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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

- - - - - x  
In re: : Chapter 11  
: :  
CIRCUIT CITY STORES, INC., : Case No. 08-35653 (KRH)  
et al., : :  
: :  
Debtors. : Jointly Administered  
- - - - - x

**SETTLEMENT AGREEMENT AND STIPULATION BY AND AMONG THE  
DEBTORS AND LG ELECTRONICS USA, INC.**

This settlement agreement and stipulation  
(this "Settlement Agreement") is entered into by and  
among the above-captioned debtors and debtors in

possession (the "Debtors"),<sup>1</sup> on the one hand, and LG Electronics USA, Inc. ("LG" and together with the Debtors, the "Parties" and each of which is a "Party"), on the other hand.

#### **GENERAL BACKGROUND**

WHEREAS, on November 10, 2008 (the "Petition Date"), the Debtors each filed a voluntary petition in the United States Bankruptcy Court for the Eastern District of Virginia (the "Court") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"); and

WHEREAS, the Debtors have continued as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code; and

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<sup>1</sup> The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Circuit City Stores, Inc. (3875), Circuit City Stores West Coast, Inc. (0785), InterTAN, Inc. (0875), Ventoux International, Inc. (1838), Circuit City Purchasing Company, LLC (5170), CC Aviation, LLC (0841), CC Distribution Company of Virginia, Inc. (2821), Circuit City Properties, LLC (3353), Kinzer Technology, LLC (2157), Abbott Advertising Agency, Inc. (4659), Patapsco Designs, Inc. (6796), Sky Venture Corp. (0311), PRAHS, INC. (n/a), XSStuff, LLC (9263), Mayland MN, LLC (6116), Courchevel, LLC (n/a), Orbyx Electronics, LLC (3360), and Circuit City Stores PR, LLC (5512). The address for the Debtors is 4951 Lake Brook Drive, Suite #500, Glen Allen, VA 23060.

WHEREAS, on November 12, 2008, the Office of the United States Trustee for the Eastern District of Virginia appointed a statutory committee of unsecured creditors (the "Creditors' Committee"); and

WHEREAS, to date, no trustee or examiner has been appointed in these chapter 11 cases; and

WHEREAS, on January 16, 2009, the Court authorized the Debtors, among other things, to conduct going out of business sales at the Debtors' remaining 567 stores pursuant to an agency agreement (the "Agency Agreement") between the Debtors and a joint venture, as agent (the "Agent"). On January 17, 2009, the Agent commenced going out of business sales pursuant to the Agency Agreement at the Debtors remaining stores. As of on or about March 8, 2009, the going out of business sales concluded; and

WHEREAS, on September 29, 2009, the Debtors and the Creditors' Committee filed the First Amended Joint Plan of Liquidation of Circuit City Stores, Inc. and its Affiliated Debtors and Debtors In Possession and its Official Committee of Creditors Holding General Unsecured Claims (the "Plan"); and

WHEREAS, the associated disclosure statement (the "Disclosure Statement") was approved on September 24, 2009, and confirmation on the Plan has been adjourned and a status conference is scheduled for June 16, 2010; and

WHEREAS, generally, the Plan provides for the liquidation of the Debtors under chapter 11 of the Bankruptcy Code; and

WHEREAS, the Debtors are authorized under the Court's Order Under 11 U.S.C. §§ 105 and 363, and Fed. R. Bankr. P. 2002, 9006, and 9019 Authorizing the Establishment of Procedures to Settle Certain Pre-Petition and Post-Petition Claims and Causes of Action Without Further Court Approval, dated August 7, 2009 (Docket No. 4401, the "Settlement Procedures Order") to enter into this Settlement Agreement, subject to the Notice Procedures.

