

**UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION**

In the Matter of)	
)	
Nordica USA)	CPSC Docket No. <u>12-C0001</u>
)	

SETTLEMENT AGREEMENT

1. In accordance with 16 C.F.R. § 1118.20, Nordica USA (“Nordica”) and staff of the United States Consumer Product Safety Commission (“Commission”) enter into this Settlement Agreement (“Agreement”) under the Consumer Product Safety Act (“CPSC”). The Agreement and the incorporated attached Order (“Order”) resolve the allegations set forth below.

PARTIES

2. “Staff” is staff of the United States Consumer Product Safety Commission, an independent federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. §§ 2051–2089 (“CPSA”).

3. Nordica is a corporation organized and existing under the laws of New Hampshire, with its principal corporate offices located in West Lebanon, New Hampshire. Nordica is a division of Tecnica Group USA.

STAFF ALLEGATIONS

4. From August 2006 through December 2008, Nordica imported and sold to ski retailers about 4,500 pairs of XBI ALU Skis (“Skis”). The binding plates on the skis could crack or break causing the skier to lose control or fall and suffer injuries.

5. The Skis are “consumer products,” and, at all relevant times, Nordica was a “manufacturer” of those consumer products, which were “distributed in commerce,” as those

terms are defined or used in sections 3(a)(5), (8), and (11) of the CPSA, 15 U.S.C. § 2052(a)(5), (8), and (11).

6. Beginning in December 2007, one of Nordica's retail customers advised Nordica that it had received calls with comments about the Skis' binding plates cracking and breaking. The retail customer requested replacement parts for the broken binding plates.

7 In March 2008, Nordica received a report from another retail customer about the Skis' binding plates breaking. Also in March 2008, Nordica employees identified numerous incidents of the Skis' binding plates cracking and breaking. Nordica advised the foreign manufacturer of the retail customers' claims of the Skis' binding plates cracking and breaking. Nordica asked the foreign manufacturer to provide Nordica with 25 pairs of replacement binding plates for the Skis.

8. Through April 2008, Nordica continued to receive reports of the Skis' binding plates breaking. By the end of April 2008, Nordica knew of at least 20 claims of broken Skis binding plates.

9. On or about Aug. 4, 2008, Nordica received an in-depth epidemiologic investigation report from the Commission about the Skis' binding plates breaking.

10. In September 2008, Nordica learned that the foreign manufacturer had redesigned the Ski's binding plate. Nordica did not ask the foreign manufacturer until December 2008, why it had redesigned the Ski's binding plate. At that time, Nordica learned that the foreign manufacturer had redesigned the Ski's binding plate because of the cracking and breakage problem.

11. Nordica continued to investigate the binding plate problem throughout the fall of 2008. Nordica discovered that it had about 200 reports of warranty claims related to the Skis' binding plates cracking and breaking.

12. Despite being aware of the information in paragraphs 7 through 12, Nordica did not report to the Commission until December 3, 2008. By that time, Nordica was aware of at least 200 reports of the Skis' binding plates cracking and breaking.

13. Nordica obtained information that reasonably supported the conclusion that the Skis' binding plates contained a defect that could create a substantial product hazard or that the Skis' binding plates created an unreasonable risk of serious injury or death. This knowledge required Nordica to immediately inform the Commission of the defect and risk associated with the Skis' binding plates, as required by section 15(b)(3) and (4) of the CPSA, 15 U.S.C. § 2064(b)(3) and (4).

14. Nordica knowingly failed to inform the Commission immediately about the Skis' binding plates, as required by CPSA sections 15(b)(3) and (4), 15 U.S.C. § 2064(b)(3) and (4), and as the term "knowingly" is defined in CPSA section 20(d), 15 U.S.C. § 2069(d). This failure violated CPSA section 19(a)(4), 15 U.S.C. § 2068(a)(4). Pursuant to CPSA section 20, 15 U.S.C. § 2069, this failure subjected Nordica to civil penalties.

NORDICA'S RESPONSE

15. Nordica denies Staff's allegations that the Skis' binding plates contain defects that could create a substantial product hazard or create an unreasonable risk of serious injury or death, and further denies that it violated the reporting requirements of Section 15(b) of the CPSA, 15 U.S.C. §2064(b).

16. Nordica states that it is not aware of any reports of injury associated with cracking or breakage of the binding plates any time from the beginning of distribution (2006) up to and including the present date (2011).

17. On or about August 4, 2008, Nordica received a CPSC Incident Report that had been submitted by a consumer concerning breakage of an XBI Alu Ski. Nordica immediately began investigating whether cracking or breakage of the XBI Alu Ski presented a potential safety concern. Following extensive investigation, and based upon review of the available information -- including, but not limited to, the absence of any reported injuries and test results provided by the manufacturer -- Nordica did not and still does not believe that the XBI Alu binding plate ski contained a defect that could present a substantial product hazard or created an unreasonable risk of serious injury or death. Out of an abundance of caution, Nordica wished to replace any binding plates due to potential risk of cracking. Nordica therefore notified CPSC in December 2008 of its willingness to conduct a Fast Track recall in full cooperation with CPSC.

