

NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING
IN THE MATTER OF THE LAWN MOWERS CLASS ACTION

Read this Notice Carefully as it May Affect Your Rights

TO: All persons in Canada who between January 1, 1994 and December 31, 2012 purchased Lawn Mowers in Canada, except the Defendants and certain parties related to the Defendants (“Settlement Class Members”). Lawn Mowers means a lawn mower designed, manufactured or labeled by any Defendant for ultimate sale, including retail sale, in Canada containing a gas combustible engine labeled at 30 horsepower or less.

A. Purpose of this Notice

The purpose of this notice is to advise that class proceedings have been initiated in Ontario and Quebec and that, subject to court approval in Ontario and Quebec, the action has been settled with MTD, Sears, Briggs, Electrolux, John Deere, Husqvarna, Kohler and Toro. The Ontario Proceeding has been certified by the Ontario Superior Court of Justice as against the Settling Defendants for the purposes of the settlement approval. The Plaintiffs will seek authorization of the Quebec Proceeding in concert with the settlement approval hearing in Quebec. The litigation continues as against all Non-Settling Defendants to the Proceedings. A hearing to approve the settlement agreements and to approve Class Counsel’s legal fees, disbursements and applicable taxes will be held on September 20, 2013 at 10:00am at 80 Dundas Street, London, Ontario and on September 25, 2013 at 9:30am at 1, rue Notre-Dame Est., Montréal, Quebec.

B. Nature of the Lawsuit

In 2010, class proceedings were initiated in Ontario by Harrison Pensa LLP and in Quebec by Consumer Law Group Inc. on behalf of Canadians who purchased Lawn Mowers between January 1, 1994 and December 31, 2012 (the “Lawn Mowers Class Action”)¹. It is alleged that the Defendants participated in an unlawful conspiracy to raise, fix, maintain or stabilize the price of lawn mowers in Canada, lessen unduly competition in the production, manufacture, sale

¹ The class proceedings were brought against the following Defendants: Sears Canada Inc., Sears Holdings Corporation, Sears, Roebuck and Co. (collectively “Sears”), John Deere Canada ULC, Deere & Company (collectively “John Deere”), Tecumseh Products of Canada, Limited, Tecumseh Products Company, Platinum Equity, LLC (collectively “Tecumseh”), Briggs & Stratton Canada Inc., Briggs & Stratton Corporation (collectively “Briggs”), Canadian Kawasaki Motors Inc., Kawasaki Motors Corp., USA (collectively “Kawasaki”), MTD Products Limited, MTD Products Inc. (collectively “MTD”), The Toro Company (Canada), Inc., The Toro Company (collectively “Toro”), Honda Canada Inc., American Honda Motor Co., Inc. (Collectively “Honda”), Electrolux Canada Corp., Electrolux Home Products Inc. (collectively “Electrolux”), Husqvarna Canada Corp., Husqvarna Consumer Outdoor Products N.A., Inc. (collectively “Husqvarna”), Kohler Canada Co. and Kohler Co. (“collectively Kohler”).

and/or supply of lawn mowers and lawn mower engines, and/or to conduct business contrary to the *Competition Act* and the *Consumer Packaging and Labelling Act*.

C. The Settlement

The Settlement Agreements

Two settlement agreements have been reached in the Lawn Mowers Class Action.

Under the first agreement, MTD has agreed to pay CAD \$300,000.00 for the benefit of Settlement Class Members and to provide evidence and co-operation to the Plaintiffs in pursuing their claims against the remaining Non-Settling Defendants. The MTD Settlement also resolves the allegations and litigation against Sears.

Under the second agreement, Briggs, Electrolux, John Deere, Husqvarna, Kohler and Toro have agreed to pay CAD \$4,200,000.00 for the benefit of Settlement Class Members.

In exchange, the Settling Defendants will be provided with a full release of claims against them in the Lawn Mowers Class Action. The Settling Defendants do not admit any wrongdoing or liability in connection with the case.

The litigation continues as against all Non-Settling Defendants to the Proceedings.

Distribution to the Class

The settlement amounts, net of notice costs, Class Counsel fees, disbursements and applicable taxes will be held in an interest bearing trust account for the benefit of the Settlement Class Members (the "Settlement Fund").

The balance of the Settlement Fund will not be distributed at this time. The continuing litigation may or may not result in further settlements or judgments. If there is a further recovery, it will be added to the present monies and an efficient distribution will be made at an appropriate time. The Courts will approve when and to whom the settlement funds will be distributed.

The Settlement Approval Hearings

The Settlement Agreements remain subject to approval by the Courts in Ontario and Quebec. A motion to approve the Settlement Agreements will be heard by the Ontario Superior Court of Justice on September 20, 2013 at 10:00am at 80 Dundas Street, London, Ontario and by the Superior Court of Quebec on September 25, 2013 at 9:30am at 1, rue Notre-Dame Est.,

Montréal, Quebec. At these hearings, the Courts will determine whether the settlement is fair, reasonable and in the best interests of Settlement Class Members.

If you do not oppose the proposed settlements, you do not need to appear at the hearing or take any other action at this time to indicate your desire to participate in the settlements.