#### **SETTLEMENT BACKGROUND**

##### **A. The LG Claims.**

WHEREAS, Circuit City Stores, Inc. ("Circuit City") and LG were parties to numerous purchase agreements (the "LG Agreements"). Pursuant to the LG

Agreements, the Debtors purchased certain LG products (collectively, the "Product") for resale in their retail stores; and

WHEREAS, on December 18, 2008, LG filed proof of claim number 1261 ("Claim No. 1261") against the Debtors' bankruptcy estates pursuant to Bankruptcy Code section 503(b)(9). Therein, LG alleged that it shipped in the ordinary course of business \$20,599,070.25 worth of Product to the Debtors within the twenty (20) days before the Petition Date; and

WHEREAS, on June 23, 2009, the Debtors filed the Debtors' Twentieth Omnibus Objection to Claims (Reclassification to Unsecured Claims of Certain Claims Filed as 503(b)(9) Claims for Goods Received by the Debtors Not Within Twenty Days of the Commencement of the Cases) (D.I. 3704). Therein, the Debtors objected to Claim No. 1261 and sought to reclassify a portion of Claim No. 1261 to a general unsecured non-priority claim on the basis that certain of the Product that were the subject of Claim No. 1261 were not received by the Debtors within the twenty days prior to the Petition Date; and

WHEREAS, on August 20, 2009, the court entered the Order on Debtors' Twentieth Omnibus Objection to Claims (Reclassified to Unsecured Claims of Certain Claims Filed as 503(b)(9) Claims for Goods Received by the Debtors Not Within Twenty Days of the Commencement of the Cases) (D.I. 4576). Therein, the Court reclassified a portion of Claim No. 1261 to a general unsecured, non-priority claim in the amount of \$15,201,093.25; and

WHEREAS, on January 29, 2009, LG filed claim number 8357 ("Claim No. 8357"), a general unsecured proof of claim against the Debtors' bankruptcy estates. Therein, LG claimed that it was owed \$208,637.10 for expense payables incurred prior to the Petition Date; and

WHEREAS, on January 29, 2009, LG filed proof of claim number 9623 ("Claim No. 9623") against the Debtors' bankruptcy estates. Therein, LG asserted that it shipped \$42,315,217.97 worth of Product to the Debtors prior to the Petition Date for which LG had not been paid; and

WHEREAS, on June 1, 2009, LG filed proof of claim number 13233 ("Claim No. 13233") against the Debtors' bankruptcy estates. Claim No. 13233 amended Claim No. 9623. Claim No. 13233 was filed by LG in the total amount of \$41,478,011.85 for Product shipped to the Debtors prior to the Petition Date. Claim No. 13233 was filed as a general unsecured, non-priority claim; and

WHEREAS, on August 21, 2009, the Debtors filed the Debtors' Thirty-Fourth Omnibus Objection to Claims (Modification of Certain Duplicate 503(b)(9) Claims) (D.I. 4598). Therein, the Debtors objected to Claim No. 13233 and sought to reduce Claim No. 13233 on the basis that it included amounts duplicated in Claim No. 1261; and

WHEREAS, on October 28, 2009, the court entered the Order on Debtors' Thirty-Fourth Omnibus Objection to Claims (Modification of Certain Duplicate 503(b)(9) Claims) (D.I. 5385) and thereby reduced Claim No. 13233 to \$20,878,941.60; and

WHEREAS, on August 21, 2009, the Debtors filed the Debtors' Thirty-Fifth Omnibus Objection to Claims

(Disallowance of (I) Certain Amended Claims; and (II) Certain Duplicate Claims) (D.I. 4599). Therein, the Debtors objected to Claim No. 9623 and sought to disallow Claim No. 9623 on the basis that Claim No. 9623 was amended by Claim No. 13233 and was duplicative; and

WHEREAS, on October 29, 2009, the court entered Order on Debtors' Thirty-Fifth Omnibus Objection to Claims (Disallowance of (I) Certain Amended Claims; and (II) Certain Duplicate Claims) (D.I. 5396) and thereby disallowed Claim No. 9623 in its entirety; and