AGREEMENT OF THE PARTIES

18. Under the CPSA, the Commission has jurisdiction over this matter and over Nordica.

19. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by Nordica, or a determination by the Commission, that Nordica knowingly violated the CPSA.

20. In settlement of Staff's allegations, Nordica must pay a civil penalty in the amount of two hundred-fourteen thousand dollars (\$214,000.00). The civil penalty shall be paid

within twenty (20) calendar days of receiving service of the Commission's final Order accepting the Agreement. The payment shall be made electronically to the CPSC via www.pay.gov.

21. The parties enter into this Agreement for settlement purposes. The Agreement does not constitute an admission by Nordica or a determination by the Commission that Nordica violated the CPSA's reporting requirements, or that the Skis' binding plates presented a substantial product hazard.

22. Upon provisional acceptance of the Agreement, the Agreement shall be placed on the public record and published in the *Federal Register* in accordance with the procedures set forth in 16 C.F.R. § 1118.20(e). Pursuant to 16 C.F.R. § 1118.20(f), if the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the sixteenth (16th) calendar day after the date it is published in the *Federal Register*, in accordance with 16 C.F.R. § 1118.20(f).

23. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, Nordica knowingly, voluntarily, and completely waives any rights it may have in this matter to the following: (1) an administrative or judicial hearing; (2) judicial review or other challenge or contest of the validity of the Order or of the Commission's actions; (3) a determination by the Commission of whether Nordica failed to comply with the CPSA and its underlying regulations; (4) a statement of findings of fact and conclusions of law; and (5) any claims under the Equal Access to Justice Act.

24. The Commission may publicize the terms of the Agreement and the Order.

25. The Agreement and the Order shall apply to, and be binding upon, Nordica and each of its successors and assigns.

26. The Commission issues the Order under the provisions of the CPSA, and a violation of the Order may subject Nordica and each of its successors and assigns to appropriate legal action.

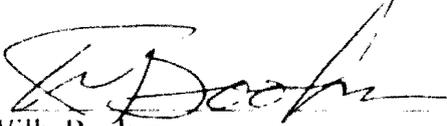
27. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. The Agreement cannot be waived, amended, modified, or otherwise altered without written agreement thereto, executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

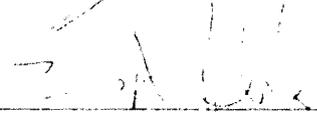
28. If any provision of the Agreement and the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the provisions in the Agreement and the Order shall remain in full force and effect, unless the Commission and Nordica agree that

(continued on next page)

the severed provision materially affects the purpose of the Agreement and the Order.

NORDICA USA

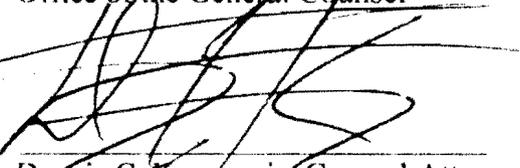
Dated: 7/06/11 By: 
Willy Booker
President
Nordica USA
19 Technology Drive
West Lebanon, NH 03784

Dated: 7/12/11 By: 
Eric A. Rubel, Esquire
Arnold & Porter, LLP
555 Twelfth Street, NW
Washington, D.C. 20004-1206
Counsel for Nordica USA

U.S. CONSUMER PRODUCT SAFETY
COMMISSION STAFF

Cheryl A. Falvey
General Counsel

Melissa V. Hampshire
Assistant General Counsel
Office of the General Counsel

Dated: 09/22/11 By: 
Dennis C. Kacoyanis, General Attorney
Division of Enforcement and Information
Office of the General Counsel

**UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION**

In the Matter of

Nordica, USA

CPSC Docket No. 12-C0001

ORDER

Upon consideration of the Settlement Agreement entered into between Nordica USA (“Nordica”) and U.S. Consumer Product Safety Commission (“Commission”) staff, and the Commission having jurisdiction over the subject matter and over Nordica, and it appearing that the Settlement Agreement and the Order are in the public interest, it is

ORDERED, that the Settlement Agreement be, and hereby is, accepted; and it is

FURTHER ORDERED, that Nordica shall pay a civil penalty in the amount of two hundred-fourteen thousand dollars (\$214,000.00) within twenty (20) calendar days of service of the Commission’s final Order accepting the Agreement. The payment shall be made electronically to the CPSC via www.pay.gov. Upon the failure of Nordica to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Nordica at the federal legal rate of interest set forth at 28 U.S.C. § 1961(a) and (b).

(continued on next page)

Provisionally accepted and provisional Order issued on the 4th day of October,

2011.

BY ORDER OF THE COMMISSION:

A handwritten signature in black ink, appearing to read "Todd A. Stevenson". The signature is written in a cursive style with a large, stylized initial "T".

Todd A. Stevenson, Secretary
U.S. Consumer Product Safety Commission