior Court of California, County of San Francisco, captioned *The State of California et al. v. Samsung SDI, Co. Ltd et al* or (ii) to assert any product liability, breach of warranty, breach of contract, or other claims in the ordinary course of business.
34. The Court in which the Attorney General has filed an action against Hitachi and one or more of its co-conspirators, or in which the Attorney General amends the settlement complaint against Philips to add Hitachi, shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have

exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of this Agreement that cannot be resolved by negotiation and agreement by the Settling Parties. This Agreement shall be construed according to the laws of the State of California without regard to its choice of law or conflict of laws principles.

35. This Agreement constitutes the entire, complete, and integrated agreement between the Settling Parties pertaining to the settlement with Hitachi and the Hitachi Releasees, and supersedes all prior and contemporaneous undertakings of the Settling Parties in connection herewith. This Agreement may not be modified or amended, except in writing executed by the Settling Parties and approved by the Court in which an action is filed against Hitachi.
36. This Agreement may be executed in counterparts by the Attorney General and Hitachi or its counsel, and an email or facsimile signature shall be deemed an original signature for purposes of executing this Agreement.
37. Neither the Attorney General nor Hitachi shall be considered to be the drafters of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafters of this Agreement.
38. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience only and do not constitute part of this Agreement.
39. Where this Agreement requires either Settling Party to provide notice or any other communication or document to the other, such notice shall be in writing, and such notice, communication, or document shall be provided by email, facsimile or letter by overnight delivery to the undersigned counsel of record for the party to whom notice is being provided.

40. Each Settling Party and their counsel agree to do anything reasonably necessary to effectuate the performance of, and uphold the validity and enforceability of, this Agreement.
41. Each of the undersigned attorneys or representatives of the Settling Parties represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement on behalf of the Settling Parties he or she represents.
42. Hitachi agrees that any persons signing this Agreement on its behalf is authorized by Hitachi to do so.
43. Hitachi waives any and all of its rights:
- (a) to appeal any order or final judgment that is both arising out of and consistent with the terms of this Agreement; and
  - (b) unless this Agreement does not become final within the meaning of paragraph 10, to remove to federal court any complaint or amendment of a complaint filed in state court to plead a Settlement Class of Government Entities against it under jurisdiction that includes, but is not limited to, the Class Action Fairness Act of 2005 (“CAFA”).

Dated: \_\_\_\_\_

2/2/15

  
Eliot A. Adelson  
Kirkland & Ellis LLP  
555 California Street, 27<sup>th</sup> Floor  
San Francisco, CA 94104  
Tel: (415) 439-1400  
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Attorney for Hitachi Ltd.  
Hitachi Displays, Ltd.

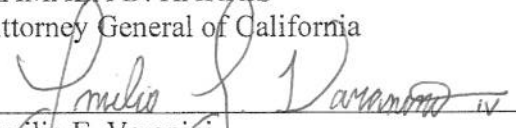
Hitachi Electronic Devices (USA)  
Hitachi America, Ltd.  
Hitachi Asia, Ltd.  
Japan Display Inc.

KAMALA D. HARRIS  
Attorney General of California

Dated: \_\_\_\_\_

2/2/2015

By: \_\_\_\_\_

  
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