WHEREAS, LG's claims currently consist of: (i) three general unsecured non-priority claims -- a portion of Claim No. 1261 and Claim Nos. 8357 and 13233 -- totaling \$36,288,671.95 (collectively, the "General Unsecured Claims"), and (ii) a claim -- a portion of Claim No. 1261 -- allegedly entitled to priority under Bankruptcy Section 503(b)(9) totaling \$5,397,977 (the "503(b)(9) Claim" and together with the General Unsecured Claims, the "LG Claims"); and

**B. The Memorandum Opinion and Order.**

WHEREAS, pursuant to the Debtors' (I) Fifty-Second Omnibus Objection to Certain 503(b)(9) Claims and



(II) Motion for a Waiver of the Requirement that the First Hearing on any Response Proceed as a Status Conference (D.I. 5216) (the "Fifty-Second Omnibus Objection"), the Debtors sought to temporarily disallow the 503(b)(9) Claim pending the return of certain preferential transfers allegedly avoidable under Bankruptcy Code section 547 (the "Preferential Transfers"); and

WHEREAS, LG filed an opposition to the Fifty-Second Omnibus Objection; and

WHEREAS, on January 6, 2010, the Court entered a Memorandum Opinion and Order (D.I. 6228) sustaining the Fifty-Second Omnibus Objection and temporarily disallowing the 503(b)(9) Claim in its entirety; and

WHEREAS, on January 19, 2010, LG filed its Notice of Appeal (D.I. 6318) and Motion for Leave to Appeal the Memorandum Opinion and Order sustaining the Fifty-Second Omnibus Objection (the "Motion for Leave") (D.I. 6320); and

WHEREAS, on April 23, 2010, the Motion for Leave was granted (the "Appeal"); and

**C. The Adversary Proceeding.**

WHEREAS, on March 23, 2010, Circuit City Stores, Inc. filed its Objection to Claim Nos. 1261, 8357, and 13233 and Complaint Against LG Electronics USA, Inc. (the "Adversary Complaint") (Adv. Pro. No. 10-03054 (the "Adversary Proceeding")); (D.I. 1)); and

WHEREAS, in the Adversary Complaint, the Debtors asserted that the general unsecured, non-priority portion of Claim No. 1261 is overstated by \$600,261.50 on account of invoice shortages and general invoice pricing discrepancies such that such portion should be reduced to \$14,600,831.75 ("Modified Claim No. 1261"); and

WHEREAS, in the Adversary Complaint, the Debtors asserted that Claim No. 8357 was entirely duplicated on Claim No. 13233, and as such, Claim No. 8357 should be disallowed in its entirety; and

WHEREAS, the Debtors also objected to Claim No. 13233 on the basis that it was overstated by \$68,689.49 on account of general invoice pricing discrepancies and improperly reversed advertising chargebacks such that

such portion of Claim No. 13233 should be reduced to \$20,810,252.11 ("Modified Claim No. 13233"); and

WHEREAS, in the Adversary Complaint, among other things, the Debtors asserted that they are entitled to certain pre- and post-petition amounts, including receivables, charge-backs, returns, and other amounts under the LG Agreements, which amounts are currently due and owing to Circuit City Stores, Inc. ("Circuit City") by LG, but for which Circuit City had not received payment. Specifically, the Debtors asserted that LG owes Circuit City pre- and post-petition amounts totaling \$10,469,268 (the "Unpaid Obligations"). The Debtors sought to setoff the Unpaid Obligations from the 503(b)(9) Claim. After setoff, the 503(b)(9) Claim would be reduced to \$0 and the Unpaid Obligations would be reduced to \$5,071,291 (the "Remaining Unpaid Obligations"); and

WHEREAS, the Debtors also sought to setoff the Remaining Unpaid Obligations against Modified Claim No. 1261 such that the Modified Claim No. 1261 would be reduced to \$9,529,540.75 and the Remaining Unpaid Obligations would be reduced to \$0;

WHEREAS, in the Adversary Complaint, the Debtors also asserted that during the 90-day period prior to the commencement of Circuit City's bankruptcy cases (the "Preference Period"), Circuit City transferred property to or for the benefit of LG in an amount not less than \$59,014,852.87 (the "Preferential Transfers"). The Debtors sought to recover the Preferential Transfers pursuant to Bankruptcy Code sections 547 and 550; and