You are entitled to appear and make submissions at the hearing. If you wish to comment on or make an objection to the Settlement Agreements, you must deliver a written submission to Class Counsel at the addresses listed below by September 10, 2013. Class Counsel will file all such submissions with the appropriate Court. All filed written submissions will be considered by the appropriate Court. If you do not deliver a written submission by the deadline, you may not be entitled to participate, through oral submissions or otherwise, in the hearings.

If the Settlement Agreements are approved by the Courts in Ontario and Quebec, further notices will be posted online at www.lawnmowersettlement.ca to advise Settlement Class Members in Canada of such approval.

D. Opting Out of the Lawn Mowers Class Action

As outlined above, you are a member of the Settlement Class if you purchased a Lawn Mower in Canada between January 1, 1994 and December 31, 2012 unless you opt out of the Lawn Mowers Class Action. If you wish to continue to be included as a Settlement Class Member, you do not need to do anything at this time. As a Settlement Class Member, you will be entitled to participate in the settlements and you will be legally bound by the result of the Lawn Mowers Class Action.

If you do not opt out, you will be bound by the Settlement Agreements. You will not be able to bring or maintain any other claim or legal proceeding in respect of any allegations asserted in the Lawn Mowers Class Action, including allegations relation to violations of the *Competition Act*. No further right to opt-out of the Lawn Mowers Class Action will be provided.

If you opt-out of the Lawn Mowers Class Action, you will not be able to participate in the settlements or any further settlements with or judgments against other Defendants in this litigation. You may be able to bring your own lawsuit at your own expense.

To opt-out, please complete the enclosed opt-out form and send it to the address listed therein. The enclosed opt-out form **must be received no later than September 17, 2013**.

Quebec Class Members must also send the completed opt-out form to:

Clerk of the Superior Court of Québec
Palais de justice de Montréal
1, rue Notre-Dame Est
Montréal (Québec) H2Y 1B6
Court File No. 500-06-000507-109

E. Class Counsel Fees

Class Counsel legal fees, disbursements and applicable taxes must be approved by the Courts. Class Counsel will collectively be requesting legal fees of up to 25% of the settlement funds, plus disbursements and applicable taxes to be paid out of the settlement funds, at the settlement approval hearing.

If you wish to comment on or make an objection to the Class Counsel fees, a written submission must be delivered to the appropriate Class Counsel at the addresses listed above by September 10, 2013. Class Counsel will forward all such submissions to the appropriate Court. All filed written submissions will be considered by the appropriate Court. If you do not file a written submission by the deadline, you may not be entitled to participate, through oral submissions or otherwise, in the hearing.

F. The Lawyers Representing You

Harrison Pensa LLP represents Class Members in Ontario and in all provinces other than Quebec. Harrison Pensa LLP can be reached toll free at 1-800-263-0489 ext. 709, by e-mail at lawnmowersettlement@harrisonpensa.com or by mail at 450 Talbot Street, London, Ontario N6A 4K3, Attention: Jonathan Foreman.

Consumer Law Group Inc. represents Class Members in Quebec. Consumer Law Group Inc. can be reached toll free at 1-888-909-7863 ext. 220, by e-mail at jorenstein@clg.org or by mail at 4150 Ste-Catherine St. West, Suite 330, Montréal, Quebec, H3Z 2Y5, Attention: Jeff Orenstein.

G. Questions about the Settlement

This notice contains only a summary of the Settlement Agreements and Settlement Class Members are encouraged to review the complete Settlement Agreements. Copies of the Settlement Agreements can be downloaded from the settlement website at www.lawnmowersettlement.ca. If you would like copies of the Settlement Agreements or have questions that are not answered online, please contact the appropriate Class Counsel identified above. **INQUIRIES SHOULD NOT BE DIRECTED TO THE COURTS.**

H. Interpretation

This notice contains a summary of some of the terms of the Settlement Agreements. If there is a conflict between the provisions of this notice and the Settlement Agreements, including the schedules, the terms of the Settlement Agreements shall prevail.

**THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO SUPERIOR COURT OF
JUSTICE AND THE SUPERIOR COURT OF QUEBEC**

**LAWN MOWERS CLASS ACTION
OPT-OUT FORM**

I _____ (print full name), wish to opt-out of the Lawn Mowers Class Action.

I understand and accept the consequences of opting out, including but not limited to:

1. Class counsel cannot represent me and are not permitted to assist me in any way.
2. I will be responsible for all legal fees and costs that may be incurred by me if I choose to pursue my own individual claim.
3. I will not be bound by this action and therefore I will not be entitled to receive any payments from the settlement.

I confirm that I am legally entitled to opt-out of this litigation and I do not require the consent of any third party in order to do so.

Date

Signature

Name: _____

Address: _____

Telephone Number: _____

Alternative Telephone Number: _____

E-mail: _____

Lawn Mower Type: Riding Lawn Mower or Walk-Behind Lawn Mower

Lawn Mower Brand: _____

Lawn Mower ID Number: _____

Engine Brand: _____

Engine Model Number: _____

Date and Place of Purchase: _____

Please complete the following form in its entirety and return the completed form with **reasonable proof of purchase** to the address below **on or before September 17, 2013**.

Please send the completed opt-out form by mail or fax to the following:

Harrison Pensa LLP
Attention: Jonathan J. Foreman
450 Talbot Street
London, ON N6A 4K3
Tel: 1-800-263-0489, ext. 709
Fax: 1-519-667-3362