WHEREAS, the Debtors sought to temporarily disallow the General Unsecured Claims pursuant to Bankruptcy Code section 502(d) until such time as LG turned over the Preferential Transfers and the Unpaid Obligations; and

WHEREAS, LG has not yet filed its Answer to the Adversary Complaint. Since the Adversary Complaint was filed, however, LG asserted that it has a complete defense to the Preferential Transfers; and

**D. The Zenith Claim.**

WHEREAS, on January 29, 2009, Zenith Electronics Corporation ("Zenith") filed claim number 8354 (the "Zenith Unsecured Claim"), a general unsecured

proof of claim against the Debtors' bankruptcy estates. Therein, Zenith claimed that it is owed \$74,129.20 for litigation related claims unrelated to LG Agreements; and

WHEREAS, LG is the successor in interest to the Zenith Unsecured Claim; and

WHEREAS, rather than proceed with litigation concerning the LG Claims, the Fifty-Second Omnibus Objection, the Appeal, the Adversary Complaint, the Preferential Transfers, the Debtors' Unpaid Obligations, and the Zenith Unsecured Claim, the Parties engaged in good faith, arms' length negotiations to resolve the foregoing; and

NOW THEREFORE, subject to and in accordance with the Settlement Procedures Order, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties hereby STIPULATE AND AGREE AND IT IS HEREBY ORDERED that:

1. Upon the Effective Date (as defined herein), the Parties agree that (i) the LG 503(b)(9) Claim shall be valued in the amount of \$5,397,977; (ii) the general unsecured, non-priority portion of Claim No.

1261 shall be valued at \$14,959,173.25; (iii) Claim No. 13233 shall be valued at \$20,878,941.60; and (iv) Claim No. 8357 shall be disallowed in its entirety for all purposes in the Debtors' bankruptcy proceedings.

2. Upon the Effective Date, the Parties further agree that the Debtors' Unpaid Obligations shall be valued at \$8,130,558.04 (the "Receivables").<sup>2</sup>

3. Upon the Effective Date, in full satisfaction and settlement of the Receivables, the Receivables shall be net against (i) the 503(b)(9) Claim such that the 503(b)(9) Claim shall be reduced to \$0; and (ii) Claim No. 13233 such that Claim No. 13233 shall be reduced to and allowed in the face amount \$18,146,360.56 as a general unsecured non-priority claim ("Allowed Claim No. 13233"). Claim No. 1261 shall remain and be allowed in the face amount of \$14,959,173.25 as a general unsecured non-priority claim

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<sup>2</sup> As part of their negotiations, the Parties engaged in a comprehensive reconciliation of the LG Claims. During that reconciliation, the Parties determined and agreed that LG already setoff certain of the Alleged Receivables from the General Unsecured Claims before those claims were filed.

("Allowed Claim No. 1261, and together with Allowed Claim No. 13233, the "Allowed General Unsecured Claims").

4. Upon the Effective Date, the Zenith Unsecured Claim shall be valued at and allowed in the face amount of \$74,129.20 as a general unsecured non-priority claim (the "Zenith Allowed Unsecured Claim"), which shall remain separate and distinct from the Allowed General Unsecured Claims for distribution and all other purposes.

5. Upon the Effective Date, the Allowed General Unsecured Claims and the Zenith Allowed Unsecured Claim shall be deemed "allowed" claims against Circuit City Stores, Inc. and its estate in case number 08-35653 (KRH) for all purposes, including with respect to any confirmed plan of liquidation or in any chapter 7 case of such Debtor, and shall not be subject to further objection, offset, reduction, discount, impairment or subordination.

6. Upon the Effective Date, LG and the Debtors, on behalf of themselves, and each on behalf of their respective estates (including but not limited to any trustee appointed in any of these chapter 11 cases

or any successor chapter 7 case), hereby irrevocably and fully release one another from and against any and all claims or causes of action (including but not limited to, causes of action under Bankruptcy Code sections 502, 542, 543, 544, 546, 547, 548, 549, 550, 553 and 558) arising from, in connection with, or relating to the LG Agreements, the LG Claims, the Fifty-Second Omnibus Objection, the Adversary Complaint and Adversary Proceeding, the Preferential Transfers, the Appeal, the Receivables, and the Debtors' Unpaid Obligations (this paragraph, the "Releases"), but excluding the Allowed General Unsecured Claims and the Zenith Allowed Unsecured Claim.

7. For the avoidance of doubt and notwithstanding anything to the contrary in this Settlement Agreement, (1) the Releases are not intended as general releases or waivers and nothing in this Settlement Agreement shall be construed as such, and (2) LG and the Debtors specifically acknowledge and agree that this Settlement Agreement is not intended to, and does not, release or otherwise affect in any way any actual claims or causes of action (or potential claims



or causes of action similar in nature or type to such actual claims or causes of action) now or hereinafter asserted in, based on, or relating to the multi-district litigation captioned In re: TFT-LCD (Flat Panel) Antitrust Litigation, MDL No. 1827 (N.D. Cal.) and the actions consolidated therein (the "MDL Proceeding").

8. Upon the Effective Date, all omnibus objections to the LG Claims shall be deemed resolved.

9. Upon the Effective Date, the Adversary Proceeding and Adversary Complaint shall be dismissed with prejudice.

10. Upon the Effective Date, the Parties shall cause the Appeal to be dismissed with prejudice.

11. The LG Agreements shall be deemed terminated and rejected as of the Effective Date.

12. Neither this Settlement Agreement, nor any statement made or action taken in connection with the negotiation of this Settlement Agreement, shall be offered or received in evidence or in any way referred to in any legal action or administrative proceeding among or between the Parties hereto, other than as may be necessary (a) to obtain approval of and to enforce



this Settlement Agreement or (b) to seek damages or injunctive relief in connection with such approval and enforcement.

13. Each Party hereto shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary or appropriate in conjunction with the performance of their respective obligations hereunder.

14. No provision of this Settlement Agreement is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any person other than the Parties hereto and their respective successors.

15. Except where preempted by applicable federal law, this Settlement Agreement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Virginia without regard to any choice of law provisions.

16. This Settlement Agreement may be signed in counterpart originals and delivered by facsimile or

email, which, when fully executed, shall constitute a single original.

17. This Settlement Agreement constitutes the entire agreement and understanding of the Parties regarding the Settlement Agreement and the subject matter thereof.

18. The United States Bankruptcy Court for the Eastern District of Virginia shall retain exclusive jurisdiction (and the Parties consent to such retention of jurisdiction) with respect to any disputes arising from or related to, or other actions to interpret, administer or enforce the terms and provisions of, this Settlement Agreement.

19. Each person or entity who executes this Settlement Agreement on behalf of another person or entity represents and warrants that he, she, or it is duly authorized to execute this Settlement Agreement on behalf of such person or entity, has the requisite authority to bind such person or entity, and such person or entity has full knowledge of and has consented to this Settlement Agreement. The representations and

warranties set forth in this paragraph shall survive execution of this Settlement Agreement.

20. This Settlement Agreement shall not be modified, altered, amended or vacated without the written consent of all Parties hereto or order of the Court.

21. This Settlement Agreement and all of its terms shall be effective upon the later of (i) execution by both Parties, (ii) the expiration of the applicable Notice Period, or (iii) the resolution of any objection properly filed in accordance with the terms of the Settlement Procedures Order (the "Effective Date").

22. This Settlement Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties hereto, including any Chapter 7 trustee or the liquidating trustee under the Plan.

IN WITNESS WHEREOF, this Settlement Agreement  
is hereby executed as of June 14, 2010.

ACCEPTED AND AGREED TO BY:

CIRCUIT CITY STORES, INC., et al.,  
Debtors and Debtors in Possession

By:

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